



REQUEST FOR PROPOSAL

Program

BACK 2 WORK PROGRAM

RFP Specification Number

2018-005

RFP Release Date: Monday November 26, 2018

Proposal Deadline: Wednesday December 12, 2018; by 5:00 PM

Questions Deadline:

Written questions concerning the specifications in this RFP must be submitted by email to b2w@bcoe.org by Monday, December 3, 2018.

IMPORTANT:

Read all conditions and Instructions carefully

**This RFP is due to Butte County Office of Education
Submitted Electronically To:**

b2w@bcoe.org

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NOTICE TO PROPOSERS

Notice is hereby given that the Butte County Office of Education, (hereinafter "BCOE") will receive proposals submit electronically in a single PDF to the BCOE by 5:00pm on December 12, 2018 to b2w@bcoe.org with the subject line reading: 2018/19 Back 2 Work Marin County and Santa Clara County RFP_Proposers Name. No separate emails with pieces of applications will be accepted. The single PDF of the full application must be emailed. Applications emailed to any address other than listed above will not be accepted. Proposals to administer four (4) Work Crews in Marin County and Santa Clara County for the Back 2 Work Program for the BCOE. After the scheduled closing time set for receipt of proposals, proposals may not then be withdrawn for a period of ninety (90) calendar days from and after said closing time, except as otherwise provided in the California Public Contract Code.

Each proposal must conform to the requirements of the Request for Proposal ("RFP") specifications and other documents comprising the contract documents, which may be examined online at <https://www.bcoe.org/o/bcoe/browse/12974> and copies obtained at the office of Shelle Hord, Sr. Administrative Assistant, located at 1859 Bird Street, Oroville, CA 95965, (530) 532-5686.

No proposal will be considered unless it follows the instructions provided in the RFP. Each proposal must be **submitted with a fully executed Non-Collusion Affidavit** that complies with Public Contract Code Section 7106.

All proposers shall be responsible for familiarizing themselves with the conditions and requirements of bidding prior to submitting a proposal.

Within ten (10) calendar days after notification of the award of contract, the successful proposer will be required to submit a fully executed contract and furnish the certificates of insurance required by the contract.

Funds for this program are contingent upon a fully executed contract between Caltrans and BCOE. Funds will not be available and a contract will not be entered into with the successful proposer until these funds are made available from the State.

This RFP shall not be construed to create an obligation on the part of BCOE to enter into a contract with any firm or individual. This request is an information solicitation of proposal only. BCOE reserves the right to reject any and all proposals and/or waive any irregularities or informalities in the RFP process.

Tim Taylor
Superintendent of the
Butte County Office of Education
1859 Bird Street, Oroville, CA 95965

RFP Summary

OVERVIEW

The Butte County Office of Education (BCOE) is requesting proposals for the administration of a program for placement of adults on County, State or Federal Supervision in the California Department of Transportation (Caltrans) Back 2 Work Program (B2W) in Marin County and Santa Clara County. Proposals will be accepted from vendors to perform the requested services in Marin County and Santa Clara County. BCOE will select, subject to its right to reject all proposals, one vendor to provide the services requested in this RFP.

The B2W Program is an innovative partnership between the BCOE and Caltrans. This statewide program currently has operations in numerous counties throughout the state. B2W programs provide temporary paid transitional employment to men and women who have barriers to employment causing them to be unemployed or underemployed. This program assists participating clients to close gaps of employment, overcome employment barriers, and preparing participants to transition back into the workforce.

This RFP seeks to identify a single qualified vendor to administer a new B2W program in Marin County and Santa Clara County to serve men and women on County, State or Federal Supervision. Partnerships among agencies are highly encouraged in order to ensure quality services are provided to all participants in the designated location. Proposals may consist of multiple agencies; however, each proposal must have a lead agency that will assume all responsibility and will be the agency (single qualified vendor) who enters into a contract with BCOE.

SCOPE OF SERVICES

The proposer awarded a contract will be responsible for carrying out duties and responsibilities on behalf of BCOE in strict conformance with the terms and conditions required by Caltrans in the amended agreement between BCOE and Caltrans. Currently four (4) work crews will operate in Marin County and Santa Clara County as determined by Caltrans. The proposer should explain in its proposal the timeframe it will take to have the four (4) work crews fully operational in Marin County and Santa Clara County.

Work crews will work alongside Caltrans focusing on litter abatement along the highway and highway beautification projects. Work to be performed by the work crews will include but not be limited to, litter and debris removal, drain cleaning, weed control, graffiti abatement, trimming or removing vegetation, restoring and replanting vegetation, and other general maintenance as directed by Caltrans and detailed in the sample contract distributed with this RFP. The focus of the program is to provide temporary paid employment for participants on a work crew while assisting the participants with obtaining gainful employment and entering back into the workforce.

Each work crew shall consist of 6-8 crewmembers (participants) each day. The selected proposer, with some guidance from BCOE, will be responsible for recruiting participants to ensure fully staffed work crews at all times and contracted funds are maximized.

Each participant in the Program shall be paid at the following wages:

- \$12 - 14 per hour January 2018 – June 2019

Each work crew shall have one supervisor provided by the selected proposer. The supervisor shall be the driver of the van that transports crewmembers to work locations and manages all aspects of the work crew performance.

The work crews are expected to work an eight hour day, five (5) days per week, Monday through Sunday, excluding state holidays. (Note: work hours may vary by location). Typical work hours are Monday-Friday between 6:30am – 3:00pm with a 30 minute lunch.

It is highly recommended, but not required, that each participant works an average of three (3) to four (4) days a week to allow them time during the week for other obligations and to ensure a successful transition into gainful employment within the community.

Additionally the proposer is expected to form relationships within the Marin County and Santa Clara County community to enhance the ability of providing additional supportive services needed for participants and employment opportunities upon completion of the program.

Proposers' ability to show additional services they are able to provide to participants through leveraging additional funding, resources, services already provided by proposer or partnerships proposer has or will form will be taken into high consideration when scoring proposals.

GENERAL INFORMATION

Allocation of Funding

The funds available for this effort are separated by each work crew on a daily rate. Funds differ each fiscal year and may vary based on State minimum wage rates. Funds will only be paid for days worked based on amount of crews worked. Invoices will be submitted in arrears on a monthly basis only for work that has been performed. Below is the **maximum** daily rate for each work crew:

- *FY 2018/19 (01/19 – 06/19) - \$1,800 per crew per day*

Each fiscal year is expected to have up to the following maximum amount of work days:

FY 2018/19: Up to 126 work days

Funds for this program come from Caltrans through a public entity agreement with BCOE. Funds for this program are contingent upon a fully executed contract between Caltrans and BCOE. Funds will not be available and a contract will not be entered into with the successful proposer until these funds are made available from the State.

Contract Period

These contracted services will be for the remainder of the 2018/19 Fiscal Year upon an executed contract. As long as the funds are released, the goal is to begin operations as close to January 1, 2019 as possible. Upon mutual agreement, the contract may be extended for up to 48 additional months.

SELECTION PROCESS

BCOE realizes that the proposals for the administration of the Program may differ considerably in concept, design, structure, methods, and materials. Although BCOE reserves the right to reject any and all proposals or to waive any irregularities or informalities in any proposal or in the RFP process, the award will be made to the proposer whose proposal represents, in BCOE's evaluation and judgment, the most advantageous combination of value to be delivered per dollar proposed and responsiveness to the evaluation criteria.

All proposals will be reviewed and screened by a review committee of BCOE administrators. Proposals will be evaluated by considering the following:

- Experience providing similar services
- Providing services to the targeted population
- Experience administrating government contracts
- Capacity to deliver requested services in Marin County and Santa Clara County
- Capacity to move service sites if requested by Caltrans
- Time frame to begin providing services in each location
- Financial capacity to receive payments in arrears
- Ability to leverage additional funding, resources and/or partnerships to provide additional support to participants
- Partnerships established in service location
- Strength of the approach described in the proposal
- References
- Proposed fee

Interviews may be held with the most qualified respondents as determined by BCOE.

Financial records

Prior to award of the contract, the selected vendor may be required to submit their most recent audited financial statement to ensure the vendor has the financial ability to administer the contract. If, in BCOE's sole judgement the vendor does not have the financial capacity to administer the contract, the contract award will be canceled and BCOE may select a different proposer to this RFP.

All financial statements submitted at the request of BCOE for these purposes will be considered information acquired in confidence and BCOE will maintain its confidentiality to the extent permitted by law.

Time Schedule

Event	Date
RFP available to prospective proposers	11/26/18
Written Question Submittal	12/3/18
Final Date for Proposal Submission	12/12/18 by 5:00pm
Letter of Intent to Award	Estimated 12/14/18
Agreement Award Date	Estimated 12/21/18

QUESTIONS

Questions regarding this RFP can be submitted by email only to b2w@bcoe.org between 11/26/18 through 12/3/18. Questions and responses to questions will be posted to the BCOE website at <https://www.bcoe.org/o/bcoe/browse/12974>.

REQUIRED RESPONSES

Proposers must submit a proposal to provide service for four (4) work crews in Marin County and Santa Clara County.

❖ Statement of Qualifications (Maximum of 6 pages)

- **Organization** (Maximum of 4 pages)
 - Provide a detailed description of the organization and why the organization is qualified to provide the services described in this RFP and the sample contract.
 - Provide a detailed description of the organization's experience working with the targeted population and the organization's success working with the targeted population. Include the length of time organization has been providing these services.
 - Provide organization's capacity to provide these services in Marin County and Santa Clara County.
 - Provide a detailed description of a time frame the organization will be able to provide services in Marin County and Santa Clara County. (Dates provided will be expected to be met if contract is entered into.)
 - List public agencies that the organization has provided similar services to over the past five (5) years. Include brief detail about services provided by proposer to each agency. Provide them in chronological order and limit it to the most recent five (5) public agencies.
- **Personnel** (Maximum of 2 pages)
 - Describe the experience and qualifications of all key personnel who will be working under the awarded contract. Provide credentials and experience working with the targeted population and providing similar services as requested in this RFP and the sample contract.
 - Provide organizational chart of all personnel proposed to work under the awarded contract. (Not counted toward page total)
 - Provide all resumes or job descriptions for all key personnel. (Not counted toward page total)

❖ Fee Proposal/Budget Narrative (Maximum of 4 pages)

- Provide a detailed budget narrative which fulfills the requests in this RFP and the attached sample contract for each fiscal year (2018/19)
- Detail how the proposed organization will leverage additional funds, partnerships and resources to improve services available to program participants.
- Provide a detailed line item budget for each fiscal year. (Not counted toward page total).
- Since amount of crews and amount of work days may fluctuate a proposed amount per crew per day must be submitted in budget narrative and line item budget.

❖ References

- Provide a list of three (3) references that have been clients of the organization within the last two (2) years and for whom services provided were similar in nature to those outlined in this RFP.

❖ Letters of Support

- Provide a minimum of three (3) signed Letters of Support from agencies and/or organizations that will support your efforts as detailed in your proposal.

❖ Letter of Agreements or MOUs (if applicable)

If there are any consultant services, sub-grantees, or additional services proposed to be provided under the contract by any organization or individual who is not the proposer listed in the proposal, a signed Letter of Agreement or Memorandum of Understanding (MOUs) must be submitted between the proposer and all other organizations or individuals.

➤ Letter of Agreements/MOUs should include:

- Responsibilities of each party detailing administrative and operational duties including staffing, service delivery, data management, evaluation, etc.
- Any exchanged funds.
- Lead proposer must state that they are aware of their responsibility both fiscally and programmatically for all contract requirements if funds are awarded.
- Signature of director level person or someone who has the organizational authority to enter their respective organizations into a contract.

PROPOSAL INSTRUCTIONS

Formatting Requirements

- Proposal narratives and attachments must be typed on 8 ½ x 11 inch paper, with 1 inch margins on all sides.
- All text, including charts and tables, must be double spaced.
- Standard 12 point font must be used.
- Print single sided only.
- Proposal narratives must not exceed 6 pages numbered consecutively. Additional pages will NOT be read.
- Budget narrative must not exceed 4 pages numbered consecutively. Additional pages will NOT be read.
- Do not staple or bind proposal. Binder clips or paper clips will suffice.
- All pages in the proposal narrative must have the following header:
 - Name of the Lead Agency/Proposal number (Top Left)
 - Page number (Top right) 1 of

Elements of a Full Proposal

Complete proposals will have the following elements in the following order. When indicated, electronic templates are provided on the BCOE website at <https://www.bcoe.org/o/bcoe/browse/12974>. **Incomplete proposals will not be considered.** Only the requested elements will be reviewed; please do not submit additional attachments as they will not be considered.

- **Cover Sheet – Appendix A** - *electronic template provided at <https://www.bcoe.org/o/bcoe/browse/12974>*
- **Proposal Narrative** (Not to exceed 6 pages) – Response to the statement of qualifications.
- **Organizational chart** – (Key staff members must be included)
- **Resumes or job description for key staff members** – (Resume is required for Project Manager)
- **Budget Narrative** (Not to exceed 4 pages) – Include sub-grantee if applicable
- **References**
- **Letters of support**
- **Financial Statements**
- **Letters of Agreement/MOUs** (if applicable)
- **Non-Collusion Affidavit – Appendix B** - *electronic template provided at <https://www.bcoe.org/o/bcoe/browse/12974>*

Submittal Requirements

- Applicants must submit electronically in a single PDF to the BCOE by 5:00pm on December 12, 2018 to b2w@bcoe.org with the subject line reading: 2018/19 Back 2 Work Marin County and Santa Clara County RFP_Proposers Name. No separate emails with pieces of applications will be accepted. The single PDF of the full application must be email. Applications emailed to any address other than listed above will not be accepted.
- **NOTE:** Within 2 business days after receiving an application via email, BCOE will send an email receipt. If after this timeframe the applicant does not receive a receipt, they should email b2w@bcoe.org to confirm receipt of their application.
- All proposals are due by 5:00pm **12/12/18**.
- Late Proposals **WILL NOT BE ACCEPTED**. There are no exceptions.

SPECIAL CONDITIONS

1. **AWARD OF CONTRACT:** The Butte County Office of Education (BCOE) realizes that the proposals for the requested services may differ considerably in concept, design, structure, methods, and materials. Although BCOE reserves the right to reject any and all proposals or to waive any irregularities or informalities in any proposal or in the Request for Proposal (“RFP”) process, the award will be made to the proposer whose proposal represents, in BCOE’s evaluation and judgment, the most advantageous combination of value to be delivered per dollar proposal and responsiveness to the evaluation criteria set forth below.
 - Responsiveness/responsibility of the proposer will be determined by an evaluation that the proposer has:
 - Experience providing similar services
 - Providing services to the targeted population
 - Experience administrating government contracts
 - Capacity to deliver requested services in Marin County and Santa Clara County
 - Capacity to move service sites if requested by Caltrans
 - Time frame to begin providing services
 - Financial capacity to receive payments in arrears
 - Ability to leverage additional funding, resources and/or partnerships to provide additional support to participants
 - Partnerships established in service location
 - Strength of the approach described in the proposal
 - References
 - Proposed fee

2. **ADDENDA or BULLETINS:** Any addenda or bulletins issued by BCOE during the time of the RFP shall become a part of the RFP and contract documents. Addenda will not be issued prior to 72 hours of RFP opening date and time.

3. **INTERVIEWS:** Interviews may be held with the most qualified respondents as determined by BCOE.

4. **BCOE** has the right to cancel this RFP at any time.

RFP INFORMATION AND CONDITIONS

1. **FORMS:** Proposals will not be considered unless proposal instructions are followed.
2. **INK OR TYPEWRITTEN:** All information, prices, notations, signatures, and corrections must be typewritten.
3. **DEFINITIONS:**
 - a. **State:** "State" as used herein means State of California.
 - b. **Proposer:** "Proposer" as used herein includes: An individual or company who submits a proposal.
 - c. **County Office and BCOE:** "County Office" and "BCOE" as used herein means the Butte County Office of Education, the County Board of Education, its officers and employees.
 - d. **Contract:** "Contract" as used herein refers to any written agreement entered into between BCOE and the successful Proposer pursuant to RFP Number 2018-005.
 - e. **SUB-CONTRACTOR:** "SUB-CONTRACTOR" as used herein refers to the successful Proposer in response to RFP Number 2018-005 and is the company or firm to which the contract has been awarded, or an individual or company who has entered into a Contract with BCOE.
4. **NAME OF COMPANY:** Proposers shall specify the name or legal entity of their company and/or any fictitious name under which business is conducted. Proposals must be submitted under the correct name of the company and signed by an authorized representative of the firm.
5. **PROPOSER'S RESPONSIBILITY:** Before submitting a proposal, Proposers shall carefully examine the specifications, and the forms of all contract documents. They shall fully inform themselves as to all existing conditions and limitations, and shall include in their proposal a sum to cover the cost of all items included in the specifications. No allowance will be made because of lack of such examination or knowledge.
6. **EXAMINATION OF DOCUMENTS:** If a Proposer discovers any ambiguity, conflict, discrepancy, omission or other error in the Request for Proposal (RFP), the Proposer shall, prior to the date scheduled for submission of proposals, notify BCOE of such error in writing and request clarification or modification of the document. Modifications will be made by addenda. Any addenda modifying the RFP shall be given by written notice to all parties who have been furnished an RFP without divulging the source of the request. Addenda shall be numbered consecutively as a suffix to the RFP reference number. BCOE's decision as to the need for clarification of the RFP shall be final.

7. **ADDENDA OR MODIFICATION OF PROPOSAL:** The Proposer may modify a proposal after its submission by written notice to the contact person on said proposal of withdrawal and resubmission *before* the date and time specified for receipt of proposals. Modification will not be considered if offered in any other manner.
8. **ACCEPTANCE OR REJECTION OF PROPOSALS:** BCOE reserves the right to reject any and all proposals, or waive any irregularity on any proposal, or to make awards on the basis of the proposal or proposals it deems most economical to BCOE and most desirable for its operational program.
9. **DISPOSITION OF PROPOSALS:** All materials submitted in response to the RFP will become the property of BCOE and will be returned only at BCOE's option and the Proposer's expense. The original copy shall be retained for official files and will become public record after the date and time for proposal submission, as specified. However, confidential financial information submitted in support of the requirement will be returned upon request.
10. **ASSIGNMENT:** SUB-CONTRACTOR may not assign or transfer, by operation of law or otherwise, any or all of their rights, burdens, duties, or obligations under contract with BCOE without prior written consent of the County Superintendent or designee.
11. **FORCE MAJEURE CLAUSE:** The parties to the Contract shall be excused from performance during the time and to the extent that they are prevented from performing by act of God, fire, strike, loss, accident, or any other cause beyond the control of the parties provided that satisfactory evidence is presented and the failure to perform is not due to the fault or neglect of the SUB-CONTRACTOR.
12. **FEDERAL OR STATE REGULATIONS:** The SUB-CONTRACTOR's proposal and any Contract entered into are subject to all applicable statutes of the United States or of the State and all applicable regulations and orders of the Federal or State governments now in effect or which shall be in effect during the period of such Contract.
13. **INDEPENDENT CONTRACTOR:** In performance of the services, duties and obligations assumed by the SUB-CONTRACTOR, it is mutually understood and agreed that the SUB-CONTRACTOR, including any and all of the SUB-CONTRACTOR's officers, agents, and employees, will at all times be acting and performing in an independent capacity and not as an officer, agent, servant, employee, joint venture, partner, or associate of BCOE.

SUB-CONTRACTOR agrees that any and all persons performing any services and/or work contemplated by the Contract and/or related or incidental thereto, shall be an employee of the SUB-CONTRACTOR and SUB-CONTRACTOR shall, by way of example but not by way of limitation, withhold federal and state income taxes as well as the required employee social security contribution of each said persons. SUB-CONTRACTOR shall comply with all regulations regarding employees, and SUB-CONTRACTOR shall pay and/or contribute its required share as the employer of said persons.

SUB-CONTRACTOR acknowledges the fact that it is an independent contractor and is in no way to be construed as an employee of BCOE, nor are any of the persons employed by the SUB-CONTRACTOR to be so construed.

14. **HOLD HARMLESS CLAUSE:** The SUB-CONTRACTOR shall hold harmless and indemnify BCOE and the Butte County Board of Education, officers, and employees from every claim or demand which may be made by reason of:
- a. Any injury to person or property sustained by the SUB-CONTRACTOR or by a person, firm, or corporation employed directly or indirectly by him or her, in connection with his or her performance under the Contract.
 - b. Any injury to person or property sustained by any person, firm, or corporation caused by act, neglect, default, or omission by the SUB-CONTRACTOR or of any person, firm, or corporation directly or indirectly employed by him in connection with his performance under the Contract.
 - c. The SUB-CONTRACTOR, at its own risk and expense, shall defend any legal proceeding or claim that may be brought against the Butte County Board of Education or BCOE, its officers, and employees. The SUB-CONTRACTOR will also satisfy any judgment that may be rendered against the Board of Education, BCOE, its officers or employees for injuries or damages sustained in connection with its performance under the Contract.
15. **INSURANCE:** Comprehensive Auto and General Liability: During the term of the Contract, SUB-CONTRACTOR shall maintain comprehensive auto insurance of no less than two million dollars (\$2,000,000) single limit per occurrence, issued by an admitted insurer or insurers and defined by the California Insurance Code.

Additionally, SUB-CONTRACTORS shall maintain general liability insurance of no less than ten million (\$10,000,000) single limit per occurrence, issued by an admitted insurer or insurers with no less than an A Standard and Poor's credit rating.

The BCOE, its officers, employees, and agents are to be named as additional insured under the policy. Proof of coverage shall be provided to BCOE on or before the effective date of the Contract.

Workers' Compensation: During the term of the Contract, SUB-CONTRACTOR shall fully comply with the terms of the law of California concerning Workers' Compensation. Said compliance shall include, but not be limited to, maintaining in full force and affect one or more policies of insurance to insure against any liability SUB-CONTRACTOR may have for Workers' Compensation.

16. **INVOICE AND PAYMENTS:** Invoices shall be submitted under the same firm name as shown in the Contract.

17. **PERMITS AND LICENSES:** The SUB-CONTRACTOR and all of its employees or agents shall secure and maintain in force such licenses and permits as are required by law in connection with the furnishing of materials, articles, or services listed herein. All operations and materials shall be in accordance with the requirements of California law.
18. **EQUAL EMPLOYMENT OPPORTUNITY:** In connection with the execution of the Contract, the SUB-CONTRACTOR will not engage in, nor permit unlawful discrimination in employment of persons because of the race, religious creed, color, national origin, ancestry, physical disabilities, medical disabilities, marital status, sex, age or sexual orientation of such persons.
19. **DRUG FREE WORKPLACE:** The SUB-CONTRACTOR shall maintain a drug free workplace in accordance with the California Government Code.
20. **ATTORNEY FEES:** The “prevailing party”, as defined by California law, shall be entitled to any and all attorneys’ fees and costs related to any disputes arising under the Contract, whether or not any such suit proceeds to final judgment.
21. **CANCELLATION:** BCOE reserves the right to cancel the Contract upon twenty five (25) days written notice.

CONTRACT
BY AND BETWEEN BUTTE COUNTY OFFICE OF EDUCATION AND

TO ADMINISTER ONE WORK CREW FOR
THE BACK 2 WORK PROGRAM

This Contract ("Contract") is made as of, between the **Butte County Office of Education** ("BCOE") and _____, hereinafter referred to as (SUB-CONTRACTOR). The SUB-CONTRACTOR shall furnish to the BCOE the following services under the terms of this Contract: the administration of the FOUR (4) Work Crews for the Back 2 Work Program (B2W) in Marin County and Santa Clara County at the prices specified on (Appendix E), and in compliance with the specifications, terms and conditions enumerated in this Contract ("Services") and in the CALTRANS Amended Agreement #56A0469 (Appendix A). The Services are further described below.

TERM OF CONTRACT

SUB-CONTRACTOR shall commence providing Services under this Contract beginning on TBD running until June 30th, 2019

1. SUB-CONTRACTOR'S DUTIES:

It is specifically understood and agreed that on BCOE's behalf SUB-CONTRACTOR shall administer the program for placement of adults on County, State or Federal Supervision in the B2W by carrying out BCOE'S duties and responsibilities in strict conformance with the terms and conditions required by the CALTRANS under the Amended Agreement #56A0469 as set forth below.

2. SERVICES:

SUB-CONTRACTOR understands the role of CALTRANS as it relates to SUB-CONTRACTOR'S responsibilities as outlined in this paragraph and agrees that SUB-CONTRACTOR shall perform the following duties and shall provide the following Services to CALTRANS on BCOE's behalf under this Contract:

a. Back 2 Work PROGRAM

- i. SUB-CONTRACTOR shall administer a program pursuant to Penal Code sections 2780-2792, for the placement of parolees and a program pursuant to Penal Code sections 1203.1, 4017, 4024.2 and Sections 25659 and 36904 of the Government Code for the placement of Post-Release Community Supervision (PRCS) and/or SUB-CONTRACTOR shall administer the Work Crew Program pursuant to 38 U.S. Code section 4102, 38 U.S. Code section 2021, 38 U.S. Code section 1718, 38 U.S. Code section 4301-4335, Government Code Ch. 4 art. 4 Sect. 18973-18979.

- ii. SUB-CONTRACTOR shall provide work crews to primarily perform litter removal. When no litter is present, work crews can also perform work including but not limited to: weed/brush removal, drain cleaning and services as listed within this amendment. CALTRANS shall ensure that work performed by work crews is not work to be performed by CALTRANS employees as specified by any labor agreement.
- iii. BCOE will reimburse SUB-CONTRACTOR for costs associated with the utilization of its WORK CREWS to perform the required work as agreed upon in daily rate per crew specified on Appendix E. The work shall be performed on CALTRANS Right of Way within a 60-mile radius of the WORK CREWS staging area.
- iv. CALTRANS will inform the representative designated by SUB-CONTRACTOR (hereinafter referred to as "SUB-CONTRACTOR representative") as to the specific location of the work to be performed. CALTRANS, BCOE and SUB-CONTRACTOR will agree upon a schedule.
- v. Sub-Contractor will be solely responsible for supervision, safety and care of the WORK CREWS assigned to work on CALTRANS Right of Way.
- vi. CALTRANS shall, at their expense, provide technical direction to SUB-CONTRACTOR with respect to oversight of the WORK CREWS performed under terms of this Contract and will provide safety instructions, trash bags, litter pickers, hand tools and work locations.
- vii. SUB-CONTRACTOR shall be responsible for WORK CREWS pay, workers compensation, care and supervision, except for the aforementioned instructions provided by CALTRANS. SUB-CONTRACTOR shall furnish a Certificate of Insurance for Commercial General Liability Insurance, automobile liability insurance, and evidence of valid Workers ' Compensation coverage, in effect for the term of this Contract, which names CALTRANS and BCOE as an additional insured.
- viii. SUB-CONTRACTOR shall provide each WORK CREWS with a passenger van and will lawfully transport the WORK CREWS, and a portable toilet and drinking water to and from the work sites.
- ix. SUB-CONTRACTOR van drivers shall possess a valid current

California driver's license of appropriate class.

- x. CALTRANS Maintenance Supervisors will provide WORK CREWS with safety equipment including, but not limited to, signs, and personal protective equipment (hard hats, safety vests, gloves, eye protection). SUB-CONTRACTOR will monitor and administer the use of the safety equipment provided.
- xi. CALTRANS Maintenance Supervisors will provide safety training to SUB-CONTRACTOR's Van Supervisor and document the training. CALTRANS will provide the necessary safety instructions and explain the work to be performed to SUB-CONTRACTOR's Van Supervisor. When possible CALTRANS will participate in quarterly safety meetings between BCOE/SUB-CONTRACTOR/WORK CREWS and CALTRANS. CALTRANS shall furnish the necessary warning signs and instruct the SUB-CONTRACTOR representative and personnel on site on the placement of signs. CALTRANS will provide (including set up) any required traffic control.
- xii. SUB-CONTRACTOR and WORK CREWS will not operate complex equipment for any work under this Contract.
- xiii. SUB-CONTRACTOR will operate vans for the towing of portable toilets.
- xiv. SUB-CONTRACTOR shall report to the BCOE Program Manager any inappropriate behavior on the part of the WORK CREWS or any personal injury or property damage arising out of work performed under this Contract. Upon notice by the BCOE Program Manager, SUB-CONTRACTOR shall immediately investigate and report back on such incidents to the BCOE Program Manager and take appropriate action, including, but not limited to, removal of offender from the job site. At any time, the BCOE Program Manager or CALTRANS Contract Manager may request removal of any Crew Member or Work Crew Supervisor from the job site for inappropriate conduct and SUB-CONTRACTOR shall immediately comply with such request.
- xv. In the event that a WORK CREW participant is injured on the job, SUB-CONTRACTOR shall be responsible for ensuring that the injured person receives the appropriate level of medical care and transportation to a medical facility and shall be responsible for the administration of any claims by said Crew Member due to injury on the job as well as for treatment of injuries. SUB-CONTRACTOR shall notify the BCOE Program Manager within 24 hours or by the following work day of any injuries sustained while working under this Contract.

xvi. Each program participant in the Work Crews shall be paid the following wages:

- \$12-\$14 per hour January 2018 – June 2019, as adjusted to changes in wage laws

Each Work Crew shall have one supervisor provided by the SUB-CONTRACTOR. The Supervisor is the driver of the van which transports Work Crew to work locations and manages all aspects of the Work Crews' performance.

xvii. Each Work Crew shall consist of 6 to 8 participants, not including the Supervisor. The Work Crew(s) are expected to work an eight (8) hour day, five (5) days per week, Monday through Sunday, excluding State holidays. Work hours begin at the mutually agreed upon location between BCOE and SUB-CONTRACTOR and will include travel time to and from Caltrans locations. (Note: Number of crews will vary by facility. Work days and hours may vary by location).

xviii. SUB-CONTRACTOR is responsible for recruiting Work Crew participants to ensure Work Crews are always at a minimum of six (6) participants per crew and a maximum of eight (8) participants per crew. It is intended to have eight (8) participants per crew per day. It is understood that it is the responsibility of the SUB-CONTRACTOR to maximize the contracted dollars at all times and ensuring that crews at each location are full at all times.

xix. If SUB-CONTRACTOR allows a Work Crew's size to fall below the monthly average of at least six (6) participants in a month for two (2) consecutive months, BCOE shall request a Corrective Action Plan with a 30-day deadline and notify Caltrans of that request. If the Work Crew size falls below the average of six (6) participants for in that following month, BCOE and CALTRANS may move Work Crews to a new service location or have the option to amend or terminate the Contract.

xx. SUB-CONTRACTOR must have, and shall require its representative on site to have, a working communication device (e.g. cell phone) on their persons at all times.

xxi. SUB-CONTRACTOR reserves the right to refuse any work site which may be deemed unsafe.

xxii. Work performed by the Work Crews and for which SUB-

CONTRACTOR shall have oversight shall consist of, but not be limited to the following:

- a. Litter and debris removal (roadside and landscape).
- b. Manual weed control.
- c. Paint over or remove graffiti.
- d. Trim or remove unwanted, unsightly, dead, overgrown, etc., brush and trees within the right of way.
- e. Make firebreaks at fence lines and where appropriate adjacent to shoulders in lieu of spraying, grading, mowing, or disking.
- f. Remove fire tinder within the right of way, e.g., dead grass, fallen limbs, etc.
- g. Plant natural vegetation on friable cut and fill slopes and any other areas subject to erosion.
- h. Plant restoration in landscaped area by removing dead plants and replanting.
- i. General yard work at maintenance stations.
- j. Minor storm damage repair activities.

xxiii. SUB-CONTRACTOR on a monthly basis shall provide BCOE with the completed documents with the monthly invoice:

- CALTRANS Work Crew Program Weekly Time Record (Appendix B)
- CALTRANS Work Crew Program Weekly Bag Count (Appendix C)
- CALTRANS Work Crew Program Register of Participation (Appendix D)

b. **STAFF:**

SUB-CONTRACTOR, at its own cost and expense, shall provide such staff as is reasonable and necessary to fulfill the terms and conditions of this Contract who shall remain SUB-CONTRACTOR employees. SUB-CONTRACTOR at its own cost and expense shall be responsible for staff employment including wages, benefits, payroll taxes, workers' compensation and State Disability Insurance.

All staff working under this Contract must:

- Be approved by BCOE Program Manager
- Complete a thorough background check

Within 12 months of hire, all regular Work Crew Supervisors must:

- Be CPR/First Aid certified

- Have completed AB1825 Sexual Harassment Training
- Possess a valid OSHA 10 card

Below are the minimum required positions:

- i. Four (4) Work Crew Supervisors who shall be responsible for, but not limited to:
 - Drive the work crew van that transport the work crew to work locations;
 - The day-to-day performance of Work Crew participants job responsibilities;
 - Training and managing the work and safety of Work Crew participants;
 - Working with other SUB-CONTRACTOR staff, BCOE, CALTRANS and Program Partners;
 - The safety of the participants at all times during the workday and for ensuring that daily project deliverables are met;
 - Preparing Work Crew participants to be successful in the workforce by teaching them critical employment soft skills and transferable skills;
 - Necessary documentation and reporting to fulfill the terms and conditions of this Contract;
 - Responsible for assuring that Work Crew vehicles are in proper working condition, contain proper tools and equipment, and are outfitted for the day's work assignment; and
 - Otherwise maintaining the integrity of the program.

- ii. Program Manager who will be the principal liaison between the Work Crew Supervisors, BCOE, CALTRANS, Program Partners and the community at large and shall be responsible for, but not limited to:
 - Staffing the Work Crew with sufficient staff in order to perform all duties and responsibilities under this Contract
 - Screening, hiring and training Work Crew Supervisors
 - Recruit participants to maintain full work crews with the assistance of assigned BCOE staff
 - When necessary work with CALTRANS to identify the work assignments and locations
 - Ensuring that the Work Crews have the necessary directions, special instructions, appropriate tools, and other information to perform the job and training aspects of the work
 - Ensuring all terms under this Contract are met
 - Otherwise maintaining the full integrity of the program

c. **MONITORING AND ADMINISTRATION:**

SUB-CONTRACTOR shall, pursuant to CALTRANS's contract with BCOE, monitor and administer CALTRANS provision of technical direction and oversight of the Work Crews including the provision of safety gear, participants pay, and custody and control as follows:

- i. **Safety Gear:** SUB-CONTRACTOR shall monitor and administer CALTRANS' provision of reasonable and necessary safety gear to participants and SUB-CONTRACTOR staff which at a minimum shall include: safety vest, hard hat, safety goggles, work gloves and rain gear per participant as well as all reasonable and necessary traffic cones, triangles, flares, first aid kits, and road signage.
- ii. **Participants Pay:** SUB-CONTRACTOR shall monitor and administer parolee pay, benefits, payroll taxes, workers' compensation and state disability insurance.
- iii. **Custody Care and Control:** SUB-CONTRACTOR shall monitor and administer supervision, custody, care and control of the Work Crews assigned to work on state highways.

3. PAYMENT PROVISIONS

- a. It is understood and agreed that this Contract fund limit is an estimate and that BCOE will only reimburse the cost of services at the agreed upon rate per day per crew as specified in Appendix E for services actually rendered as authorized by the BCOE Program Manager or its designee at or below the fund limitation amount set forth in section 3c, below.
- b. For services satisfactorily rendered and approved by BCOE and upon receipt and approval of invoices, BCOE agrees to reimburse SUB-CONTRACTOR for actual allowable costs incurred as specified herein and in accordance with the rates specified in Appendix E. Incomplete or disputed invoices shall be returned to SUB-CONTRACTOR unpaid for correction.
- c. SUB-CONTRACTOR shall submit a monthly invoice in arrears to BCOE, no later than 30 days following each monthly billing period. Invoices may be submitted electronically. SUB-CONTRACTOR payment may be available electronically. Invoice may be submitted to:

Electronically at:
b2w@bcoe.org

The maximum total payment to be received by SUB-CONTRACTOR for its performance under this Contract is _____. It is mutually agreed that if State

funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this Program, BCOE shall have the option to cancel this Contract with no liability occurring to BCOE, or offer a Contract Amendment to SUB-CONTRACTOR to reflect the reduced amount. In the event of such cancellation, BCOE shall provide written notice to SUB-CONTRACTOR immediately upon learning that State funding will be so reduced or deleted.

- d. Expenses. BCOE shall not be liable to SUB-CONTRACTOR for any costs or expenses paid or incurred by SUB-CONTRACTOR in performing Services, other than as expressly provided in the Contract.

4. Allowable Costs

- a. The method of payment for this Contract will be based on the agreed upon rate per day per crew and budget submitted in proposal for actual allowable costs. BCOE will reimburse SUB-CONTRACTOR for expended actual allowable direct and indirect costs, including, but not limited to labor costs, employee benefits, and travel (overhead is reimbursable only if the SUB-CONTRACTOR has an approved indirect cost allocation plan) and contracted consultant services costs incurred by SUB-CONTRACTOR in performance of the Project work, not to exceed the cost reimbursement limitation set forth in 3c, above. Actual costs shall not exceed the estimated wage rates, labor costs, travel and other estimated costs and fees set forth in Appendix A without prior written agreement between BCOE and SUB-CONTRACTOR.
- b. Reimbursement of SUB-CONTRACTOR expenditures will be authorized only for the agreed upon rate per day per crew in the performance of the Project work. SUB-CONTRACTOR must not only have incurred the expenditures on or after the Effective Date of this Contract and before the Termination Date, but must have also paid for those costs to claim any reimbursement.
- c. Travel expenses and per diem rates are not to exceed the rate specified by the State of California Department of Human Resources for similar employees (i.e. non-represented employees) unless written verification is supplied that government hotel rates are not commercially available to SUB-CONTRACTOR, or its contractors, its subcontractors, and/or its sub recipients, at the time and location required as specified in the California Department of Transportation's Travel Guide Exception Process.

5. Cost Principles

- a. **SUB-CONTRACTOR** shall comply with 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- b. **SUB-CONTRACTOR** agrees, and will require that their contractors,

subcontractors, and other sub-recipients will be obligated to agree, that 48 CFR, Part 31, Contract Cost Principles and Procedures and 2 CFR, Part 200 shall be used to determine the allow ability of individual Project cost items, and shall comply with federal administrative procedures set forth in 2 CFR, Part 200.

- c. Any Project costs for which SUB-CONTRACTOR has received payment or credit that are determined by subsequent audit to be unallowable under 48 CFR, Part 31, or 2 CFR, Part 200, are subject to repayment by SUB-CONTRACTOR to BCOE. Should SUB-CONTRACTOR fail to reimburse moneys due BCOE within thirty (30) days of discovery or demand, or within such other period as may be agreed in writing between the parties hereto, BCOE is authorized to intercept and withhold future payments due SUB-CONTRACTOR from BCOE or any third-party source, including, but not limited to, the State Treasurer, the State Controller or any other funding source.
- d. SUB-CONTRACTOR agrees to include Project in the schedule of projects to be examined in SUB-CONTRACTOR's annual audit and in the schedule of projects to be examined under its single audit prepared in compliance with 2 CFR, Part 200 if applicable.
- e. Prior to SUB-CONTRACTOR seeking reimbursement of indirect costs, SUB-CONTRACTOR must: prepare an indirect cost rate proposal and a central service costs allocation plan (if any); or request the use of the de minimis rate, or request an extension of a negotiated indirect rate, in compliance with 2 CFR Part 200, Cost Principles for State, Local and Indian Tribal Governments, and Chapter 5 Local Assistance Program Procedures Manual which may be accessed at:
http://www.dot.ca.gov/hq/LocalPrograms/lam/prog_p/ch05.pdf. Proposals and requests must be submitted to, and in accordance with, CALTRANS Audits and Investigations requirements which may be accessed at:
www.dot.ca.gov/hq/audits/

6. Equipment Purchase (By SUB-CONTRACTOR)

- a. Prior authorization in writing by the CALTRANS Contract Manager and BCOE Program Manager shall be required before SUB-CONTRACTOR enters into any non-budgeted purchase order or sub-agreement exceeding \$500 for supplies, equipment, or consultant services. SUB-CONTRACTOR shall provide an evaluation of the necessity or desirability of incurring such costs.
- b. For the purchase of any item, service or consulting work not covered under "Services" and/or Attachment F and exceeding \$500, three competitive quotations must be submitted with the request or the absence of bidding must

be adequately justified, and prior authorization must be obtained from the CALTRANS Contract Manager and BCOE Program Manager.

- c. Any equipment purchased as a result of this Contract is subject to the following: SUB-CONTRACTOR shall maintain an inventory record for each piece of non-expendable equipment purchased or built with funds provided under the terms of this Contract. The inventory record of each piece of such equipment shall include the date acquired, total cost, serial number, model identification (on sale, in accordance with established CALTRANS procedures, purchased equipment), and any other information or description necessary to identify said equipment. Non-expendable equipment so inventoried is those items of equipment that have a normal life expectancy of one year or more and an approximate unit price of \$5,000 or more. In addition, theft-sensitive items of equipment costing less than \$5,000 shall be inventoried. A copy of the inventory record must be submitted to BCOE and CALTRANS upon request by BCOE and/or CALTRANS.
- d. At the conclusion of the Contract, or if the Contract is terminated, SUB-CONTRACTOR may either keep the equipment and credit CALTRANS in an amount equal to its fair market value or sell such equipment at the best price obtainable at a public or private sale in accordance with established CALTRANS procedures and credit CALTRANS in an amount equal to the sales price. If SUB-CONTRACTOR elects to keep the equipment, fair market value shall be determined, at SUB-CONTRACTOR expense, on the basis of a competent, independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to CALTRANS and SUB-CONTRACTOR. If it SUB-CONTRACTOR is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by CALTRANS.
- e. 2 CFR, Part 200 requires a credit to Federal funds when participating equipment with a fair market value greater than \$5,000 is credited to the Project.
- f. Any sub-agreement entered into as a result of this Contract shall contain all of the provisions of this Article.

7. Reports

- a. SUB-CONTRACTOR shall submit written progress reports with each set of invoices to allow the CALTRANS Contract Manager to determine if SUB-CONTRACTOR is performing to expectations, is on schedule, is within funding cost limitations, to communicate interim findings, and to afford occasions for airing difficulties respecting special problems encountered so that remedies can be developed.

- b. Any document or written report prepared as a requirement of this Contract shall contain, in a separate section preceding the main body of the document, the number and dollar amounts of all contracts and subcontracts relating to the preparation of those documents or reports.
- c. SUB-CONTRACTOR will provide one (1) electronic version of the final written report to the CALTRANS Contract Manager at the end of the contract term.
- d. Sub-Contractor will provide reports and data pertaining to this contract to BCOE upon request from BCOE and/or Caltrans in the below categories:
 - i. Number of Work Crew Participants
 - ii. Outside Jobs Obtained/Program Exit Reasons
 - iii. Demographics

8. OPERATION OF COMPLEX EQUIPMENT:

It is specifically understood and agreed that only qualified CALTRANS employees shall be allowed to operate complex equipment, except transportation equipment which shall be operated by the SUB-CONTRACTOR as provided in this Contract.

9. REPORT OF NEGLIGENCE:

It is further understood and agreed that any negligence on the part of the SUB-CONTRACTOR's Work Crew Supervisor(s) or participants shall be reported by SUB-CONTRACTOR to BCOE Program Manager in a timely manner. SUB-CONTRACTOR shall investigate any concern(s) reported by CALTRANS or any other person or entity and respond to BCOE and CALTRANS. Concerns presented verbally may be responded to in kind or in writing. Concerns presented in writing shall be responded to in writing.

10. COMMUNICATIONS:

SUB-CONTRACTOR at its own cost and expense shall be responsible for providing the SUB-CONTRACTOR's Work Crew Supervisors and Program Manager a cell phone, which they will have on their person at all times. All cell phones will be equipped with hands-free device to ensure the safety of the Work Crews when talking on the phone and driving at the same time.

11. TRANSPORTATION:

SUB-CONTRACTOR at its own cost and expense shall be responsible for vehicles capable for transporting Work Crews, trailers, tools and necessary equipment in order to fulfill the terms and conditions of this Contract. Said vehicles shall be outfitted for highway-adjacent work including safety devices such as rotator lights on the top of the vehicles and trailer.

SUB-CONTRACTOR shall be responsible for appropriate vehicle registration, insurance, and identification. SUB-CONTRACTOR shall be

responsible for all vehicle fuel, maintenance, and repair.

12. INSURANCE:

Comprehensive Auto and General Liability: During the term of the Contract, SUB-CONTRACTOR shall maintain comprehensive auto insurance of no less than two million dollars (\$2,000,000) single limit per occurrence, issued by an admitted insurer or insurers and defined by the California Insurance Code.

Additionally, SUB-CONTRACTOR shall maintain general liability insurance of no less than two million (\$2,000,000) single limit per occurrence, issued by an admitted insurer or insurers with no less than an A Standard and Poor's credit rating.

Caltrans and BCOE, its officers, employees, and agents are to be named as additional insured under the policy. Proof of coverage shall be provided to the County Office on or before the effective date of the Contract.

Workers' Compensation: During the term of the Contract, SUB-CONTRACTOR shall fully comply with the terms of the law of California concerning Workers' Compensation. Said compliance shall include, but not be limited to, maintaining in full force and affect one or more policies of insurance to insure against any liability Sub-Contractor may have for Workers' Compensation.

13. SUB-CONTRACTOR'S ADDITIONAL RESPONSIBILITIES:

a. *SUB-CONTRACTOR shall furnish, as it develops, the following information to BCOE:*

- i. Current problems and developments as needed but no less often than weekly;
- ii. Information on perceived risks as needed but no less often than weekly; and
- iii. All complaints, comments, and critical remarks as needed but no less often than weekly.

b. SUB-CONTRACTOR shall strive to furnish maximum service to BCOE and all program participants and shall include, but not be limited to the following:

- i. Regular attendance at BCOE requested meetings;
- ii. Communication of BCOE's policies to CALTRANS and program participants as requested;
- iii. Maintenance of adequate staffing;
- iv. Cooperation with BCOE's personnel;
- v. Investigation and handling of problems, and complaints;
- vi. Prompt handling of inquiries and correspondence; and
- vii. Prompt follow-up of all inquiries received from BCOE.
- viii. Keep necessary Data required by CALTRANS as specified in Amended

- ix. Agreement #56A0469 (Appendix A).
Provide BCOE with necessary Data required by CALTRANS as specified in Amended Agreement #56A0469 (Appendix A).

c. Premises:

Sub-Contractor will allow BCOE to utilize space at the _____, upon all of the terms and conditions hereof, the existing building currently at _____ Sub-Contractor agrees to provide necessary office space during regular business hours scheduled to not interfere with Sub-Contractors currently scheduled staff, events, etc.. Office space will be utilized by BCOE for a maximum of three (3) business days per week to perform duties necessary to functioning of the Back 2 Work Program.

14. CANCELLATIONS:

BCOE reserves the right to cancel this Contract upon twenty-five (25) days written notice. In the event of a cancellation, BCOE agrees to pay SUB-CONTRACTOR for actual Services rendered up to the date of the cancellation.

15. ENTIRE CONTRACT:

This Contract contains the parties' entire written agreement. Any representations or promises not specifically detailed in this document will not be valid or binding on the parties to this Contract. Any modification to the terms of this Contract must be made in writing and signed by all parties to this Contract. Services shall not be rendered until this Contract is approved.

16. ATTORNEYS' FEES:

This prevailing party, as defined by California law, shall be entitled to any and all attorneys' fees and costs related to any disputes arising under this Contract, and the attorneys' fees and cost relating to the resolution of such disputes whether or not any such dispute proceeds to final judgment.

17. APPLICABLE LAW:

This Contract is made and entered into in the State of California and shall in all respects be interpreted and enforced under California law. The parties agree that venue for any legal proceedings hereunder will be in Butte County.

18. DRUG FREE WORKPLACE:

By signing this Contract, SUB-CONTRACTOR hereby certifies under penalty of perjury under the laws of the State of California that SUB-CONTRACTOR will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code section 8350 et seq.) and will provide a Drug-Free workplace by doing all of the following:

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

Failure to comply with these requirements may result in suspension of payments under this Contract or termination of this Contract or both, and SUB-CONTRACTOR may be ineligible for the award of any future state contracts if CALTRANS determines that any of the following has occurred: (1) SUB-CONTRACTOR has made a false certification or, (2) SUB-CONTRACTOR violates the certification by failing to carry out the requirements as noted above.

- 19. ASSIGNMENT:** SUB-CONTRACTOR may not assign or transfer, by operation of law or otherwise, any or all of their rights, burdens, duties, or obligations under this contract without the prior written consent of the BCOE or designee.

20. FORCE MAJEURE: The parties to the Contract shall be excused from performance during the time and to the extent that they are prevented from performing by act of God, fire, strike, loss, accident, or any other cause beyond the control of the parties provided that satisfactory evidence is presented and the failure to perform is not due to the fault or neglect of the SUB-CONTRACTOR.

21. FEDERAL OR STATE REGULATIONS: The SUB-CONTRACTOR shall perform the services under this Contract in accordance with all applicable statutes of the United States or of the State and all applicable regulations and orders of the Federal or State governments now in effect or which shall be in effect during the period of this Contract.

22. INDEPENDENT CONTRACTOR: In performance of the Services, duties and obligations assumed by the SUB-CONTRACTOR, it is mutually understood and agreed that the SUB-CONTRACTOR, including any and all of the SUB-CONTRACTOR's officers, agents, and employees, will at all times be acting and performing in an independent capacity and not as an officer, agent, servant, employee, joint venture, partner, or associate of BCOE.

SUB-CONTRACTOR agrees that any and all persons performing any Services and/or work contemplated by this Contract and/or related or incidental hereto, shall be an employee of the SUB-CONTRACTOR and SUB-CONTRACTOR shall, by way of example but not by way of limitation, withhold federal and state income taxes as well as the required employee social security contribution of each said persons. SUB-CONTRACTOR shall comply with all regulations regarding employees, and SUB-CONTRACTOR shall pay and/or contribute its required share as the employer of said persons.

SUB-CONTRACTOR acknowledges the fact that it is an independent contractor and is in no way to be construed as an employee of BCOE, nor are any of the persons employed by the SUB-CONTRACTOR to be so construed.

23. HOLD HARMLESS CLAUSE: The SUB-CONTRACTOR shall hold harmless and indemnify BCOE and the Butte County Board of Education, officers, and employees from every claim or demand which may be made by reason of:

- a. Any injury to person or property sustained by the SUB-CONTRACTOR or by a person, firm, or corporation employed directly or indirectly by him or her, in connection with his or her performance under the Contract.

- b. Any injury to person or property sustained by any person, firm, or corporation caused by act, neglect, default, or omission by the SUB-CONTRACTOR or of any person, firm, or corporation directly or indirectly employed by him in connection with his performance under the Contract.
 - c. The SUB-CONTRACTOR, at its own risk and expense, shall defend any legal proceeding or claim that may be brought against the Butte County Board of Education or BCOE, its officers, and employees. The SUB-CONTRACTOR will also satisfy any judgment that may be rendered against the Board of Education, BCOE, its officers or employees for injuries or damages sustained in connection with its performance under the Contract.
 - d. The indemnity provisions of this section shall not apply to any claim, demand, proceeding, settlement or suit arising or resulting from the gross negligence or willful misconduct of BCOE, CALTRANS, or the Board of Education.

24. PERMITS AND LICENSES: The SUB-CONTRACTOR and all of its employees or agents shall secure and maintain in force such licenses and permits as are required by law in connection with the furnishing of materials, articles, or Services listed herein. All operations and materials shall be in accordance with the requirements of California law.

25. NONDISCRIMINATION CLAUSE (2 CCR 11105 Clause b):

- a. During the performance of this Contract, the SUB-CONTRACTOR, and its Subcontractors shall not deny the contract's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. SUB-CONTRACTOR shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination.
- b. SUB-CONTRACTOR shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code, § 12900 et seq.), the regulations promulgated thereunder (Cal. Code Regs., tit. 2, § 11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3,

Title 2 of the Government Code (Gov. Code, §§11135-11139.5), and the regulations or standards adopted by the awarding state agency to implement such article.

- c. SUB-CONTRACTOR shall permit access by representatives of the Department of Fair Employment and Housing and the awarding state agency upon reasonable notice at any time during the normal business hours, but in no case less than twenty four (24) hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or CALTRANS shall require to ascertain compliance with this clause.
- d. SUB-CONTRACTOR and its Subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
- e. The SUB-CONTRACTOR shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Contract

26. EMPLOYMENT WITH PUBLIC AGENCY.

SUB-CONTRACTOR, if an employee of another public agency, agrees that SUB-CONTRACTOR will not receive salary or remuneration, other than vacation pay, as an employee of another public agency for the actual time in which Services are actually being performed pursuant to this Contract.

27. Records Retention:

- a. SUB-CONTRACTOR, its contractors and subcontractors shall establish and maintain an accounting system and records that properly accumulate and segregate incurred Project costs and matching funds by line item for the Project. The accounting system of SUB-CONTRACTOR, its contractors and all subcontractors shall conform to Generally Accepted Accounting Principles (GAAP), enable the determination of incurred costs at interim points of completion, and provide support for reimbursement payment vouchers or invoices. All accounting records and other supporting papers of SUB-CONTRACTOR, its contractors and subcontractors connected with Project performance under this Contract shall be maintained for a minimum of three years from the date of final payment to SUB-CONTRACTOR and shall be held open to inspection, copying, and audit by representatives of CALTRANS, the California State Auditor, and auditors representing the federal government. Copies thereof will be furnished by SUB-CONTRACTOR, its contractors, and its subcontractors upon receipt of any request made by CALTRANS or its

agents. In conducting an audit of the costs and match credits claimed under this Contract, CALTRANS will rely to the maximum extent possible on any prior audit of SUB-CONTRACTOR pursuant to the provisions of federal and State law. In the absence of such an audit, any acceptable audit work performed by SUB-CONTRACTOR's external and internal auditors may be relied upon and used by CALTRANS when planning and conducting additional audits.

- b. For the purpose of determining compliance with Title 21, California Code of Regulations, Section 2500 et seq., when applicable, and other matters connected with the performance of SUB-CONTRACTOR's contracts with third parties pursuant to Government Code section 8546.7, SUB-CONTRACTOR, SUB-CONTRACTOR's contractors and subcontractors and CALTRANS shall each maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of such contracts, including, but not limited to, the costs of administering those various contracts. All of the above referenced parties shall make such materials available at their respective offices at all reasonable times during the entire Project period and for three years from the date of final payment to SUB-CONTRACTOR under this Contract. CALTRANS, the California State Auditor, or any duly authorized representative of CALTRANS or the United States Department of Transportation, shall each have access to any books, records, and documents that are pertinent to a Project for audits, examinations, excerpts, and transactions, and SUB-CONTRACTOR shall furnish copies thereof if requested.
- c. SUB-CONTRACTOR, its contractors and subcontractors will permit access to all records of employment, employment advertisements, employment application forms, and other pertinent data and records by the State Fair Employment Practices and Housing Commission, or any other agency of the State of California designated by CALTRANS, for the purpose of any investigation to ascertain compliance with this Contract.

28. State Owned Data

- a. SUB-CONTRACTOR agrees to comply with the following requirements to ensure the preservation, security, and integrity of State-owned data on portable computing devices and portable electronic storage media:
 - a. Encrypt all State-owned data stored on portable computing devices and portable electronic storage media using government-certified Advanced Encryption Standard (AES) cipher algorithm with a 256-bit or 128-bit encryption key to protect CALTRANS

data stored on every sector of a hard drive, including temp files, cached data, hibernation files, and even unused disk space.

- b. Data encryption shall use cryptographic technology that has been tested and approved against exacting standards, such as FIPS 140-2 Security Requirements for Cryptographic Modules.
 - c. Encrypt, as described above, all State-owned data transmitted from one computing device or storage medium to another.
 - d. Maintain confidentiality of all State-owned data by limiting data sharing to those individuals contracted to provide services on behalf of the State, and limit use of State information assets for State purposes only.
 - e. Install and maintain current anti-virus software, security patches, and upgrades on all computing devices used during the course of the Contract.
 - f. Notify the Contract Manager immediately of any actual or attempted violations of security of State-owned data, including lost or stolen computing devices, files, or portable electronic storage media containing State-owned data.
 - g. Advise the owner of the State-owned data, the agency Information Security Officer, and the agency Chief Information Officer of vulnerabilities that may present a threat to the security of State-owned data and of specific means of protecting that State-owned data.
- b. To use the State-owned data only for State purposes under this Contract.
 - c. To not transfer State-owned data to any computing system, mobile device, or desktop computer without first establishing the specifications for information integrity and security as established for the original data file(s). Reference State Administrative Manual (SAM) section 5335.1.

29. AUDIT. SUB-CONTRACTOR shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of SUB-CONTRACTOR transacted under this Contract. SUB-CONTRACTOR shall retain these books, records, and systems of account during the Term of this Contract and for three (3) years thereafter. SUB-CONTRACTOR shall permit the BCOE, its agent, other representatives, or an independent auditor to audit,

examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Services covered by this Contract. Audit(s) may be performed at any time, provided that the BCOE shall give reasonable prior notice to SUB-CONTRACTOR and shall conduct audit(s) during SUB-CONTRACTOR's normal business hours, unless SUB-CONTRACTOR otherwise consents.

- 30. LIMITATION OF BCOE LIABILITY.** Other than as provided in this Contract, BCOE's financial obligations under this Contract shall be limited to the payment of the compensation provided in this Contract. Notwithstanding any other provision of this Contract, in no event, shall BCOE be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Contract for the services performed in connection with this Contract.
- 31. WAIVER.** The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.
- 32. SEVERABILITY.** If any term, condition or provision of this Contract is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.
- 33. COUNTERPARTS.** This Contract and all amendments and supplements to it may be executed in counterparts, and all counterparts together shall be construed as one document.
- 34. SIGNATURES**
By affixing its signature to this Contract, each party warrants and represents that each has the authority to enter into this Contract and to perform all obligations under the Contract, and further that signatory of this Contract is authorized to legally bind the party.

Butte County Office Education

SUB-CONTRACTOR:

Authorized Representative Signature

Authorized Representative Signature

Date: _____

Date: _____

Name: _____

Address: 1859 Bird Street
Oroville, CA 95965

Email: _____

Phone: _____

Fax: _____

Name: _____

Address: _____

Email: _____

Phone: _____

Fax: _____

SAMPLE