

**COUNTY OF TUOLUMNE  
COMMUNITY DEVELOPMENT  
DEPARTMENT**

Issued: January 7, 2020



**REQUEST FOR PROPOSALS (RFP)  
TUOLUMNE COUNTY CLIMATE ACTION PLAN**

Deadline for Submission of Proposals:  
**February 7, 2020 at 3:00 PM**

For an electronic version of this RFP, go to:

<http://www.tuolumnecounty.ca.gov>

(Click on "Bids, RFPs & RFQs")

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**SECTION ONE: ACTIVITIES AND TIMELINES**

<b>ACTIVITY</b>	<b>DATE</b>
• <b>Release of published RFP</b>	<b>1/7/20</b>
• Deadline for receiving all questions	<b>1/20/20</b>
• Deadline for RFP responses to be received by County	<b>2/7/20</b>
• Review Committee evaluates and ranks proposals	<b>2/14/20</b>
• Notice of contract award (Tentative)	<b>2/19/20</b>
• Deadline for protests/appeals (Tentative)	<b>3/4/20</b>
• <b>Contract executed (Tentative)</b>	<b>3/17/20</b>

**SECTION TWO: GENERAL RFP SUMMARY**

This request for proposals is to solicit a consultant or consultant team to prepare a Climate Action Plan (CAP) for Tuolumne County. It is anticipated that the CAP will support the implementation of the goals, policies and programs identified in the 2018 Tuolumne County General Plan.

California law and federal law provide specific employment restrictions for retirees and/or current County employees that desire to contract with the County.

For CalPERS retirees: if the work you will perform as a contractor is the same or similar to work you performed as an active employee or is work that is performed by active employees, it is most likely subject to the PERS retired annuitant restrictions, meaning the employment is disallowed and the County will not be able to enter into a contract with you.

For current County employees: California and federal law prohibit a current employee from contracting with its employer while being an active employee. If an employee is interested in becoming an independent contractor, the employee must consider separation from employment with the County, however should the employee retire, he/she may be subject to the CalPERS retired annuitant laws. Should a current County employee respond to a RFP while in active employment status, the employee must separate from employment prior to award of the contract.

No County time is allowed to be used to prepare for or work on a response to a County RFP.

**SECTION THREE: PROGRAM BACKGROUND AND OVERVIEW**

The 2018 General Plan, approved by the Board of Supervisors on January 3, 2019, identifies that the County will complete a climate action plan no later than December 2020. The Climate Action Plan is specifically identified in Chapter 18 of the General Plan Policy Document in Goal 18A and the supporting policies and implementation programs for that goal. The Environmental Impact

Report for the General Plan evaluates climate change for the planning horizon of the General Plan, which is 2040. These documents, along with the General Plan Technical Background Report, can be found at: <https://www.tuolumnecounty.ca.gov/185/General-Plan-Policy>.

## SECTION FOUR: SCOPE OF SERVICES

The anticipated Scope of Work is described below. The consultant proposal narrative should adequately describe consultant's approach and methodology for achieving the tasks described below. Consultants are strongly encouraged to suggest refinements and innovative methodologies that ultimately achieve the work products described in this document. County staff will be working closely with selected consultant(s) and are prepared to contribute in-house task assistance. The proposal should indicate which tasks would be appropriate and/or desirable for County staff to complete.

### *TASK 1. REVIEW OF RELEVANT COUNTY DOCUMENTS*

- 1.1 Review the County of Tuolumne 2018 General Plan, Tuolumne Tomorrow Blueprint Report, Tuolumne County Greenhouse Gas Report, Tuolumne County Hazard Mitigation Plan, Tuolumne County Regional Transportation Plan, and other documents, as relevant.

### *TASK 2. COMPLETE GHG FORECASTING ANALYSIS*

- 2.1 Review State and regional programs and policies to identify best practices and prevent redundancy.
- 2.2 Project what County of Tuolumne GHG emissions would be under a "business as usual" model. Utilize any existing inventory information in the Blueprint study as applicable.

### *TASK 3: FACILITATE STAFF AND COMMUNITY ENGAGEMENT*

The County anticipates utilizing the Board of Supervisors Planning Committee to support development of the CAP. In addition, the County desires to hold several public stakeholder meetings to explain the CAP process and project goals, and to receive input on the CAP.

- 3.1 Prepare and facilitate up to three public stakeholder meetings during the contract. The exact timing and goals of the meetings will be developed in conjunction with the final scope of work and schedule.
- 3.2 Manage Planning Committee's effort during contract including:
  - a. Developing a plan for how to effectively engage the Planning Committee throughout the project, including providing technical resources that will guide and inform the committee.
  - b. Convening a kick-off meeting for the Planning Committee that may include providing context and training for committee members.
  - c. Planning, preparing, and facilitating approximately five meetings (total) and additional meetings as needed; and incorporating feedback provided by the Planning Committee

- into interim and final work products as appropriate. Please provide a per meeting cost in your budget submission.
- 3.3 Provide a summary report with recommendations based on collected feedback.

*TASK 4: RECOMMENDATION OF 2030 AND 2050 GHG REDUCTION GOALS*

Based on the findings of Tasks 1 through 3, recommend the following:

- 4.1 Appropriate 2030 GHG reduction target that aligns with SB 32 goals, appropriate 2050 GHG reduction target that aligns with Executive Order (EO) B-30-15 goals, and reflect the 2019 December changes to the Climate Change Element of the 2018 General Plan.

*TASK 5: DETERMINE SCENARIOS TO ACHIEVE OR EXCEED NEW GHG REDUCTION GOALS*

- 5.1 Based on input received on previous tasks, propose strategies to achieve proposed GHG reduction goals.
- 5.2 Develop user-friendly prioritization methodology and a prioritization matrix for ranking focus areas, considering GHG reduction potential & cost effectiveness and funding availability

*TASK 6: DEVELOP A DRAFT CAP AND IDENTIFY IMPLEMENTATION FUNDING OPPORTUNITIES*

The specific strategies and priority actions selected for the proposed 2030 and 2050 GHG reduction scenarios will be summarized into a Strategic Framework with specific near-term implementation plans (as appropriate) and schedule for longer-term implementation plan development.

- 6.1 Develop Strategic Framework and long-term schedule for developing Implementation Plans.
- a. Near-term action steps
  - b. Long-term action steps
  - c. Identification of agencies and departments responsible for implementation of action steps
  - d. Indicators for success
  - e. Appropriate methods to assess progress

In addition, the plan will include:

- f. Summary of the CAP process
- g. Greenhouse gas projections/forecast
- h. Climate action goals and milestones
- i. Strategic Framework
- j. Implementation plans (as appropriate)
- k. Adaptive management approach
- l. Funding and financing opportunities

*TASK 7. CEQA REVIEW*

The County anticipates that the selected consultant will complete required CEQA review for the CAP, including:

- 7.1 Complete all necessary environmental review for the purposes of future tiering and project streamlining.
- 7.2 Attendance at any related public meetings.

*TASK 8: FINALIZE CAP*

The selected consultant will incorporate comments and findings, as directed by County staff, into the final CAP.

- 8.1 Revise the CAP based on input from Board of Supervisors, Planning Committee, County staff, and the community, as appropriate; incorporate findings from the CEQA review process.
- 8.2 Prepare the final CAP.

*TASK 9: PRESENTATIONS TO PLANNING COMMISSION AND BOARD OF SUPERVISORS*

Support staff in preparing a report and presentation to the Planning Commission and Board of Supervisors:

- 9.1 Provide staff reports and resolutions on CAP development and the final CAP.
- 9.2 Provide presentations to Planning Commission and Board of Supervisors on the CAP development and the final CAP.

*TASK 10: PRODUCE UPDATES FOR THE GENERAL PLAN*

- 10.1 Based on the adopted CAP, develop language to include in a General Plan update.

*ADDITIONAL SERVICES*

Potential additional consulting services may include but are not limited to the list below. Please provide approach strategies and pricing for each of these potential tasks.

- a. Development of policy templates.
- b. Analysis of case studies.
- c. Technical assistance with implementation.

**SECTION FIVE: MINIMUM QUALIFICATIONS**

The consultant or consultant team should have demonstrated experience in completing work on climate action plans/projects in rural counties which developed mitigation measures/performance standards that considered factors such as topography, infrastructure, climate, transit/active transportation options, and private vs. public land ownership.

**SECTION SIX: PROPOSAL PACKAGE REQUIREMENTS**

**A. PROPOSAL FORMAT**

Proposals are to be straightforward, clear, concise and responsive to the information requested. In order for proposals to be considered complete, proposers must provide all requested information.

Each proposer must submit four (4) copies of the proposal and one electronic copy on a flash drive.

Please prepare and organize your Proposal based on the requirements provided below. Any other information you would like to include should be placed in a separated section at the back of your Proposal. Please note however that the RFP Proposal is limited to 20 pages maximum (excluding resumes). Printing must be done double-sided and submitted on 8 ½” x 11” paper, in a minimum of 11-point font. Page limit excludes a table of contents, dividers, and resumes for Consultant’s team.

**B. PROPOSAL ELEMENTS**

Enclose a cover letter, before the table of contents and included as the first page of this submittal. This cover letter shall not exceed one page, describing the firm's interest and commitment to perform work necessary to produce a Climate Action Plan. The person authorized by the firm to negotiate a contract with the County of Tuolumne shall sign the cover letter, as well as the name and all contact information for the designated project manager. The letter signature shall be from the person who would be signatory to any potential contract with the County of Tuolumne.

Please include the following required sections, which should be referenced in a Table of Contents:

Qualifications and Related Experience of Personnel Who Will Perform Work

Résumés of all personnel who are proposed to provide professional services to the County within the Scope of Services outlined and described in this request should be included.

Prior Relevant Experience

A description of prior work experience and projects relevant to the Scope of Services outlined and described in this request should be included. Preference will be given to firms who have developed CAPs for rural jurisdictions or within the last 5 years with 2030 and 2050 GHG reduction targets.

References of Local Government Clients

Please include a list of at least three local government clients located in California for which the consultant has rendered professional services relevant to the Scope of Services outlined and described in this request.

Approach, Scope, and Timelines

Provide a proposed approach and projected timeline to conduct and complete the steps in the Scope of Services. Briefly describe the methodology and organizational approach the consultant would use to assist the County, including critical elements and special methodologies that would be used to ensure that County objectives are satisfied. The proposal should identify if the CAP will be a “qualified” CAP or not, and the advantages of preparing the document as proposed.

Cost

Consultants must provide:

- Task specific cost estimate with staff allocation identified for each task
- Hourly rates for all personnel assigned to the project
- Options for reducing or adding services, including options for County staff to supplement consultant’s efforts

<b>SECTION SEVEN: RFP PROCESS</b>
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**A. SUBMITTAL OF PROPOSALS**

Sealed proposals must be received at the Community Development Department, **NO LATER THAN FEBRUARY 7, 2020 at 3:00 PM.**

**Proposals are to be addressed as follows:**

**CLIMATE ACTION PLAN  
Community Development Department  
2 South Green Street, Sonora, CA 95370 – mailing  
48 Yaney Avenue, Sonora CA 95370 – physical  
Attention: QUINCY YALEY**

***Proposer’s name and return address must also appear on the envelope.***

Proposals will be received only at the address shown above, and must be received by the time indicated. It is the sole responsibility of the proposer to send or deliver its proposal so that it is received by the time and date required, regardless of postmark. Any proposal



received after said time and/or date or at a place other than the stated address, cannot be considered and **will not be accepted**. The Community Development Department time stamp shall be considered the official timepiece for the purpose of establishing the actual receipt of proposals.

**B. SUBMITTER'S QUESTIONS**

Questions regarding the RFP must be submitted exclusively in writing to the County by **January 20, 2020**. Except for questions that might render the award of this contract invalid, the County will not respond to any questions submitted after this time. The County will use an addendum to the RFP to post any questions received, along with written responses, on the County website, [www.tuolumnecounty.ca.gov](http://www.tuolumnecounty.ca.gov), (click on "Bids, RFPs & RFQs" in the Business Section). **It is the responsibility of the proposers to check the County website to review the questions and responses.** Any oral responses to questions are not binding on the County.

Questions should be sent via email to Quincy Yaley at [qyaley@co.tuolumne.ca.us](mailto:qyaley@co.tuolumne.ca.us).

**C. COSTS OF DEVELOPING THE PROPOSAL**

All costs incurred in the preparation of a proposal are the responsibility of each proposer and will not be reimbursed by the County.

**D. PROPOSAL TERMS AND CONDITIONS**

It is the responsibility of each proposer to be familiar with all of the specifications, terms and conditions of the RFP. By the submission of a proposal, the proposer certifies that if awarded a contract, proposer will make no claim against the County based upon ignorance of or misunderstanding of the specifications.

Each proposer shall submit its proposal with the understanding that the proposal will become a part of the official file on this matter and shall be subject to disclosure, if requested by a member of the public, following the completion of negotiations.

By submitting a proposal, each proposer certifies that all statements in this proposal are true. This constitutes a warranty, the falsity of which shall include the right, at the County's option, of declaring any contract made, as a result thereof, null and void. Proposals shall be completed, executed, and submitted in accordance with the instructions of this RFP. If a proposal is not submitted in the format specified in this RFP, it may be rejected, unless the County determines that the nonconformity is either a minor irregularity or that the defect or variation in the proposal is immaterial or inconsequential. The County may give the proposer an opportunity to cure any deficiency resulting from a minor irregularity or an immaterial or inconsequential defect, or County may waive such deficiency, whichever is most advantageous to the County.

**E. SUCCESSFUL PROPOSAL AS PART OF CONTRACT SERVICES**

Proposals received in response to this solicitation, at the County’s discretion, may be incorporated into the awarded contract and may serve as basic terms and conditions for the ultimate contract. Therefore, proposers are advised that, if successful, they will be held responsible for levels of services proposed at the funding levels quoted. The County reserves the right to negotiate modifications or revisions to any awarded contract.

**1. EVALUATION OF PROPOSALS**

The objective is to perform a thorough and fair evaluation of submitted proposals and facilitate the selection of a consultant that best satisfies the County’s requirements. The following describes the evaluation process and associated components.

**2. SELECTION PROCESS**

- a. The County shall name, for the purpose of evaluating the proposals for this RFP, a Review Committee composed of representatives from the County. The County may also elect to include as part of the Review Committee qualified representatives from other agencies or entities.
- b. Proposal documentation requirements set forth in this RFP are designed to provide guidance to proposers concerning the type of information that will be used by the Review Committee. Proposers shall be prepared to respond to requests by the Review Committee for additional items deemed necessary to assist in the evaluation process.

**3. EVALUATION CRITERIA & SCORING**

The Review Committee shall be responsible for performing the evaluations of each proposal. Each member of the Committee shall rate the proposers separately. The scores of each of the Committee members shall then be averaged to provide a total score for each of the proposers. The proposals shall be evaluated on the following categories and the maximum weight possible for each category is listed below:

<b>A.</b>	<b>Completeness of Proposal</b>	Pass/ Fail
<b>B.</b>	<b>Qualifications</b>	50%
<b>C.</b>	<b>Service Delivery/Methodology</b>	30%
<b>D.</b>	<b>Reasonable Cost of Service</b>	20%

**4. AWARD**

Award will be made to the qualified proposer whose proposal will be most advantageous to the County, with price and all other factors considered. The County will negotiate with

the highest ranked proposer to develop the scope of work and contract for mutual satisfaction.

If the County cannot successfully negotiate a contract with the highest ranked proposer, the County will terminate negotiations and begin negotiations with the next highest ranked proposer.

Proposers will receive mailed Award/Non-Award notification(s), which will include the name of the proposer to be awarded this contract.

Proposers are advised County reserves the following prerogatives:

- To reject any or all proposals;
- To consider historic information and fact, whether gained from the proposer's proposal or any other source, in the evaluation process; and
- The proposer is cautioned that it is the proposer's sole responsibility to submit information related to the evaluation categories and the County is under no obligation to solicit such information if it is not included with the proposal. Failure of the individual or firm to submit such information may cause an adverse impact on the evaluation of the proposal.

**F. OTHER REQUIREMENTS**

In order to contract with the County of Tuolumne, a proposer must meet the following requirements:

- Make available to the County its federal Tax Identification Number (TIN) or Social Security Number (SSN).
- Comply with all Federal, State and local rules, regulations and policies, including but not limited to:
  - Standard contract language of the County; and,
  - Insurance coverage to include worker's compensation, general liability, auto liability and professional liability, unless waived by the County.
- Meet the requirements for audit of its expenditures if required in the above documents.

**G. NON-DISCRIMINATION**

Non-Discrimination: The Contractor selected through this RFP shall provide services without discrimination based on race, creed, color, ethnic or linguistic identification, gender or sexual preference, disability or handicap or any other basis prohibited by law.

**H. PROTEST/APPEAL PROCESS**

The following procedure is provided in the event that a proposer wishes to protest the RFP process or appeal the recommendation to award a contract for the Climate Action Plan RFP once the Notices of Award/Non-Award have been issued.

- Any protest must be submitted in writing to Quincy Yaley, Community Development Department, 2 South Green Street, Sonoma, CA 95370.
- The protest must be submitted before 3:00 PM of the tenth (10<sup>th</sup>) business day following the date of the Notice of Award.
- The protest must contain a complete statement of the basis for the protest. The protest must include the name, address, telephone number and e-mail address of the person representing the protesting party.
- The procedure and time limits are mandatory and are the proposer's sole and exclusive remedy in the event of a bid protest.

Proposer's failure to comply with these procedures shall constitute a waiver of any right to further pursue the protest, including filing a Government Code claim or legal proceedings.

Upon receipt of written protest/appeal, the Community Development Department Director will review and provide an opportunity to settle the protest/appeal by mutual agreement, will schedule a meeting to discuss or issue a written response to advise of an appeal/protest decision within five (5) business days of receipt of the appeal/protest.

#### **I. PUBLIC RECORDS ACCESS**

Proposers should be aware that submitted proposals are subject to the California Public Records Act and may be disclosed to members of the public upon request. It is the responsibility of the proposers to clearly identify information in their proposals that they consider to be confidential under the California Public Records Act. To the extent that the County agrees with that designation, such information will be held in confidence whenever possible. All other information will be considered public.

All information regarding the proposals will be held as confidential until such time as the Review Committee has completed its evaluation and, or if, contract negotiations are complete.

<b>SECTION EIGHT: CONTRACT INFORMATION</b>
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#### **A. SAMPLE AGREEMENT**

A sample Agreement is attached to this RFP, which details all standard terms and conditions required by the County of Tuolumne.

#### **B. TERM/TERMINATION**

The term of the initial contract awarded under this RFP will be until December 31, 2020. By mutual agreement, this contract may be extended, under the following circumstances:

- The County receives adequate funding to extend program operations;

- The Contractor has achieved demonstrable success by meeting all of the contract's service requirements;
- The County continues to need the services purchased under this RFP;
- The Contractor is willing and able to modify the services provided to best meet the needs of the program as determined by the County.

The contract will be subject to termination by either party upon thirty (30) days' advance, written notice of intent to terminate. The County may terminate the contract at any time, without written notice, upon a material breach of contract by the Contractor.

**C. FUNDING AVAILABILITY**

It is mutually agreed that if the County budget of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the County shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement. Contractor's assumption of risk of possible non-appropriation is part of the consideration for this Agreement. County budget decisions are subject to the discretion of the Board of Supervisors.

If funding for any fiscal year is reduced or deleted by the County budget for purposes of this program, the County shall have the option to either cancel this Agreement with no liability occurring to the County, or offer an Agreement amendment to Contractor to reflect the reduced amount.

**D. INSURANCE**

- A. The Contractor shall provide at its own expense and maintain at all times the following insurance with insurance companies licensed in the State of California and shall provide evidence of such insurance to the County as may be required by the Risk Manager of the County. The Contractor's insurance policy(ies) shall be placed with insurer(s) with acceptable Best's rating of A:VII or with approval of the Risk Manager. The Contractor shall provide notice to the Risk Manager of the County by registered mail, return receipt requested, thirty (30) days prior to cancellation or material change for all of the following stated insurance policies:
- i. Workers' Compensation Coverage – Workers' Compensation Insurance and Employer's Liability Insurance for employees in accordance with the laws of the State of California (including requiring any authorized subcontractor to obtain such insurance for its employees).
  - ii. General Liability Coverage - Commercial general liability insurance with a minimum liability limit per occurrence of one million dollars (\$1,000,000) for bodily injury and one hundred thousand dollars (\$100,000) for property damage. If a commercial general liability insurance form or other form with general aggregate

limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Coverage shall be included for premises, operations and broad form contractual.

- iii. Automobile Liability insurance with a minimum limit of liability per occurrence of \$1,000,000 for bodily injury and \$100,000 for property damage. This insurance shall cover for bodily injury and property damage, owned, hired and non-owned vehicles.
  - iv. Professional Liability: Professional errors and omissions liability for protection against claims alleging negligent acts, errors or omissions which may arise from Contractor's operations under this Agreement, whether such operations be by Contractor or by its employees, subcontractors, or subconsultants. The amount of this insurance shall not be less than one million dollars (\$1,000,000) per claim with an aggregate limit of two million dollars (\$2,000,000). Contractor agrees to maintain the required coverage for a period of three (3) years after the expiration of this Agreement and any extensions thereof.
- B. Policy Endorsements: Each general liability and automobile liability insurance policy shall be endorsed with the following specific provisions:
- i. The County, its elected or appointed officers, officials, employees, agents and volunteers are to be covered as additional insureds ("County additional insureds").
  - ii. This policy shall be considered, and include a provision it is, primary as respects the County additional insureds, and shall not include any special limitations to coverage provided to the County additional insureds. Any insurance maintained by the County, including any self-insured retention the County may have, shall be considered excess insurance only and shall not contribute with it.
  - iii. This insurance shall act for each insured and additional insured as though a separate policy had been written for each, except with respect to the limits of liability of the insuring company.
  - iv. The insurer waives all rights of subrogation against the County additional insureds.
  - v. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County additional insureds.
- C. Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by the Risk Manager. At the County's option, Contractor shall demonstrate financial capability for payment of such deductibles or self-insured retentions.
- D. Unsatisfactory Policies: If at any time any of the policies or endorsements be unsatisfactory as to form or substance, or if an issuing company shall be unsatisfactory,

to the Risk Manager, a new policy or endorsement shall be promptly obtained and evidence submitted to the Risk Manager for approval.

- E. Failure to Comply: Upon failure to comply with any of these insurance requirements, this Agreement may be forthwith declared suspended or terminated. Failure to obtain and/or maintain any required insurance shall not relieve any liability under this Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the indemnification obligations.

**E. HOLD HARMLESS**

Contractor shall indemnify, defend, save, protect and hold harmless County, its elected and appointed officials, officers, employees, agents and volunteers (collectively, "County") from any and all demands, losses, claims, costs, suits, liabilities and expenses for any damage, injury or death (collectively, "Liability") arising directly or indirectly from or connected with the services provided hereunder which is caused, or claimed or alleged to be caused, in whole or in part, by the negligence or willful misconduct of Contractor, its officers, employees, agents, contractors, consultants, or any person under its direction or control and shall make good to and reimburse County for any expenditures, including reasonable attorney's fees, the County may make by reason of such matters and, if requested by County, shall defend any such suits at the sole cost and expense of Contractor. Contractor's obligations under this section shall exist regardless of concurrent negligence or willful misconduct on the part of the County or any other person; provided, however, that Contractor shall not be required to indemnify County for the proportion of Liability a court determines is attributable to the negligence or willful misconduct of the County.

If such indemnification becomes necessary, the County Counsel for the County shall have the absolute right and discretion to approve or disapprove of any and all counsel employed to defend the County. This indemnification clause shall survive the termination or expiration of this Agreement.

<b>SECTION NINE: ATTACHMENTS</b>
----------------------------------

- **Sample Agreement**

**AGREEMENT FOR PROFESSIONAL SERVICES  
TO PREPARE A CLIMATE ACTION PLAN**

THIS AGREEMENT (“Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2020 by and between the County of Tuolumne, a political subdivision of the State of California, (“County”), and \_\_\_\_\_, a [INSERT TYPE OF COMPANY], (“Contractor”), pursuant to the following terms and conditions.

**W I T N E S S E T H:**

**1. TERM**

The term of this Agreement shall commence on the date first hereinabove written, and shall continue until all authorized work is approved by the County or [INSERT DATE], whichever is earlier.

**2. SERVICES**

Contractor shall prepare a Climate Action Plan as described in Exhibit A, “Scope of Work,” which is attached hereto and incorporated herein by reference. Contractor shall provide all staffing and materials necessary to perform the Scope of Work.

**3. COMPENSATION**

Contractor shall be compensated for services performed in an amount not to exceed [INSERT \$ AMOUNT]. The Contractor’s hourly rates are listed in Exhibit B, “Cost Proposal.” The County shall pay Contractor within thirty (30) days of receipt of an approved invoice. In the event payments equal the “not to exceed” amount, Contractor shall complete all services required under this Agreement without further compensation or cost reimbursement.

**4. INSURANCE**

A. The Contractor shall provide at its own expense and maintain at all times the following insurance with insurance companies licensed in the State of California and shall provide evidence of such insurance to the County as may be required by the Risk Manager of the County. The Contractor’s insurance policy(ies) shall be placed with insurer(s) with acceptable Best’s rating of A:VII or with approval of the Risk Manager. The Contractor shall provide notice to the Risk Manager of the County by registered mail, return receipt requested, thirty (30) days prior to cancellation or material change for all of the following stated insurance policies:

- i. Workers’ Compensation Coverage – Workers’ Compensation Insurance and Employer’s Liability Insurance for employees in accordance with the laws of the State of California (including requiring any authorized subcontractor to obtain such insurance for its employees).



- ii. General Liability Coverage - Commercial general liability insurance with a minimum liability limit per occurrence of one million dollars (\$1,000,000) for bodily injury and one hundred thousand dollars (\$100,000) for property damage. If a commercial general liability insurance form or other form with general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Coverage shall be included for premises, operations and broad form contractual.
  - iii. Automobile Liability insurance with a minimum limit of liability per occurrence of \$1,000,000 for bodily injury and \$100,000 for property damage. This insurance shall cover for bodily injury and property damage, owned, hired and non-owned vehicles.
  - iv. Professional Liability: Professional errors and omissions liability for protection against claims alleging negligent acts, errors or omissions which may arise from Contractor's operations under this Agreement, whether such operations be by Contractor or by its employees, subcontractors, or subconsultants. The amount of this insurance shall not be less than one million dollars (\$1,000,000) per claim with an aggregate limit of five million dollars (\$5,000,000). Contractor agrees to maintain the required coverage for a period of three (3) years after the expiration of this Agreement and any extensions thereof.
- B. Policy Endorsements: Each general liability and automobile liability insurance policy shall be endorsed with the following specific provisions:
- i. The County, its elected or appointed officers, officials, employees, agents and volunteers are to be covered as additional insureds ("County additional insureds").
  - ii. This policy shall be considered, and include a provision it is, primary as respects the County additional insureds, and shall not include any special limitations to coverage provided to the County additional insureds. Any insurance maintained by the County, including any self-insured retention the County may have, shall be considered excess insurance only and shall not contribute with it.
  - iii. This insurance shall act for each insured and additional insured as though a separate policy had been written for each, except with respect to the limits of liability of the insuring company.
  - iv. The insurer waives all rights of subrogation against the County additional insureds.
  - v. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County additional insureds.

- C. Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by the Risk Manager. At the County's option, Contractor shall demonstrate financial capability for payment of such deductibles or self-insured retentions.
- D. Unsatisfactory Policies: If at any time any of the policies or endorsements be unsatisfactory as to form or substance, or if an issuing company shall be unsatisfactory, to the Risk Manager, a new policy or endorsement shall be promptly obtained and evidence submitted to the Risk Manager for approval.
- E. Failure to Comply: Upon failure to comply with any of these insurance requirements, this Agreement may be forthwith declared suspended or terminated. Failure to obtain and/or maintain any required insurance shall not relieve any liability under this Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the indemnification obligations.

## **5. HOLD HARMLESS/INDEMNIFICATION**

Contractor shall indemnify, defend, save, protect and hold harmless County, its elected and appointed officials, officers, employees, agents and volunteers (collectively, "County") from any and all demands, losses, claims, costs, suits, liabilities and expenses for any damage, injury or death (collectively, "Liability") arising directly or indirectly from or connected with the services provided hereunder which is caused, or claimed or alleged to be caused, in whole or in part, by the negligence or willful misconduct of Contractor, its officers, employees, agents, contractors, consultants, or any person under its direction or control and shall make good to and reimburse County for any expenditures, including reasonable attorney's fees, the County may make by reason of such matters and, if requested by County, shall defend any such suits at the sole cost and expense of Contractor. Contractor's obligations under this section shall exist regardless of concurrent negligence or willful misconduct on the part of the County or any other person; provided, however, that Contractor shall not be required to indemnify County for the proportion of Liability a court determines is attributable to the negligence or willful misconduct of the County.

If such indemnification becomes necessary, the County Counsel for the County shall have the absolute right and discretion to approve or disapprove of any and all counsel employed to defend the County. This indemnification clause shall survive the termination or expiration of this Agreement.

## **6. INDEPENDENT CONTRACTOR**

It is understood that Contractor, in the performance of the services agreed to be performed, shall act as and be an independent contractor and shall not act as an agent or employee of the County. Contractor shall obtain no rights to retirement benefits or other benefits which accrue to County's employees, and Contractor hereby expressly waives any claim it may have to any such rights. All employees, agents, contractors, subcontractors hired or retained by the Contractor are performing in that capacity for

and on behalf of the Contractor and not the County. The County shall not be obligated in any way to pay any wage claims or other claims made against the Contractor by any such employee, agent, contractor or subcontractor, or any other person resulting from the performance of this Agreement.

**7. ASSIGNMENT**

This Agreement is for the professional services of the Contractor and it shall not assign, subcontract or sublet any part of this Agreement without the express prior written consent of County. Any assignment without the express prior written consent of the County is VOID.

**8. NOTICE**

Any and all notices, reports or other communications to be given to County or Contractor shall be given to the persons representing the respective parties at the following addresses:

**CONTRACTOR:**

**COUNTY:**

Quincy Yaley  
County of Tuolumne  
2 South Green Street  
Sonora, CA 95370  
Fax: (209) 533-5633

**9. COMPLIANCE**

Contractor shall comply with all federal, state and local laws, codes, ordinance and regulations applicable to Contractor's performance under this Agreement, including, but not limited to, laws related to prevailing wages. Specifically, Contractor shall not engage in unlawful employment discrimination, including, but not limited to, discrimination based upon a person's race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, gender, citizenship or sexual orientation, as prohibited by state or federal law.

**10. PUBLIC RECORDS ACT**

Contractor is aware that this Agreement and any documents provided to the County may be subject to the California Public Records Act and may be disclosed to members of the public upon request. It is the responsibility of the Contractor to clearly identify information in those documents that it considers to be confidential under the California Public Records Act. To the extent that the County agrees with that designation, such information will be held in confidence whenever possible. All other information will be considered public.

**11. ENTIRE AGREEMENT AND MODIFICATION**

This Agreement contains the entire agreement of the parties relating to the subject matter of this Agreement and supersedes all prior agreements and representations with respect to the subject matter hereof. This Agreement may only be modified by a written amendment hereto, executed by both parties, however, matters concerning the scope of services which do not affect the agreed price may be modified by mutual written consent of the Contractor and the Community Development Director. If there are exhibits attached hereto, and a conflict exists between the terms of this Agreement and any exhibit, the terms of this Agreement shall control.

**12. ENFORCEABILITY AND SEVERABILITY**

The invalidity or enforceability of any term or provisions of this Agreement shall not, unless otherwise specified, affect the validity or enforceability of any other term or provision, which shall remain in full force and effect.

**13. TERMINATION AND RIGHTS UPON TERMINATION**

- A. This Agreement may be terminated upon mutual written consent of the parties, or as a remedy available at law or in equity. In the event of the termination of this Agreement, Contractor shall immediately be paid all fees earned as of the effective date of termination.
- B. Either party may terminate this Agreement for convenience upon [INSERT TIMEFRAME] calendar days' written notice to the other party. Upon termination for convenience, Contractor shall be entitled to compensation for services performed acceptably up to the effective date of termination, as set forth in Exhibit B.
- C. Should Contractor default in the performance of this Agreement or materially breach any of its provisions, County, at its option, may terminate this Agreement by giving written notification to Contractor. The termination date shall be the effective date of the notice. For the purposes of this subsection, default or material breach of this Agreement shall include, but not be limited to, any of the following: failure to perform required services in a timely manner, willful destruction of County property, dishonesty, or theft.
- D. If County terminates this Agreement for default or material breach, then Contractor shall be liable for any reasonable costs in excess of the Agreement amount incurred by County in order to complete Exhibit A, "Scope of Work." In addition, Contractor understands and agrees that County may, in County's sole discretion, refuse to pay Contractor for that portion of Contractor's services which were performed by Contractor prior to the termination date and which remain unacceptable to County as of the termination date.

**14. NO WAIVER**

The failure to exercise any right to enforce any remedy contained in this Agreement shall not operate as to be construed to be a waiver or relinquishment of the exercise of such right or remedy, or of any other right or remedy herein contained.

**15. DISPUTES**

Should it become necessary for a party to this Agreement to enforce any of the provisions hereof, the prevailing party in any claim or action shall be entitled to reimbursement for all expenses so incurred, including reasonable attorney's fees.

It is agreed by the parties hereto that unless otherwise expressly waived by them, any action brought to enforce any of the provisions hereof or for declaratory relief hereunder shall be filed and remain in a court of competent jurisdiction in the County of Tuolumne, State of California.

**16. CAPTIONS**

The captions of this Agreement are for convenience in reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

**17. NUMBER AND GENDER**

In this Agreement, the neutral gender includes the feminine and masculine, the singular includes the plural, and the word "person" includes corporations, partnerships, firms or associations, wherever the context so requires.

**18. MANDATORY AND PERMISSIVE**

"Shall" is mandatory. "May" is permissive.

**19. SUCCESSORS AND ASSIGNS**

All representations, covenants and warranties specifically set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

**20. COUNTERPARTS**

This Agreement may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

**21. OTHER DOCUMENTS**

The parties agree that they shall cooperate in good faith to accomplish the object of this Agreement and, to that end, agree to execute and deliver such other and further

instruments and documents as may be necessary and convenient to the fulfillment of these purposes.

**22. CONTROLLING LAW**

The validity, interpretation and performance of this Agreement shall be controlled by and construed under the laws of the State of California.

**23. AUTHORITY**

Each party and each party's signatory warrant and represent that each has full authority and capacity to enter into this Agreement in accordance with all requirements of law. The parties also warrant that any signed amendment or modification to the agreement shall comply with all requirements of law, including capacity and authority to amend or modify the Agreement.

**24. NEGOTIATED AGREEMENT**

This Agreement has been arrived at through negotiation between the parties. Neither party is to be deemed the party which prepared this Agreement within the meaning of California Civil Code section 1654. Each party represents and warrants that in executing this Agreement it does so with full knowledge of the rights and duties it may have with respect to the other party. Each party also warrants and represents that it has received independent legal advice from its attorney with respect to the matters set forth in this Agreement and the rights and duties arising out of this Agreement, or that such party willingly foregoes any such consultation.

**25. NO RELIANCE ON REPRESENTATIONS**

Each party warrants and represents that it is not relying and has not relied upon any representation or statement made by the other party with respect to the facts involved or its rights or duties. Each party understands and agrees that the facts relevant, or believed to be relevant to this Agreement, have been independently verified. Each party further understands that it is responsible for verifying the representations of law or fact provided by the other party.

**26. WARRANTY**

County has relied upon the professional ability and training of Contractor as a material inducement to enter into this Agreement. Contractor hereby warrants that all work shall be performed in accordance with generally accepted 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.

**27. FUNDING AVAILABILITY**

It is mutually agreed that if the County budget of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the County shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement. Contractor’s assumption of risk of possible non-appropriation is part of the consideration for this Agreement. County budget decisions are subject to the discretion of the Board of Supervisors.

If funding for any fiscal year is reduced or deleted by the County budget for purposes of this program, the County shall have the option to either cancel this Agreement with no liability occurring to the County, or offer an Agreement amendment to Contractor to reflect the reduced amount.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written above.

COUNTY OF TUOLUMNE	CONTRACTOR
By: _____ Chair Board of Supervisors	By: [INSERT NAME], [INSERT TITLE]
ATTEST:	
By: Alicia Jamar Seal Chief Deputy Clerk of the Board	
APPROVED AS TO LEGAL FORM:	
By: Sarah Carrillo, County Counsel	

Exhibit A  
SCOPE OF WORK



Exhibit B  
COST PROPOSAL