**Subject:** Employment Contract for Public Health Director

**Department:** County Administration

**Meeting Date Requested:** May 21, 2019

**Contact:** Shari McCracken  Phone: 530-552-3305

| Fiscal Impact: | There will be savings of approximately $10,000. |
| Personnel Impact: | None |
| Action Requested: | Approve contract and authorize the Chair to sign. |

**Department Summary:** (Information provided in this section will be included on the agenda. Attach explanatory memorandum and other background as necessary).

Approval is requested for the employment contract with Public Health Director, Danette York. The term of the contract is from June 29, 2019 through June 28, 2022. The proposed annual salary is $150,000, and also includes $6,000 for relocation expenses.
EMPLOYMENT CONTRACT FOR BUTTE COUNTY
DIRECTOR – PUBLIC HEALTH
DANETTE YORK

The County of Butte, hereinafter referred to as EMPLOYER, by and through its duly elected and acting Board of Supervisors, located at 25 County Center Drive, Suite 200 Oroville, California, and Danette York, hereinafter referred to as EMPLOYEE, in consideration of the mutual promises made herein, agree as follows:

ARTICLE 1. TERM OF EMPLOYMENT

Specific Period

Section 1.01. EMPLOYER hereby employs EMPLOYEE and EMPLOYEE hereby accepts employment with EMPLOYER for a period of three (3) years beginning on June 29, 2019, and terminating on June 28, 2022

"Employment Term" Defined

Section 1.02. As used herein, the phrase "employment term" refers to the entire period of employment of EMPLOYEE by EMPLOYER hereunder, whether for the periods provided above, or whether terminated earlier as hereinafter provided or extended by mutual agreement between EMPLOYER and EMPLOYEE.

Contract Renewal

Section 1.03. The above notwithstanding, EMPLOYER shall negotiate with EMPLOYEE a renewal of EMPLOYEE'S contractual relationship with EMPLOYER, or give written notice of EMPLOYER'S intention not to renew, not later than 180 days prior to EMPLOYEE'S contract expiration date. In no event shall EMPLOYEE'S contract expire sooner than 180 days after EMPLOYER'S written notice to EMPLOYEE of its intention not to renew.

ARTICLE 2. DUTIES AND OBLIGATIONS OF EMPLOYEE

General Duties

Section 2.01. EMPLOYEE shall serve as the Director – Public Health and in this capacity EMPLOYEE shall do and perform all services, acts or things necessary or advisable to manage and conduct the business of EMPLOYER, subject at all times to the policies set by EMPLOYER and in accordance with applicable law.

Loyal and Conscientious Performance of Duties

Section 2.02. EMPLOYEE agrees that to the best of her ability and experience she will at all times loyally and conscientiously perform all of the duties and obligations required of her either expressly or implicitly by the terms of this agreement.

Devotion of Entire Time to Employer's Business

Section 2.03. (a) EMPLOYEE shall devote her entire productive time, ability and attention to the business of EMPLOYER during normal working hours during the term of this agreement.
(b) During the term of this agreement, EMPLOYEE shall not engage in any other business duties or pursuits whatsoever. Furthermore, during the term of this agreement, EMPLOYEE shall not, whether directly or indirectly, render any services of a commercial or professional nature, to any other person or organization, whether for compensation or otherwise, without the prior written consent of EMPLOYER. However, the expenditure of reasonable amounts of time for education, charitable, or professional activities shall not be deemed a breach of this agreement if those activities do not materially interfere with the services required under this agreement and shall not require the prior written consent of EMPLOYER.

(c) This agreement shall not be interpreted to prohibit EMPLOYEE from making passive personal investments or conducting private business affairs if those activities do not materially interfere with the services required under this agreement.

Competitive Activities

Section 2.04. During the term of this contract EMPLOYEE shall not, directly or indirectly, either as an employee, employer, officer, director, or in any other individual or representative capacity, engage or participate in any business that is in competition in any manner or in conflict whatsoever with the business of EMPLOYER.

Uniqueness of Employee's Services

Section 2.05. EMPLOYEE hereby represents and agrees that the services to be performed under the terms of this contract are of a special, unique, unusual, and extraordinary nature, and the intellectual character that gives them a peculiar value, cannot be reasonably or adequately compensated in damages in an action at law. EMPLOYEE therefore expressly agrees that EMPLOYER, in addition to any other rights or remedies which EMPLOYER may possess, shall be entitled to injunctive and other equitable relief to prevent or remedy a breach of this contract by EMPLOYEE.

Avoidance of Impropriety

Section 2.06. EMPLOYEE acknowledges and understands that the position of Director – Public Health carries with it great public trust and responsibility. Accordingly, the duties of that position must be undertaken in a manner which not only avoids those acts of an inappropriate or illegal nature but also those actions which carry with them the appearance of impropriety. Therefore, in accordance with that goal, EMPLOYEE agrees to make full disclosure to, and obtain the approval of, the Board of Supervisors prior to entering into negotiations, or contracting for, any supplies, computer software, equipment (including computer hardware), work, professional services, or any other item or service, from any individual related to EMPLOYEE by blood, marriage, or domestic partnership or from any entity wherein any owner, partner, majority or controlling stockholder, or employee is related to EMPLOYEE by blood, marriage, or domestic partnership.

ARTICLE 3. OBLIGATIONS OF EMPLOYER

General Description

Section 3.01. EMPLOYER shall provide EMPLOYEE with the compensation, incentives, benefits, and expense reimbursement specified elsewhere in this agreement.
Office and Staff

Section 3.02. EMPLOYER shall provide EMPLOYEE with a private office, secretarial or clerical help, office equipment and supplies, and other facilities and services, suitable to EMPLOYEE’S position and adequate for the performance of her duties subject to availability of funds in the budget of EMPLOYER.

Indemnification of Losses of Employee

Section 3.03. EMPLOYER shall indemnify EMPLOYEE for all losses sustained by EMPLOYEE as a direct consequence of the discharge of her duties on EMPLOYER’S behalf.

Performance Evaluation

Section 3.04. EMPLOYEE may receive annual performance evaluations by EMPLOYER’S Chief Administrative Officer, subject to consultation with the Board of Supervisors.

ARTICLE 4. COMPENSATION OF EMPLOYEE

Annual Salary

Section 4.01. EMPLOYEE’s starting annual salary under this agreement shall be One Hundred and Fifty Thousand dollars ($150,000). Prior to years two (2) and three (3) of this agreement, EMPLOYEE may receive a performance evaluation conducted by the Chief Administrative Officer. The same or different salary shall then be implemented for years two (2) and three (3), based on the performance evaluation and other factors which may include the economic condition of Butte County and the Western Cities Consumer Price Index (CPI). EMPLOYEE shall be paid at the same intervals and in the same manner as regular permanent Butte County employees.

ARTICLE 5. EMPLOYEE BENEFITS

Section 5.01. EMPLOYEE shall be subject to and provided the benefits described in the current Resolution of the County of Butte Regarding Salary and Benefits of Butte County Appointed Department Heads, and hereinafter referred to as the APPOINTED DEPARTMENT HEAD RESOLUTION. The APPOINTED DEPARTMENT HEAD RESOLUTION shall be incorporated into this agreement by reference and shall remain applicable during the term of this agreement, except that if at any time during the term of this agreement the Board of Supervisors shall repeal and replace the APPOINTED DEPARTMENT HEAD RESOLUTION, EMPLOYEE shall be subject to such replacement resolution.

Other Benefits

Section 5.02. In addition to the benefits noted in Section 5.01, EMPLOYEE shall be entitled to the following:

(a) Other Benefits: Should additional benefits be available to Butte County Department Heads other than those set forth in the current APPOINTED DEPARTMENT HEAD RESOLUTION, or any replacement resolution as referred to in Section 5.01 above, EMPLOYEE shall be entitled to receive those same additional benefits.
(b) Normal and necessary expenses incurred while performing EMPLOYEE'S duties shall be reimbursed as provided by the adopted Board of Supervisor's policy.

(c) Participation at EMPLOYER'S expense in professional associations is authorized and encouraged subject to budget appropriations.

(d) EMPLOYER agrees to pay up to six thousand dollars ($6,000), for relocation expenses to be used by EMPLOYEE at her discretion. Provided, however, if EMPLOYEE voluntarily terminates her employment during the first three (3) years of this contract, EMPLOYEE agrees to reimburse EMPLOYER for all payments made under this paragraph. Said reimbursement may be subtracted from any final salary and/or benefit payments due EMPLOYEE by EMPLOYER.

ARTICLE 6. TERMINATION OF EMPLOYMENT

Termination for Cause

Section 6.01. (a) EMPLOYER reserves the right to terminate this agreement if EMPLOYEE (1) willfully breaches or habitually neglects the duties which she is required to perform under the terms of this agreement, or (2) commits acts of dishonesty, fraud, misrepresentation, or other acts of moral turpitude, that would prevent or significantly interfere with the effective performance of her duties.

(b) EMPLOYER may at its option terminate this agreement for the reasons stated in this section by giving written notice of termination to EMPLOYEE without prejudice to any other remedy to which EMPLOYER may be entitled either at law, in equity, or under this agreement.

(c) The notice of termination required by this section shall specify the ground(s) for the termination and shall be supported by a statement of relevant facts.

(d) Said termination shall be effective immediately.

(e) Termination under this section shall be considered "for cause" for the purposes of this agreement.

(f) EMPLOYEE shall not be entitled to severance pay or any other severance compensation if terminated under this section.

Termination Without Cause

Section 6.02. (a) This agreement shall be terminated upon the death of EMPLOYEE.

(b) EMPLOYER reserves the right to terminate this agreement not less than three (3) months after EMPLOYEE suffers any physical or mental disability that would prevent the performance of her duties under this agreement. Such termination shall be effected by giving thirty (30) days' written notice of termination to EMPLOYEE.

(c) EMPLOYEE understands, acknowledges and agrees that she is not a member of the EMPLOYER's classified, competitive services and, therefore, is not covered by or subject to the provisions and protections of Sections 7.11 et seq. of the merit system and
personnel rules. In particular, EMPLOYEE understands and acknowledges that she is an at-will and at-pleasure employee of the EMPLOYER who may be terminated, disciplined or discharged at any time, with or without cause, and without any rights of appeal under the merit system and personnel rules. As an at-will, at-pleasure employee of the EMPLOYER, EMPLOYEE further understands, acknowledges and agrees that she has no property interest in employment and is therefore entitled to no pre-disciplinary, preremoval due process, and that she may be terminated at any time and for any reason, with or without cause, except as is otherwise specifically provided in this employment contract.
EMPLOYEE is aware of and agrees to the provisions of California Labor Code Section 2922 which provides: “An employment, having no specified term, may be terminated at the will of either party on notice to the other. Employment for a specified term means employment for a period greater than one month.” The parties to this agreement agree that notwithstanding section 2922, this agreement and EMPLOYEE’s employment may be terminated, for any reason or no reason, at the will of the EMPLOYER.

EMPLOYEE understands and agrees that except as specifically provided in this agreement, she shall not be entitled to the rights, benefits and protections of the EMPLOYER’s merit system and personnel rules and by execution of this agreement, EMPLOYEE hereby waives any term or provision of said ordinance.

EMPLOYER may unilaterally elect to terminate EMPLOYEE’S employment without cause and without reason at any time during the period of this contract. However, upon such election: EMPLOYEE shall be provided written notice of such termination of employment and the actual employment termination date shall not be effective until 180 days after the date of such written notice. This satisfies the legal requirements of California Government Code Section 53260.

Remaining salary benefits as provided in Section 6.04 shall be paid to EMPLOYEE as of the actual employment termination date.

After issuing the written notice but prior to the actual employment termination date, EMPLOYER shall have the unilateral right to demand that EMPLOYEE immediately cease service to EMPLOYER, or, in its sole discretion, require EMPLOYEE to continue to provide service up to and including the actual employment termination date.

(d) Termination under this section shall not be considered "for cause" for the purposes of this agreement.

Termination by Employee

Section 6.03. EMPLOYEE may terminate her obligations under this agreement by giving EMPLOYER at least sixty (60) days notice in advance. EMPLOYER reserves the right to accept less than sixty (60) days’ notice.

Effect on Compensation

Section 6.04. In the event that this agreement is terminated, prior to the completion of the term of employment specified herein, EMPLOYEE shall be entitled to the compensation and benefits earned by and vested in her prior to the date of termination as provided for in this agreement, computed pro rata up to and including that date. EMPLOYEE shall be entitled to no further compensation as of the date of termination, except as provided for under Section 5.02 and 6.02(c).

Abuse of Office Provisions

Section 6.05. If EMPLOYEE is convicted of a crime involving an abuse of her office, EMPLOYEE shall fully reimburse EMPLOYER for any severance pay, paid leave salary disbursed pending an investigation, and/or legal criminal defense funds paid by EMPLOYER. The intent of this provision is to satisfy the requirements of California Government Code Sections 53243-53243.4 and shall be interpreted consistently with those statutes.
ARTICLE 7. GENERAL PROVISIONS

Notices

Section 7.01. Any notices to be given by either party to the other shall be in writing and may be transmitted either by personal delivery or by mail, registered or certified, postage prepaid with return receipt requested. Mailed notices shall be addressed to the EMPLOYER at Suite 200, 25 County Center Drive, Oroville, CA 95965 and the EMPLOYEE at Attn: Director – Public Health, 202 Mira Loma Drive, Oroville CA 95965, but each party may change the address by written notice in accordance with this section. Notices delivered personally shall be deemed communicated as of the date of actual receipt; mailed notices shall be deemed communicated as of the date of mailing.

Section 7.02. If any action at law or in equity is necessary to enforce or interpret the terms of this agreement, the prevailing party shall be entitled to reasonable attorney’s fees, to which that party may be entitled. This provision shall be construed as applicable to the entire contract.

Entire Agreement

Section 7.03. This agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the employment of EMPLOYEE by EMPLOYER, and contains all of the covenants and agreements between the parties with respect to that employment in any manner whatsoever. Each party to this agreement acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement, or promise not contained in this agreement, shall be valid or binding.

Modifications

Section 7.04. Any modification of this agreement will be effective only if it is in writing signed by both parties.

Effect of Waiver

Section 7.05. The failure of either party to insist on strict compliance with any of the terms, covenants, or conditions of this agreement by the other party shall not be deemed a waiver of that term, covenant, or condition, nor shall any waiver or relinquishment of any right or power for all or any other times.

Partial Invalidity

Section 7.06. If any provision in this agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

Law Governing Agreement and Forum

Section 7.07. This agreement shall be governed by and construed in accordance with the laws of the State of California and any action to enforce the terms of this agreement shall be brought and tried in the County of Butte.
Personnel Rules Superseded

Section 7.08. The provisions of this agreement shall control and supersede the provisions of the Butte County Personnel Rules in the event that there is now, or is in the future, any inconsistency between this agreement and the Butte County Personnel Rules as extant or as may be amended hereafter.

Sums Due Deceased Employee

Section 7.09. If EMPLOYEE dies prior to the expiration of the term of her employment, any sums that may be due to her from EMPLOYER under this agreement as of the date of death shall be paid to the EMPLOYEE’S executors, administrators, heirs, personal representatives, successors, and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year last below written.

Dated: __________  EMPLOYEE: ________________________________,
   Director, Public Health

Dated: __________  EMPLOYER: ________________________________,
   Chair, Butte County Board of Supervisors

APPROVED AS TO FORM: REVIEWED AS TO FISCAL CONTROL:
BUTTE COUNTY COUNSEL BUTTE COUNTY AUDITOR

BY: ________________________________  BY: ________________________________

Dated: ________________________________  Dated: ________________________________