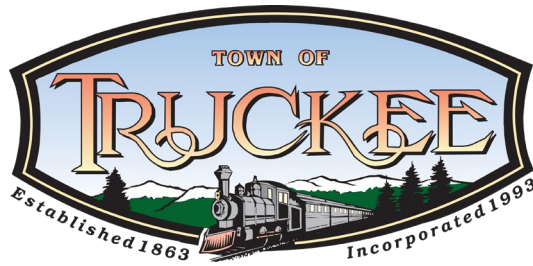


Attachment B



REQUEST FOR QUALIFICATIONS (RFQ) FOR CONSTRUCTION MANAGEMENT AND INSPECTION FOR THE TOWN OF TRUCKEE

DUE DATE: March 15, 2024

TIME: By 2:00 PM

RECEIVED BY: Truckee@TownofTruckee.com

Disadvantaged Business Enterprises (DBEs) and Underutilized Disadvantaged Business Enterprises (UDBEs) are encouraged to participate.

INQUIRES: Direct questions or clarifications on Request for Proposal documents to Jessica Thompson at (530) 582-2938 or jthompson@townoftruckee.com.

MODIFICATIONS: If you would like to receive updates to the project based upon questions received during RFQ process, please email Jessica Thompson at jthompson@townoftruckee.com to be added to the email distribution list. If you received a copy of the RFQ, you are not necessarily on the distribution list. Modifications/clarifications will be emailed to the distribution list and will be posted on the RFQ webpage at <http://www.townoftruckee.com/living/bids-and-proposals-new>.

**Town of Truckee
Engineering Division
10183 Truckee Airport Road
Truckee, CA 96161
Tel: 530-582-7700
www.townoftruckee.com**

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ATTACHMENTS:

- A. Sample Town of Truckee Professional Services Agreement

1.0 INTRODUCTION

The Town of Truckee (hereinafter "Town") is soliciting Statements of Qualifications (SOQs) from consultants interested in performing on call construction management services. The Town intends to select up to three (3) construction management firms; however, the exact number will be determined depending on the quality, diversity, and responsiveness of the SOQs received.

The selected firms would be designated as pre-approved consultants to provide construction management services on an as needed basis to the Town for a period of 3 years, with an opportunity to extend contracts. Each year, the Town would select from one or more of the pre-approved firms to submit proposals for construction management services for a particular construction project.

This RFQ includes a description of the scope of services expected, SOQ requirements, and instructions for submitting your SOQ.

Direct all inquiries regarding this RFQ in writing to:

Jessica Thompson, Senior Engineer
Town of Truckee
10183 Truckee Airport Road
Truckee, CA 96161
Telephone: (530) 582-2938
Email: jthompson@townoftruckee.com

In the event that it becomes necessary to revise any part of this RFQ, written addenda will be issued. All addenda for this RFQ will be distributed via Town of Truckee's website:

<http://www.townoftruckee.com/living/bids-and-proposals-new>

It is the responder's sole responsibility to monitor this website for possible addenda to this RFQ.

2.0 SCOPE OF SERVICES

The Town requires a full-service consultant to manage construction of various Town construction projects. In particular, we are requesting Resident Engineer and inspection services and the flexibility to work with the Town's inspectors when available for various projects.

The consultant must be able to deliver a wide range of services including, but not limited to: construction management, project inspection, quality assurance, safety, partnering, claims mitigation and document control. The Town is seeking a consultant with strong general civil engineering construction skills, experience with Class I trails and pedestrian bridge construction, depth of staff resources, and sensitivity to local and regulatory processes. The firm should have knowledge of the Caltrans Standard Plans, Standard Specifications, the Caltrans Local Assistance Manuals, the Caltrans Construction Manual, California environmental permitting requirements, and requirements related to construction with state and federal funding.

The consultant is to provide a construction manager (CM)/Resident Engineer (RE) and inspection services for Town projects. The Town will have an inspector available for some projects but will request a consultant-provided inspector for others. These requested services will encompass serving as the Town's CM/RE to the construction contractor(s) with regard to activities at construction sites, as well as provide inspectors for day-to-day observation/inspection of work,

monitoring of compliance with SWPPP, identification of actual and potential problems associated with construction, facilitate utility coordination, and enforcement of applicable safety regulations. The CM/RE shall be a licensed Professional Civil Engineer Registered in the State of California.

Consultant should also indicate ability to provide the registered civil engineer to perform RE responsibilities with the following experience:

1. Unique bridge construction techniques.
2. Construction of retaining walls over 10 feet.
3. Projects involving UPRR oversight.
4. Projects in environmentally sensitive areas.
5. Contract administration consistent with the Caltrans Construction Manual.

The Town generally contracts for materials testing services and labor compliance separately, but consultant should indicate if they can provide these services.

Consultants that can only provide some of the experience/services identified above may still be considered qualified for certain projects.

Services provided by consultant will include, but not be limited to, the following:

- Interpretation of and contractor's/Town's conformance to the project plans, specifications, contract documents, project partnership agreements, and regulatory permits;
- Record keeping and document control;
- Administration of pre-construction and weekly construction meetings;
- Review of contractor submittals and Requests for Information (RFIs), including but not limited to:
 - Materials
 - Design mixes
 - Schedules
 - Traffic control plans
 - Safety plans
 - Storm water pollution prevention plans
 - Pay requests
 - Shoring plans
 - As-Built drawings
- Verification of pay quantities, cost control, and preparation of field change orders in consultation with Town;
- Evaluate, provide resolution recommendations, and administer all contract modifications, requests for information, change orders, and claims and evaluate cost reduction incentive proposals and provide recommendations to the Town;
- Oversight of the implementation of the SWPPP as required by the Construction General Permit (2009-0009-DWQ as amended by 2010-0014-DWQ) although contractor will typically be responsible for QSD and QSP services;
- Monitoring of contractor schedule;
- Materials testing review as per specifications and in conformance with Quality Assurance Plan;
- General inspection, ADA compliance checking, and collection of certificate of compliance/weight and quantity certificates, with preparation of daily diaries of work completed, personnel, and equipment used;

- Employee interviews related to wages (if required). Although the Town typically contracts labor compliance and materials testing separately, indicate ability to provide these services;
- Verification of posting of required labor signs and regulations (if required);
- Be aware of and have contractor correct any unsafe conditions;
- Verification of any required contractor notification of construction work or road closure notifications to residents, businesses, utilities, mail service, trash service, bus service, police, fire, ambulance, etc. as applicable and as may be required in the specifications;
- Inspection of traffic control implementation, focusing on public safety;
- Coordination and resolution of citizen complaints related to construction activities;
- Coordination with Caltrans, Regional Water Quality Control Board, or other agencies as applicable;
- Inspect forms and reinforcing steel prior to concrete pours;
- Any other reasonable and customary construction management functions necessary to fairly, efficiently, and safely see a project to a successful completion, in conformance with the plans, specifications; and
- Project close out documentation.

3.0 REQUEST FOR QUALIFICATIONS SCHEDULE

The following represents the tentative schedule for this Request for Qualifications. Any changes in the scheduled dates for the Pre-Proposal Conference, Deadline for Final Questions, or Proposal Submission Deadline will be advertised in the form of an addendum to this RFQ. The schedule for the evaluation process and other future dates may be adjusted without notice.

Deadline for Final Questions	March 8, 2024 at 4:00 PM
Qualifications Submission Deadline	March 15, 2024 at 2:00 PM
Evaluation of Submittals	March 18-29, 2024
Interviews (if determined to be necessary)	April 3, 2024
Creation of Approved Consultant List	April 3, 2024

Once the on-call consultants have been selected, the Town intends to contract with one or more firms to provide construction services for this coming summer construction season.

Interested firms will have an opportunity to submit questions regarding the requirements outlined in this RFQ by emailing Jessica Thompson, jthompson@townoftruckee.com, by 4:00PM on March 8, 2024.

Substantial clarifications or changes required as a result of the meeting will be issued in the form of a written addendum to the RFQ. A list of attendees will be distributed upon request.

4.0 SUBMITTAL FORMAT REQUIREMENTS

Each response to this RFQ shall include the information described in this section. Provide the information in the specified order. Failure to include all of the elements specified may be cause for rejection. Additional information may be provided, but should be succinct and relevant to the goals of this RFQ. Excessive information will not be considered favorably.

- a) **Cover Letter** with the following information:
 - i) Title of this RFQ
 - ii) Name and mailing address of firm (include physical location if mailing address is a post office box)
 - iii) Contact person, telephone number and email address
- b) **Firm Description.** The SOQ should include a description of the firm including the year the firm was established, type of organization of firm (partnership, corporation, etc.) and a statement of the firm's qualifications for performing requested consulting services, including those that followed State and Federal procedures and any pertinent certifications.
- c) **Organization Chart.** An organizational chart for the firm, specifically the team resources that would be available to the Town.
- d) **Qualifications of Personnel.** Qualifications of key personnel and related projects on which key personnel have worked. State and Federal certifications should be identified.
- e) **Experience.** Submittals shall include a detailed description of a minimum of three (3) projects which demonstrate the quality, type and past performance of the project team and shall include the following information:
 - i) Contracting agency and Project Administrator/Contact Person including name, address and phone
 - ii) Contract amount
 - iii) Date of contract
 - iv) Date of completion
 - v) Consultant Project Administrator and contact information
- f) **Quality Control.** A description of how the firm standardizes work and quality control procedures or activities to assure high level of quality.
- g) **Software.** A description of any project management software the firm uses for document processing and control, such as ProCore, Raken, AutoDesk Construction Cloud, Smartsheet, etc.
- h) **Labor Compliance and Material Testing.** Although the Town typically contracts labor compliance and materials testing separately, indicate ability to provide these services.
- i) **Billing Rates.** A summary of standard billing rates, including those that would be used for projects that have Federal or prevailing wage requirements. In addition, include a summary of

how direct contract costs and surcharges for subcontracted work or outside services are billed. Depending on the funding source of the contract (Federal, State, or Local funding), several types of compensation models may be used, including actual cost plus fixed fee, cost per unit of work, specific rates of compensation, or lump sum. Indicate whether travel time will be billed and, if so, the travel time rates.

5.0 STATEMENT OF QUALIFICATIONS SUBMITTAL

- a. SOQ shall be emailed to truckee@townoftruckee.com March 15, 2024 at 2:00 PM, with the following subject line: "Request for Qualifications for Construction Management and Inspection for the Town of Truckee."
- b. The proposal to be submitted shall be limited to one Adobe Acrobat/PDF document limited to 40 pages total.
- c. Late submittal of SOQs will not be considered.
- d. All submittals, whether selected or rejected, shall become the property of the Town.
- e. Cost of preparation of the submittal will be borne by the respondent.
- f. The Town shall not be responsible for submittals delivered to a location other than that specified above.

6.0 SELECTION PROCEDURE

The following outlines the procedures for the consultant selection:

- a. All submittals will be reviewed to verify they contain all the forms and other information required by the RFQ. If information is missing from the submittal, the submittals may be considered nonresponsive and rejected without evaluation. Late submittals, and submittals to the wrong location, are considered nonresponsive and shall not be considered. Submittal of additional information after the due date will not be considered by the Town.
- b. SOQs will be screened by a selection committee. The SOQs will be rated using the following criteria and rating schedule:

Evaluation Criteria	Weight
Completeness of Response	Pass/Fail
Qualifications and Experience of Firm	30%
Demonstrated technical ability/reference projects	25%
Familiarity with Local, State and Federal procedures	10%
Qualifications of key personnel to be used	35%
TOTAL	100%

The committee will make independent random checks of one or more of the consultant's references. Virtual interviews may also be requested.

- c. The committee will establish a shortlist of consultants who are considered to be best qualified to perform the contract work. All consultants that submitted an SOQ will be notified of the results of the review.

7.0 **GENERAL TERMS AND CONDITIONS**

- a. **Standard Contract:** Selected firms will be required to execute a consultant services agreement, a sample of which is included as Attachment A.
- b. **Independent Contractor:** At all times, the consultant shall represent himself/herself to be an independent contractor offering such services to the general public and shall not represent himself/herself or his/her employees, to be an employee of the Town of Truckee. Therefore, the consultant shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workers compensation, employee insurance, minimum wage requirements, overtime, etc., and agrees to indemnify, save, and hold the Town of Truckee, its officers, agents, and employees, harmless from and against any and all loss, cost (including attorney fees), and damage of any kind related to such matters.
- c. **Conflict of Interest:** Proposers warrant and covenant that no official or employee of the Town, nor any business entity in which an official of the Town has an interest, has been employed or retained to solicit or aid in the procuring of the resulting contract, nor that any such person will be employed in the performance of such contract without immediate divulgence of such fact to the Town.

8.0 **INDEMNIFICATION AND INSURANCE REQUIREMENTS**

Please see attached sample professional services agreement for indemnification and insurance requirements.

Attachment A: Sample Town of Truckee Professional Services Agreement

TOWN OF TRUCKEE PROFESSIONAL SERVICES AGREEMENT

1. PARTIES AND DATE

This Agreement is made and entered into this ____ day of _____, 20____, by and between the Town of Truckee, a municipal corporation, organized under the laws of the State of California, with its principal place of business at 10183 Truckee Airport Rd., Truckee, California, 96161 ("Town") and [INSERT NAME OF COMPANY], a [INSERT TYPE OF BUSINESS; I.E., CORPORATION (INCLUDE STATE OF INCORPORATION), LIMITED LIABILITY COMPANY, SOLE PROPRIETORSHIP, ETC.], with its principal place of business at [INSERT ADDRESS] ("Consultant"). Town and Consultant are sometimes individually referred to herein as "Party" and collectively as "Parties."

2. RECITALS

2.1 Consultant.

Consultant desires to perform and assume responsibility for the provision of certain [INSERT TYPE] services required by the Town on the terms and conditions set forth in this Agreement. Consultant represents that it is experienced in providing professional [INSERT TYPE] consulting services to public clients, is licensed in the State of California, and is familiar with the plans of Town.

2.2 Project.

Town desires to engage Consultant to render such [INSERT TYPE] services for the [INSERT NAME OF PROJECT, AND CONTRACT NUMBER, IF APPLICABLE] project ("Project") as set forth in this Agreement.

3. TERMS

3.1 Scope of Services and Term.

3.1.1 General Scope of Services. Consultant promises and agrees to furnish to the Town all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply the professional [INSERT TYPE] consulting services necessary for the Project ("Services"). The Services are more particularly described in Exhibit "A" attached hereto and incorporated herein by reference. All Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations. [INSERT IF FEDERAL FUNDS WILL BE USED; OTHERWISE ALWAYS DELETE: Additionally, Consultant shall comply with all Federal requirements applicable to the Services as set forth in Exhibit "A-I."]

3.1.2 Term. The term of this Agreement shall be from [INSERT DATE] to [INSERT DATE], unless earlier terminated as provided herein. [***INSERT THE FOLLOWING SENTENCE FOR MULTI-YEAR, AUTOMATIC RENEWAL NOT TO EXCEED THREE CONSECUTIVE YEARS; OTHERWISE, ALWAYS DELETE: The Town shall have the unilateral option, at its sole discretion, to

renew this Agreement for no more than [INSERT NUMBER] additional one-year terms.***] Consultant shall complete the Services within the term of this Agreement, and shall meet any other established schedules and deadlines.

3.2 Responsibilities of Consultant.

3.2.1 Independent Contractor; Control and Payment of Subordinates. The Services shall be performed by Consultant or under its supervision. Consultant will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. Town retains Consultant on an independent contractor basis and not as an employee. Consultant retains the right to perform similar or different services for others during the term of this Agreement. Any additional personnel performing the Services under this Agreement on behalf of Consultant shall also not be employees of Town and shall at all times be under Consultant's exclusive direction and control. Neither Town, nor any of its officials, officers, directors, employees or agents shall have control over the conduct of Consultant or any of Consultant's officers, employees, or agents, except as set forth in this Agreement. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

3.2.2 Schedule of Services. Consultant shall perform the Services expeditiously, within the term of this Agreement, and in accordance with the Schedule of Services set forth in Exhibit "B" attached hereto and incorporated herein by reference. Consultant represents that it has the professional and technical personnel required to perform the Services in conformance with such conditions. In order to facilitate Consultant's conformance with the Schedule, Town shall respond to Consultant's submittals in a timely manner. Upon request of Town, Consultant shall provide a more detailed schedule of anticipated performance to meet the Schedule of Services.

3.2.3 Conformance to Applicable Requirements. All work prepared by Consultant shall be subject to the approval of Town.

[OPTIONAL: include the following section if there a person working for Consultant that we deem absolutely critical to the completion of the project. If no such person exists then substitute with [Reserved] so you don't throw off the numbering;]

3.2.4 Substitution of Key Personnel. Consultant has represented to Town that certain key personnel will perform and coordinate the Services under this Agreement. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence upon written approval of Town. In the event that Town and Consultant cannot agree as to the substitution of key personnel, Town shall be entitled to terminate this Agreement for cause. As discussed below, any personnel who fail or refuse to perform the Services in a manner acceptable to the Town, or who are determined by the Town to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project or a threat to the safety of persons or property, shall be promptly removed from the Project by the Consultant at the request of the Town. The key personnel for performance of this Agreement are as follows: [INSERT NAME AND TITLE].

3.2.5 Town's Representative. The Town hereby designates [INSERT NAME AND TITLE], or his/her designee, to act as its representative in all matters pertaining to the administration and performance of this Agreement ("Town's Representative"). Town's Representative shall have the power to act on behalf of the Town for review and approval of all products submitted by Consultant but not the authority to enlarge the Scope of Work or change the total compensation due to Consultant under this

Agreement. The Town Manager shall be authorized to act on Town's behalf and to execute all necessary documents which enlarge the Scope of Work or change the Consultant's total compensation subject to the provisions contained in Section 3.3 of this Agreement. Consultant shall not accept direction or orders from any person other than the Town Manager, Town's Representative or his/her designee.

3.2.6 Consultant's Representative. Consultant hereby designates [INSERT NAME AND TITLE], or his/her designee, to act as its representative for the performance of this Agreement ("Consultant's Representative"). Consultant's Representative shall have full authority to represent and act on behalf of the Consultant for all purposes under this Agreement. The Consultant's Representative shall supervise and direct the Services, using his/her best skill and attention, and shall be responsible for all means, methods, techniques, sequences, and procedures and for the satisfactory coordination of all portions of the Services under this Agreement.

3.2.7 Coordination of Services. Consultant agrees to work closely with Town staff in the performance of Services and shall be available to Town's staff, consultants and other staff at all reasonable times.

3.2.8 Standard of Care; Performance of Employees. Consultant shall perform all Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Consultant represents and maintains that it is skilled in the professional calling necessary to perform the Services. Consultant warrants that all employees and subconsultants shall have sufficient skill and experience to perform the Services assigned to them. Finally, Consultant represents that it, its employees and subconsultants have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, and that such licenses and approvals shall be maintained throughout the term of this Agreement. As provided for in the indemnification provisions of this Agreement, Consultant shall perform, at its own cost and expense and without reimbursement from the Town, any services necessary to correct errors or omissions which are caused by the Consultant's failure to comply with the standard of care provided for herein. Any employee of the Consultant or its subconsultants who is determined by the Town to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the Town, shall be promptly removed from the Project by the Consultant and shall not be re employed to perform any of the Services or to work on the Project.

3.2.9 Laws and Regulations. Consultant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. Consultant shall be liable for all violations of such laws and regulations in connection with Services. If Consultant performs any work knowing it to be contrary to such laws, rules and regulations, Consultant shall be solely responsible for all costs arising therefrom. Consultant shall defend, indemnify and hold Town, its officials, directors, officers, employees, agents, and volunteers free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

3.2.9.1 Open Code Violation Cases. Persons or businesses which have open code violation cases with the Town relating to their place of business or otherwise related to the performance of this agreement are ineligible to enter service or construction contracts with the Town. This restriction applies whether the open code violation case applies to the work proposed to be performed under contract with the Town or other violations of Town codes or regulations. If a code violation case is opened after the Agreement is signed, the Town will withhold ten (10%) of the Consultant's compensation pursuant to this Agreement until compliance is achieved. If compliance is not

achieved by the termination or expiration date of this Agreement, or within 180 calendar days of the opening date of the case (whichever is longer) the withheld amount shall be permanently retained by the Town. If monies are withheld from Consultant, Consultant shall be ineligible to bid on future Town work until the Community Development Director verifies that compliance has been achieved. This remedy is non-exclusive, and in addition to any other remedies in law or equity available to Town.

3.2.10 Insurance. [TOWN RISK MANAGER OR TOWN ATTORNEY TO REVIEW PRIOR TO EACH USE]

3.2.10.1 Time for Compliance. Consultant shall not commence work under this Agreement until it has provided evidence satisfactory to the Town that it has secured all insurance required under this section. In addition, Consultant shall not allow any subconsultant to commence work on any subcontract until it has either: (i) provided evidence satisfactory to the Town that the subconsultant has secured all insurance required under this section; or (ii) procured insurance covering each subconsultant to the same extent as Consultant.

3.2.10.2 Types of Insurance Required. As a condition precedent to the effectiveness of this Agreement for work to be performed hereunder, and without limiting the indemnity provisions of the Agreement, the Consultant, in partial performance of its obligations under such Agreement, shall procure and maintain in full force and effect during the term of the Agreement the following policies of insurance. If the existing policies do not meet the insurance requirements set forth herein, Consultant agrees to amend, supplement or endorse the policies to do so. If Consultant maintains higher limits than the specified minimum limits, Town requires and shall be entitled to coverage for the higher limits maintained by Consultant.

(A) Commercial General Liability: Commercial General Liability Insurance which affords coverage at least as broad as Insurance Services Office "occurrence" form CG 0001, or the exact equivalent, and shall be no less than \$1,000,000 per occurrence and no less than \$2,000,000 in the general aggregate. Defense costs shall be paid in addition to the limits. The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; or (3) contain any other exclusion contrary to the Agreement.

(B) Automobile Liability Insurance: Automobile Liability Insurance with coverage at least as broad as Insurance Services Office Form CA 0001 covering "Any Auto" (Symbol 1), or the exact equivalent, covering bodily injury and property damage for all activities shall be in an amount of not less than \$1,000,000 combined limit for each occurrence.

(C) Workers' Compensation: Workers' Compensation Insurance, as required by the State of California and Employer's Liability Insurance with a limit of not less than \$1,000,000 per accident for bodily injury and disease.

[OPTIONAL: include the following provision if there is a professional liability exposure; otherwise, always delete. If deleted, then also delete section 3.2.10.3(B) below.

(D) Professional Liability: Professional Liability insurance with minimum limits of \$1,000,000. Covered professional services shall delete any exclusions that may potentially affect the work to be performed (for example, any exclusions relating to lead, asbestos, pollution, testing, underground storage tanks, laboratory analysis, soil work, etc.). If coverage is written on a claims-made basis, the retroactive date shall precede the effective date of the initial Agreement and continuous coverage will be maintained or an extended reporting period will be exercised for a period of at least three (3) years from termination or expiration of this Agreement.

[OPTIONAL: include the following provision if there is a pollution liability exposure; otherwise, always delete.]

(E) Pollution Liability:

Pollution Liability Insurance covering all of the consultant's operations to include onsite and offsite coverage for bodily injury (including death and mental anguish), property damage, defense costs and cleanup costs with minimum limits of \$5 million per loss and \$10 million total all losses. The policy shall contain no endorsements or provisions limiting contractual liability or coverage for cross liability of claims or suits by one insured against another.

If coverage is written on a claims-made basis, the retroactive date shall precede the effective date of the initial Agreement and continuous coverage will be maintained or an extended reporting period will be exercised for a period of at least three (3) years from termination or expiration of this Agreement.
[ALWAYS DELETE IF NOT USED]

3.2.10.3 Endorsements. Required insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the Town for approval.

(A) The policy or policies of insurance required by Section 3.2.10.2(A), Commercial General Liability and 3.2.10.2(B), Automobile Liability Insurance [INSERT "and 3.2.10.2(E), Pollution Liability"; IF APPLICABLE, OTHERWISE, ALWAYS DELETE], shall be endorsed to provide the following:

(1) Additional Insured: Consultant agrees to endorse the third party general liability coverage required herein to include as additional insureds Town, its officials, officers, employees and agents, using standard ISO endorsement No. CG 2010 with an edition date of 2010, or such other edition date as may be acceptable to Town. Consultant also agrees to require all contractors, subcontractors, and anyone else involved in any way with the Project contemplated by this Agreement to do likewise.

(2) Consultant shall provide immediate written notice if (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; (3) or the deductible or self insured retention is increased.

(B) [ONLY INCLUDE IF PROFESSIONAL LIABILITY INSURANCE IS REQUIRED, OTHERWISE ALWAYS DELETE AND CHANGE C TO B BELOW] The policy or policies of insurance required by Section 3.2.10.2(D) Professional Liability, shall be endorsed to provide the following:

(1) Consultant shall provide immediate written notice if (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; (3) or the deductible or self insured retention is increased.

(C) The policy or policies of insurance required by Section 3.2.10.2(C), Workers' Compensation, shall be endorsed to provide the following:

(1) Waiver of Subrogation: A waiver of subrogation stating that the insurer waives all rights of subrogation against the indemnified parties.

(2) Consultant shall provide immediate written notice if (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; (3) or the deductible or self insured retention is increased.

3.2.10.4 Primary and Non-Contributing Insurance. All insurance coverages shall be primary and any other insurance, deductible, or self-insurance maintained by the indemnified parties shall not contribute with this primary insurance. Policies shall contain or be endorsed to contain such provisions.

3.2.10.5 Waiver of Subrogation. Required insurance coverages shall not prohibit Consultant from waiving the right of subrogation prior to a loss. Consultant shall waive all subrogation rights against the indemnified parties. Policies shall contain or be endorsed to contain such provisions.

3.2.10.6 Deductible. Any deductible or self-insured retention must be approved in writing by the Town and shall protect the indemnified parties in the same manner and to the same extent as they would have been protected had the policy or policies not contained a deductible or self-insured retention.

3.2.10.7 Evidence of Insurance. The Consultant, concurrently with the execution of the Agreement, and as a condition precedent to the effectiveness thereof, shall deliver either certified copies of the required policies, or original certificates and endorsements on forms approved by the Town. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. At least fifteen (15) days prior to the expiration of any such policy, evidence of insurance showing that such insurance coverage has been renewed or extended shall be filed with the Town. If such coverage is cancelled or reduced, Consultant shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with the Town evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies.

3.2.10.8 Failure to Maintain Coverage. Consultant agrees to suspend and cease all operations hereunder during such period of time as the required insurance coverage is not in effect and evidence of insurance has not been furnished to the Town. The Town shall have the right to withhold any payment due Consultant until Consultant has fully complied with the insurance provisions of this Agreement. In the event that the Consultant's operations are suspended for failure to maintain required insurance coverage, the Consultant shall not be entitled to an extension of time for completion of the Services because of production lost during suspension.

3.2.10.9 Acceptability of Insurers. Each such policy shall be from a company or companies with a current A.M. Best's rating of no less than A:VII and authorized to do business in the State of California, or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law.

3.2.10.10 Insurance for Subconsultants. All subconsultants shall be included as additional insureds under the Consultant's policies, or the Consultant shall be responsible for causing subconsultants to purchase the appropriate insurance in compliance with the terms of these Insurance Requirements, including adding the Town as an Additional Insured to the subconsultant's policies. Consultant shall provide to Town satisfactory evidence as required under Section 3.2.10.1 of this Agreement.

3.2.11 Safety. Consultant shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Consultant shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed. Safety precautions, where applicable, shall include, but shall not be limited to: (A) adequate life protection and life saving equipment and procedures; (B) instructions in accident prevention for all employees and subconsultants, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and

shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and (C) adequate facilities for the proper inspection and maintenance of all safety measures.

3.2.12 Water Quality Management and Compliance.

3.2.12.1 Storm Water Management. Storm, surface, nuisance, or other waters may be encountered at various times during the Services. Consultant hereby acknowledges that it has investigated the risk arising from such waters, and assumes any and all risks and liabilities arising therefrom.

3.2.12.2 Compliance with Water Quality Laws, Ordinances and Regulations. Consultant shall keep itself and all subcontractors, staff, and employees fully informed of and in compliance with all local, state and federal laws, rules and regulations that may impact, or be implicated by the performance of the Services including, without limitation, all applicable provisions of the Town's ordinances regulating water quality and storm water; the Federal Water Pollution Control Act (33 U.S.C. §§ 1300); the California Porter-Cologne Water Quality Control Act (Cal Water Code §§ 13000-14950); and any and all regulations, policies, or permits issued pursuant to any such authority. Consultant shall additionally comply with the lawful requirements of the Town, and any other municipality, drainage district, or other local agency with jurisdiction over the location where the Services are to be conducted, regulating water quality and storm water discharges.

3.2.12.3 Standard of Care. Consultant warrants that all employees and subcontractors shall have sufficient skill and experience to perform the work assigned to them without impacting water quality in violation of the laws, regulations and policies described in Section 3.2.12.2 of this Agreement. Consultant further warrants that it, its employees and subcontractors have or will receive adequate training, as determined by the Town, regarding these requirements as they may relate to the Services.

3.2.12.4 Liability for Non-compliance.

(A) Indemnity: Failure to comply with laws, regulations, and ordinances listed in Section 3.2.12.2 of this Agreement is a violation of federal and state law. Notwithstanding any other indemnity contained in this Agreement, Consultant agrees to indemnify and hold harmless the Town, its officials, officers, agents, employees and authorized volunteers from and against any and all claims, demands, losses or liabilities of any kind or nature which the Town, its officials, officers, agents, employees and authorized volunteers may sustain or incur for noncompliance with the laws, regulations, and ordinances listed above, arising out of or in connection with the Services, except for liability resulting from the sole established negligence, willful misconduct or active negligence of the Town, its officials, officers, agents, employees or authorized volunteers.

(B) Defense: Town reserves the right to defend any enforcement action or civil action brought against the Town for Consultant's failure to comply with any applicable water quality law, regulation, or policy. Consultant hereby agrees to be bound by, and to reimburse the Town for the costs associated with, any settlement reached between the Town and the relevant enforcement entity.

(C) Damages: Town may seek damages from Consultant for delay in completing the Services caused by Consultant's failure to comply with the laws, regulations and policies described in Section 3.2.12.2 of this Agreement, or any other relevant water quality law, regulation, or policy.

3.3 Fees and Payments.

3.3.1 Compensation. Consultant shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit "C" attached hereto and incorporated herein by reference. The total compensation shall not exceed [INSERT AMOUNT WRITTEN OUT] (\$[INSERT NUMBER]) without written approval of the Town Council or Town Manager as applicable. Extra Work may be authorized, as described below, and if authorized, will be compensated at the rates and manner set forth in this Agreement.

3.3.2 Payment of Compensation. Consultant shall submit to Town a monthly invoice which indicates work completed and hours of Services rendered by Consultant. The invoice shall describe the amount of Services provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the invoice. Town shall, within 30 days of receiving such invoice, review the invoice and pay all non-disputed and approved charges thereon. If the Town disputes any of Consultant's fees, the Town shall give written notice to Consultant within thirty (30) days of receipt of an invoice of any disputed fees set forth therein.

3.3.3 Reimbursement for Expenses. Consultant shall not be reimbursed for any expenses unless authorized in writing by Town, or included in Exhibit "C" of this Agreement.

3.3.4 Extra Work. At any time during the term of this Agreement, Town may request that Consultant perform Extra Work. As used herein, "Extra Work" means any work which is determined by Town to be necessary for the proper completion of the Project, but which the Parties did not reasonably anticipate would be necessary at the execution of this Agreement. Consultant shall not perform, nor be compensated for, Extra Work without written authorization from the Town.

3.3.5 Rate Increases. In the event that this Agreement is renewed pursuant to Section 3.1.2, the rate set forth in Exhibit "C" may be adjusted each year at the time of renewal as set forth in Exhibit "C."

[OPTIONAL: Include the following provision if prevailing wages are required (INCLUDING ANY SCOPE WITH SURVEY IN THE SCOPE OF WORK); otherwise, always delete.]

3.3.6 Prevailing Wages. Consultant is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects. Since the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, Consultant agrees to fully comply with such Prevailing Wage Laws. Town shall provide Consultant with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. Consultant shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Consultant's principal place of business and at the project site. Consultant shall defend, indemnify and hold the Town, its officials, officers, employees, agents, and volunteers free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. Consultant shall comply, and shall require each subcontractor employed by Consultant to provide services pursuant to this Agreement to comply, with the requirements of Labor Code Section 1776, including without limitation the requirement to maintain certified payroll records. Consultant shall submit certified payroll records directly to the California Labor Commissioner. At all times during the course of Consultant's work, Consultant shall remain registered with the Department of Industrial Relations and qualified to perform public work pursuant to Labor Code Section 1725.5, and Consultant shall ensure that all subcontractors employed by Consultant also remain so registered. Pursuant to Labor Code Section 1771.1(a), a contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal (subject to the requirements of Section 4104 of the Public Contract Code), or engage in the performance of any contract for public work, as defined in Chapter 1 of Part 7 of

Division 2 of the Labor Code, unless currently registered with the Department of Industrial Relations and qualified to perform public work pursuant to Section 1725.5. However, an unregistered contractor may submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Sections 10164 or 20103.5 of the Public Contract Code, provided that the contractor is registered to perform public work at the time the contract is awarded. This project is subject to compliance monitoring and enforcement by the California Department of Industrial Relations.

3.4 Accounting Records.

3.4.1 Maintenance and Inspection. Consultant shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Consultant shall allow a representative of Town during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Consultant shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.

3.5 General Provisions.

3.5.1 Termination of Agreement.

3.5.1.1 Grounds for Termination. Town may, by written notice to Consultant, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Consultant of such termination, and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. Upon termination, Consultant shall be compensated only for those services which have been adequately rendered to Town, and Consultant shall be entitled to no further compensation. Consultant may not terminate this Agreement except for cause.

3.5.1.2 Effect of Termination. If this Agreement is terminated as provided herein, Town may require Consultant to provide all finished or unfinished Documents and Data and other information of any kind prepared by Consultant in connection with the performance of Services under this Agreement. Consultant shall be required to provide such document and other information within fifteen (15) days of the request.

3.5.1.3 Additional Services. In the event this Agreement is terminated in whole or in part as provided herein, Town may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

3.5.2 Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

Consultant: [INSERT BUSINESS NAME]
[INSERT STREET ADDRESS]
[INSERT TOWN STATE ZIP]
ATTN: [INSERT NAME AND TITLE]

Town: Town of Truckee
10183 Truckee Airport Road
Truckee, CA 96161
ATTN: Town Manager

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

3.5.3 Ownership of Materials and Confidentiality.

3.5.3.1 Documents & Data; Licensing of Intellectual Property. This Agreement creates a non-exclusive and perpetual license for Town to copy, use, modify, reuse, or sublicense any and all copyrights, designs, and other intellectual property embodied in plans, specifications, studies, drawings, estimates, and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Consultant under this Agreement ("Documents & Data"). Consultant shall require all subconsultants to agree in writing that Town is granted a non-exclusive and perpetual license for any Documents & Data the subconsultant prepares under this Agreement. Consultant represents and warrants that Consultant has the legal right to license any and all Documents & Data. Consultant makes no such representation and warranty in regard to Documents & Data which were prepared by design professionals other than Consultant or provided to Consultant by the Town. Town shall not be limited in any way in its use of the Documents & Data at any time, provided that any such use not within the purposes intended by this Agreement shall be at Town's sole risk.

3.5.3.2 Confidentiality. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other Documents & Data either created by or provided to Consultant in connection with the performance of this Agreement shall be held confidential by Consultant. Such materials shall not, without the prior written consent of Town, be used by Consultant for any purposes other than the performance of the Services. Nor shall such materials be disclosed to any person or entity not connected with the performance of the Services or the Project. Nothing furnished to Consultant which is otherwise known to Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use Town's name or insignia, photographs of the Project, or any publicity pertaining to the Services or the Project in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of Town.

3.5.4 Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.

3.5.5 Attorney's Fees. If either party commences an action against the other party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorney's fees and all other costs of such action.

3.5.6 Indemnification.

3.5.6.1 Scope of Indemnity. To the fullest extent permitted by law, Consultant shall defend, indemnify and hold the Town, its directors, officials, officers, employees, volunteers and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any alleged acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Consultant's Services, the Project or this

Agreement, including without limitation the payment of all consequential damages, expert witness fees and attorneys fees and other related costs and expenses. Notwithstanding the foregoing, to the extent Consultant's Services are subject to Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant.

3.5.6.2 Additional Indemnity Obligations. Consultant shall defend, with counsel of Town's choosing and at Consultant's own cost, expense and risk, any and all claims, suits, actions or other proceedings of every kind covered by Section 3.5.6.1 that may be brought or instituted against Town or its directors, officials, officers, employees, volunteers and agents. Consultant shall pay and satisfy any judgment, award or decree that may be rendered against Town or its directors, officials, officers, employees, volunteers and agents as part of any such claim, suit, action or other proceeding. Consultant shall also reimburse Town for the cost of any settlement paid by Town or its directors, officials, officers, employees, agents or volunteers as part of any such claim, suit, action or other proceeding. Such reimbursement shall include payment for Town's attorney's fees and costs, including expert witness fees. Consultant shall reimburse Town and its directors, officials, officers, employees, agents, and/or volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the Town, its directors, officials officers, employees, agents, or volunteers.

3.5.7 Entire Agreement. This Agreement contains the entire Agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. This Agreement may only be modified by a writing signed by both parties.

3.5.8 Governing Law. This Agreement shall be governed by the laws of the State of California. Any action to interpret or enforce this Agreement shall be brought in the Truckee branch of the Nevada County Superior Court.

3.5.9 Time of Essence. Time is of the essence for each and every provision of this Agreement.

3.5.10 Town's Right to Employ Other Consultants. Town reserves the right to employ other consultants in connection with this Project.

3.5.11 Successors and Assigns. This Agreement shall be binding on the successors and assigns of the parties.

3.5.12 Assignment or Transfer. Consultant shall not assign, hypothecate, or transfer, either directly or by operation of law, this Agreement or any interest herein without the prior written consent of the Town. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

3.5.13 Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days and not work days. All references to Consultant include all personnel, employees, agents, and subconsultants of Consultant, except as otherwise specified in this Agreement. All references to Town include its elected officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the

various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

3.5.14 Amendment; Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

3.5.15 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.

3.5.16 No Third-Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

3.5.17 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.5.18 Prohibited Interests. Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, Town shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of Town, during the term of his or her service with Town, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

3.5.19 Equal Opportunity Employment. Consultant represents that it is an equal opportunity employer and it shall not discriminate against any subconsultant, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination. Consultant shall also comply with all relevant provisions of Town's Minority Business Enterprise program, Affirmative Action Plan or other related programs or guidelines currently in effect or hereinafter enacted.

3.5.20 Labor Certification. By its signature hereunder, Consultant certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Services.

3.5.21 Authority to Enter Agreement. Consultant has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

3.5.22 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

3.6 Subcontracting.

3.6.1 Prior Approval Required. Consultant shall not subcontract any portion of the work required by this Agreement, except as expressly stated herein, without prior written approval of Town. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

TOWN OF TRUCKEE

Approved by:

Approved as to Form:

Jen Callaway
Town Manager

Andrew Morris
Town Attorney

CONSULTANT

Reviewed and Accepted by Consultant

Signature

Signature

Name

Name

Title: [Must be: Chairperson of the Board,
President, or Vice President]

Title: [Must be Secretary, Assistant Secretary,
Chief Financial Officer, or Treasurer]

Date

Date

EXHIBIT "A"
SCOPE OF SERVICES
EXHIBIT "A-I"
FEDERALLY REQUIRED PROVISIONS FOR SERVICES

[INSERT FEDERALLY REQUIRED PROVISIONS TRIGGERED BY RECEIPT OF
FEDERAL FUNDS FOR THE SERVICES; OTHERWISE
ALWAYS DELETE ENTIRE EXHIBIT "A-I"]

EXHIBIT "B"
SCHEDULE OF SERVICES

EXHIBIT "C"
COMPENSATION

[INSERT THE FOLLOWING PROVISION IF THE AGREEMENT WILL AUTOMATICALLY RENEW: In the event that this Agreement is renewed pursuant to Section 3.1.2, the rates set forth above may be increased or reduced each year at the time of renewal, but any increase shall not exceed the Consumer Price Index, All Urban Consumers, San Francisco-Oakland-Hayward.]