



TOWN OF TRUCKEE
REQUEST FOR PROPOSALS (RFP) to Provide
Architecture and Engineering Services
For a Railyard Mobility Hub Climate Controlled Transit Center Building
(CIP Project 2508)

Key RFP Dates

RFP Issued: September 20, 2024

RFP Questions: October 10, 2024

Proposal Deadline: October 25, 2024

Tentative Interviews: November 19-20, 2024

Notice of Intent to Award: December 2, 2024

Submissions must be received no later than 4:00 P.M. on October 25, 2024.

Submit via email to truckee@townoftruckee.com

All questions should be sent via e-mail directly to aknotts@townoftruckee.com no later than 4:00 P.M. on October 10, 2024



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A. BACKGROUND AND PROJECT DESCRIPTION

The purpose for this Request for Proposals (RFP) is to solicit services of a qualified consultant to provide architect and engineering services to design a high profile and regionally significant transit center building for the Town of Truckee (Town), referred to hereinto as the Railyard Mobility Hub Building. The Town intends to use the results of this RFP to evaluate and select a firm in order to negotiate a final contract and associated price for the listed Architectural/Engineering services.

The Town of Truckee provides a local fixed route and complementary paratransit dial-a-ride service, as well as a Town-wide on-demand microtransit service known as TART Connect and neighborhood special event shuttles. Placer County, the regional transit provider serving the north and west shores of Lake Tahoe and villages of Palisades Tahoe and Northstar California, operates two fixed route transit routes serving the Town of Truckee, connecting at the current Mobility Hub site. The Mobility Hub serves as the major connection for the local and regional transit services, including inter-regional connections provided by Amtrak and Greyhound bus service.

The Town's Railyard Mobility Hub Project (Project) consists of multiple phases that will allow the Town to offer enhanced public transportation, while increasing ridership and passenger safety. The Project is intended to enhance economic vitality and increase access to opportunity in the Town of Truckee and surrounding areas by increasing connectivity to employment centers, including our world class year-round resorts and Lake Tahoe, via local and regional transit service.

Following a Transit Center Relocation Study, which was conducted in 2019, the Town acquired land in the Railyard Redevelopment Master Plan Area for the purpose of relocating and expanding the transit center from its historic location at the Truckee Train Depot. Phase 1 of the Railyard Mobility Hub Project, which included construction of drainage and stormwater treatment, access and internal circulation improvements, transit vehicle pull-outs/bays, transit shelters, and other passenger amenities such as prefabricated standalone restroom, bike racks, bike fix-it stations, shade structures, benches, sidewalks and internal pedestrian paths, was substantially complete in summer 2024. Phase 2A of the Project is currently under construction and is expected to be completed by October 31, 2024. Phase 2A includes a parking lot adjacent to the Mobility Hub, equipped with publicly accessible electric vehicle charging stations. The Mobility Hub is currently in use with the proposed final building, referred to below as Phase 2B, being the final phase of the project and the focus of this RFP

Phase 2B will complete the Railyard Mobility Hub Project, providing a climate-controlled Transit Center Building, consisting of a small driver break room and passenger waiting area.

B. PROJECT OBJECTIVES AND SCOPE OF WORK

Consultants should thoroughly understand the design and aesthetics associated with the Railyard Master Plan area and associated Design Guidelines. It should be noted that the site has been constrained from the construction of the previous phases which is assumed to limit design options and alternatives to no more than 1000 square feet. This provides an opportunity to streamline the design process by the selected consultant and expedite design review and ultimately, construction which is tentatively schedule for Fiscal Year (July 1 – June 30) 2025/2026.

In consideration of the above statement, the consultant shall provide all architectural services, engineering services, site plans, cost analysis, and construction plans and specifications required to advertise bids for the construction of the Transit Center Building (Phase 2B) and successfully complete the construction of the facility within the existing construction budget. These services include, but are not limited to the following:

- A. Consultant shall develop a detailed work program outlining the cost and time required to complete each proposed task:
 - Develop space requirements and detailed site plan, including streetscape and landscape plans, utility plans, and erosion control/grading plans.
 - Develop conceptual site plans with the Town's project committee
 - Create detailed building design and layout
 - Develop project cost update report
 - Present 30%, 60% and 90% plans to Historic Preservation Advisory Committee, and Planning Commission
 - Prepare and acquire state and local permits for construction. (building permit, stormwater permit)
 - Coordinate and attend weekly formal meetings with Town's project committee to include Transportation Program Manager, Engineering Project Manager, and Planning representative
 - Coordinate a public information meeting at 60% completion.
 - Prepare bid ready plans and specifications for contractors. It is the responsibility of the Consultant to provide copies of all project documents to all parties involved in the project.
 - Obtain Topographic Survey of parcel from existing sources
 - Review existing geotechnical reports to determine foundation needs.

- B. While the existing site is somewhat constrained as a result of Phase 1 and Phase 2A construction, Consultant shall conduct a comprehensive assessment of space requirement needs for employee and customer amenities such as waiting areas break room for a staff maximum of 4 and minimum of 2, and other potential common area amenities (i.e. vending machine area, etc). This assessment will include requirements for compliance with Americans with Disabilities Act of 1990 (ADA) as amended.

- C. Consultant shall perform a comprehensive energy assessment that consists of an analysis of the total energy requirements of the building.



- D. Consultant shall supply options for environmental/ecological energy savings for heating/cooling, insulation, windows, solar etc. for the project.
- E. Plans will comply with all applicable local, state and federal mandatory energy efficiency standards.
- F. Develop detailed site and design plans for the facility, including landscape plans, grading and utility layouts, and signage structure. Plans must comply with all requirements of the Town of Truckee.
- G. Provide cost estimates of facility construction, landscaping, and any other costs affiliated with each design element.
- H. Schedule regular meetings/and/or progress report submissions with the Town Engineering Project Manager and Transportation Program Manager during the design phase.
- I. Identify and evaluate the feasibility of all design options. Provide cost estimates of facility construction, utilities, lighting, landscaping, and any other costs affiliated with each element of the design. The alternatives analysis and cost estimates will include but not be limited to:
 - i. At 30%: project conceptual layout design and design alternatives. Preliminary cost estimates, survey work will be provided at this stage.
 - ii. At 60%: project preliminary design (plans, elevations, and specifications), and preliminary construction schedule and revised cost estimates.
 - iii. At 90%: project final design (plans, elevations, and specifications) and revised cost estimates.
 - iv. At 100%: A final construction bid ready package will be required at this stage for advertisement.
- J. Budget: The budget for construction of this project is approximately \$1,125,000, and it is anticipated that the cost for the above-mentioned scope of work is approximately 20-25% of the construction cost.

C. RESOURCES

Consultant is advised to thoroughly understand the design guidelines for the **Railyard Master Plan, Downtown Specific Plan**, and historic character and context of Downtown Truckee, including its listing on the National Register of Historic Places. To assist in this understanding the Town directs Consultants to the Town website, where there are links to all relevant plans:

<https://www.townoftruckee.gov/268/Regulations-Plans>

Town of Truckee Transit Center Relocation Feasibility Study -

<https://www.townoftruckee.gov/DocumentCenter/View/787/Truckee-Transit-Center-Relocation-Feasibility-Study-PDF>



D. SCHEDULE

The following schedule is subject to change. Except as provided below, changes will only be made by written amendment to this Request for Proposals, which amendment shall be issued to all parties by the Department issuing this proposal.

Date	Event
September 20, 2024	Release Request for Proposals
October 10, 2024	RFP Question Submittal Due by 4:00 p.m.
October 25, 2024	Submittals Due by 4:00 p.m.
November 19-20, 2024	Tentative Interviews
December 2, 2024	Notice of Intent to Award

E. QUESTIONS, CORRECTIONS, AND ADDENDA

Proposers will be required to submit all questions in writing per the schedule. Staff will prepare written responses. Written answers will be shared with all potential bidders through the Town website <https://www.townoftruckee.gov/bids.aspx>. Questions should be sent via e-mail directly to aknotts@townoftruckee.com. Questions will not be accepted by phone.

If a proposer discovers any ambiguity, conflict, discrepancy, omission, or other error in this RFP, the proposer shall immediately notify the contact person of such error in writing and request clarification or modification of the document. Modifications will be made by addenda as indicated above. If a proposer fails to notify the contact person prior to the date fixed for submission of proposals of a known error in the RFP, or an error that reasonable should have been known, the proposer shall submit a proposal at their own risk, and if the proposer is awarded a contract, they shall not be entitled to additional compensation or time by reason of the error or its subsequent correction.

F. PROPOSAL SUBMITTAL

1. FORM

Proposers must submit one (1) electronic copy via email to:

Attn: Town Clerk
Town of Truckee
10183 Truckee Airport Road
Truckee, CA 96161
truckee@TownofTruckee.com

If an electronic file is too large to submit via email, please provide a link to the file via a file sharing service such as Dropbox. Hard copy and/or faxed submissions will not be accepted.



2. DUE DATE

Proposals must be received no later than the date and time listed in the schedule, or as revised by addendum. The proposal due date is subject to change. In the proposal due date is changed, all known recipients of the original RFP will be notified of the new date via addendum.

3. PROPOSAL FORMAT AND CONTENTS

The proposal should not exceed 15 pages in length (excluding cover letter, proposal cover, cost proposal, table of contents and supplemental information). Supplemental information and appendices should be relevant and brief.

For ease of review and to facilitate evaluation, the proposals for this project should be organized and presented in the order requested as follows:

COVER LETTER

The introductory letter shall be addressed to:

Alfred Knotts
Town of Truckee
10183 Truckee Airport Road
Truckee, CA 96161

The letter shall be on Consultant letterhead and include the Consultant's contact name, mailing address, telephone number, and email address. The letter should reflect the Consultant's interest in the project and understanding of the services being requested, and it should highlight any special or unique qualities that would distinguish the Consultant firm's proposal. **All addendums received must be acknowledged in the transmittal letter.** Identify the prime Consultant and describe any subcontract arrangements.

SECTION I- ORGANIZATIONAL INFORMATION

Provide specific information concerning the firm in this section, including legal name, address and telephone number and the type of entity. Describe the firm, including the year the firm was established, the location of the office that would be conducting the work, and a statement of the firm's experience and qualifications in performing similar work. Identify the key personnel who will be assigned to this project, a description of their responsibilities, and the anticipated time that each person will devote to this project. If this is a joint venture, explain the responsibilities of each firm/sub-consultant, the location of each firm, and the key personnel. There should be a lead or prime Consultant, and a designated project manager.

SECTION II- QUALIFICATIONS AND EXPERIENCE

Provide specific information in this section concerning the firms' experience in the services specified in this RFP, preferably within the State of California. Please provide Work Examples of at least three comparable projects that the project manager and principal staff worked on within the last five years and include the following.



1. Name of project, brief scope/description, status, cost, and dates that the services were provided.
2. Copies of or links to project deliverables may be provided as attachments to the proposal.

References are required. Please provide names, addresses, and telephone numbers of contact persons within three (3) client agencies for whom similar services have been provided. Please include name of project, brief scope/description, current status, cost, and dates that the services were provided (if different from the projects listed in Work Examples section of proposal). References should be able to attest to the firm's knowledge, quality of work, timeliness, diligence, flexibility, and overall expertise.

SECTION III- PROJECT APPROACH AND WORK SCHEDULE

Provide a description of your general approach to be taken on the project as applied to the circumstances in Truckee. Explain the extent to which your firm can deliver on the proposed Scope of Work.

Please provide a Scope of Work summarizing your proposed approach, methodology, and project timeline. The project timeline should contain specific milestones and dates of completion which will be used to set schedules. The Scope of Work should include the tasks listed above in the Scope of Services section. Provide a description of firm's current workload and firm's capacity to meet the proposed work schedule.

This section should describe the Consultant's approach to management of the work. If sub-Consultants are to be used, provide similar information for each sub-Consultant.

SECTION IV- IDENTIFICATION OF SUBCONTRACTORS

Proposers shall identify all subcontractors they intend to use for the proposed scope of work. For each subcontractor listed, proposers shall indicate (1) what services and deliverables are to be supplied by that subcontractor, and (2) what percentage of the overall scope of work that subcontractor will perform.

SECTION V- ADDITIONAL INFORMATION

Include any other information you believe to be pertinent but not required.

SECTION VI- CONTRACT TERMS

Proposers must include a statement acknowledging their willingness to accept the sample contract terms (Attachment A) or identify specific exceptions to the sample agreement.

COST PROPOSAL

Cost proposals shall be submitted under separate cover, clearly marked with the name of firm, the name of this Project, and identified as "Cost Proposal."

Provide a preliminary total Consultant team budget broken down by task and deliverable. The total Consultant budget is inclusive of all fees and expenses (e.g., travel expenses, printing, reproduction, postage, etc.), which will be generated by the Consultant and any



sub-consultants to complete the work described in the scope of work. Indicate the hourly billing rates for all individuals involved.

The proposal shall clearly state ALL costs associated with the project, broken down by task number and deliverable.

Negotiations may or may not be conducted with proposers; therefore, the proposal submitted should contain the proposer's most favorable terms and conditions, since the selection and award may be made without discussion with any proposer. It is the intent of the Town to award a contract to the best-qualified firm that demonstrates similar work experience. The successful Consultant must be an Equal Opportunity Employer and be able to contract with state and local public entities within the State of California.

SUBMITTAL AGREEMENT

1. Submittal Acknowledgement – Submittal of a proposal shall be deemed a representation and certification by the proposer that it:

- a. Has carefully read and fully understands the information that was provided by the Town to serve as the basis for submittal of the proposal.
- b. Has the capability to successfully undertake and complete the responsibilities and obligations of the submitted proposal.
- c. Represents that all information contained in the proposal is true and correct.
- d. Did not, in any way, collude; conspire to agree, directly or indirectly, with any person, firm, corporation, or other proposer regarding the amount, terms, or conditions of this proposal.
- e. Acknowledges that the Town has the right to make any inquiry it deems appropriate to substantiate or supplement information supplied by the proposer and proposer hereby grants the Town permission to make these inquiries, and to provide any and all related documentation in a timely manner.
- f. Understands that all proposals, whether selected or rejected, shall become the property of the Town of Truckee.

2. Rights of the Town of Truckee- This RFP does not commit the Town to enter into a contract, nor does it obligate the Town to pay for any costs incurred for the preparation and submission of proposals or in anticipation of a contract. The Town reserves the right to:

- a. Make the selection based on its sole discretion.
- b. Reject any or all proposals in whole or in part.
- c. Issue subsequent RFPs.
- d. Postpone opening for its own convenience.
- e. Remedy technical errors in the RFP process.
- f. Approve or disapprove use of subcontractors.
- g. Negotiate with any, all, or none of the proposers.
- h. Accept other than the lowest proposal.
- i. Waive informalities and irregularities in the proposals; and/or



- j. Enter into an agreement with another proposer in the event the originally selected proposer defaults or fails to execute an agreement with the Town.
- k. The Town anticipates working with a single firm or Consultant team but reserves the right to bifurcate the scope of work based on proposals received.

3. Disqualifications- Factors such as, but not limited to, any of the following may be considered just cause to disqualify a proposal without further consideration:

- a. Proposals submitted after the submittal deadline.
- b. Evidence of collusion, directly or indirectly, among proposers regarding the amount, terms, or conditions of the proposal.
- c. Any attempt to improperly influence any member of the evaluation team.
- d. Existence of any lawsuit, unresolved contractual claim, or dispute between proposer and the Town.
- e. Evidence of incorrect information submitted as part of the proposal.
- f. Evidence of proposer's inability to successfully complete the responsibilities and obligations, of the proposal; and
- g. Proposer's default under any previous agreement with the Town, which results in termination of the Agreement.

G. REVIEW AND SELECTION PROCESS

1. All proposals received by the specified deadline will be reviewed by the Town for content, including but not limited to related experience and professional qualifications of the proposing firms.
2. All proposals will be evaluated by a designated Selection Committee (Committee). The Committee may be composed of Town staff and other parties that may have expertise or experience in the services described herein.
3. The Committee will conduct a **qualifications-based selection process**, based principally on the quality of each proposal and its responsiveness to this RFP. The Committee will review the submittals and will rank the proposers. The evaluation of the proposals shall be within the sole judgement and discretion of the Committee. The Committee members will read the proposals separately then convene to discuss and review the written proposals. Each member of the selection panel will then evaluate each proposal using the criteria below. A list of top-ranked proposals will be developed based upon the totals of each Committee member's score for each proposal. **Selection of consultant shall be based on qualifications, as required by Government Code Sections 4525-4529.5. Cost may be considered but shall be secondary to qualifications.**
4. Proposals will be evaluated and ranked based on the following Evaluation Criteria:
 - a. Professional qualifications of the proposed project team members, especially the project manager, and adequacy in terms of training, experience and availability of proposed project team members for this project. (Up to 25 points)
 - b. The extent to which the firm's proposal addresses the key technical areas of importance and tasks as listed in the scope of services and demonstrates a



thorough understanding of the scope of the project. Specifically, applicant's understanding of the project requirements, technical competency to address all project elements, and originality and thoughtfulness of proposed approach to achieving completion of the project described in the RFP. (Up to 25 points)

- c. Applicant's demonstrated ability to prepare, support and implement a project of this type and scale that requires architecture design, engineering, construction cost estimation, and problem solving among other skills and experience. (Up to 25 points)
 - d. Proposal should include past designs that have fit into the aesthetics of the surrounding buildings and/or landscape, and applicable references that demonstrate similar projects that were completed on time and within budget and those that lead to construction of a project. (Up to 25 points).
5. The Town may, during the evaluation process, request from any proposer additional information which the Town deems necessary to determine the proposer's ability to meet the project requirements. If such information is requested, the proposer shall be permitted three (3) business days to submit the information requested.
 6. All firms responding to this RFP will be notified of their selection or non-selection after the evaluation committee has completed the selection process.
 7. The firm selected by the Evaluation Committee will be recommended to the Town Council for this project, but the Council is not bound to accept the recommendation or award the project to the recommended firm.
 8. The successful Consultant must be an Equal Opportunity Employer and be able to contract with state and local public entities within the State of California.

H. FINALIST INTERVIEWS

The top ranked candidates may be invited to interview with the Town after the submission deadline. The interview process may be waived altogether at the Town's sole discretion. Top candidate interviews are anticipated to be in person at the expense of the Consultant. The Town reserves the right to utilize virtual meeting capabilities to conduct interviews.

I. CONTRACT REQUIREMENTS

The selected Consultant will be required to sign a contract for professional services provided by the Town of Truckee. Prior to contract execution and initiation of work on the project, the Consultant shall meet the Town's indemnification requirements as well as insurance coverage requirements, including specified limits for general liability, professional liability, automotive liability, and worker's compensation insurance.

ATTACHMENTS

Attachment A: Sample Town of Truckee Professional Services Agreement



Attachment A: Sample Agreement

TOWN OF TRUCKEE
PROFESSIONAL SERVICES AGREEMENT

1. PARTIES AND DATE

This Agreement is made and entered into this [REDACTED] day of [REDACTED], 20 [REDACTED], 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

Town of Truckee
[***INSERT NAME OF PERSON OR FIRM***]
Professional Services Agreement for [***INSERT TYPE OF SERVICES***]
[***INSERT DATE***]

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

Town of Truckee

[**INSERT NAME OF PERSON OR FIRM**]

Professional Services Agreement for [**INSERT TYPE OF SERVICES**]

[**INSERT DATE**]

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. 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 sub-consultants 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
Town of Truckee

[**INSERT NAME OF PERSON OR FIRM**]
Professional Services Agreement for [**INSERT TYPE OF SERVICES**]

[**INSERT DATE**]

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 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

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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:

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- (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
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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. 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 Consultant's policies, or 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.

[NOTE: Delete all of 3.2.12 unless there is a potential stormwater or water quality issue.]

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

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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

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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.

[NOTE: If there will be only one invoice at the end of the project, and/or the compensation is a fixed fee revise the following paragraph accordingly.]

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.

[NOTE: Delete 3.3.5 and mark as RESERVED if renewal language is left out of section 3.1.2.]

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

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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

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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 usb drives, external hard drives, discs, or other means of electronic media storage, 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

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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 indemnity and defense obligations set forth herein and in Section 3.5.6.2 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, and defense costs shall not exceed the Consultant's proportionate percentage of fault.

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
Town of Truckee

Professional Services Agreement for [***INSERT NAME OF PERSON OR FIRM***]
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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.

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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.

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. [OPTIONAL: If subcontractors are not already listed in the scope of work (Exhibit A), then create a new Exhibit D to list the subcontractors and include the following sentence: "The subcontractors and subcontracted work listed in Exhibit D attached hereto and incorporated herein by reference are hereby approved." DELETE THIS NOTE BEFORE USING THIS TEMPLATE.]

TOWN OF TRUCKEE

Approved by:

Town of Truckee
[**INSERT NAME OF PERSON OR FIRM**]
Professional Services Agreement for [**INSERT TYPE OF SERVICES**]
[**INSERT DATE**]

Jen Callaway
Town Manager

Date

Approved as to Form:

Andrew Morris
Town Attorney

Date

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

