



# South Tahoe Public Utility District

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February 25, 2010

Contact  
Firm  
Address  
City, State, Zip Code

Re: Request For Proposal (RFP) – ERB Replacement Project  
South Lake Tahoe, CA

Dear Consultant:

The South Tahoe Public Utility District (District) is seeking proposals from qualified consulting firms to provide engineering support for design and construction of a replacement liner system and appurtenances at the existing Emergency Storage Basin, including Construction Quality Assurance (CQA) services. The District plans that the liner system will be designed this summer, permitted this fall and winter, bid next spring and constructed late next summer (2011). The Consultant will be responsible for developing the bid set, including plans and details for the liner system (and any needed site work), the technical specifications, the CQA Plan, and the CQA Report. The Consultant will perform field testing as needed to support the design, and will provide inspections and testing during construction of the new liner. The District will be responsible to provide documents to the Consultant for review and obtaining any associated project permits.

## **Project Background**

The District's Emergency Retention Basin (ERB) was originally installed in 1959 to provide temporary storage of treated or partially treated wastewater in close proximity to the District's Wastewater Treatment Plant (WWTP) in the event of an emergency. The District's Waste Discharge Requirements (WDRs), which are enforced by the Lahontan Regional Water Quality Control Board (Lahontan; RWQCB), name a list of instances in which the basin may be used, including in the event of a power outage or equipment failure that keeps the District from pumping wastewater out of the Lake Tahoe Basin to its storage facilities in Alpine County. The approximate capacity of the ERB is 56 million gallons, and covers approximately 18 acres. An aerial photograph of the ERB is provided as Figure 1.

In 1990 the District designed and installed the existing 60-mil high density polyethylene liner. This liner is exposed to direct sunlight, and has experienced moderate levels of degradation. There are numerous appurtenances at the ERB which penetrate the liner. At these locations, stresses on the liner are concentrated, and failures of the liner often emanate from them. The liner has been repaired on several occasions using various methods for patching. Based on the results of physical testing of the liner in 2004, as

well as the cost and effort now required to maintain the liner, it is apparent that it is nearing the end of its useful life.

In August 2009, the District was issued a Notice of Violation by the RWQCB for failure to repair damage to the existing liner in a timely manner. At Lahontan's request in response to the Notice of Violation, the District has repaired the damage, prepared an inspection checklist to address future damage, prepared a spill contingency plan, developed a schedule for replacement of the liner system, and prepared a preliminary Construction Quality Assurance Plan for the liner replacement project.

### **Proposed Design Concept**

The District has proposed, and the RWQCB has concurred, that the existing liner system may be replaced with a similar single-layer geomembrane liner system. The District proposes to evaluate two options for replacing the liner, taking into consideration cost, liner performance, ease of construction and maintenance requirements.

1. Overlay existing liner with a new liner. This alternative is expected to simplify and accelerate construction by leaving the existing geomembrane in place. Prior to placing the new liner, upgrades would be made to system appurtenances.
2. Remove existing liner and replace in kind. For this alternative, the existing liner and the underlying geotextile cushion would be removed and disposed. Upgrades would be made to system appurtenances. The subgrade would be repaired, if necessary, and overlain by a new geotextile cushion. A new geomembrane liner would be installed.

As part of the Liner Design (see Scope of Work below) the selected Consultant will evaluate the merits and drawbacks of each of these alternatives, and will propose any alternative concepts that they feel warrant consideration.

To address deficiencies of the existing system and the District's operational needs, the Consultant should also consider options for the following elements of the ERB as part of the Liner Design:

1. Geomembrane options: consider operational benefits of different liner options.
2. Anchor trench options: consider adding toe of slope and center berm anchor trenches.
3. Leak Detection System: Lahontan has suggested that some type of leak detection system might be required.
4. Liner Penetrations: modify penetrations to eliminate point loads.
5. Rehabilitation and/or remove appurtenances: District staff will perform a condition assessment and make recommendations for rehabilitation of degraded and/or problematic appurtenances (such as water cannons, valves and operators), and abandonment or removal of obsolete appurtenances (such as valves and stairs).
6. Access options: consider alternatives for vehicle access to the lined basin.
7. Instrumentation: consider options for volume measurement and alarms.

### **Regulatory Environment**

Because of its location, type of operations and source of funding, the District is subject to regulation by a number of agencies. To maintain District control of these relationships,

the District will lead the permitting and funding effort for the ERB Replacement project. Following is a list of the regulatory and funding constraints under which the District operates the ERB, and by which the project will be performed.

1. As indicated above, the District operates under WDRs issued by the RWQCB. Depending on which design concept is selected, the WDRs may or may not need to be modified to reflect changes to the ERB. In addition, construction of the ERB is subject to the CQA testing, inspection and reporting requirements set forth in California Code of Regulations (CCR) Title 27, and enforced by the RWQCB.
2. The berm surrounding the ERB is a jurisdictional dam, permitted by the California Department of Safety of Dams (DSOD). This permit may need to be modified to reflect changes to the ERB.
3. All construction projects within the Tahoe Basin are subject to permitting by the Tahoe Regional Planning Agency (TRPA). TRPA does not allow any disturbance (ie., earthwork) prior to May 1 and after October 15.
4. For projects with more than 1 acre of disturbance, the RWQCB may also require a Stormwater Construction permit, which includes the development of a Storm Water Pollution Protection Plan (SWPPP).
5. The District has filed a Notice of Exemption to comply with the requirements of the California Environmental Quality Act (CEQA).
6. This project is being funded by the Clean Water State Revolving Fund, which is administered by the State Water Resources Control Board (SWRCB). This funding source stipulates numerous conditions for construction contracts, which may include: restrictions limiting sole-sourcing products, requirements for using American-made products, and requirements for outreach to disadvantaged businesses.

### **Scope of Work**

The District is seeking engineering support for the design and CQA of the ERB replacement liner system. The Scope of Work shall include, at a minimum, the following five tasks.

1. **Document Review:** The Consultant shall review and consider during design the following documents available in the District files:
  - Waste Discharge Requirements
  - Groundwater Monitoring Data
  - Regulatory correspondence
  - Results of liner testing
  - Liner inspection reports
  - Construction Documents, including inspection photos, from the 1990 liner installation project.

2. Limited Field Investigation: The Consultant shall perform a limited field investigation to evaluate the following:
- the integrity of the existing geomembrane liner, for consideration during evaluation of the design concepts.
  - the integrity of the existing patches, to address RWQCB's concerns about non-standard patching materials.

The Consultant shall propose a test method for District consideration as part of the Proposal. Deliverables for this task shall include a report presenting the method and data, with a summary and evaluation of the results.

3. Liner Design: The Consultant will evaluate design options and prepare design and construction documents for the replacement liner system and appurtenances. Deliverables for this task shall included, at a minimum:
- Alternatives evaluation memorandum;
  - Basis of Design memorandum;
  - 90% Design Drawings and Technical Specifications;
  - Bid Documents (Drawings and Technical Specifications); and
  - Engineer's estimate of probable cost for the project.

Specifications shall be provided to the District in CSI 2004 standard format. Final drawings sheets shall be stamped by a professional engineer in the State of California. The Consultant shall provide all draft submittals in a non-editable electronic format (aka .pdf), plus three hard copies. Final submittals shall be provided in editable electronic format and non-editable electronic format (pdf), plus three hard copies.

4. CQA: The Consultant will provide CQA services for construction of the new liner system, including the following elements.
- Following the template provided in the preliminary CQA Plan, the Consultant will prepare a Final CQA Plan, which will be reviewed and approved by Lahontan prior to being implemented during construction.
  - The Consultant will, as the District's representative during construction, perform testing and inspections in accordance with the CCR Title 27 and the Final CQA Plan.
  - The Consultant will name a CQA Officer (licensed California PE) who will supervise implementation of the CQA Program and assure that the liner is constructed in conformance with the design specifications, CQA Plan and applicable regulations.
  - The Consultant will assign a full-time CQA Inspector (with prior CQA experience – 3 projects minimum), who will implement the CQA Plan, provide inspection, testing and observation, and act as the District's on-site representative to assure that the project is installed in conformance with the CQA Plan, applicable regulations, and the construction contract. The CQA Inspector will be the only inspector assigned to the project, and so the Consultant should assume that the Inspector's services will be required for the duration of construction, not just the liner portion.
  - At the end of construction, the Consultant will prepare and certify a CQA Report, in conformance with the requirements of CCR Title 27, for submittal to the RWQCB.

5. *As-Needed Construction Period Design Services:* While the District will lead the construction management effort by assigning a Construction Manager and Contracts Administrator, the Consultant will provide as-needed construction support services, which may include the following:
  - reviewing contractor submittals;
  - responding to Requests for Information;
  - making design modifications;
  - responding to Change Order Requests;
  - participating in on-site construction progress meetings; and
  - developing As-Built Drawings at the completion of construction, for inclusion in the CQA Report and for District use.
  
6. *As-Needed Permitting Support:* While the District will have primary responsibility for the permitting of this project, the selected Consultant will be required to provide as-needed permitting support during the permitting process. Specific deliverables for this task may include, but will not be limited to the following:
  - plans and calculations to support the project permit issued by the Tahoe Regional Planning Agency, including coverage calculations, runoff and infiltration calculations, and erosion control details;
  - documentation supporting revisions to the District's WDRs reflecting changes to the ERB liner system;
  - documentation supporting District responses to Lahontan inquiries;
  - An Operations and Maintenance Manual for the new liner system and appurtenances, which will be submitted to Lahontan for review and approval, prior to being implemented by the District;
  - Documentation supporting a RWQCB Stormwater Construction Permit; and
  - Documentation supporting permitting requirements from the Department of Safety of Dams.

### **Schedule**

The project schedule is subject to the following constraints.

1. The District has agreed to provide 90% Plans and the Final CQA Plan to Lahontan for review by the end of August 2010. This is a non-negotiable milestone, and the successful Consultant will propose a design schedule that provides these documents to the District in time to forward them to Lahontan. The District requires at least 2 weeks to review draft submittals and provide comments.
2. The District anticipates that Lahontan and TRPA will each require up to 120 days to review and approve the project plans. The successful Consultant will develop a project schedule that accounts for permitting.
3. To allow enough time for Contractors to comply with funding conditions during the bid period, the Consultant must assume the bid period will be at least 6 weeks. The contracting period will take at least 6 weeks following the end of the bid period.
4. Construction of the ERB Replacement Project is subject to weather constraints and related conditions of the TRPA permit. The successful Consultant will propose a construction schedule to optimize site conditions.

5. Construction of the ERB will be concurrent with the District's Headworks Replacement Project, and needs to be performed in two phases to provide emergency storage. The successful Consultant will propose a construction schedule that coordinates with the Headworks Replacement Project and leaves half of the ERB in service at all times.
6. The District has committed to Lahontan that the ERB Replacement Project will be complete by October 2011, and the CQA Report submitted to Lahontan within 10 weeks after the completion of construction. These are non-negotiable milestones, and the successful Consultant will propose a schedule that provides the CQA Report to the District in time to forward it to Lahontan.

### **District's Project Team**

Ms. Julie Ryan will be the District's Project Manager during design, the District's Construction Manager during construction, and will be the principal point of contact for the Consultant. The Project Manager will have overall responsibility and accountability for the project. The District's Project Team will also include: Mr. Paul Sciuto, Asst. General Manager; Ms. Heidi Baugh, Contracts Administrator; Mr. Ross Johnson, Plant Manager; Mr. Jeff Lee, Chief Plant Operator; Mr. John Boyson, Electrical Shop Supervisor; and Mr. Kyle Schrauben, Heavy Maintenance Supervisor.

### **Consulting Contract**

The Project will be performed by the Consultant under the District's Master Agreement for Consulting Services, with an accompanying Task Order for the ERB Replacement Project. To expedite the contracting process, the District asks that the Consultant review the Master Services Agreement and indicate in the Proposal any exceptions they have to the terms of the agreement. A sample agreement is included as Appendix A.

### **Proposal**

To be considered for Engineering Services, a Technical Proposal and Cost Proposal must be submitted in two separate envelopes. The Technical Proposal shall be a maximum of eight (8) pages, with no more than the page limit identified below for each individual section, plus an initial projection of manpower requirements, project schedule, and appendix material. A typical Technical Proposal should follow the format provided below.

1. Transmittal Letter (no more than 2 pages): Include any information you believe should be highlighted from your proposal or any key considerations for the selection committee to consider that are not covered in the proposal requirements. Consultant will also include in the transmittal, any exceptions taken to the District's Master Services Agreement.
2. Firm Experience (no more than 3 pages): Provide a general overview of your firm and the firm's experience providing engineering design and CQA services for the construction of geosynthetic liner systems. List at least three relevant engineering design projects completed by your team members over the past five years. Provide a short description of the project and your firm or staff members' role, and a specific contact person with phone number. Describe the project experience of the CQA Officer and CQA Inspector. The selection team will be

- focusing on project performance and will be requesting input as to conformance with schedules and budgets.
3. *Firm's Approach to Project* (no more than 3 pages): Consultant shall describe its approach in implementing and managing the project to a successful completion. This includes how the Consultant shall meet the stated goals within the scheduled time of completion, the ability to work with a multi-disciplinary project team, including District Staff, and other consultants if necessary.
  4. *Project Team* (no more than 3 pages): Describe your project team, including title, office location and contact information. Include the names of key individuals and sub-consultants that will actually be responsible for conducting the project's technical activities and for management of the project. Include a percent-time availability table for the project manager and key staff, who will be actively working on the design and consulting services.
  5. *Other* (not included in page limit):
    - Provide a project schedule, proposing a timeline for completing the project within the identified constraints.
    - Provide a table showing an initial estimate of the manpower requirements for the project. The initial projection should be an itemized staffing breakdown in spreadsheet form, indicating personnel title and estimated hours for each project team member on a per task and total project basis. This section will not include any estimates of labor costs.
    - Provide a cost proposal and breakdown **in a separate sealed envelope**. The cost proposal should identify key personnel participating in individual tasks, their billing rates and hours, as well as any anticipated direct costs with multiplier.
    - Appendix materials may be provided, but are not required, in addition to the twelve-page proposal limit. Appendix material may not be read and, if submitted, should be limited to resumes of proposed key staff relevant to the scope of work.

The Consultant will be selected primarily based on qualifications, project approach, and ability to conform to scheduling constraints. Only the cost proposal for the selected firm will be opened, and will form the basis of negotiations for the contract. The deadline for receiving proposals from interested firms is **5 pm, Friday, March 19, 2010**. If necessary, the District will identify a short list of candidates for interview after initial review of the proposals. The District will notify consultants of their determination by Tuesday, March 29, 2010. Questions regarding the RFP should be directed to Julie Ryan at (530) 543-6267.

We would like to thank you in advance for preparing a proposal.

Sincerely,

Julie H. Ryan, P.E.  
Senior Engineer

To aid in the preparation of the Proposal, the District will make the following documents available electronically for Consultant review upon request:

1. *Preliminary Construction Quality Assurance Plan*, Emergency Retention Basin, STPUD Wastewater Treatment Plant, South Lake Tahoe, California, dated January 29, 2010.
2. *Accepting the South Tahoe Public Utility District Technical Report on Emergency Retention Basin, with Comments* (WDID 6A095900700), dated December 8, 2009.
3. *Response to Notice of Violation, Emergency Retention Basin, STPUD Wastewater Treatment Plant*, South Lake Tahoe, California, dated September 17, 2009.
4. *Notice of Violation*, California Regional Water Quality Control Board, Lahontan Region, dated August 20, 2009.
5. *Updated Waste Discharge Requirements for South Tahoe Public Utility District Wastewater Recycling Plant, El Dorado and Alpine Counties*, California Regional Water Quality Control Board, Lahontan Region, Board Order No. R6T-2004-0010, WDID No. 6A095900700.
6. *Emergency Retention Basin Sealing Project, Record Drawings*, John Carollo Engineers, February 6, 1990.
7. *Boring Logs and Site Plans – Holding Pond*, circa 1959.



Figure 1: Aerial View of ERB (Not to Scale)

APPENDIX A  
SAMPLE  
MASTER SERVICES AGREEMENT

**MASTER AGREEMENT  
FOR  
CONSULTING SERVICES**

**(INSERT NAME OF FIRM)**

THIS AGREEMENT is made and entered into as of the \_\_\_ day of \_\_\_\_\_ by and between South Tahoe Public Utility District, hereinafter referred to as "DISTRICT" and **INSERT NAME OF FIRM**, hereinafter referred to as "CONSULTANT".

**RECITALS**

- A. DISTRICT periodically makes improvements to its water, wastewater and ancillary facilities, for which it may require the services of a consultant.
- B. DISTRICT proposes to provide a MASTER AGREEMENT for consulting services which will be required by DISTRICT in general support of projects under separate titles (Task Orders). The general scope of services outlined in this MASTER AGREEMENT will be further defined by a series of Task Orders which will set forth the services to be performed (detailed scope), costs, and time for completion.
- C. DISTRICT desires to secure professional consulting services for said projects and CONSULTANT represents that CONSULTANT possesses the professional qualifications to provide such consulting services.
- D. DISTRICT and CONSULTANT agree to enter into this MASTER AGREEMENT for the performance of consulting services on the terms and conditions stated in this MASTER AGREEMENT.

NOW THEREFORE, for and in consideration of their mutual promises and subject to the terms, provisions and conditions hereinafter set forth, the parties hereto do hereby agree as follows:

**ARTICLE I. - CONSULTING SERVICES**

- A. Upon execution of this agreement and subsequent Task Orders by both parties, and upon receipt of written authorization from DISTRICT, CONSULTANT at CONSULTANT's sole cost and expense (to be reimbursed as outlined in ARTICLE IV) and to the satisfaction of DISTRICT, shall perform the services (Services) set forth in each Task Order and represented by a separate proposal for each Task Order. The Services shall be assigned to CONSULTANT by DISTRICT for the various projects as planned and developed by DISTRICT. Each Task Order shall specify the Services to be performed, the time schedules

for completion of the Task Order and for completion of all tasks (Tasks) within the Task Order, and the cost (Cost Ceiling) including all fees, costs and expenses, both direct and indirect, of the Task Order, but shall otherwise be governed by the terms and conditions of this Agreement, as modified by the individual Task Orders. Task Orders shall be in writing, signed by both parties in advance, and shall be attached to this Agreement as consecutive exhibits beginning with Task Order 1.

- B. CONSULTANT agrees to comply with the schedule as set forth in each Task Order, and to provide Services in a timely manner to allow DISTRICT's project(s) to be constructed as planned by DISTRICT.

In the event CONSULTANT is not able to comply with the project schedule, a written statement from CONSULTANT will be required showing CONSULTANT's plan to bring schedule back into compliance to meet completion date. In the event of delays due to causes beyond the control of CONSULTANT, an extension to the schedule for performance shall be negotiated.

- C. CONSULTANT shall provide DISTRICT with a review of the budget amount when 75% of the Cost Ceiling of each Task Order has been expended. CONSULTANT shall be entitled to reallocate costs among subtasks within a Task. DISTRICT shall have the right to transfer Tasks and costs within the same or other Task Order(s).

CONSULTANT may request a revision in the Cost Ceiling for performance of the Task Order, and will relate the rationale for the revision to the specific basis of estimate. Such notification will be submitted to DISTRICT at the earliest possible date. The Cost Ceiling will not be exceeded without approval by DISTRICT and written amendment to the Task Order.

- D. In the case of changes affecting project scope resulting from new findings, unanticipated conditions, or other conflicts or discrepancies, CONSULTANT shall promptly notify the DISTRICT of the identified changes and advise the DISTRICT of a recommended solution. Additional Services shall not be performed without prior written authorization of DISTRICT.

DISTRICT may order, via a written amendment signed by each party's authorized representative, changes in scope or character of Services, either decreasing or increasing the amount of CONSULTANT'S services associated with a given Task Order. An order for additional services constitutes a change to the Task Order and shall be made in writing, dated, and appended to that Task Order.

Compensation for Additional Services shall be on the basis of Time and Materials or Lump Sum, to be agreed upon at the time of request for Additional Services. The estimated amount of compensation for Additional Services will be determined at the time the Additional Services are requested.

**ARTICLE II. - RESPONSIBILITIES OF DISTRICT**

- A. DISTRICT shall furnish to or make available for examination by CONSULTANT, as it may request, all data and information which DISTRICT may have available, and CONSULTANT may rely upon such data and information developed exclusively by DISTRICT in the performance of CONSULTANT's services.
  
- B. DISTRICT shall secure and pay for all permits and licenses (other than permits and licenses under any patent or invention) and furnish all deposits and bonds necessary in connection with the Projects, except licenses required to permit CONSULTANT to do business at the place where its services are to be performed. CONSULTANT will assist DISTRICT in procuring necessary licenses or permits if required by DISTRICT to do so.
  
- C. In order that DISTRICT may meet its obligations with respect to the technical quality of the services to be performed under this Master Agreement, the services performed by CONSULTANT under this Agreement shall be under the general supervision and direction of the DISTRICT's General Manager/Engineer (DISTRICT REPRESENTATIVE), who shall be Mr. Richard H. Solbrig. CONSULTANT and its officers, employees, agents, affiliates, and subcontractors shall act in complete harmony and coordination with the DISTRICT REPRESENTATIVE. The DISTRICT REPRESENTATIVE shall keep in touch with the CONSULTANT during the duration of the Task Orders and shall be the authorized medium of communication for and with District matters pertaining thereto. DISTRICT REPRESENTATIVE may from time to time delegate any or all of his supervisory responsibility to appropriate staff members, and the DISTRICT shall so inform CONSULTANT before the effective date of each such delegation.

**ARTICLE III. - RESPONSIBILITIES OF CONSULTANT**

- A. In rendering the professional services, CONSULTANT is an independent contractor, the DISTRICT being interested only in the result obtained, and the manner and means of conducting such professional services will be under the sole control of CONSULTANT, except that nothing herein shall be deemed to negate DISTRICT's right to direct the nature of the Services requested and to direct the work in terms of timing and coordination with the Projects.
  
- B. CONSULTANT shall secure approval of DISTRICT prior to executing contracts

with subcontractors and prior to retaining subcontractors for any portion of services for DISTRICT.

C. CONSULTANT shall be as fully responsible to DISTRICT for the negligent acts, errors, and/or omissions of its subcontractors, as it is for the negligent acts, errors and/or omissions of persons directly employed by it. CONSULTANT will be responsible for review and billing accuracy and for the direct payment for Services completed or equipment/materials supplied by all of its subcontractors.

D. Nothing contained in the Agreement shall create any contractual relationship between any subcontractor and DISTRICT.

E. Indemnification

1. CONSULTANT shall perform Services in a manner commensurate with prevailing professional standards of qualified and experienced personnel in CONSULTANT'S field.

2. CONSULTANT agrees to defend, indemnify and hold DISTRICT and each of its officers, employees, agents and representatives harmless from any claims, damage, liability or costs (including reasonable attorney's fees and costs of defense) stemming from Services under this Agreement to the extent such claims, damage, liability or costs are caused by CONSULTANT'S negligence, recklessness or willful misconduct or by the negligence, recklessness or willful misconduct of CONSULTANT'S subconsultants, agents, or anyone acting on behalf of or at the direction of CONSULTANT.

3. DISTRICT agrees to defend, indemnify and hold CONSULTANT and each of its officers, employees, agents and representatives harmless from any claims, damage, liability or costs (including reasonable attorney's fees and costs of defense) stemming from Services under this Agreement to the extent such claims, damage, liability or costs are caused by DISTRICT'S negligence, recklessness or willful misconduct or by the negligence, recklessness or willful misconduct of the DISTRICT'S subconsultants, agents, or anyone acting on behalf of or at the direction of the DISTRICT.

4. The provisions of this section survive the completion of services under or the termination of this Agreement.

F. Insurance: The following are the basic requirements that CONSULTANT shall be responsible for at CONSULTANT's sole cost and expense, and for the full term of this Agreement and before commencement of services hereunder:

1. CONSULTANT shall carry or require that there be carried Worker's Compensation Insurance for all of its employees and those of its subcontractors in accordance with the laws of the State of California.
  2. CONSULTANT shall carry or require that there be carried Commercial Liability Insurance, including Automobile Coverage, in an amount not less than \$5,000,000 for each person, in an amount not less than \$5,000,000 on account of one accident, and Property Damage Insurance in an amount not less than \$5,000,000 single limit Bodily Injury and Property Damage Insurance per occurrence.
  3. CONSULTANT shall carry Errors and Omissions Insurance in an amount not less than \$5,000,000 with a deductible of not more than \$500,000 for the life of the Agreement which shall include one year beyond completion of Services.
  4. Before commencing services, CONSULTANT shall submit evidence of the coverage required above to DISTRICT for review and approval. All such coverage shall be subject to approval by DISTRICT; approval of which shall not be unreasonably withheld. Such insurance shall be carried with financially responsible insurance companies, licensed in the State of California, and approved by DISTRICT; approval of which shall not be unreasonably withheld. Evidence of coverage shall insure that such policies will not be canceled without 30 days prior written notice to DISTRICT. Commercial Liability policies, including Automobile Coverage and Property Damage Insurance, shall name DISTRICT, its officers, and employees as Additional Insured and as such persons, shall be Primary coverage.
  5. It is the responsibility of the CONSULTANT to provide to the DISTRICT updated insurance certificates within 30 days after renewal or changes to insurance policies.
- G. CONSULTANT shall comply with all applicable laws, ordinances and codes of the Federal, State of California, and local governments. CONSULTANT shall hold DISTRICT harmless with respect to any damages to the extent arising from any tort committed in the performance of any of the services embraced by this AGREEMENT due to CONSULTANT's negligence.
- H. CONSULTANT is responsible for the health and safety of its employees, subconsultants, agents or anyone working on behalf or direction of Consultant in the course of Services. CONSULTANT shall ensure that its employees, subconsultants, agents or anyone working on behalf of or under the direction of Consultant shall have experience and knowledge of Federal, State and local

Health and Safety regulations and requirements.

- I. CONSULTANT and its associates and employees involved in projects covered under this Master Agreement covenant that they presently have no interest and that they will not acquire any interest, direct or indirect, during the term of this Agreement which would conflict in any manner or degree with the performance of services required under this Agreement.
- J. CONSULTANT will name the supervisory and staffing levels in the performance of CONSULTANT's services for each Task Order. CONSULTANT shall not replace supervisory or staffing levels without the prior written consent of DISTRICT. In the event a change is required by reason of resignation or similar circumstance, DISTRICT shall not deny consent to a change, but shall have the right to review and approve or disapprove the particular person proposed as a replacement. Any proposed replacement shall have substantially the same experience and qualifications as the person being replaced.
- K. CONSULTANT shall furnish, at its own expense, all labor, materials, equipment, tools, transportation and services necessary for the successful completion of the services to be performed under this Agreement. CONSULTANT shall give its full attention and supervision to the fulfillment of the provisions of this Agreement and each Task Order by its employees and subcontractors and shall be responsible for the timely performance of the Services required by this Agreement.
- L. CONSULTANT shall furnish DISTRICT with reasonable opportunities from time to time to ascertain whether the Services of CONSULTANT are being performed in accordance with this Agreement. All work done and materials furnished shall be subject to final review and approval by DISTRICT. DISTRICT's review and approval of the Services shall not, however, relieve CONSULTANT of any of its obligations under this Agreement.

**ARTICLE IV. - CONSULTANT'S FEES**

- A. CONSULTANT is employed to render professional services only, and any payments made to it are compensation only for such Services as it may render and recommendations it may make in carrying out the Services.

CONSULTANT shall submit to DISTRICT an estimate of costs for the authorized Task Order. Said estimate shall include a breakdown of estimated job classification with corresponding man hours, hourly rate, and estimated fee, together with estimated expenses. Upon approval by DISTRICT, said total estimate shall become a Cost Ceiling, and total compensation for said Services shall not exceed said amount without further authorization by DISTRICT.

DISTRICT shall be obligated to pay only such hourly rates and expenses as are actually incurred by CONSULTANT subject to the Cost Ceiling.

The rates of compensation in the Task Order are agreed to in anticipation of the orderly and continuous progress of the Project through completion of the Services contained therein. CONSULTANT'S obligation to render services thereunder will extend for the period set forth in the associated schedule, and required extensions thereto. If such dates are exceeded through no fault of CONSULTANT, then all rates, measures and amounts of compensation provided in the Task Order shall be subject to equitable, negotiated adjustment, but not otherwise.

- B. DISTRICT agrees to pay CONSULTANT for and in consideration of the faithful performance of all services and duties set forth in this Master Agreement and subsequent Task Orders, and agreed to be performed by CONSULTANT. CONSULTANT agrees to accept payment from DISTRICT as and for full compensation for the faithful performance of all said services and duties as the amount set forth for consulting services for each Task Order.
- C. The DISTRICT will not approve any additional compensation unless a change in the scope of the Services has occurred due to conditions that the parties could not have reasonably anticipated at the time entering into this Agreement. CONSULTANT shall notify DISTRICT immediately if the scope of services under the lump sum Task Order is changed substantially, as required in Article I, Paragraph D.
- D. CONSULTANT shall submit to DISTRICT a monthly, itemized invoice for services completed during the preceding month. The invoice should also include the purchase order number and task order number for each Task Order. Payment by DISTRICT to CONSULTANT shall be made within 45 days after receipt and approval by DISTRICT of CONSULTANT's hereinabove described invoice.
- E. Should the DISTRICT dispute any portion of any bill, the DISTRICT shall pay the undisputed portion within the time frame stated above and, at the same time, advise the CONSULTANT in writing of the disputed portion. The DISTRICT shall promptly notify CONSULTANT of the dispute and request clarification and/or remedial action. After any dispute has been settled, CONSULTANT shall provide a special invoice that accounts for the resolution of the disputed item.
- F. The costs for professional services and direct expenses shall be in accordance with the rates and amounts set forth in the applicable Task Order. In addition, the DISTRICT reserves the right to request from the CONSULTANT a breakdown of costs associated with the rates for professional services, including

but not limited to direct salary, total overhead, and profit.

- G. CONSULTANT shall be solely responsible for the payment of all federal, state or local income tax, social security tax, worker's compensation insurance, state disability insurance and any other taxes or insurance which CONSULTANT is responsible for paying as an independent contractor under federal, state or local law. CONSULTANT shall procure and maintain all licenses necessary for the performance of the Services, all at the sole cost of CONSULTANT. All of the above shall not be reimbursable under the Agreement.

**ARTICLE V. - MISCELLANEOUS PROVISIONS**

- A. Any Services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this Agreement.
- B. Notice to Proceed - CONSULTANT will not begin services on any Task Order until DISTRICT directs it in writing to proceed.
- C. Submittal of Work Product and Written Notice - All reports and documents which CONSULTANT is required to furnish to DISTRICT (Work Product) and any other writing which CONSULTANT desires to give DISTRICT shall be delivered to DISTRICT or by depositing same in the United States mail, postage prepaid, addressed to:

General Manager  
South Tahoe Public Utility District  
1275 Meadow Crest Drive  
South Lake Tahoe, CA 96150

Any legally operative documents shall be copied to:

Brownstein Hyatt Farber Schreck, LLC  
21 E. Carrillo Street  
Santa Barbara, CA 93101-2782

Any notices or other writing which DISTRICT desires or is required to give or furnish to CONSULTANT shall be delivered to CONSULTANT by delivering in person or by depositing same in the United States mail, postage prepaid, addressed to:

**INSERT NAME AND ADDRESS OF FIRM.**

The effective date of such written notice shall be the date of personal delivery of such notice or the receipt of same in the United States mail. The address to

which any notice or other writing may be delivered may be changed upon written notice by such party as above provided.

- D. Ownership of Documents - All documents prepared by CONSULTANT and required to be furnished to DISTRICT in electronic and hard copy format, shall be the property of DISTRICT after payment to CONSULTANT. All electronic documents shall be provided to the District in an editable format. Any use of Work Product for other projects and/or any use of uncompleted documents without specific written authorization from CONSULTANT will be at DISTRICT's sole risk and without liability or legal exposure to CONSULTANT and DISTRICT shall indemnify and hold harmless CONSULTANT from all claims, damages, losses and expenses, including attorney's fees arising out of or resulting therefrom.
- E. Audit of CONSULTANT's Records - The books, papers, records, and accounts of CONSULTANT or any other consultants retained by CONSULTANT insofar as they relate to charges for services, or are in any way connected with the work herein contemplated, shall be open at all reasonable times to inspection and audit by the agents and authorized representatives of DISTRICT. Said records shall be retained for a minimum of five (5) years after completion of services on the individual Task Orders.
- F. Discrimination - During the term of this Agreement, CONSULTANT agrees in accordance with Section 1735 of the Labor Code of the State of California not to discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, sex, or marital status. CONSULTANT will take affirmative action to the limits prescribed by law to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, religious creed, color, national origin, ancestry, physical handicap, medical condition, sex, or marital status.
- G. Assignment - Neither party shall assign any interest in this Agreement, nor transfer any interest in the same (whether by assignment or novation), without the prior written consent of the other party; provided, however, that claims for money due or to become due CONSULTANT from DISTRICT under this Agreement may be assigned to a bank, trust company or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to DISTRICT.
- H. Attorney's Fees - If any legal proceeding is brought to enforce or interpret the provisions of the Agreement, the prevailing party shall be entitled to recover actual attorneys' fees and costs, which may be determined by the court in the same action or in a separate action brought for that purpose. The attorneys' fees

award shall be made as to fully reimburse for all attorneys', paralegal and experts' fees, costs and expenses actually incurred in good faith, regardless of the size of the judgment, it being the intention of the parties to fully compensate for all attorneys', paralegal and experts' fees, costs and expenses paid or incurred in good faith.

- I. Confidential Information - During and after the term of this Agreement, CONSULTANT shall not, directly or indirectly, use, exploit, disclose or divulge to anyone, except appropriate representatives of DISTRICT, any of CONSULTANT'S engineering Work Product, except as otherwise authorized with DISTRICT's express consent.
- J. Authorization - All officers and individuals executing this and other documents on behalf of the respective parties certify and warrant that they have the capacity and have been duly authorized to execute said documents on behalf of the entities indicated.
- K. Time of the Essence. Time is of the essence in the performance of this Agreement and each Task Order. Any breach of any time deadline or schedule by CONSULTANT is agreed by the parties to be a material breach of this Agreement, providing DISTRICT with termination rights under this Agreement, in addition to its rights to recover damages, regular, consequential or otherwise. The failure on the part of CONSULTANT to perform the Services within such time deadline or schedule when such failure is caused by acts beyond the control of CONSULTANT shall not be considered a breach of this Agreement and CONSULTANT shall be entitled to an extension of such time deadline or schedule accordingly.

#### **ARTICLE VI. - CANCELLATION OF AGREEMENT OR SUSPENSION OF WORK**

- A. This Master Agreement and/or subsequent Task Orders may be terminated in whole or in part in writing by either party for any reason, providing that no such termination may be effected unless the other party is given not less than thirty (30) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate.
- B. This Master Agreement and/or subsequent Task Orders may be terminated in whole or in part in writing by DISTRICT for cause, effective immediately upon written notice of such termination to CONSULTANT, based upon the occurrence of any of the following events:
  - 1) Material breach of this Agreement, Task Order or Task by CONSULTANT;

- 2) Cessation of CONSULTANT to be licensed, as required by law;
  - 3) Failure of CONSULTANT to substantially comply with any applicable federal, state or local law or regulation;
  - 4) Filing by or against CONSULTANT of any petition under any law for the relief of debtors; and,
  - 5) Conviction of CONSULTANT's principal representative or personnel of any crime other than minor traffic offenses.
- C. In the event the Master Agreement or subsequent Task Order(s) are terminated in whole or in part, CONSULTANT is to be fairly compensated for all approved Services performed under the terminated Task Order as of the termination date, provided that the total amount of compensation paid to CONSULTANT does not exceed the Cost Ceiling set forth in the Task Order, and provided that the CONSULTANT delivers to the District all Work Product due for the Services completed through the termination date.
- D. Upon receipt of a Termination Notice by CONSULTANT from DISTRICT, an equitable adjustment shall be negotiated to provide payment to CONSULTANT for termination settlement costs reasonably incurred by CONSULTANT relating to obligations and commitments as a result of entering into this Master Agreement and the affected Task Order.
- E. Upon receipt of a Termination Notice, CONSULTANT shall (1) promptly discontinue all services affected (unless the Notice directs otherwise), and (2) deliver or otherwise make available to DISTRICT, copies of data, design calculations, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated by CONSULTANT in performing the services under the affected Task Order.

## **ARTICLE VII. – DISPUTES**

- A. All disputes arising out of or relating to this Agreement or subsequent Task Orders, or the professional services rendered hereunder, shall be determined by arbitration in El Dorado County, California, before a sole arbitrator, in accordance with the laws of the State of California.
- B. The arbitration shall be administered by JAMS® pursuant to its Comprehensive Arbitration Rules and Procedures. Judgment on the Award may be entered in any court having jurisdiction.

- C. Costs and attorneys fees in said arbitration shall be borne in accordance with the terms set forth in Article V.H., above.

**ARTICLE VIII. – SEVERABILITY AND WAIVER**

- A. If any provision of this Agreement is held to be invalid and unenforceable, the remainder of this Agreement shall be valid and binding upon the parties, provided that the remainder of the Agreement can be interpreted to give effect to the intentions of the parties.
- B. Any waiver at any time by either party hereto of its rights with respect to a breach or default, or any other matter arising in connection with this Agreement, shall not invalidate this Agreement or be deemed to be a waiver with respect to any subsequent breach, default or matter.

**ARTICLE IX. - ENTIRE AGREEMENT**

- A. This Master Agreement and the subsequent Task Orders contain the entire understanding between the parties with respect to the subject matter herein. This Agreement may not be amended except pursuant to a written instrument signed by all parties.
- B. This Master Agreement is to be binding on the heirs, successors, and assigns of the parties hereto and is not to be assigned by either party without first obtaining the written consent of the other party, subject to the terms of Article V.G.
- C. The term of this Agreement shall commence upon the date first written above and shall continue in full force and effect for a period no longer than 10 years, unless sooner terminated as provided herein. Any subsequent Task Orders that are scheduled to exceed the aforementioned duration shall require that this Agreement be renegotiated and executed prior to adoption of the Task Order.

**ARTICLE X. – EXECUTION OF AGREEMENT.**

IN WITNESS WHEREOF, the parties hereto each herewith subscribe the same in duplicate on the effective date of \_\_\_\_\_.

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Richard H. Solbrig, General Manager/Engineer  
South Tahoe Public Utility District

ATTEST: \_\_\_\_\_  
Clerk of Board

**INSERT NAME OF FIRM**

By \_\_\_\_\_  
INSERT NAME AND TITLE OF INDIVIDUAL