

Request for Proposal

Arbitrage Rebate Calculation Services

City of Big Bear Lake

Department of Water & Power

Issued: February 6, 2019

Due: March 14, 2019, 4:00 p.m. Pacific Time

PUBLIC NOTICE

**REQUEST FOR PROPOSALS (RFP)
THE CITY OF BIG BEAR LAKE – DEPARTMENT OF WATER AND POWER (DWP),
LOCATED IN SAN BERNARDINO COUNTY, CALIFORNIA, INVITES PROPOSALS FOR
ARBITRAGE REBATE CALCULATION SERVICES**

The City of Big Bear Lake – Department of Water and Power is requesting proposals from qualified firms to provide arbitrage rebate calculation services in compliance with federal laws and regulations.

The RFP may be obtained at www.bbldwp.com under “News” as well as at <http://www.csmfo.org/resources/current-rfps/>

For additional information, please contact:

Danielle D. McGee, Chief Financial Officer – DWP – dmcgee@bbldwp.com.

INTERESTED PARTIES SHALL SUBMIT FIVE (5) HARDCOPIES AND ONE (1) ELECTRONIC VERSION (FLASH DRIVE OR DISC) OF THEIR PROPOSAL. PROPOSALS MUST BE RECEIVED AT THE DWP BY 4:00 P.M. PACIFIC TIME ON MARCH 14, 2019.

No proposals will be accepted after this time and date. Proposals will remain sealed and unopened. Proposals will not be publicly opened. Any proposals received after this time and date will be returned to applicant unopened.

All correspondence shall be in writing and directed to:

**Danielle D. McGee, Chief Financial Officer
Department of Water and Power**

(Via: USPS to)

**P.O. Box 1929
Big Bear Lake CA 92315-1929**

(Or Via UPS/FEDEX to)

**41972 Garstin Drive
Big Bear Lake CA 92315**

**SUBMISSIONS MADE TO ANY ADDRESS OTHER THAN THOSE LISTED ABOVE WILL NOT
BE CONSIDERED.**

INTRODUCTION

General Information

The City of Big Bear Lake, Department of Water and Power (“DWP”) is requesting proposals from qualified firms to provide arbitrage rebate calculation services to comply with federal tax laws relating to certain outstanding and future tax-exempt bonds issued by the DWP.

There is no expressed or implied obligation for the DWP to reimburse responding firms for any expenses incurred in preparing proposals in response to this request. The DWP reserves the right to reject any or all proposals submitted.

Proposals submitted will be evaluated by individuals from the DWP and/or outside agencies. During the evaluation process, the DWP reserves the right, where it may serve the DWP’s best interest, to request additional information or clarifications from applicants, or to allow corrections of errors or omissions. At the discretion of the DWP, firms submitting proposals may be requested to make oral presentations as part of the evaluation process.

The DWP reserves the right to retain all proposals submitted and to use any ideas in a proposal regardless of whether that proposal is selected. Submission of a proposal indicates acceptance by the firm of the conditions contained in this Request for Proposal, unless clearly and specifically noted in the proposal submitted and confirmed in the agreement between the DWP and the firm selected. The DWP has a standard two-party Professional Services Agreement, to which adherence is assumed unless specific objections are noted in the proposal by the candidate firm.

Term of Engagement

A three-year contract is contemplated, subject to the annual review and recommendation of the DWP Board of Commissioners, the satisfactory negotiation of terms (including a price acceptable to both the DWP and the selected firm), and the annual availability of an appropriation. Please include a bid for the three years requested.

DESCRIPTION OF THE DWP

Background Information

The DWP is an enterprise fund of the City of Big Bear Lake (the “City”). The City Charter provides for a separate Board of Commissioners for oversight of the DWP and grants substantial authority to the DWP to enter into contracts, including the issuance of debt.

The DWP provides water service to approximately 15,700 connections in and around the Bear Valley (the “Valley”). The Bear Valley is a resort community, located in the San Bernardino Mountains, providing year-round activities, including skiing, fishing, hiking, biking, camping, boating and more. One of the more unique characteristics of the area is the ratio of full-time residents to second homeowners; nearly 70% of the homes in the Valley are unoccupied except during peak periods, in July and December. Contrary to its name, the DWP does not provide power service.

More general information about the DWP may be found at <http://www.bbldwp.com>. Complete financial information is contained in the DWP's budget and annual reports and can be found at www.bbldwp.com, navigate to "About Us" and select Public Documents.

NATURE OF SERVICES REQUIRED

The DWP is requesting proposals from qualified firms to provide arbitrage rebate calculation services to comply with federal tax laws and regulations relating to certain outstanding and future tax-exempt bonds issued by the DWP as follows:

1996 Revenue Refunding Bonds

The City issued municipal debt in 1989 to acquire the water system. That debt was refunded in 1992 and again in 1996. The 1996 Bonds remain outstanding and mature in 2022. The remaining tranches for this issuance are at 6% (yield 5.1%)

Water Revenue Bonds (USDA-RD Loan Security) multiple issuances

The DWP issued three separate Bonds to the USDA-RD for infrastructure improvement projects. The 2010 Bond was issued for \$3,628,000, at 2.375% over 40 years. The 2012 Bond was issued for \$5,000,000, at 2.75% for 40 years. The 2013 Bond was issued for \$3,157,000, at 2.75% for 40 years.

The USDA issued a letter of conditions to commit \$12,000,000 in additional funding to the DWP at 2.375% for 40 years.

In September 2018, the DWP also received funding from the California Infrastructure and Economic Development Bank in the form of an installment sale agreement and has a long-term promissory note with the California Energy Commission.

Scope of Work to be Performed

For each outstanding bond issue as listed in Exhibit A and for future tax-exempt bond issues, the following services shall be provided:

1. Verification of the rebate and reporting requirements of the bond issue according to federal tax law.
2. To maintain and make available to the DWP, semi-annually, arbitrage rebate calculations in accordance with federal tax law.
3. Preparation of a report for bond issues on their five-year anniversary dates, or upon maturity or full redemption of the bond issue, which includes:
 - a. An explanation of the method and assumptions used in the report.
 - b. Calculation of arbitrage rebate and yield restriction liabilities.
 - c. Advice regarding the amount and timing of any payments required.
 - d. Documentation of calculations used to arrive at conclusions.
4. Preparation of all necessary IRS forms related to the services.

5. Preparation of an annual arbitrage rebate compliance summary listing each bond issue and the overall arbitrage rebate liability owed as of June 30th of each fiscal year with documentation of the supporting calculations.
6. Preparation on an as needed basis of a summary of potential transactional issues that may need to be addressed by the DWP to ensure compliance with the controlling documents (s) (e.g., Indenture of Trust, Fiscal Agent Agreement, etc.) pertinent to the tax-exempt obligation(s) in question.
7. Coordination, as needed, with the DWP's Bond Counsel of a review of the arbitrage rebate calculations and consultation to the DWP for arbitrage-related matters.
8. Any additional arbitrage-related work as requested by the DWP.

Timeline

Fiscal Year 2018-19 is the first year the services will be required. The first semi-annual report would be calculations based on data as of June 30, 2019.

PROPOSAL REQUIREMENTS

Please provide the following in the order listed, in a clear and concise format:

1. Introduction Letter

A signed letter with introduction confirming the applicant's understanding of the services to be performed, an expression of the applicant's interest in the work, a statement regarding the qualifications of the applicant to perform the engagement and a summary statement of any information that may be useful to the DWP relating to the services to be performed. The introduction letter must include a statement the individual signing the letter is authorized to bind his or her firm.

2. Technical Proposal

The purpose of the Technical Proposal is to demonstrate the qualifications, competence and capacity of the applicant seeking to undertake performance of the services in conformity with the requirements of this Request for Proposal. As such, the substance of proposals will carry more weight than their form or manner of presentation. The Technical Proposal should specify an approach that will meet the Request for Proposal requirements.

The Technical Proposal should address all the points outlined in the Request for Proposal (excluding any cost information, which should only be included in the separate Fee Proposal). The Technical Proposal should be prepared simply and economically, providing a straightforward, concise description of the applicant's capabilities to satisfy the requirements of the Request for Proposal.

While additional data may be presented, the following subjects (Items A through C) must be included:

A. Applicant Description

- i. Name of firm and complete office address including telephone number and web site address.
- ii. Brief history and background of the firm.
- iii. Contact person(s) with address, phone number and email address.

B. Firm Qualifications and Experience

The applicant should state the size of the firm, the number and nature of the professional staff to be employed in this engagement on a full-time basis, and the number and nature of the staff to be so employed on a part-time basis. The applicant shall provide detailed examples of the required services performed by the applicant for similar types of agencies, and information regarding the number, qualifications, experience and training, including relevant continuing professional education, of the specific staff to be assigned to the work. The availability of specific key personnel through the life of the project is an important factor in the DWP's selection of a firm and project team. Please acknowledge that any changes in identified key personnel after the award of the Agreement will be approved by the DWP in writing. Also, please include a statement regarding the availability of team to begin work as soon as possible after the selected firm receives the notice to proceed.

In addition, the firm shall provide information on the circumstances and status of any disciplinary action taken or pending against the firm during the past three (3) years with state or federal regulatory bodies or professional organizations.

C. Listing of Subcontractors

The applicant shall provide the name and business address of each subcontractor who will perform work or render service to the applicant in performing the proposed work and the specific portion of the work which will be done by each listed subcontractor.

3. Fee Proposal

The Fee Proposal should contain all pricing information relative to performing the work as described in this Request for Proposal. The total all-inclusive not-to-exceed price is to contain all direct and indirect costs including all out-of-pocket expenses.

The DWP will not be responsible for expenses incurred in preparing and submitting the Technical Proposal or the Fee Proposal. Such fees should not be included in the proposal.

The first page of the Fee Proposal should include the following information:

- Name of Firm
- Certification that the person signing the Cost Proposal is entitled to represent the firm, empowered to submit the proposal, and authorized to sign a contract with the DWP.
- A total all-inclusive not-to-exceed annual price for each year of the term of the engagement.

The second page of the Fee Proposal should include a schedule of professional fees and expenses that supports the total all-inclusive not-to-exceed price.

Out-of-pocket expenses for firm personnel (e.g. travel, lodging and subsistence) will be reimbursed at the rates used by the DWP for its employees. All estimated out-of-pocket expenses to be reimbursed should be presented on the second page of the Fee Proposal. All expense reimbursements will be charged against the total all-inclusive not-to-exceed price submitted by the firm.

If it should become necessary for the DWP to request the firm to render any additional service to either supplement the services required in this Request for Proposal, or to perform additional work as a result of the specific recommendations included in any report issued as part of this engagement, then such additional work shall be performed only if set forth in an addendum to the contract between the DWP and the firm. Any such additional work agreed to between the DWP and the firm shall be performed at the same rates set forth in the schedule of fees and expenses included in the Fee Proposal. **The Fee Proposal shall be submitted in a separate sealed envelope.**

PROCEDURES FOR SUBMITTAL

General Instructions

Please deliver one (1) unbound, four (4) bound copies, and one electronic copy in MS Word or Excel of both the Technical Proposal and the Fee Proposal (separate sealed envelope) in the format prescribed by the Request for Proposal. Proposals must be received by DWP, no later than 4:00 p.m. Pacific Time on March 14, 2019 (addresses are provided below). Proposals must be received by the stated deadline. Postmarks will not be considered. No proposals will be accepted after the deadline.

All proposals are to be delivered to the DWP office as follows:

(If delivered UPS/FEDEX):

DWP
Attn: Danielle D. McGee, CFO
41972 Garstin Dr.
Big Bear Lake, CA 92315

(If delivered by USPS):

DWP
Attn: Danielle D. McGee, CFO
PO Box 1929
Big Bear Lake, CA 92315-1929

Submission of a proposal constitutes a firm offer to the DWP and the firm shall be bound to the terms of its Proposal for a period of one hundred twenty (120) days following the deadline for its submission.

Confidential Information

The applicant acknowledges that proposals are subject to public inspection under the California

Public Records Act unless exempted by law. If an applicant believes any information submitted in its proposal should be protected from such disclosure due to its confidential and proprietary nature, or other reasons, it must identify such information and the basis for the belief in its non-disclosure. The DWP will give consideration to the claim of confidentiality. However, the applicant should understand that the DWP has reservations as to whether any such information may be exempt from disclosure under the California Public Records Act (Government Code Section 6250, et seq.). The applicant agrees that the DWP will not be held liable for complying with the Public Records Act.

Interpretation of the RFP

A person may submit a request for interpretation or correction of the RFP in writing by contacting Danielle D. McGee via email at dmcgee@bbldwp.com.

All requests for interpretation or correction must be clearly labeled in the subject line of the email as "RFP Questions." The DWP will not be responsible for failure to respond to a request that has not been so labeled. All requests for interpretation or correction must be put in writing and must be received by the DWP no later than 4:00 p.m. Pacific Time on March 8, 2019 at the email address specified above. All inquiries received after this time will not receive a response. DWP will respond to all inquiries by March 11, 2019. Any addenda as a result of RFP questions will be posted at www.bbldwp.com within the bid section of the website.

Any interpretation or correction of the RFP rendered shall be made available to all other persons who obtained RFP documents from the DWP through issuance of Addenda to the RFP. Any addenda as a result of RFP questions will be posted at www.bbldwp.com within the bid section of the website.

Review and Evaluation of Proposals

Proposals will be evaluated and scored for both technical qualifications and fee. The following will be considered during the evaluation process, not necessarily weighted in this order:

1. Technical Qualifications
 - a) The firm's experience and performance on comparable services.
 - b) The quality of the firm's professional personnel to be assigned to the work.
 - c) Presentation of approach for meeting the requirements of the scope of work.
 - d) Fee.

Oral Presentation

During the evaluation process, the evaluators may, at their discretion, request any one or all firms to make oral presentations. Such presentations will provide firms with an opportunity to answer any questions the evaluation committee may have on a firm's proposal. Not all firms will be asked to make such oral presentations.

Award of Contract

The DWP will select a firm based upon the recommendation of the evaluators. The agreement shall be awarded to the applicant who proposes to do the work to the best advantage of the DWP. After the successful negotiation of an agreement, the successful applicant has 10 business days to do the following:

1. Submit proof that insurance required in the Agreement has been obtained.
2. Submit proof that the firm is in possession of all licenses required to perform the contract.

If the first-selected applicant fails to accomplish the pre-contract requirements specified above, then a second-selected applicant may be awarded the contract and be given 10 business days thereafter to accomplish the requirements set forth above.

Upon the selected firm’s satisfactory completion of the above requirements, the DWP will execute the agreement with the selected applicant. The applicant understands that the award of an agreement may be subject to review and approval by the DWP’s Board and nothing herein shall be interpreted to limit in any way the DWP’s discretion in awarding the agreement. The DWP’s standard Professional Services Agreement is included as Exhibit B.

Right to Reject Proposals

Submission of a proposal indicates acceptance by the firm of the conditions contained in this request for proposal unless clearly and specifically noted in the proposal submitted and confirmed in the contract between the DWP and the firm selected. The DWP reserves the right without prejudice to reject any or all proposals.

Anticipated Timeline

Notice of RFP.....	February 6, 2019
Questions to DWP Due.....	March 8, 2019, 4 p.m.
DWP responses posted.....	March 11, 2019, 4 p.m.
RFP Due Date.....	March 14, 2019, 4 p.m.
Oral Interviews (optional).....	Week of March 18
Firm Selection.....	March 21, 2019
Contract considered by DWP Board	March 26, 2019

DEADLINE:

All proposals are to be received by March 14, 2019 at 4:00 p.m. at the following address:

Danielle D. McGee, Chief Financial Officer
 Department of Water and Power

(Via: USPS to)
 P.O. Box 1929
 Big Bear Lake CA 92315-1929

(Or Via UPS/FEDEX to)
 41972 Garstin Drive
 Big Bear Lake CA 92315

EXHIBIT A

**City of Big Bear Lake, California
Department of Water and Power
Tax-Exempt Bond Issues**

1996 Water Revenue Refunding Bonds

Cusip 08901NBE1

2010 Water Bond (USDA-RD Loan Security)

2012 Water Bond (USDA-RD Loan Security)

2013 Water Bond (USDA-RD Loan Security)

Exhibit B



[[[MODEL AGREEMENT- REMOVE THIS TITLE WHEN USED]]]

**DEPARTMENT OF WATER AND POWER,
CITY OF BIG BEAR LAKE
PROFESSIONAL SERVICES AGREEMENT**

1. PARTIES AND DATE.

This Agreement is made and entered into this ____ day of _____, 201__, by and between the Department of Water and Power, City of Big Bear Lake, a municipal organization organized under the laws of the State of California with its principal place of business at 41972 Garstin Drive, Big Bear Lake, California 92315 (“DWP”) and [**INSERT NAME__**], a [**INSERT TYPE OF ENTITY - CORPORATION, PARTNERSHIP, SOLE PROPRIETORSHIP OR OTHER LEGAL ENTITY**] with its principal place of business at [**INSERT ADDRESS**] (“Consultant”). DWP and Consultant are sometimes individually referred to as “Party” and collectively as “Parties.”

2. RECITALS.

2.1 DWP. DWP is a Department of the City of Big Bear Lake, a charter city organized under the laws of the State of California, with power to contract for services necessary to achieve its purpose.

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

2.3 Project. DWP desires to engage Consultant to render such services for the [**INSERT NAME OF PROJECT__**] 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 DWP all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply the professional [**INSERT TYPE OF SERVICES__**] 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.

3.1.2 Term. The term of this Agreement shall be from **[INSERT START DATE___]** to **[INSERT ENDING DATE]**, unless earlier terminated as provided herein. Consultant shall complete the Services within the term of this Agreement, and shall meet any other established schedules and deadlines. **[IF A MULTI-YEAR CONTRACT, ADD THE FOLLOWING: The DWP shall have the unilateral option, at its sole discretion, to renew this Agreement annually 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 Control and Payment of Subordinates; Independent Contractor. 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. DWP 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 DWP and shall at all times be under Consultant's exclusive direction and control. 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, DWP shall respond to Consultant's submittals in a timely manner. Upon request of DWP, 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 DWP.

3.2.4 Substitution of Key Personnel. Consultant has represented to DWP 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 DWP. In the event that DWP and Consultant cannot agree as to the substitution of key personnel, DWP 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

DWP, or who are determined by the DWP to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project or a threat to the safety of persons or property, shall be promptly removed from the Project by the Consultant at the request of the DWP. The key personnel for performance of this Agreement are as follows: **[INSERT NAMES ___]**.

3.2.5 DWP's Representative. The DWP hereby designates **[INSERT NAME OR TITLE ___]**, or his or her designee, to act as its representative for the performance of this Agreement ("DWP's Representative"). DWP's Representative shall have the power to act on behalf of the DWP for all purposes under this Contract. Consultant shall not accept direction or orders from any person other than the DWP's Representative or his or her designee.

3.2.6 Consultant's Representative. Consultant hereby designates **[INSERT NAME OR TITLE ___]**, or his or her designee, to act as its representative for the performance of this Agreement ("Consultant's Representative"). Consultant's Representative shall have full authority to represent and act on behalf of the Consultant for all purposes under this Agreement. The Consultant's Representative shall supervise and direct the Services, using his 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 DWP staff in the performance of Services and shall be available to DWP'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 subcontractors shall have sufficient skill and experience to perform the Services assigned to them. Finally, Consultant represents that it, its employees and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, including a City Business License, 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 DWP of the City of Big Bear Lake, 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 DWP 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 DWP, shall be promptly removed from the Project by the Consultant and shall not be re-employed to perform any of the Services or to work on the Project.

3.2.9 Laws and Regulations. Consultant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. Consultant shall be liable for all

violations of such laws and regulations in connection with Services. If the Consultant performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to the DWP, Consultant shall be solely responsible for all costs arising therefrom. Consultant shall defend, indemnify and hold DWP and the City of Big Bear Lake, their officials, directors, officers, employees and agents 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. Consultant agrees to certify that the consultant, any employee of the consultant, or sub-contractor engaging in work for the DWP has not been debarred by the federal or state government.

3.2.10 Insurance.

3.2.10.1 Time for Compliance. Consultant shall not commence the Services under this Agreement until it has provided evidence satisfactory to the DWP that it has secured all insurance required under this section. In addition, Consultant shall not allow any subcontractor to commence work on any subcontract until it has provided evidence satisfactory to the DWP that the subcontractor has secured all insurance required under this section.

3.2.10.2 Minimum Requirements. Consultant shall, at its expense, procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the Consultant, its agents, representatives, employees or subcontractors. Consultant shall also require all of its subcontractors to procure and maintain the same insurance for the duration of the Agreement. Such insurance shall meet at least the following minimum levels of coverage:

(A) Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following: (1) *General Liability*: Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001); (2) *Automobile Liability*: Insurance Services Office Business Auto Coverage form number CA 0001, code 1 (any auto); and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

(B) Minimum Limits of Insurance. Consultant shall maintain limits no less than: (1) *General Liability*: One Million Dollars (\$1,000,000) per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit; (2) *Automobile Liability*: One Million Dollars (\$1,000,000) per accident for bodily injury and property damage; and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation limits as required by the Labor Code of the State of California. Employer's Liability limits of One Million Dollars (\$1,000,000) per accident for bodily injury or disease.

3.2.10.3 Professional Liability. **[INCLUDE ONLY IF APPLICABLE - DELETE OTHERWISE]** Consultant shall procure and maintain, and require its sub- consultants to procure and maintain, for a period of five (5) years following completion of the Services, errors and omissions liability insurance appropriate

to their profession. Such insurance shall be in an amount not less than \$1,000,000 **[INCREASE IF NECESSARY - OTHERWISE LEAVE AS IS AND DELETE THIS NOTE]** per claim, and shall be endorsed to include contractual liability.

3.2.10.4 Insurance Endorsements. The insurance policies shall contain the following provisions, or Consultant shall provide endorsements on forms supplied or approved by the DWP to add the following provisions to the insurance policies:

(A) General Liability. The general liability policy shall be endorsed to state that: (1) the DWP and the City of Big Bear Lake, its officials, officers, employees, agents and volunteers shall be covered as additional insureds with respect to the Services or operations performed by or on behalf of the Consultant, including materials, parts or equipment furnished in connection with such work; and (2) the insurance coverage shall be primary insurance as respects the DWP and the City, their officials, officers, employees, agents and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Consultant's scheduled underlying coverage. Any insurance or self-insurance maintained by the DWP or the City, their officials, officers, employees, agents and volunteers shall be excess of the Consultant's insurance and shall not be called upon to contribute with it in any way.

(B) Automobile Liability. The automobile liability policy shall be endorsed to state that: (1) the DWP and the City of Big Bear Lake, their officials, officers, employees, agents and volunteers shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Consultant or for which the Consultant is responsible; and (2) the insurance coverage shall be primary insurance as respects the DWP and the City, their officials, officers, employees, agents and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Consultant's scheduled underlying coverage. Any insurance or self-insurance maintained by the DWP or the City, their officials, officers, employees, agents and volunteers shall be excess of the Consultant's insurance and shall not be called upon to contribute with it in any way.

(C) Workers' Compensation and Employers Liability Coverage. The insurer shall agree to waive all rights of subrogation against the DWP and the City of Big Bear Lake, their officials, officers, employees, agents and volunteers for losses paid under the terms of the insurance policy which arise from work performed by the Consultant.

(D) All Coverages. Each insurance policy required by this Agreement shall be endorsed to state that: (A) coverage shall not be suspended, voided, reduced or canceled except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the DWP; and (B) any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to the DWP or the City, their officials, officers, employees, agents and volunteers.

3.2.10.5 Separation of Insureds; No Special Limitations. All insurance required by this Section shall contain standard separation of insureds provisions. In addition, such insurance shall not contain any special limitations on the

scope of protection afforded to the DWP and the City of Big Bear Lake, their officials, officers, employees, agents and volunteers.

3.2.10.6 Deductibles and Self-Insurance Retentions. Any deductibles or self-insured retentions must be declared to and approved by the DWP. Consultant shall guarantee that, at the option of the DWP, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the DWP and the City of Big Bear Lake, their officials, officers, employees, agents and volunteers; or (2) the Consultant shall procure a bond guaranteeing payment of losses and related investigation costs, claims and administrative and defense expenses.

3.2.10.7 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating no less than A:VIII, licensed to do business in California, and satisfactory to the DWP.

3.2.10.8 Verification of Coverage. Consultant shall furnish DWP with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to the DWP. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms provided by the DWP if requested. All certificates and endorsements must be received and approved by the DWP before work commences. The DWP reserves the right to require complete, certified copies of all required insurance policies, at any time.

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

3.3 Fees and Payments.

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

3.3.2 Payment of Compensation. Consultant shall submit to DWP a monthly itemized statement which indicates work completed and hours of Services rendered by Consultant. The statement shall describe the amount of Services and

supplies provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the statement. DWP shall, within forty-five (45) days of receiving such statement, review the statement and pay all approved charges thereon.

3.3.3 Reimbursement for Expenses. Consultant shall not be reimbursed for any expenses unless authorized in writing by DWP.

3.3.4 Extra Work. At any time during the term of this Agreement, DWP may request that Consultant perform Extra Work. As used herein, "Extra Work" means any work which is determined by DWP 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 DWP's Representative.

3.3.5 Prevailing Wages. Consultant is aware of the requirements of California Labor Code Sections 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 certain "public works" and "maintenance" projects. **[INSERT "IF" OR "SINCE" AS APPLICABLE]** the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and **[INSERT "IF" OR "SINCE" AS APPLICABLE]** the total compensation is One Thousand Dollars (\$1,000) or more, Consultant agrees to fully comply with such Prevailing Wage Laws. DWP 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 DWP and the City of Big Bear Lake, their elected officials, officers, employees, volunteers and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

[IF DWP IS AWARE THAT THE CONSULTANT WILL PERFORM WORK SUBJECT TO PREVAILING WAGE LAW, PLEASE CONTACT LEGAL COUNSEL TO OBTAIN GUIDANCE REGARDING REVISING THIS PROVISION**]** Effective April 1, 2015, if the services are being performed as part of an applicable "public works" or "maintenance" project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Consultant and all subconsultants must be registered with the Department of Industrial Relations. Consultant shall maintain registration for the duration of the project and require the same of any subconsultants. This project may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Consultant's sole responsibility to comply with all applicable registration and labor compliance requirements

[IF A MULTI-YEAR CONTRACT, ADD THE FOLLOWING: 3.3.6 Service Rates. In the event that this Agreement is renewed pursuant to Section 3.1.2, if the Parties do not both agree to another Service Rate, the Service Rates shall be automatically adjusted each year at the time of renewal in accordance with the Consumer

Price Index, All Urban Consumers, Los Angeles-Riverside-Orange Counties (“CPIU”).
_____]

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 DWP 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. DWP 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 DWP, 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, DWP 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 documents and other information within fifteen (15) days of the request.

3.5.1.3 Additional Services. In the event this Agreement is terminated in whole or in part as provided herein, DWP 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:

DWP
Department of Water and Power,
City of Big Bear Lake
41972 Garstin Drive
P.O. Box 1929
Big Bear Lake, CA 92315
Attn: [INSERT NAME]

Consultant
[INSERT NAME]
[INSERT ADDRESS]
[INSERT ADDRESS]
Attn: [INSERT NAME]

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 DWP to copy, use, modify, reuse, or sublicense any and all copyrights, designs, and other intellectual property embodied in plans, specifications, studies, drawings, estimates, and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, including, without limitation, any Computer Aided Design and Drafting (“CADD”) data, which are prepared or caused to be prepared by Consultant under this Agreement (“Documents & Data”). Consultant shall require all subcontractors to agree in writing that DWP is granted a non-exclusive and perpetual license for any Documents & Data the subcontractor 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 DWP. DWP 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 DWP’s sole risk. Any CADD data delivered to DWP shall not include the professional stamp or signature of an engineer, architect, or any other licensed professional, but shall be followed with a hard copy with such stamp or signature.

3.5.3.2 Confidentiality.

All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other Documents and 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 DWP, be used by Consultant for any purposes other than the performance of the Services. Nor shall such materials be disclosed to any person or entity not connected with the performance of the Services or the Project. Nothing furnished to Consultant which is otherwise known to Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use DWP’s or the City of Big Bear Lake’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 DWP or the City.

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. Consultant shall defend, indemnify and hold the DWP and the City of Big Bear Lake, their 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, in law or equity, to property or persons, including wrongful death, in any manner arising out of or incident to any negligent acts or omissions or willful misconduct of Consultant, its officials, officers, employees, agents, consultants and contractors arising out of or in connection with the performance of the Services, the Project or this Agreement, including without limitation the payment of all consequential damages and attorneys fees and other related costs and expenses. Consultant shall defend, at Consultant's own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against DWP or the City, their officials, officers, employees, agents or volunteers. Consultant shall pay and satisfy any such judgment, award or decree that may be rendered against DWP or the City or their officials, officers, employees, agents or volunteers, in any such suit, action or other legal proceeding. Consultant shall reimburse DWP and the City and their 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 DWP or the City, their officials, officers, employees, agents or volunteers. *****IF FOR DESIGN PROFESSIONAL SERVICES (ARCHITECT, LANDSCAPE ARCHITECT, ENGINEER OR LAND SURVEYOR), USE THE FOLLOWING ALTERNATIVE LANGUAGE AND DELETE THE ABOVE LANGUAGE.** To the fullest extent permitted by law, Consultant shall defend, indemnify and hold the DWP and the City, their 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, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or relating to any negligence, errors or omissions, recklessness, or willful misconduct of Consultant, its officials, officers, employees, agents, consultants, and contractors arising out of or in connection with the performance of the Consultant's Services, including without limitation the payment of all consequential damages, expert witness fees, and attorneys fees and other related costs and expenses. Consultant shall defend, at Consultant's own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against the DWP or the City, their officials, officers, employees, agents, or volunteers. Consultant shall pay and satisfy any judgment, award or decree that may be rendered against DWP or the City or their officials, officers, employees, agents, or volunteers, in any such suit, action or other legal proceeding. Consultant shall reimburse DWP and the City and their 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 DWP or the City, their officials officers, employees, agents, or volunteers.***]

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

3.5.8 Governing Law. This Agreement shall be governed by the laws of the State of California. Venue shall be in San Bernardino County.

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

3.5.10 DWP's Right to Employ Other Consultants. DWP reserves 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 DWP. 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 subcontractors of Consultant, except as otherwise specified in this Agreement. All references to DWP include its elected officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

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

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

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

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

3.5.18 Prohibited Interests. Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage,

brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, DWP shall have the right to rescind this Agreement without liability.

For the term of this Agreement, no member, officer or employee of DWP or the City, during the term of his or her service with DWP or the City, 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 subcontractor, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination. Consultant shall also comply with all relevant provisions of any City of Big Bear Lake's Minority Business Enterprise program, Affirmative Action Plan or other related programs or guidelines currently in effect or hereinafter enacted.

3.5.20 Labor Certification. By its signature hereunder, Consultant certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Workers' 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 Compliance with City Policies. Contractor certifies that it is aware of the provisions of the City of Big Bear Lake's "Drug/Alcohol-Free Workplace policy," "Harassment and Compliant Procedure," and "Violence in the Workplace Policy," and agrees to comply with such provisions at all times during the performance of all work governed by this Contract.

3.5.22 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.

3.5.23 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 DWP. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

[SIGNATURES ON FOLLOWING PAGE.]

DEPARTMENT OF WATER AND POWER,
CITY OF BIG BEAR LAKE

[INSERT CONSULTANT'S NAME]

By: _____
Reginald A. Lamson
General Manager

By: _____
(INSERT NAME)
(Insert Title)

Attest:

By: _____
Name Date

IN COMPLIANCE WITH PURCHASING POLICIES/ PROCEDURES

By: _____
Chief Financial Officer Date

¹ Attestation of Consultant's signature must be obtained when required by the by-laws, articles of incorporation or other laws, rules or regulations applicable to Consultant's business entity.

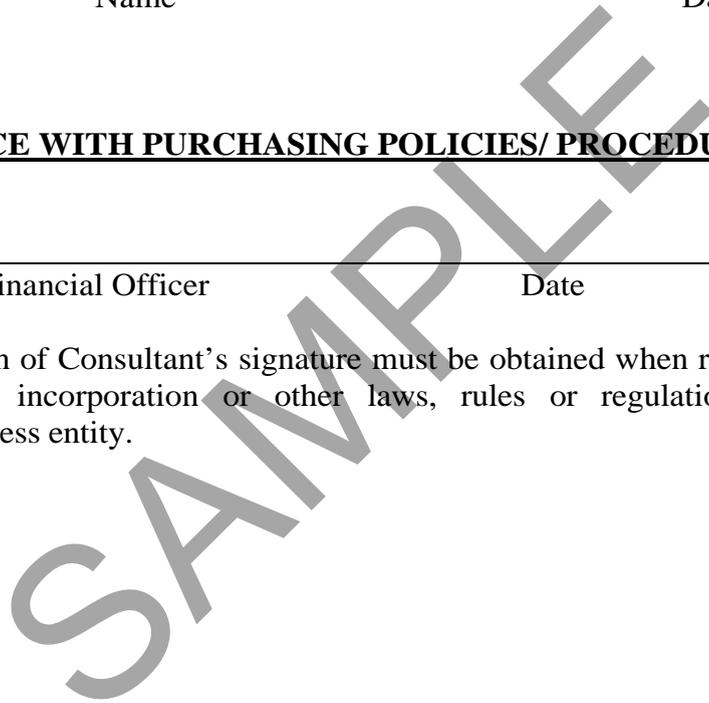


EXHIBIT “A”
SCOPE OF SERVICES

[INSERT SCOPE]

SAMPLE

EXHIBIT “B”

SCHEDULE OF SERVICES

THE CONSULTANT SHALL DILIGENTLY AND CONTINUOUSLY UNDERTAKE THROUGH COMPLETION ALL WORK REQUIRED UNDER THIS AGREEMENT

SAMPLE

EXHIBIT "C"
COMPENSATION

[INSERT RATES & AUTHORIZED REIMBURSABLE EXPENSES]

SAMPLE