

TOWN OF LOOMIS
AUDIT SERVICES
REQUEST FOR PROPOSALS
FISCAL YEARS 2019-2021
PLUS OPTIONAL TWO YEARS

Release Date: May 10, 2019
Deadline for Submission: June 14, 2019
Contact person: Roger Carroll, Finance Director

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TOWN OF LOOMIS
REQUEST FOR PROPOSALS FOR AUDIT SERVICES

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PART 1 – AUDIT SPECIFICATIONS

I. INTRODUCTION

The Town of Loomis (hereinafter referred to as “the Town”) is requesting proposals from qualified firms of certified public accountants for a three-year contract to audit its financial statements for the three years beginning with the fiscal year ending June 30, 2019. At the option of the Town, the audit engagement may be extended for two, one-year periods (fiscal years) by written amendment. These audits are to be performed in accordance with generally accepted auditing standards, the standards set forth for financial and compliance audits in the U.S. General Accounting Office’s (GAO) *Government Auditing Standards*, the provisions of the Single Audit Act of 1984, as amended in 1996 and Title 2 U.S. Code of Federal Regulations (CFR) Part 200 *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance), and Governmental Accounting Standards Council (GASB) Pronouncements.

There is no expressed or implied obligation of the Town to reimburse responding firms for any expenses incurred in preparing proposals in response to this request. Materials submitted by respondents are subject to public inspection under the California Public Records Act (Government Code Section 6250 et seq.). Any language purporting to render the entire proposal confidential or proprietary will be ineffective and will be disqualified.

During the evaluation process, the Town reserves the right, where it may serve the Town’s best interest, to request additional information or clarifications from proposers, or to allow corrections of errors or omissions. The Town reserves the right to retain all proposals submitted and to use any ideas in a proposal regardless of whether the 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 contract between the Town of Loomis and the firm selected.

To be considered, one (1) electronic copy (PDF format preferred) must be received by the Town of Loomis, Finance Department, by email at rcarroll@loomis.ca.gov , no later than 4:30 PM, Friday, June 14, 2019. It is anticipated that the selected firm will be notified no later than Friday June 28, 2019. The Town reserves the right without prejudice to reject any or all proposals and/or waive any irregularity.

A copy of this request for proposals and the Town’s most recent budget and audit can be found on the Town’s website www.loomis.ca.gov. All inquiries relating to this request for proposals shall be emailed and state in the subject line “audit RFP” to:

rcarroll@loomis.ca.gov.

II. DESCRIPTION OF THE TOWN

The Town of Loomis was incorporated in 1984, under the laws and regulations of the State of California. The Town operates under the Town Council – Manager form of government and provides or contracts for the following services: public safety (Police), highways and streets, public improvements, planning and zoning, and general administration. Authority and responsibility for operations is given to the Town Council by the voters of the Town of Loomis. The Town Council has the authority to employ administrative and support personnel to carry out its directives. The primary method used to monitor the performance of the Town’s financial management is the financial budget which is adopted annually by the Town Council.

The Town’s fund structure includes the General Fund, special revenue funds and fiduciary funds. The Town has no enterprise funds.

The Town’s financial statements have been audited by Boler & Associates CPAs for 7 years. The fee for the prior year audit services was \$18,000.

The Town uses Microsoft Dynamics GP for general ledger, accounts payable, payroll and cash receipting.

III. SCOPE OF WORK TO BE PERFORMED

A. Services to be performed by the auditors

1. In general, the auditors will perform a financial and compliance audit to determine (a) whether the combined financial statements of the Town fairly present the financial position and the results of financial operations in accordance with generally accepted accounting principles, and (b) whether the Town has complied with laws and regulations that may have a material effect upon the financial statements.
2. The auditors will perform the audit of the primary government financial statements of the Town in conformity with accounting principles generally accepted in the United States of America including all properly classified funds of the primary government required by generally accepted accounting principles to be included in the financial reporting entity and issue an opinion thereon. The auditor shall also be responsible for performing certain procedures involving Management's Discussion and Analysis (MD&A) and required supplementary information (RSI) required by the Governmental Accounting Standards Council as mandated by generally accepted auditing standards.
3. The auditors will examine the Town’s internal accounting controls and accounting procedures and render written reports of their findings and recommendations to the Finance Director. The examination shall be made and reports rendered in accordance with generally accepted government auditing standards. In addition, the auditors shall communicate any reportable conditions found during the audit that can be defined as either a significant or material weakness in the design or operation of the internal control structure, which

could adversely affect the organization’s ability to record, process, summarize, and report financial data consistent with the assertions of management in the financial statement.

4. Auditors shall be required to make an immediate, written report of all irregularities and illegal acts or indications of illegal acts of which they become aware to the following parties: Roger Carroll, Finance Director, and Sean Rabé, Town Manager.
5. While it is not expected at this time, should the Town fall under the requirements of the Federal Government’s program covering a single audit for all federal grant funds, auditors shall conduct an audit in accordance with the Single Audit Act Amendments of 1996, Uniform Guidance and generally accepted auditing standards as well as generally accepted governmental auditing standards.
6. Auditors shall submit a management letter setting forth their findings and/or recommendations on those matters noted and observed during the conduct of the examination of the financial records and developed within the scope, usually associated with such an examination relating to, but not limited to, a) improvement in systems of internal control, b) improvement in accounting system, c) apparent noncompliance with laws, rules, and regulations, and d) any other material or significant matter coming to the attention of the firm during the conduct of the examination.
7. Auditors shall prepare GASB 68 adjustments, presented to Town staff upon completion of the audit fieldwork.
8. Any other reports to the governing body as may be required by generally accepted auditing standards.
9. Report preparation and printing are the responsibility of the independent auditor. This includes copies in PDF format.

B. Timeline Requirements

1. Auditors shall schedule with the Finance Director, or designee, for the Fiscal Year 2018-19 Audit.
2. All Town books will be closed and ready for audit by the mutually agreed upon start date. Town staff shall prepare detailed lead sheets and account reconciliations for the auditors.
3. Fieldwork shall commence on an agreed upon date between auditors and Town staff but no later than the first week of September and shall be completed by no later than the third week of October, at which time a draft copy of all reports listed under “Specific Deliverables to the Town of Loomis” shall be prepared and delivered to the Finance Director.
4. The Entrance Conference, Progress Reporting, and Exit Conference should be held by the time frames indicated on the schedule shown below:

i.	Entrance Conference with key Finance Department staff to discuss work to be	Prior to start of field work
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	performed, establish overall liaison for audit and arrangements for space and other needs of the auditor	
ii.	Progress conference with key Finance Department staff to discuss the year-end work to be performed	Midway through audit work
iii.	Exit conference with Finance Director and Town Manager to summarize the results of the field work and to review significant findings	At the conclusion of the year-end audit work

C. Reporting and Communication

1. The auditors will meet continuously during the field work process with the Finance Director, or designee, to discuss preliminary audit findings and management recommendations.
2. Prior to issuing their final reports, the auditors will meet with the Finance Director and his/her designee(s) with all audit reports to be addressed to the Town Council.
3. The auditors may be consulted occasionally throughout the year as an information resource. Auditors may be asked to provide guidance on implementation of Governmental Accounting Standards Council (GASB) requirements and specifics of federal and state regulations as they may affect local government accounting. In addition, the auditors may be asked to assist with the implementation of new pronouncements (e.g. GASB 73, GASB 75).

D. Other Considerations

1. All working papers and reports must be retained, at the auditor's expense, for a minimum of five (5) years, unless the firm is notified in writing by the Town of Loomis of the need to extend the retention period.
2. The auditors will be required to make working papers available upon request to the appropriate parties. In addition, the firm shall respond to the reasonable inquiries of successor auditors and allow successor auditors to review working papers relating to matters of continuing accounting significance.
3. Throughout the year, the auditor will provide financial advice and counsel on matters occurring throughout the year that would affect the annual report.
4. The audit partner/manager may be required to attend Town Council meeting(s) to explain or clarify financial statements or accounting requirements.

E. Specific Deliverables to the Town of Loomis

Report	Due Date	Qty.
Audit of the general purpose financial statements of the Foresthill Public Utility District and preparation of the audit report.	No later than November 1, 2019	15

IV. TOWN RESPONSIBILITIES

A. Finance Department

1. Finance Department staff will prepare the final closing of the books including any auditor adjusting entries or changes to the financial statements as well as providing balance sheets for all funds and groups, statements of revenue and expenditures for all funds including detailed subsidiary ledgers.
2. Finance Department staff will produce the confirmation letters that are mailed by the auditors.
3. Finance Department staff will be available to assist the auditors in locating records or preparing audit schedules. All requests from the auditors will be directed to the Finance Director or designee.
4. Finance Department staff will provide the auditors with reasonable workspace to include desks and chairs as well as access to telephones, photocopying machines and Wi-Fi access.

B. Report Preparation

1. Auditor will prepare a draft copy of the audit report for Town review.
2. Final preparation and printing of the audit report will be the responsibility of the auditor.
3. Preparation, editing, and printing of all other reports as indicated in Section III (E), Specific Deliverables to the Town of Loomis, will be the responsibility of the auditors. An electronic format (PDF) of every completed report, with signatures, is a component of the deliverables.

V. BASIS FOR COMPENSATION

- A. The Town will pay the auditors for the services described in Part I, Section III (Scope of Work to be Performed) that do not exceed the amount contained within a signed agreement between the Town and the audit firm. For additional services required after the inception of the agreement, written approval by the Town shall be required in advance of such services being rendered. The fee for such services shall be paid based on the auditor's quoted hourly rates listed in appendix A.

- B. The Town shall receive all final opinions and reports no later than December 1st, following the initial year as outlined in Section III (E) “Specific Deliverables to the Town of Loomis” barring any unforeseen Town delays. If delay of deliverables is a result of the Town, report submission deadlines will be discussed and amended. Final reports for grant and agency programs shall be completed in time to meet required submission dates.

VI. ADDITIONAL PROVISIONS

- A. Upon notice of intent to award contract, the successful contractor shall enter into a Standard Consultant Agreement with the Town of Loomis. See Appendix B. The selected firm will maintain the minimum insurance requirements during the entire term of their engagement. . To confirm this requirement, within 15 days from the execution of the Agreement, the selected firm shall furnish the Town satisfactory evidence of the insurance requirement and evidence that each carrier is required to give at least 30 days prior written notice of the cancellation of any policy during the effective period of the Agreement. The Town shall be named as an additional named insured under the selected firm's policies as noted in the Agreement.
- B. No officer, agent, or employee of the Town and no member of its governing bodies shall have any pecuniary interest, direct or indirect, in this agreement or the proceeds thereof. No officer, agent, or employee of the auditors shall serve on a Town committee or hold any such position which is incompatible with such person’s duties or obligations or other relationship to this agreement.
- C. Time is of the essence in each and all provisions of this agreement.
- D. The Town is a cognizant agency under the Single Audit Act of 1984, as amended in 1996, and the state audit agencies under terms of its assistance agreement with the Town shall have access to the auditor’s work papers for purposes of review. All working papers and reports must be retained, at the auditor’s expense, for a minimum of five (5) years, unless the firm is notified in writing by the Town of Loomis of the need to extend the retention period. The auditors shall make their working papers available to successor auditors. The auditor will also be required to make working papers available, upon request, to the following parties or their designees:
 - 1. Town of Loomis
 - 2. U.S. General Accounting Office (GAO)
 - 3. Parties designated by the federal or state governments or by the Town of Loomis as part of an audit quality review process
 - 4. Auditor of entities of which the Town of Loomis is a sub-recipient of grant funds

In addition, the audit firm shall respond to the reasonable inquiries of successor auditors and allow successor auditors to review working papers relating to matters of continuing accounting significance.

VII. SPECIAL TERMS AND CONDITIONS

- A. Invoices received from the auditor will be processed within thirty (30) days from receipt.
- B. The Town is not liable for any pre-contractual expenses incurred by any bidder. In addition, no bidder shall include any such expenses as part of the price proposed to conduct the operation.
- C. The Town reserves the right to withdraw this RFP at any time without prior notice. Further, the Town makes no representations that any agreement will be awarded to any bidder responding to this RFP. The Town expressly reserves the right to postpone action regarding this RFP for its own convenience and to reject any and all proposals in response to this RFP without indicating reasons for such rejection.
- D. The Town is not responsible for oral statements made by any of its employees or agents concerning this RFP. If the bidder requires specific information, the bidder must make the request in writing as instructed in the RFP. Email inquiries are acceptable.
- E. All responses to this RFP shall become the property of the Town and a matter of public record. Responders must identify all copyrighted material, trade secrets or other proprietary information that the responder claims are exempt from disclosure by the California Public Records Act. In the event a responder claims such exemption, the responder must state in the response that:

“The responder will indemnify the Town and hold it harmless from any claim or liability and defend any action brought against the Town for its refusal to disclose copyrighted material, trade secrets, or other proprietary information to any person making a request thereof.”

Failure to include such a statement shall constitute waiver of the responder’s right to exemption from disclosure and authority for the Town to provide a copy of the proposal or any part thereof to the requestor.

- F. All questions regarding this RFP should be made in writing and emailed to Roger Carroll at rcarroll@loomis.ca.gov

PART 2 – PROPOSAL REQUIREMENTS AND INFORMATION

I. PROPOSAL PROCESS AND CALENDAR

A. Distribution of Proposals

Request for Proposals shall be available on Friday, May 10, 2019.

B. Deadline for Submission of Questions

Questions regarding this request for proposals will be collected, summarized, answered and distributed to all parties. The deadline to submit questions is Tuesday, May 28, 2019 at 12:00 PM. The summary of questions and answers will be distributed at or before 5:00 PM on that day.

C. Proposal Submission

Proposals for the Town of Loomis audit must be received no later than 4:30 PM on Friday, June 14, 2019 in PDF format via email at:

rcarroll@loomis.ca.gov

D. Proposal Review and Notification

The Finance Director and the and selected staff will review and evaluate each proposal submitted. Should the review committee choose to interview a selection of finalists, written notification will be sent only to those firms that are selected for an interview. Those interviews may take place on via web conference at the proposer's request.

E. Final Selection Notification

The Town anticipates sending written notification of status to the finalists by the week of June 21, 2019.

F. Interviews

The Town will schedule interviews with the finalists on June 26, 2019. Firms selected for interviews are requested to prepare a short presentation for the committee.

G. Important Dates

May 10, 2019	Distribution of Proposals
May 28, 2019 at 12:00 PM	Deadline for Submission of Questions
May 28, 2019 at 5:00 PM	Responses to Compiled Questions
June 14, 2019, at 4:30 PM	Proposal Submission
June 21, 2019	Finalist Notification
June 26, 2019	Interviews
June 28, 2019	Notification to finalist
July 9, 2019	Town Council approval
No later than July 31, 2019	Anticipated contract signing

II. PROPOSAL REQUIREMENTS

A. Independence

The audit firm should provide an affirmative statement that it is independent of the Town of Loomis as defined by generally accepted auditing standards. Moreover, the firm must have no conflict of interest with regard to any other work performed for the entity being audited. It is understood that the services performed by the auditors are in the capacity of independent contractors and not as an officer, agent, or employee of the Town of Loomis.

B. License to Practice in California

The audit firm should provide an affirmative statement indicating that the firm and all assigned key professional staff are properly licensed to practice in California.

C. Firm Qualifications and Experience

1. The proposal should state the size of the firm, the size of the firm's governmental audit staff, the location of the office from which the work on this engagement is to be performed, and the number and nature of the staff to be so employed on a part-time basis. Please indicate whether any members of the audit team assigned to the Town are reviewers in the Government Finance Officers Association (GFOA) Certificate of Achievement for Excellence in Financial Reporting program.
2. The audit firm shall submit a copy of the report on its most recent external quality control review, with a statement as to whether that quality control review included a review of specific government engagements.
3. The audit firm shall provide information on the results of any federal or state desk reviews or field reviews of its audits during the past three (3) years. In addition, the audit 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 regulatory bodies or professional organizations.

4. For the audit firm's office assigned responsibility for the audit, list the most significant engagements (maximum of 10) performed in the last five years that are similar to the engagement described in this request for proposals.

D. Partner, Supervisory, and Staff Qualifications and Experience

The audit firm shall identify the principal supervisory and management staff, including engagement partners, managers, other supervisors and specialists, who would be assigned to the engagement and indicate whether each such person is licensed to practice as a certified public accountant in California. The audit firm should also provide information on the governmental auditing experience, including the scope of audit services requested by the Town, of each person, and information on relevant continuing professional education for the past three (3) years and membership in professional organizations relevant to the performance of this audit.

The audit firm should provide as much information as possible, including resumes, regarding the number, qualifications, experience and training of the specific staff to be assigned to this agreement. The audit firm should also indicate how the quality of staff over the term of the agreement will be assured.

Engagement partners, managers, other supervisory staff, and specialists may be changed if those personnel leave the firm, are promoted, or are assigned to another office. These personnel may also be changed for other reasons with the express prior written permission of the Town of Loomis. However, in either case, the Town of Loomis reserves the right to approve or reject replacements. This shall also apply to consultants and firm specialists mentioned in response to this request for proposals.

Other audit personnel may be changed at the discretion of the proposer provided that replacements have substantially the same or better qualifications or experience.

E. Specific Audit Approach

The proposal should set forth a work plan, including an explanation of the audit methodology to be followed, to perform the services required in Part I, Section III of this request for proposals. It will include an affirmative statement that the auditor will perform an onsite interim audit, uses electronic paperless audit software, and facilitates the collection of source documents through an electronic portal.

F. Identification of Anticipated Potential Audit Problems

The proposal should identify and describe any anticipated potential audit problems, the firm's approach to resolving these problems and any special assistance that will be requested from the Town of Loomis.

G. Total All-Inclusive Maximum Price

The proposal should contain all pricing information relative to performing the audit engagement as described in this request for proposals as "the total all-inclusive maximum price to be proposed". Since it is currently unexpected that a Single Audit will be required, potential costs relating to Single Audit work may be listed separately.

H. Rates by Partner, Supervisor, and Staff Level Times Hours Anticipated for Each

The proposal should include a schedule of professional fees and expenses, as presented in the format shown in Appendix A.

I. Ownership of Town-Related Documents

All property rights, including publication rights of all reports produced by proposer in connection with services performed under this agreement shall be vested in the Town of Loomis. The proposer selected shall not publish or release any of the results of its examinations without the express written permission of the Town of Loomis Finance Director or designee.

J. Acceptance of Proposal Contents

After an audit firm is selected by the Town, the contents of the submitted proposal shall become a contractual obligation. The successful proposer will be required to execute a standard consultant agreement with the Town. Failure of the audit firm to agree to include the proposal as part of the contractual agreement may result in cancellation of the award. The Town reserves the right to reject those parts that do not meet with the approval of the Town.

K. Acceptance or Rejection and Negotiation of Proposals

The Town reserves the right to reject any or all proposals, to waive non-material irregularities or information in this request for proposals, and to accept or reject any item or combination of items. By requesting proposals, the Town is in no way obligated to award a contract or to pay expenses of the proposing firms in connection with the preparation or submission of a proposal. Furthermore, the Town reserves the right to reject any and all proposals prior to the execution of

the contract(s), with no penalty to the Town of Loomis. In addition, if the Town elects to reject all of the proposals, it reserves the right to select one at random to negotiate a contract for services.

III. EVALUATION PROCESS

The proposals for the Town's audit will be evaluated by a committee. Proposers may be required to make oral presentations as a supplement to their proposals. These presentations would only be held subsequent to the receipt of the proposals and will be part of the evaluation process to determine qualifications of the audit firm. The Town will schedule a time and location in the Town of Loomis for each oral presentation that it requests. Should a proposer refuse to honor the request for an oral presentation or interview, it may result in the rejection of the proposal by the Town. Evaluation considerations will include the following:

- A. Responsiveness of the proposal in clearly stating the understanding of the work to be performed and in demonstrating the intention and ability to perform the work.
- B. Cost. Although a significant factor, cost will not be a primary factor in the selection of an audit firm.
- C. Auditor's experience in conducting audits of agencies of similar nature, size, and complexity, and the auditor's commitment to maintaining technical expertise in the municipal financial environment.
- D. Technical experience and professional qualifications of the audit team. The number of key and supervisory personnel who will directly participate in the audit will be a consideration. Another consideration will be the auditor's commitment to keeping the same team assigned to this job for each successive year the auditor is awarded the contract.
- E. Size and structure of the firm's office from which the audit work is to be done. The Town is looking for a highly qualified team that is able to meet the due dates specified in this document, and it expects that same team (wherever possible) to complete any successive year's engagements.
- F. Auditor's experience in complying with applicable federal and state regulations relating to non-discrimination of an affirmative action program for equal employment opportunity.
- G. Ability of the firm in providing optional services such as special studies, system review and other services. Examples of such services performed for other client cities will be helpful.

IV. FORMAT AND CONTENT OF PROPOSAL

A. Title Page

The title page should include the request for proposals subject, the name of the proposer's firm, local address, telephone number, name of contact person, and date.

B. Table of Contents

Include a clear identification of the material by section and by page number.

C. Letter of Transmittal

1. State whether the firm is local, national, or international.
2. Give the location of the office from which the work is to be done and the number of partners, managers, supervisors, seniors, and other professional staff employed at that office.
3. Describe the range of activities performed by the local office such as audit, accounting, or management services.
4. Describe the local office's recent auditing experiences similar to the type of audits requested and give the names and telephone numbers of client officials responsible for five of the audits listed.
5. Describe a positive commitment to perform the service within the time period specified
6. Provide the name(s) of the person(s) authorized to represent the Proposer, title, address, email, and telephone.

D. Audit Team

1. Describe the composition of the audit team, including staff from other than the local office, and consultants. Describe the commitment of the firm to providing the same audit team on subsequent audits. Include resumes of each person so identified.
2. Identify the supervisors and consultants who will work on the audit and include resumes of each person so identified.
3. Identify any members of the audit team who are certified CAFR reviewers in the GFOA or California Society of Municipal Finance Officers (CSMFO) Certificate of Excellence in Financial Reporting programs.

E. Audit Scope and Provisions

Describe the scope of the required services to be provided and outline a plan on how such services will be provided. Please include depth of work, staffing and time estimates. Proposers should list all reports including management letters that are to be issued, the points to be addressed by reports, and the estimated completion dates.

F. Cost Data

Indicate the total hours and hourly rates by staff classification and the resulting all-inclusive maximum fee (not to exceed total) for which the requested work will be done for each of the specific deliverables identified in this request for proposals.

G. Additional Data

Data not specifically requested should not appear in the foregoing sections, but any additional information considered essential to the proposal may be presented at this section.

APPENDIX A

Schedule of Professional Fees and Expenses to Support the Total All-Inclusive Maximum Price				
	Hours	Standard Hourly Rates	Quoted Hourly Rates	Total
Partner	_____	\$ _____	\$ _____	\$ _____
Manager	_____	\$ _____	\$ _____	\$ _____
Supervisory Staff	_____	\$ _____	\$ _____	\$ _____
Other (Specify)	_____	\$ _____	\$ _____	\$ _____
Sub-Total				\$ _____ _____
Other Expenses				\$ _____ _____
Total				\$ _____ _____

APPENDIX B

CONSULTANT AGREEMENT

This agreement ("Agreement") entered into this _____ day of _____, 2019, is between the Town of Loomis ("CLIENT") and _____ with its primary office located at _____, ("CONSULTANT").

RECITALS

1. CLIENT has determined it is necessary and desirable to secure certain technical and professional services for proposed objectives regarding the _____ consulting work.

The scope of work for said service (hereinafter "Project") is attached hereto as "Exhibit A" and is hereby incorporated by reference; and

2. WHEREAS, CONSULTANT represents it is qualified and willing to provide such services pursuant to the terms and conditions of this Agreement;

NOW, THEREFORE, IT IS AGREED by and between CLIENT and CONSULTANT as follows:

AGREEMENT

1. INCORPORATION OF RECITALS. The recitals set forth above, and all defined terms set forth in such recitals and in the introductory paragraph preceding the recitals, are hereby incorporated into this Agreement as if set forth herein in full.

2. SCOPE OF SERVICE.

(a) Services to be Furnished. Subject to such policy direction and approvals as CLIENT through its staff may determine from time to time, CONSULTANT shall perform the services set forth in Exhibit A attached hereto and incorporated herein by reference.

(b) Schedule for Performance. CONSULTANT shall perform the services identified in Exhibit A as expeditiously as is consistent with generally accepted standards of professional skill and care and the orderly progress of work.

(c) Standard of Quality. All work performed by CONSULTANT under this Agreement shall be in accordance with all applicable legal requirements and shall meet the standard of quality ordinarily to be expected of competent professionals in CONSULTANT'S field of expertise.

(d) Compliance With Laws. CONSULTANT shall comply with all applicable federal, state, and local laws, codes, ordinances, regulations, orders, and decrees. CONSULTANT represents and warrants to CLIENT that CONSULTANT shall, at its own cost and expense, keep in effect or obtain at all times during the term of this Agreement any licenses, permits, insurance and

approvals which are legally required for CONSULTANT to practice its profession or are necessary and incident to the due and lawful prosecution of the services it performs under this Agreement. CONSULTANT shall maintain a Town of Loomis business license. CONSULTANT shall at all times during the term of this Agreement, and for one year thereafter, provide written proof of such licenses, permits, insurance, and approvals upon request by CLIENT. CLIENT is not responsible or liable for CONSULTANT'S failure to comply with any or all of the requirements contained in this paragraph.

3. COMPENSATION.

(a) Schedule of Payment. The compensation to be paid by CLIENT to CONSULTANT for the services rendered hereunder shall be on a time and materials basis based upon the rate schedule in Exhibit C attached hereto and hereby incorporated by reference.

(b) Total Price Ceiling. The Total Price Ceiling shall be _____ DOLLARS (\$ _____). Total compensation, including both fees and expenses, for services rendered by CONSULTANT to CLIENT shall not exceed the Total Price Ceiling.

(c) Additional Services. CLIENT shall make no payment to CONSULTANT for any extra, further, or additional services unless such services and payment have been mutually agreed to and this Agreement has been formally amended in accordance with Section 7. CONSULTANT shall not commence any work exceeding the Scope of Services in Section 2 without prior written authorization from CLIENT.

(d) Invoicing and Payment. CONSULTANT shall submit periodic invoices, not more frequently than monthly, for the services rendered during the preceding period. Invoices must be submitted in duplicate and must indicate the hours actually worked by describing the task(s) performed, the employee(s) performing the task(s), and the hours (or fractions of hours in tenths of an hour) spent on the task(s). The invoice shall also show all other directly related costs by line item in accordance with Exhibit C. CLIENT shall approve or disapprove the invoice within fifteen (15) calendar days following receipt thereof and shall pay all approved invoices and billings within thirty (30) calendar days. CLIENT reserves the right to withhold payment of disputed specific items and shall give notice to the CONSULTANT, pursuant to Section 11, of all such disputed specific items within fifteen (15) business days following receipt of an invoice. The parties shall exercise good faith and diligence in the resolution of any disputed invoice amounts.

4. PRODUCT REVIEW AND COMMENT. CONSULTANT shall provide CLIENT with five (5) copies of each product described in Exhibits A and C. Upon the completion of each product, CONSULTANT shall be available to meet with CLIENT. If additional review and/or revision is required by CLIENT, CLIENT shall conduct reviews in a timely manner.

5. TERM OF AGREEMENT. This Agreement shall be effective immediately and shall remain in effect until completed, amended pursuant to Section 7, or terminated pursuant to Section 6.

6. TERMINATION.

(a) CLIENT shall have the right to terminate this Agreement for any reason, at any time, by serving upon CONSULTANT thirty (30) calendar days advance written notice of termination. The notice shall be deemed served and effective for all purposes on the date it is deposited in the U.S. mail, certified, return receipt requested, addressed to CONSULTANT at the address indicated in Section 11.

(b) If CLIENT issues a notice of termination:

(i) CONSULTANT shall immediately cease rendering services pursuant to this Agreement;

(ii) CONSULTANT shall deliver to CLIENT copies of all writings, whether or not completed, which were prepared by CONSULTANT, its employees, or its subcontractors, if any, pursuant to this Agreement and for which CONSULTANT has been paid in accordance with Section 6(b)(iii). The term "writings" shall include, but not be limited to, handwriting, typewriting, computer files and records, drawings, blueprints, printing, copying, photographs, and every other means of recording upon any tangible thing, any form of communication or representation, including letters, words, pictures, sounds, symbols, or combinations thereof;

(iii) CLIENT shall pay CONSULTANT for work actually performed up to the effective date of the notice of termination, subject to the limitations prescribed by Section 3 of this Agreement, less any compensation to CLIENT for damages suffered as a result of CONSULTANT'S failure to comply with the terms of this Agreement. Such payment shall be in accordance with Exhibit C. However, if this Agreement is terminated because the work of CONSULTANT does not meet the terms or standards specified in this Agreement, then CLIENT shall be obligated to compensate CONSULTANT only for that portion of CONSULTANT'S services which are of benefit to CLIENT.

7. AMENDMENTS. Modifications or amendments to the terms of this Agreement shall be in writing and executed by both parties.

8. NONDISCLOSURE OF CONFIDENTIAL INFORMATION. CONSULTANT shall not, either during or after the term of this Agreement, disclose to any third party any confidential information relative to the work of CLIENT without the prior written consent of CLIENT.

9. INSPECTION. CLIENT representatives shall, with reasonable notice, have access to the work and work records of CONSULTANT, including time records, for purposes of inspecting same and determining that the work is being performed in accordance with the terms of this Agreement.

10. INDEPENDENT CONTRACTOR. In the performance of the services in this Agreement, CONSULTANT is an independent contractor and is not an agent or employee of CLIENT. CONSULTANT, its officers, employees, agents, and subcontractors, if any, shall have no power to bind or commit CLIENT to any decision or course of action, and shall not represent to any person or business that they have such power. CONSULTANT has and shall retain the right to exercise full control of the supervision of the services and over the employment, direction, compensation, and discharge of all persons assisting CONSULTANT in the performance of said service hereunder. CONSULTANT shall be solely responsible for all

matters relating to the payment of its employees, including compliance with social security and income tax withholding, workers' compensation insurance, and all other regulations governing such matters.

11. NOTICE. Any notices or other communications to be given to either party under this Agreement shall be in writing, shall be delivered to the addresses set forth below, and shall be effective, as follows:

- a. by personal delivery, effective upon receipt by the addressee;
- b. by facsimile, effective upon receipt by the addressee, so long as a copy is provided by certified U.S. mail, return receipt requested, postmarked the same day as the facsimile;
- c. by certified U.S. mail, return receipt requested, effective 72 hours after deposit in the mail.

CLIENT:	TOWN OF LOOMIS P.O. Box 1330 Looms, CA 95650 Attn: Town Manager Phone: (916) 652-1840 FAX: (916) 652-1847
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CONSULTANT:	_____ Address Town, State Zip Code Phone
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Either party may change its address for notices by complying with the notice procedures in this Section.

12. OWNERSHIP OF MATERIALS. CLIENT is the owner of all records and information created, produced, or generated as part of the services performed under this Agreement. At any time during the term of this Agreement, at the request of CLIENT, CONSULTANT shall deliver to CLIENT all writings, records, and information created or maintained pursuant to this Agreement and for which CONSULTANT has been paid in accordance with this Agreement. The term "writings" in this Section has the same definition as provided in Section 6(b)(ii).

13. ASSIGNMENT; SUBCONTRACTING; EMPLOYEES.

(a) Assignment. CONSULTANT shall not assign, delegate, or transfer its duties, responsibilities, or interests in this Agreement without the prior express written consent of CLIENT. Any assignment without such approval shall be void and, at CLIENT'S option, shall terminate this Agreement and any license or privilege granted herein.

(b) Subcontracting. CONSULTANT shall not subcontract or otherwise assign any portion of the work to be performed under this Agreement without the prior express written

consent of CLIENT. If CLIENT consents to CONSULTANT'S hiring of subcontractors, all subcontractors are deemed to be employees of CONSULTANT and CONSULTANT agrees to be responsible for their performance. CONSULTANT shall give its personal attention to the fulfillment of the provisions of this Agreement by all of its employees and subcontractors, if any, and shall keep the work under its control.

14. **BINDING AGREEMENT.** This Agreement shall bind the successors of CLIENT and CONSULTANT in the same manner as if they were expressly named herein.

15. **WAIVER.**

(a) **Effect of Waiver.** Waiver by either party of any default, breach, or condition precedent shall not be construed as a waiver of any other default, breach, or condition precedent or any other right under this Agreement.

(b) **No Implied Waivers.** The failure of either party at any time to require performance by the other party of any provision hereof shall not affect in any way the right to require such performance at a later time.

16. **NONDISCRIMINATION.**

(a) CONSULTANT shall not discriminate in the conduct of the work under this Agreement against any employee, applicant for employment, or volunteer because of race, color, creed, religion, national origin, sex, age, marital status, sexual orientation, medical condition, or physical or mental disability.

(b) CONSULTANT shall comply with all federal and state anti-discrimination and civil rights laws.

(c) CONSULTANT agrees to post in conspicuous places, available to all employees and applicants for employment, notices that CONSULTANT shall provide an atmosphere for employees, clients, and volunteers that is free from harassment or discrimination on the bases set forth in subsection 16(a).

17. **INDEMNITY.** CONSULTANT specifically agrees to indemnify, defend (by counsel reasonably satisfactory to the Town Attorney), and hold harmless CLIENT, its officers, agents, and employees from and against any and all actions, claims, demands, losses, expenses including attorneys' fees, damages, and liabilities resulting from injury or death of a person or injury to property, arising out of or in any way connected with the performance of this Agreement, however caused, regardless of any negligence of the CLIENT, whether active or passive, excepting only such injury or death as may be caused by the sole negligence or willful misconduct of the CLIENT. The CONSULTANT shall pay all costs that may be incurred by CLIENT in enforcing this indemnity, including reasonable attorneys' fees.

18. **INSURANCE.**

(a) **Required Coverage.** CONSULTANT, at its sole cost and expense, shall obtain and maintain in full force and effect throughout the entire term of this Agreement the following

described insurance coverage. This coverage shall insure not only CONSULTANT, but also, with the exception of workers' compensation and employer's liability insurance, shall name as additional insureds CLIENT, its officers, agents, employees, and volunteers, and each of them:

Policy	Minimum Limits of Coverage
(i) Workers' Compensation and Employer's Liability	Statutory and \$1,000,000 per accident for bodily injury or disease, respectively
(ii) Comprehensive Automobile Insurance Services Office, form #CA 0001 (Ed 1/87 covering auto liability code 1 (any auto))	Bodily Injury/Property Damage \$1,000,000 each accident
(iii) General Liability Insurance Services Office Commercial General Liability coverage on an occurrence basis (occurrence form CG 0001)	\$2,000,000 per occurrence. If Commercial General Liability Insurance or other form with a general aggregate limit shall apply separately to this Project or location, the general aggregate limit shall be twice the required occurrence limit
(iv) Errors and Omissions/ Professionals' Liability, errors and omissions liability insurance appropriate to the CONSULTANT'S profession.	\$1,000,000 per occurrence

If the CONSULTANT maintains higher limit than the minimum shown above, CLIENT shall be entitled to coverage for the higher limits maintained by the CONSULTANT.

(b) Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by CLIENT. At the option of CLIENT, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respect CLIENT or CONSULTANT shall provide a financial guarantee satisfactory to CLIENT guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

(c) Required Provisions. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

(i) For any claims related to this Project, the CONSULTANT'S insurance coverage shall be primary insurance as respects CLIENT, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by CLIENT, its officers, officials,

employees, or volunteers shall be in excess of the CONSULTANT'S insurance and shall not contribute with it;

(ii) Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to CLIENT, its officers, officials, employees, or volunteers;

(iii) The CONSULTANT'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability;

(iv) Each insurance policy required by this Section shall be endorsed to state that coverage shall not be suspended, voided, cancelled by either party, reduced in coverage or in limits except after giving CLIENT 30 days' prior written notice by certified mail, return receipt requested.

(d) Acceptability of Insurers. CONSULTANT shall place insurance with insurers that have a current A.M. Best's rating of no less than A:VII unless CONSULTANT requests and obtains CLIENT'S express written consent to the contrary.

(e) Verification of Coverage. CONSULTANT must provide complete, certified copies of all required insurance policies, including original endorsements affecting the coverage required by these specifications. The endorsements are to be signed by a person authorized by CONSULTANT'S insurer to bind coverage on its behalf. All endorsements are to be received and approved by CLIENT before work commences. However, failure to do so shall not operate as a waiver of those insurance requirements. CLIENT reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

19. WORKERS' COMPENSATION.

(a) Covenant to Provide. CONSULTANT warrants that it is aware of the provisions 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. CONSULTANT further agrees that it will comply with such provisions before commencing the performance of the work under this Agreement.

(b) Waiver of Subrogation. CONSULTANT and CONSULTANT'S insurance company agree to waive all rights of subrogation against CLIENT, its elected or appointed officials, agents, and employees for losses paid under CONSULTANT'S workers' compensation insurance policy which arise from the work performed by CONSULTANT for CLIENT.

20. FINANCIAL RECORDS. CONSULTANT shall retain all financial records, including but not limited to documents, reports, books, and accounting records which pertain to any work or transaction performed pursuant to this Agreement for three (3) years after the expiration of this Agreement. CLIENT or any of its duly authorized representatives shall, with reasonable notice, have access to and the right to examine, audit, and copy such records.

21. CONFLICT OF INTEREST. CONSULTANT shall exercise reasonable care and diligence to prevent any actions or conditions which could result in a conflict with CLIENT'S interest. During the term of this Agreement, CONSULTANT shall not accept any employment or engage in any consulting work which creates a conflict of interest with CLIENT or in any way compromises the services to be performed under this Agreement. CONSULTANT shall immediately notify CLIENT of any and all violations of this Section upon becoming aware of such violation.
22. TIME OF THE ESSENCE. CONSULTANT understands and agrees that time is of the essence in the completion of the work and services described in Section 2.
23. SEVERABILITY. If any court of competent jurisdiction or subsequent preemptive legislation holds or renders any of the provisions of this Agreement unenforceable or invalid, the validity and enforceability of the remaining provisions, or portions thereof, shall not be affected.
24. GOVERNING LAW AND CHOICE OF FORUM. This Agreement shall be administered and interpreted under California law as if written by both parties. Any litigation arising from this Agreement shall be brought in the Consolidated Municipal and Superior Court of Yuba County.
25. COSTS AND ATTORNEYS' FEES. If either party commences any legal action against the other party arising out of this Agreement or the performance thereof, the prevailing party in such action may recover its reasonable litigation expenses, including court costs, expert witness fees, discovery expenses, and attorneys' fees.
26. AUTHORITY. The parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles, and capacities herein stated and on behalf of any entities, persons, estates or firms represented or purported to be represented by such entity(s), person(s), estate(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Further, by entering into this Agreement, neither party hereto shall have breached the terms or conditions of any other contract or agreement to which such party is obligated, which such breach would have a material effect hereon.
27. FORCE MAJEURE. Except as otherwise provided in this Agreement, if the performance of any act required by this Agreement by either CLIENT or CONSULTANT is prevented or delayed by reason of any act of God, strike, act of terrorism, lockout, labor trouble, inability to secure materials, restrictive governmental laws or regulations or any other cause not the fault of the party required to perform the act, the time for performance of the act will be extended for a period equivalent to the period of delay and performance of the act during the period of delay will be excused.

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28. INTEGRATION. This Agreement represents the entire understanding of CLIENT and CONSULTANT as to those matters contained herein and supersedes all prior negotiations, representations, or agreements, both written and oral. This Agreement may not be modified or altered except in accordance with Section 7.

Executed by CLIENT and CONSULTANT on the date shown next to their respective signatures. The effective date of this Agreement shall be the date of execution by the CLIENT as shown below.

DATED: BY: _____

TOWN OF LOOMIS

DATED: BY: _____