



**Request for Proposals (RFP)
Statement of Qualification (SOQ)**

PROFESSIONAL ENGINEERING AND SURVEYING SERVICES,

Proposals must be received by the City Clerk's office, City of Barstow, 220 E. Mountain View Street, Suite A, Barstow, California 92311 no later than:

*Date Due: December 8, 2023
Time Due: 4:00pm (Pacific Central Time)*

Envelope(s) shall be sealed and labeled:

"PROFESSIONAL ENGINEERING AND SURVEYING SERVICES,"

RFP Questions, contact;

Kody Tompkins, Assistant City Manager
Email: ktompkins@barstowca.org
Telephone: (760) 255-5157

Submit Proposal to:

City Clerk's Office
220 E. Mountain View Street, Suite A
Barstow, CA 92311



Contents

NOTICE OF INVITING PROPOSALS	3
PROPOSAL SUBMISSION REQUIREMENTS	4
I PROPOSAL FORMAT AND CONTENT OF THE REQUEST FOR PROPOSALS (RFP)	4
A. Cover letter	4
B. Consultant Overview and General Qualifications	4
C. Staffing/Sub Consultant	4
D. Approach and Methodology	5
E. References	5
F. Cost Proposal	5
II. PROPOSAL SUBMISSION	6
A. Submission of Proposal	6
B. Inquiries	6
C. Required Attachments	6
D. Schedule	7
E. Accounting	7
III. PROPOSAL GENERAL CONDITIONS	7
IV PROPOSAL	9
General Information and Background	9
Review and Selection Procedure.....	9
Scope of Work (Services)	10
Notice of Intent to Respond.....	18
ACKNOWLEDGEMENT RECEIPT OF ADDENDUM(S).....	19
Sample Professional Service Agreement (PSA).....	20

NOTICE OF INVITING PROPOSALS

PROFESSIONAL ENGINEERING AND SURVEYING SERVICES

NOTICE IS HEREBY GIVEN that the City of Barstow (City) is soliciting Request for Proposals (RFP) and/or Statement of Qualification from qualified professional(s) (Proposers or Consultant) to provide Professional Engineering and Surveying Services. Interested firms or individuals must submit RFP/SOQ to the office of the City Clerk, 220 East Mountain View Street, Suite A, Barstow, California 92311 by 4:00 pm (Pacific Standard Time) on December 8, 2023.

DESCRIPTION OF WORK: Each RFP will specify the description of work for each and every item as set forth in the specifications. Any and all exceptions must be clearly stated in the proposal. Failure to set forth any items in the specification shall be grounds for rejection.

INTENT OF RFP/SOQ: The City of Barstow, Community Development/Services Division is soliciting proposals from qualified firms or individuals who shall perform professional / technical engineering and survey services necessary to prepare all environmental documents, project reports, plans, specifications, estimates, plan review, Map (Tract, Parcel, Record of Survey, etc) review. The individual or one member of a firm will serve as the City Engineer. The selected individual(s) or firm will be required to enter into a Professional Services Agreement (PSA). The Contract agreement will be for a period of Three Years with an option to extend to a Six-Year agreement based on performance and requirements for Federal Funding.

OBTAINING RFP DOCUMENTS AND SUBMITTING NOTICE OF INTENT TO RESPOND: The RFP documents may be acquired via the internet at <https://www.barstowca.org/business/bid-opportunities-request-for-proposals>. If you or your firm are interested in submitting a proposal, it is required that you submit the Notice of Intent to Respond (NOIR) document by email to ktompkins@barstowca.org. NOIR Submittals must be received by November 27, 2023. Failure to submit the NOIR document may render your proposal non-responsive.

If your firm is interested and qualified, please submit one original and four (4) copies of your RFP/SOQ To the following:

City of Barstow
220 E. Mountain View Street,
Barstow, CA 92311
Attention: City Clerk's Office

If you have any questions about the proposal process, technical questions, and/or information, please contact;

Kody Tompkins
Assistant City Manager.
ktompkins@barstowca.org

PROPOSALS TO REMAIN OPEN: The Proposer shall guarantee that all contents of their proposal shall be valid for a period of 90 calendar days from the due date of the proposal. The receiving time in the City Clerk's office will be the governing time for the acceptability of the Proposal. Telegraphic, electronic, and telephonic proposals will not be accepted. Late proposals will be returned unopened.

PROPOSAL SUBMISSION REQUIREMENTS

I PROPOSAL FORMAT AND CONTENT OF THE REQUEST FOR PROPOSALS (RFP)

To respond to the Request for Proposals (RFP), submit one (1) original, four (4) printed copies, and one (1) electronic copy on a USB drive/memory stick on or before the submission deadline. A person authorized to bind the proposing firm to the representations, commitments, and statements contained in the RFP must sign the RFP. Proposals shall be formatted in the form and sequence described below. Please use the same order and titles as set forth to help facilitate the evaluation of your proposal. The City may choose to disqualify the proposal deviating from the outlined format. The evaluation and selection of a Consultant will be based on the information submitted in the proposal. Elaborate proposals beyond that sufficient to present a complete and effective proposal are not necessary or desired. Although the City is not specifying a page limit, clarity and conciseness are essential and will be considered during the proposal evaluation. The RFP must contain the following information and documents:

A. Cover letter

Provide an executive summary emphasizing the strong points of yourself or the firm's qualifications and experience. The cover letter shall be signed by a person with the official authority to bind the consultant or firm. The cover letter shall include the name, title, address, telephone number, Federal and State taxpayer identification numbers of the firm, and signature of the Consultant's contact person for this proposal.

Proposers shall indicate whether there may be any potential conflicts of interest that could limit the Proposer's ability to provide the requested services.

B. Consultant Overview and General Qualifications

Provide a summary of yourself or the firm's qualifications demonstrating the expertise, understanding, and ability to accomplish the City's primary objectives. Provide general information about your or the firm's location of office(s), years in business, and areas of expertise. Provide a brief description of five (5) cities, which involved a similar Scope of Work (services).

C. Staffing/Sub Consultant

Provide an organizational chart identifying: 1) A List of key person(s) assigned to carry out the work; 2) the role each person will play in performing the work; and 3) a description of the experience, length of time in business and qualifications

Identify key staff and include a description of their abilities, qualifications, and experience. Attach resumes of key staff to be assigned to this project. Identify any portion of work that would be subcontracted. Include Consultant qualifications (brief) and key personnel, telephone number, and contact person for all sub-consultants. The City reserves the right to approve or reject all Consultants, internal staff performing consulting services, or sub-consultants proposed by the Consultant.

Group staff's resume, description, abilities, qualifications, and experience per firm or organization.

D. Approach and Methodology

Provide a clear concise statement of your or the firm's understanding of the nature and the extent of the Scope of Work (services) required. Provide a specific outline to demonstrate how personnel will be organized to handle these services.

Provide a proposal summary, including why the firm is pursuing this work and how it is uniquely qualified to perform the services.

E. References

You shall provide a list of references for yourself and any sub-consultants, including the names, addresses, and telephone numbers of recent clients for which services have been completed for similar work. Include a list of specific projects associated with each reference; the date work was performed, the cost, and the key personnel involved. List five (5) distinct references.

Provide an explanation of any contract that the individual, firm, or subcontractor that was a party of termination for default or for which a notice of default was issued in the past five years. Termination for defaults is defined as notice to stop services for non-performance or poor performance, whether the issue was litigated or not. If a notice of default was issued by a party other than the Proposer, list the name, address, and telephone number of that party. If no such notice was issued, so state.

Provide Scope of Services beyond those listed in the RFP that the firm provides that may be of interest or benefit to the City.

F. Cost Proposal

Consultants shall submit a fee proposal in a separate and sealed envelope clearly labeled "Professional Engineering and Surveying Services". The City will negotiate with the top-ranked person or consultant firm in compliance with all applicable federal, state, and local guidelines.

I. Inclusive Pricing

All pricing proposal information relative to the performance of the scope of services/project specifics and deliverables as described in this RFP must be included in the Proposal. Pricing must list all direct and indirect costs, such as travel, meals, hotel accommodations, incidentals, and any other out-of-pocket expenses that would be charged to the City.

II. Price Schedule

Proposals must include a pricing schedule that includes the following:

1. Pricing for all items in the Scope of Services/Project Specific section of this RFP. Pricing for those items does not need to be broken down for subtasks except as identified below, but the Proposer may find it helpful to do so. Include a proposed payment schedule for work associated with the Project Management, Design, Plan Review, and Map Review,
2. Hourly rates for any work that is not included in the Scope of Services, or in the Proposal
3. Any additional tasks that the proposer believes would benefit the City
4. Any additional costs that would be charged to the City

The fee proposal shall include all tasks required to perform the work with a maximum not-to-exceed fee for each task and a grand total not-to-exceed fee. The fee proposal must contain a task and fee breakdown of all components of cost, including labor base rate, overhead, and all other direct and indirect costs. The fee proposal must match the scope of services, in the format, as presented within the RFP.

II. PROPOSAL SUBMISSION

A. Submission of Proposal

Consultant shall submit one original and four (4) copies of their Proposal to the City. Proposals shall be received by the City Clerk's Office no later than **4:00 p.m.** on Friday, December 8, 2023, at the following address:

City of Barstow
220 E. Mountain View Street, Suite A
Barstow, CA 92311
Attn: City Clerk

Re: Professional Engineering and Surveying Services,

Late submittals will be rejected and not returned

B. Inquiries

Inquiries: Proposers, their representatives, agents, or anyone else acting on their behalf, are specifically directed NOT to contact any city employee, commission member, committee member, council member, or other agency employee or associate for any purpose related to this RFP other than as directed below. Contact with anyone other than as directed below may be cause for rejection of a proposal.

ANY questions, technical or otherwise, pertaining to this Request for Proposal **must be submitted IN WRITING and directed ONLY to:**

Kody Tompkins
City of Barstow
Assistant City Manager
220 East Mountain View Street
Barstow, CA 92311
ktompkins@barstowca.org

Interpretations or clarification considered necessary in response to such questions will be resolved by the issuance of a Formal Addenda to the RFP. The deadline for all questions is **4:00 P.M.**, PCT, **November 27, 2023**. Questions received after this date and time may not be answered. Only questions that have been resolved by formal written Addenda will be binding. Oral and other interpretations or clarifications will be without legal or contractual effect.

C. Required Attachments

- a. Copy of the Notice of Intent to Respond Form
- b. Acknowledgement Receipt of Addendum(s)

D. Schedule

A contract/agreement is intended to be issued as soon as possible. A tentative schedule of the events follows:

Request for Proposals released	Tuesday, November 7, 2023
Inquiries /Questions Due	Tuesday, November 27, 2023
Notice of Intent to Respond	Tuesday, November 27, 2023
Proposals Due	Friday, December 8, 2023
Notice of Shortlist	Tuesday, December 15, 2023
Consultant Interviews	Tuesday, December 22, 2023
Contract Award	Monday, January 15, 2024

E. Accounting

The successful consultant shall invoice for work performed beginning on the 1st day and ending on the last day of each month. The consultant may submit a monthly invoice by the 15th day of the month. Invoices should include a brief description of the work performed. For auditing purposes, the CITY's Fiscal Year begins on July 1 and ends on June 30. The consultant shall submit year-end invoices through June 30 no later than July 15 of each year of the contract.

III. PROPOSAL GENERAL CONDITIONS

1. The CITY shall not, in any event, be liable for any pre-contractual expenses incurred by the consultant in:
 - Preparing the proposal and submitting the proposal to the CITY
 - Preparing and participating in the CITY interview process
 - Negotiating with CITY related to this proposal; and
 - Any other expenses incurred by the consultant prior to an executed agreement
2. Any proposal received prior to the date and time specified above for receipt of proposals may be withdrawn for modification by written request of the proposer. To be considered, however, the modified proposal must be received by the time and date specified in this RFP.
3. Proposals received within the prescribed deadline become the property of the CITY and all rights to the contents therein become those of the CITY.
4. Before the award of the contract/agreement, all proposals will be designated confidential to the extent permitted by the California Public Records Act. After the award of the contract (or if not awarded, after the rejection of all proposals), all proposals will be regarded as public records and will be subjected to review by the public. Any language purporting to render all or portions of the proposals confidential will be regarded as ineffective and be disregarded.
5. The CITY reserves the right to withdraw this RFP at any time without prior notice. Further, the CITY makes no representations that any agreement will be awarded to any consultant responding to this RFP.

The CITY expressly reserves the right to postpone reviewing the proposals for its own convenience and to reject any and all proposals responding to this RFP without indicating any reasons for such rejection.

6. Any contract/agreement to be awarded as a result of this RFP will be awarded without discrimination based on race, color, religion, sex, or national origin.
7. The protest procedure is intended to handle and resolve disputes related to the contract award for this Project/Services pursuant to Title 49 Code of Federal Regulations Part 18 Section 18.36 (b) (12)(i)-(ii) and the City of Barstow policies and procedures. The protesting consultant must exhaust all administrative remedies with the City of Barstow before pursuing a protest with a Federal agency.
8. Prospective consultants are encouraged to promptly notify the person designated in Section III of this RFP, in writing, of any apparent inconsistencies, problems, or ambiguities in the Scope of Work or any other section of this RFP. If deemed necessary, the CITY shall issue an addendum to clarify such circumstances prior to the final submittal date.

Prospective consultants and their sub-consultants are required to have adequate financial management and accounting systems as required by 48 CFR Part 16.30103, 2 CFR part 200, and 48 CFR Part 31

Prospective consultants and their sub-consultants are required to pay California State Prevailing Wages for all applicable services. California State Prevailing Wages can be obtained from the Department of Industrial Relations at <http://www.dir.ca.gov/oprl/DPreWageDetermination.htm>

9. The City reserves the right to remedy technical errors, modify the published scope of services, and approve or disapprove the use of all sub-consultants.
10. The City. Statements and other materials submitted will not be returned unless portions of submittals are designated as proprietary at the time of submittal and requested to be returned.
11. The City has the right to use any or all ideas or concepts presented in any proposal or interview without restrictions, and without a conversation with the proposers. As a corollary, the selection of a consultant does not constitute the City's acceptance of all of the particulars of its RFP.
12. Performance of Service

Task Orders – At the time a Consultant is selected for a specific project, the Consultant will be asked to prepare a schedule of the various jobs listed by project task order(s).

IV PROPOSAL

General Information and Background

The City of Barstow (City) is located in the Mojave Desert Region of central San Bernardino County, California, about 130 miles northeast of Los Angeles and 150 miles southwest of Las Vegas. The population of Barstow is approximately 25,415 and serves as a vibrant regional retail commercial center. Strong interstate highway travel-oriented services, a large rail facility, and two major military base installations contribute to a diversified economic base.

As a full-service City, Barstow operates with a five-member City Council operating under the council/manager form of government. The Mayor is elected at large by City residents while Council Members are elected based upon constituents that reside within four districts. The Mayor and Council Members are elected for staggered four-year terms and serve as the City's legislative and policymaking body. The City Manager is responsible for directing City affairs as prescribed by the City Council and handling the administration of day-to-day activities of the City's employees.

City departments include City Administration, Finance, Police, City Clerk Services, Public Works, Community Development/Services, Park and Recreation, and Environmental Services. Additionally, the Barstow Fire Protection District serves as a subsidiary district providing fire protection services to the incorporated city limits, as well as to neighboring areas outside of the city limits. Overall, the City has approximately 153 full-time employees and 45 part-time employees.

Review and Selection Procedure

A Review Committee will review all completed submittals received by the closing date in accordance with the criteria and procedures identified in this RFQ/RFP.

It is anticipated that the Review Committee will analyze the submittals and bring forward a recommendation to the City Council. The Review Committee may, at its option, request additional information, clarification of information, or interviews with Developers before the final selection is determined.

Based on the evaluation criteria, an agreement may be presented to the City Council at the August 7, 2023 meeting.

The RFQ/RFP will be evaluated on the following:

Compliance and competitiveness with specific requirements provided in the RFP	20
Experience working on public sector classification and compensation	20
Experience, education, training, and credentials of staff:	20
Proposed Project Scope and Schedule	20
Fees	20
Total:	100

Scope of Work (Services)

Goals and Objectives

The following is a summary of duties that may be required of the individual(s) or selected firm. This outline is not intended to represent the entire scope of work but rather a substantial list of the tasks required by the City. The engineer's work shall be conducted in accordance with all applicable laws. Any individual or selected firm will comply with all City, State, and Federal Highway Administration (FHWA) provisions.

All work will be done with regular involvement of the Community Development/Services manager, engineering staff, the City Manager, department heads, and other key personnel as necessary. Regular presentations and meetings with these individuals, groups, or employees, incorporating their input into the process, are expected. Presentation to the City Council upon completion of the project is also expected.

The consultant shall perform or provide the following Tasks:

Task A – Civil & Structural Engineering

Engineering and structural engineering service shall be conducted by an active California-licensed Civil and/or structural engineer. Associate engineer(s) and supporting staff shall work under the principle engineer to complete the following but not limited to the following:

1. Preparation of Engineering Reports, Studies, and Technical Correspondence.

- Determine the need for preliminary studies; review all preliminary studies for compliance with ordinances, comprehensive plans, engineering standards, and financial guidelines including and making recommendations based on budget and priorities.
- Assist in planning, coordinating, and evaluating programs, plans, services, equipment, and infrastructure;
- Assist in the development of policies and procedures for the effective operation of the City consistent with City, State, and Federal policies, relevant laws, rules, and regulations.
- Assist in the evaluation of Public Services; needs and formulation of short and long-range plans in all areas of public improvements including but not limited to: streets, sewer, storm drainage, and safety.
- Assist as may be required in the implementation of all water resource functions.
- Participate in internal and external meetings involving engineering questions and issues;
- Act as City liaison and City representative with other communities, County, State, and Federal agencies in areas of responsibility;
- Attend City Council and Planning Commission meetings and work sessions as requested;
- Attend other City meetings as requested (Street Committee, Safety Committee);
- Perform field inspections;
- Address constituent's concerns personally and in writing as may be required.
- Prepare and submit Grant reports and documents based on the grant requirements.
- Determine, Create, or review the following reports or studies
 - Feasibility reports;
 - Assessment rolls, Benefit Assessment Districts, Special Districts, and other instrument to assist the city to build the infrastructure necessary for development, re-development, roads, utilities, or etc.
 - Plat review;
 - Review and Record Maps (Tract, Parcel, Record of Survey, etc.);
 - Prepare or Review utility studies;
 - Prepare, review, and coordinate groundwater system analysis and design;

- Prepare and /or review Capital Improvement Program studies;
- Prepare and /or review reports, plans, and studies of other agencies;
- Prepare and/or review the City's five-year CIP
- Prepare, Review, and coordinate 10-year plans with the San Bernardino County Transportation Authority (SBCTA).
- Prepare, Review and coordinate Studies with SBCTA, Southern California Association of Governments (SCAG), California Department of Transportation (Caltrans), California Transportation Commission (CTC), and/or Federal Highway Administration.
- Present feasibility studies at public meetings.
- Prepare, review, or coordinate Safety Improvements.
- Prepare, Review and comment on Master Plans such as Sewer, Storm, and etc.

2. – Design and Bidding Services

1. Prepare plans, specifications, and contracts for all portions of projects as determined by the City Engineer and input of City staff;
2. Consult with County, State, and Federal agencies having jurisdictional authority, over-sight, or funding authorization of each project as warranted;
3. Prepare and send advertisements of bids to the legal paper, Construction Trade Journals, and/or Contractors for solicitation of bids as adopted per the City's policy and the State Controller's Cost Accounting Policies and Procedures Manual;
4. Reproduce and provide plans, specifications, contract documents, and addendums for bidding purposes;
5. Review the bids and prepare bid tabulation;
6. Evaluate bids, provide recommendations and analysis of bids to the City Manager, work with staff to prepare Administrative Reports, and make recommendation to the City Council, assemble and award contracts.
7. Organize and attend pre-bid and kick-off meetings.
8. Contract Administration
9. Contract compliance
10. Contract Bida

3. – Project Management/Construction Services (Capital Improvement / Grant Projects)

1. Convene a pre-construction meeting with staff, contractors, utility company representatives, etc.;
2. Perform construction staking;
3. Provide construction observation during construction
4. Provide construction inspection;
5. Prepare and maintain detailed documentation, daily reports, photographs and/or video if warranted, weekly reports, and a log of the contractor's progress;
6. Convene regular construction progress meetings as required;
7. Review and make recommendations on contractor pay requests;
8. Prepare and submit pay requests to the finance department;
9. Prepare, review, and recommend action for proposed change orders;
10. Review and work with staff to prepare Administrative Reports and Notice of Completion to recommend final acceptance of the project by the City;
11. Provide three (3) sets of as-built drawings upon conclusion of the project;
12. Responsible for the development of assessment rolls and other documentation relating to the assessment process;
13. Responsible for establishing and maintaining a library of the following records:
 - Permits and applications;
 - Contract documents;
 - Addenda;
 - Copies of referenced standard specifications;
 - Project schedules;

- Shop drawings and submittals;
- Applicable correspondence;
- Records of pertinent telephone conversations;
- File memoranda, directives, requests for information, and change orders;
- Requests and recommendations for payment;
- Project budgets and cost information;
- Construction diaries and logs;
- Records of noncompliance;
- Field test results;
- Record drawings;
- Project photographs;
- Project studies and reports;
- Project progress meeting minutes;
- Other information as necessary or required

4. – Project Management/Construction Services (Private and Commercial Development Projects)

1. Review construction projects and specifications;
2. Monitor the construction process for compliance with City code, regulations, and standards and with approved plans;
3. Assure financial accountability of private projects as they relate to escrows and letters of credit;
4. Advise the City during the performance of construction projects and give consideration and advice during the performance of services;
5. Review construction plans;
6. Construction observation and documentation for public improvements constructed with private development projects;
7. Generate reports on plats and construction proposals for the City Council and Planning Commission;
8. Assist in the development agreement process (fees, conditions, improvements, etc.)
9. Work with the City Manager to ensure that costs and fees are charged back to private development projects;
10. Monitor charges and revenues associated with private development projects;
11. Assist in the review of land-use applications and construction plans for private developments for consistency with City adopted engineering specifications, city policies, relevant rules, and regulations;
12. Work with staff to prepare Administrative Reports to ensure that relative City Council actions are presented and implemented;
13. Meet with developers and members of the public on proposed development projects to communicate the processes and procedures involved with engineering and infrastructure development.
14. Assist in the development review and the preparation of conditions of approval and improvement agreements
15. Review and develop standards and specifications as needed.

5. – Federal Highway Administration (FHWA) Caltrans Required Services

Caltrans has determined, as an agent for the Federal Highway Administration (FHWA), that recipients of federal funds utilizing contract engineering services shall solicit and contract for those services in three-year increments. Thus, this aspect of the scope of services shall be for three years only. Under this part of the scope of services, the City seeks proposals from qualified engineering firms to perform the design including CEQA and NEPA compliance, bidding, construction review/inspection, and federal aid administration services required to complete the federally funded projects during a three-year period including the projects listed

below in conformance with requirements and subject to State and Federal regulations and law. Services are to include securing all necessary permits including CEQA and NEPA compliance, surveying, testing, preparation of plans and specifications, description of construction phasing plan, estimate of probable construction costs, preparation of bid documents, review of construction contract bids, recommendation for award, construction inspection and review and construction administration.

These services shall be in accordance with Caltrans standards, FHWA standards, and the City's standards.

The selected Engineering Firm must comply with Government Code Section 8355 in matters relating to providing a drug-free workplace.

The Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31 et. seq., are the governing factors regarding allowable elements of cost. Also, the Agreement will include the administrative requirements set forth in 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. This also applies to all subcontracts in excess of \$25,000.

The selected firm shall comply with CFR Title 49, Part 29, Debarment and Suspension Certificate, refer to Exhibit 12-E "Debarment and Suspension Certificate" in Chapter 12 of the Caltrans Local Assistance Manual

The selected Engineering Firm shall verify and meet all requirements for California State Prevailing Wage Section 1720 of the State Labor Code. Wage guidelines entitled, Consultant Guidelines for Prevailing Wage and Labor Compliance on Architectural and Engineering (A&E) Contracts is used to administer Caltrans Consultant contracts. Wage information is available through the Caltrans Division of Labor Assistance website. The selected Engineering Firm shall meet and conform to Exhibit 10-N "Accounting and Auditing Guidelines for Contracts with Caltrans" in Chapter 10 of the Local Assistance Procedures Manual.

This solicitation is subject to Title 49, Code of Federal Regulations, Part 26 (49 CFR 26) entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs." Disadvantaged Business Enterprise (DBE) and Underutilized DBE (UDBE) participation goals have been waived for this solicitation. Although DBE goals have been waived for this solicitation, The City of Barstow and Caltrans encourages the participation of DBEs and UDBEs, as defined in 49 CFR 26, in performing contracts financed in whole or in part with federal funds.

Information about the Federal DBE Program is available at:

<http://osdbu.dot.gov/DBEProgram/dbeprogram.cfm> or <http://www.dot.ca.gov/hq/bep/>.

The selected Engineering Firm shall verify and meet all requirements of the Federal Lobbying Restrictions, Title 31, U.S.C. Section 1352.

For FHWA services, the selected Firm shall verify and meet all requirements of:

1. Notice to Proposers – Disadvantaged Business Enterprise Information (Exhibit 10-01)
2. Standard Agreement for Subcontractors/DBE Participation (Exhibit 10-J)
3. Non-lobbying Certification for Federal-aid Contracts (Exhibit 10-P)
 - a. These documents are available in Chapter 10 of the Caltrans Local Assistance Procedures Manual. By submitting a proposal the submitting Firm agrees to abide by the rules and regulations set forth in these documents.
 - b. The following documents available in the Caltrans Local Assistance Procedures Manual must be completed and included in the RFP submittal:
 - i. Local Agency Proposer UDBE Commitment (Exhibit 10-01)
 - ii. Local Agency Proposer DBE Information (Exhibit 10-02)

iii. Disclosure of Lobbying Activities (Exhibit 10-Q)

- c. Proposals will be evaluated separately based on the qualifications and experience of the engineering firm specific to the following FHWA services:
- i. Firm name, contact person, address, telephone and fax numbers, and email address.
 - ii. Type of organization (individual, partnership, or corporation).
 - iii. Firm principal(s) who will be responsible for the contract, their education, credentials, and experience.
 - iv. Present staff – number and classification.
 - v. List of relevant project experience in the past five years, including location and type of project. Provide the name and telephone number of a reference for each project listed.
 - vi. Indicate familiarity with Caltrans and FHWA funding procedures.

List all relevant state and federal grant applications and funded experience.

6. – Other Engineering Services

Describe your ability and relevant experience performing the following Engineering Services:

1. Permitting Support Services
2. Subsurface utility engineering
3. Traffic Engineering & Planning
4. Landscape Plan Approval in Compliance with California's Model Water Efficiency Landscape Ordinance

Task B – Land Surveying Services

Land survey services are the activities of measuring and mapping the features and boundaries of a land area. Land surveyors use various methods and tools, such as GPS, laser scanning, aerial photography, and mathematical calculations, to collect and analyze data about the land.

The selected service provider shall be equipped to provide state of the art and innovative surveying services and technology. The service provider shall provide but not be limited to develop, review, comment, and/or perform the following:

- A.L.T.A Surveys
- Bench Mark Establishment
- Boundary Surveys
- Centerline and Corner Control Establishment and review.
- Control or Construction Staking
- Determine property ownership and legal boundaries
- Establishing geodetic control points for accurate positioning
- G.P.S. Surveys and Control
- Right of Way Acquisitions
- Legal Easements
- Map Review (Parcel, Tracts, Record of Surveys and etc.)
- Monument Review and Enforcement
- Topographic Surveys

Task C – Construction Management, Geotechnical & Environmental Service, Material Testing and Special Inspection

1. **Construction Management**

The selected service provider will be responsible for construction management which may consist of but not limited to reviewing, developing, or providing the following:

- Strategic Planning
- Design Development and Funding
- Design Coordination
- Contract/Project Management
- Estimating and Budget Analysis
- Specification Compliance
- Inspection Coordination
- Cost Control
- Project Administration
- Correspondences
- Site Operations
- Federal Project
- State Projects
- Progress Payments
- Change Orders

Construction Management may be involve the following

- | | |
|------------------------|-----------------------|
| Commercial | Medical Facilities |
| Educational Facilities | Plant Process |
| Federal Funded Project | Private Development |
| Health and Safety | Public Works Projects |
| High Rise Structures | Retail |
| Industrial | State Funded Projects |
| Mass Grading / Grading | Utility |

2. **Geotechnical & Environmental Services**

Utilizing experience, capabilities, and laboratories, the service provider may be required but not limited to review, comment, develop, or provide the following:

- | | |
|-----------------------------|---|
| Fault Investigation | Pavement and Sub-structure design recommendations |
| Geologic Studies | Percolation Testing |
| Geotechnical investigations | Phase I Environmental Studies |
| Geologic Hazards | Phase II Environmental Studies |
| Liquefaction Analysis | Seismic Hazard Analysis |
| Natural Hazards | |

3. **Inspection and Material Testing**

Inspection

Inspection services for public works, development, and private projects are crucial to ensure the quality, safety, and compliance of the construction process with the established standards and regulations. Here are some of the key services that are typically provided but not limited to:

1. **Pre-Construction Inspection:** This involves reviewing the project plans, specifications, and contract documents to identify any potential issues or discrepancies before construction begins.
2. **Construction Inspection:** This includes regular on-site inspections to monitor the progress of the work, verify the quality of materials and workmanship, and ensure adherence to the project plans and specifications.
3. **Safety Inspection:** Inspectors check for compliance with safety regulations to protect workers and the public. This includes inspecting scaffolding, trenches, fall protection systems, and other safety-related aspects.
4. **Compliance Inspection:** This involves verifying that the project complies with all relevant building codes, environmental regulations, and other legal requirements.
5. **Final Inspection:** Upon completion of the project, a thorough inspection is conducted to ensure that all work has been completed correctly and according to the contract documents. Any deficiencies or non-compliance issues are identified for correction.
6. **Documentation:** Throughout the project, inspectors document their findings, maintain inspection records, and prepare reports detailing their observations and any issues identified.

These services help to ensure that public works projects are completed safely, on time, within budget, and to the required quality standards.

Material Testing

Material testing for public works projects is a critical process that ensures the materials used in the construction meet the required standards and specifications. Here's a description of the process:

1. **Sample Collection:** Samples of materials are collected from the project site. These can include soil, concrete, asphalt, steel, and other construction materials.
2. **Laboratory Testing:** The samples are sent to a laboratory where they undergo various tests. These tests can determine properties such as strength, durability, permeability, and composition.
3. **Field Testing:** Some tests are conducted on-site to assess conditions and properties that may be affected by the environment or that change over time.
4. **Strength Testing:** This involves applying forces to a material until it fails or breaks. The results help determine if the material can withstand the loads and stresses it will face in the structure.
5. **Durability Testing:** These tests measure how well the material can resist weathering, decay, and other forms of degradation.
6. **Chemical Analysis:** This identifies the chemical composition of materials, which can affect their behavior and compatibility with other materials.
7. **Reporting:** After testing, a report is prepared detailing the findings and whether the materials meet the project's requirements.

Material testing is essential for public works projects as it helps prevent future problems such as structural failures or premature wear and tear, ensuring the safety and longevity of the structures.

The service provider may be responsible for sending the materials to be tested in a laboratory. The City of Barstow does not have a testing laboratory. Service providers must be aware of the project budget and be able to get testing within the allocated budget.

Utilizing experience, capabilities, and laboratories, the service provider may be required but not limited to review, comment, develop or provide the following:

- Concrete testing and inspection
- Masonry testing and inspection
- Soil testing and inspection
- Aggregate testing and inspection
- Concrete vapor emissions testing
- High strength bolting inspection
- Post Tensioned Concrete
- Structural Steel Testing and inspection
- Asphalt paving testing and inspection
- Concrete paving testing and inspection
- Spray-applied fireproofing
- Weld inspection and certification
- Grading Observation
- Quality Assurance/Quality Control



Notice of Intent to Respond

Request for Qualification / Request for Proposals (RFP-1901)

The purpose of this Notice is to help the City of Barstow manage information and to ensure communications directed to prospective respondents reach its intended recipients. Answers to questions raised during the Pre-Submission period. Addendums to the RFP will be sent to organizations that complete and return a "Notice of Intent to Respond". By completing this Notice, the undersigned is not bound to submit a response.

The City will only initiate continuing communication about the RFP with firms and individuals that return the *Notice of Intent to Respond* by November 27, 2023. The authorized representative will serve as the single point of contact with the respondent throughout the selection process and all communications to the respondent will be addressed to the authorized representative.

The *Notice of Intent to Respond* should be completed and an electronic version returned by e-mail to Kody Tompkins, Professional Engineering and Surveying Services, Administrator, City of Barstow, ktompkins@barstowca.org. Questions or requests should be communicated by e-mail only to Kody Tompkins: ktompkins@barstowca.org.

Organization or Team Name: _____

Authorized Representative: _____

Authorized Representative Contact Information:

Street Address: _____

P.O. Box _____ Suite or Floor#: _____

State: _____ Zip Code: _____

City: _____

Ext.: _____ Fax: _____

Telephone _____

E-mail: _____



ACKNOWLEDGEMENT RECEIPT OF ADDENDUM(S)

Company/Organization: _____

Address: _____

City, State, Postal Code _____

Total Number of Addendum(s) _____

I hereby acknowledge by signing this form, that our firm has receipt of all Addenda issued.

Signed

Date

Printed or Typed Name

Title



Sample Professional Service Agreement (PSA)

PROFESSIONAL SERVICES AGREEMENT

(City of Barstow/_____ Corporation)

1. IDENTIFICATION

THIS PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is entered into by and between the City of Barstow, a California municipal corporation (“City”), and _____, a _____ Corporation (“Consultant”).

2. RECITALS

- 2.1 City has determined that it requires the following professional services from a consultant: _____.
- 2.2 Consultant represents that it is fully qualified to perform such professional services by virtue of its experience and the training, education, and expertise of its principals and employees. Consultant further represents that it is willing to accept responsibility for performing such services in accordance with the terms and conditions set forth in this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, City and Consultant agree as follows:

3. DEFINITIONS

- 3.1 “Scope of Services”: Such professional services as are set forth in Consultant’s proposal to City attached hereto as Exhibit A and incorporated herein by this reference.
- 3.2 “Approved Fee Schedule”: Such compensation rates as are set forth in Consultant’s fee schedule to City attached hereto as Exhibit B and incorporated herein by this reference.
- 3.3 “Commencement Date”: _____.
- 3.4 “Expiration Date”: _____.

4. TERM

The term of this Agreement shall commence at 12:00 a.m. on the Commencement Date and shall expire at 11:59 p.m. on the Expiration Date unless extended by written agreement of the parties or terminated earlier in accordance with Section 17 (“Termination”) below.

5. CONSULTANT'S SERVICES

- 5.1 Consultant shall perform the services identified in the Scope of Services. The City shall have the right to request, in writing, changes in the Scope of Services. Any such changes mutually agreed upon by the parties, and any corresponding increase or decrease in compensation shall be incorporated by written amendment to this Agreement. In no event shall the total compensation and costs payable to Consultant under this Agreement exceed the sum of _____.(_____) unless specifically approved in advance and in writing by the City.
- 5.2 Consultant shall obtain a City business license prior to commencing performance under this Agreement.
- 5.3 Consultant shall perform all work to the highest professional standards of Consultant's profession and in a manner reasonably satisfactory to City. Consultant shall comply with all applicable federal, state, and local laws and regulations, including the conflict of interest provisions of Government Code Section 1090 and the Political Reform Act (Government Code Section 81000 *et seq.*).
- 5.4 During the term of this Agreement, Consultant shall not perform any work for another person or entity for whom Consultant was not working at the Commencement Date if both (i) such work would require Consultant to abstain from a decision under this Agreement pursuant to a conflict of interest statute and (ii) City has not consented in writing to Consultant's performance of such work.
- 5.5 Consultant represents that it has, or will secure at its own expense, all personnel required to perform the services identified in the Scope of Services. All such services shall be performed by the Consultant or under its supervision, and all personnel engaged in the work shall be qualified to perform such services. _____ shall be the Consultant's project administrator and shall have direct responsibility for the management of the Consultant's performance under this Agreement. No change shall be made in the Consultant's project administrator without the City's prior written consent.
- 5.6 Consultant has represented to the City that key personnel will perform and coordinate the services under this Agreement. Should one or more of such personnel become unavailable, the Consultant may substitute other personnel of

at least equal competence upon written approval of the City. If the City and Consultant cannot agree as to the substitution of key personnel, the City may terminate this Agreement for cause.

- 5.7 Consultant shall not be reimbursed for any expenses unless provided for in this Agreement or authorized in writing by City in advance.

6. COMPENSATION

- 6.1 City agrees to compensate Consultant for the services provided under this Agreement, and Consultant agrees to accept in full satisfaction for such services, payment in accordance with the Approved Fee Schedule.

- 6.2 Consultant shall submit to City an invoice, on a monthly basis or less frequently, for the services performed pursuant to this Agreement. Each invoice shall itemize the services rendered during the billing period and the amount due. Within ten business days of receipt of each invoice, the City shall notify the Consultant in writing of any disputed amounts included on the invoice. Within thirty calendar days of receipt of each invoice, the City shall pay all undisputed amounts included on the invoice. The City shall not withhold applicable taxes or other authorized deductions from payments made to the Consultant.

- 6.3 Payments for any services requested by the City and not included in the Scope of Services shall be made to the Consultant by the City on a time-and-materials basis using the Consultant's standard fee schedule. Consultant shall be entitled to increase the fees in this fee schedule at such time as it increases its fees for its clients generally; provided, however, in no event shall Consultant be entitled to increase fees for services rendered before the thirtieth day after Consultant notifies City in writing of an increase in that fee schedule. Fees for such additional services shall be paid within sixty days of the date the Consultant issues an invoice to the City for such services.

7. OWNERSHIP OF WRITTEN PRODUCTS

- 7.1 All reports, documents, or other written material ("written products" herein) developed by Consultant in the performance of this Agreement shall be and remain the property of City without restriction or limitation upon its use or dissemination by City. Consultant may take and retain copies of such written

products as desired, but no such written products shall be the subject of a copyright application by Consultant

- 7.2 Consultant represents and warrants that Consultant has the legal right to utilize all intellectual property Consultant will utilize in the performance of its obligations pursuant to this Agreement. Consultant further represents that Consultant shall ensure City has the legal right to utilize all intellectual property involved in and/or resulting from Consultant's performance of this Agreement.

8. RELATIONSHIP OF PARTIES

The Consultant is, and shall at all times remain as to City, a wholly independent contractor. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise to act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees, except as set forth in this Agreement. Consultant shall not represent that it is, or that any of its agents or employees are, in any manner employees of City.

9. CONFIDENTIALITY

All data, documents, discussion, or other information developed or received by Consultant or provided for the performance of this Agreement are deemed confidential and shall not be disclosed by Consultant without prior written consent by City. The City shall grant such consent if the disclosure is legally required. Upon request, all City data shall be returned to the City upon the termination or expiration of this Agreement.

10. INDEMNIFICATION

- 10.1 The parties agree that the City, its officers, agents, employees, and volunteers should, to the fullest extent permitted by law, be protected from any and all loss, injury, damage, claim, lawsuit, cost, expense, attorneys' fees, litigation costs, or any other cost arising out of or in any way related to the performance of this Agreement. Accordingly, the provisions of this indemnity provision are intended by the parties to be interpreted and construed to provide the City with the fullest protection possible under the law. Consultant acknowledges that City would not enter into this Agreement in the absence of Consultant's commitment to indemnify and protect City as set forth herein.
- 10.2 To the fullest extent permitted by law, Consultant shall indemnify, hold harmless, and when the City requests with respect to a claim provide a deposit for the defense of and defend City, its officers, agents, employees, and volunteers from and against any and all claims and losses, costs or expenses for any damage due to death or injury to any person, whether physical, emotional, consequential or otherwise, and injury to any property arising out of or in connection with Consultant's alleged negligence, recklessness or willful misconduct or other wrongful acts, errors or omissions of Consultant or any of its officers, employees, servants, agents, or subcontractors, or anyone directly or indirectly employed by either Consultant or its subcontractors, in the performance of this Agreement or its failure to comply with any of its obligations contained in this Agreement, except such loss or damage which is caused by the sole active negligence or willful misconduct of the City. Such costs and expenses shall include reasonable attorneys' fees due to counsel of the City's choice, expert fees, and all other costs and fees of litigation. Consultant shall not be entitled to any refund of attorney's fees, defense costs, or expenses in the event that it is adjudicated to have been non-negligent.
- 10.3 City shall have the right to offset against the amount of any compensation due Consultant under this Agreement any amount due City from Consultant as a result of Consultant's failure to pay City promptly any indemnification arising under this Section 10 and related to Consultant's failure to either (i) pay taxes on amounts received pursuant to this Agreement or (ii) comply with applicable workers' compensation laws.

- 10.4 The obligations of the Consultant under this Section 10 will not be limited by the provisions of any workers' compensation act or similar act. Consultant expressly waives its statutory immunity under such statutes or laws as to City, its officers, agents, employees, and volunteers.
- 10.5 Consultant agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this Section 10 from each and every subcontractor or any other person or entity involved by, for, with, or on behalf of Consultant in the performance of this Agreement. In the event Consultant fails to obtain such indemnity obligations from others as required herein, to the fullest extent permitted by law, Consultant agrees to be fully responsible and indemnify, hold harmless, and defend City, its officers, agents, employees, and volunteers from and against any and all claims and losses, costs or expenses for any damage due to death or injury to any person and injury to any property resulting from any alleged intentional, reckless, negligent, or otherwise wrongful acts, errors or omissions of Consultant's subcontractors or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. Such costs and expenses shall include reasonable attorneys' fees incurred by counsel of the City's choice.
- 10.6 City does not, and shall not, waive any rights that it may possess against Consultant because of the acceptance by City, or the deposit with City, of any insurance policy or certificate, required pursuant to this Agreement. This holds harmless and the indemnification provision shall apply regardless of whether or not any insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost, or expense.

11. INSURANCE

- 11.1 During the term of this Agreement, Consultant shall carry, maintain, and keep in full force and effect insurance against claims for death or injuries to persons or damages to property that may arise from or in connection with Consultant's performance of this Agreement.
- 11.2 Any available insurance proceeds broader than or in excess of the specified minimum Insurance coverage requirements or limits shall be available to the Additional Insured. Furthermore, the requirements for coverage and limits shall be the greater of (1) the minimum coverage and limits specified in this Agreement, or (2) the broader coverage and maximum limits of coverage of any Insurance

policy or proceeds available to the named Insured.

- 11.3 Insurance required under this Agreement shall be of the types set forth below, with minimum coverage as described:
- 11.3.1 Comprehensive General Liability Insurance with coverage limits of not less than One Million Dollars (\$1,000,000) including products and operations hazard, contractual insurance, broad form property damage, independent consultants, personal injury, underground hazard, and explosion and collapse hazard where applicable.
 - 11.3.2 Automobile Liability Insurance for vehicles used in connection with the performance of this Agreement with minimum limits of One Million Dollars (\$1,000,000) per claimant and One Million dollars (\$1,000,000) per incident.
 - 11.3.3 Worker's Compensation insurance as required by the laws of the State of California.
 - 11.3.4 Professional Errors and Omissions Insurance with coverage limits of not less than One Million Dollars (\$1,000,000).
- 11.4 Consultant shall require each of its subcontractors to maintain insurance coverage that meets all of the requirements of this Agreement.
- 11.5 The policy or policies required by this Agreement shall be issued by an insurer admitted in the State of California and with a rating of at least A: VII in the latest edition of Best's Insurance Guide.
- 11.6 Consultant agrees that if it does not keep the aforesaid insurance in full force and effect, City may either (i) immediately terminate this Agreement; or (ii) take out the necessary insurance and pay, at Consultant's expense, the premium thereon.
- 11.7 At all times during the term of this Agreement, Consultant shall maintain on file with the City's Risk Manager a certificate or certificates of insurance showing that the aforesaid policies are in effect in the required amounts and naming the City and its officers, employees, agents, and volunteers as additional insureds. Consultant shall, prior to commencement of work under this Agreement, file with City's Risk Manager such certificate(s).
- 11.8 Consultant shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other

policies providing at least the same coverage. Such proof will be furnished at least two weeks prior to the expiration of the coverages.

- 11.9 The general liability and automobile policies of insurance required by this Agreement shall contain an endorsement naming the City and its officers, employees, agents, and volunteers as additional insureds. All of the policies required under this Agreement shall contain an endorsement providing that the policies cannot be canceled or reduced except on thirty days prior written notice to the City. Consultant agrees to require its insurer to modify the certificates of insurance to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, and to delete the word "endeavor" with regard to any notice provisions.
- 11.10 The insurance provided by the Consultant shall be primary to any coverage available to the City. Any insurance or self-insurance maintained by the City and/or its officers, employees, agents, or volunteers, shall be in excess of the Consultant's insurance, and shall not contribute to it.
- 11.11 All insurance coverage provided pursuant to this Agreement shall not prohibit Consultant, and Consultant's employees, agents, or subcontractors, from waiving the right of subrogation prior to a loss. Consultant hereby waives all rights of subrogation against the City.
- 11.12 Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, the Consultant shall either reduce or eliminate the deductibles or self-insured retentions with respect to the City, or the Consultant shall procure a bond guaranteeing payment of losses and expenses.
- 11.13 Procurement of insurance by Consultant shall not be construed as a limitation of Consultant's liability or as full performance of Consultant's duties to indemnify, hold harmless, and defend under Section 10 of this Agreement.
- 11.14 Consultant shall report to the City, in addition to the Consultant's insurer, any and all insurance claims submitted to the Consultant's insurer in connection with the services under the Agreement.
- 11.15 Consultant may be self-insured under the terms of this Agreement only with express written approval from the City.

11.15.1 All self-insured retentions (SIR) must be disclosed to the City for approval and shall not reduce the limits of liability.

11.15.2 Policies containing any SIR provision shall provide or be endorsed to provide that the SIR may be satisfied by either the names Insured or the City.

11.16 City reserves the right to obtain a full certified copy of any Insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of the right to exercise later.

12. MUTUAL COOPERATION

12.1 City shall provide Consultant with all pertinent data, documents, and other requested information as is reasonably available for the proper performance of Consultant's services under this Agreement.

12.2 In the event any claim or action is brought against the City relating to the Consultant's performance in connection with this Agreement, the Consultant shall render any reasonable assistance that the City may require.

13. RECORDS AND INSPECTIONS

Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to City under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to Consultant under this Agreement. All such documents shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the City. In addition, pursuant to Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds ten thousand dollars, all such documents and this Agreement shall be subject to the examination and audit of the State Auditor, at the request of the City or as part of any audit of City, for a period of three (3) years after final payment under the Agreement.

14. PERMITS AND APPROVALS

Consultant shall obtain, at its sole cost and expense, all permits and regulatory approvals necessary in the performance of this Agreement. This includes, but shall not be limited to, encroachment permits and building and safety permits and inspections.

15. NOTICES

Any notices, bills, invoices, or reports required by this Agreement shall be deemed received on: (i) the day of delivery if delivered by hand, facsimile, or overnight courier service during Consultant's and City's regular business hours; or (ii) on the third business day following deposit in the United States mail if delivered by mail, postage prepaid, to the addresses listed below (or to such other addresses as the parties may, from time to time, designate in writing).

If to City

City of Barstow

Attention: City Manager

220 E. Mt. View Street, Ste. A

Barstow, CA 92311

Telephone: (760) 256-3531

Facsimile: (760) 256-4472

If to Consultant:

Attention: Project Manager

Telephone: _____

Facsimile: _____

With a courtesy copy to:

Matthew Summers

City Attorney

Colantuono, Highsmith & Whatley, PC

300 S. Grand Ave, Suite 2700

Los Angeles, CA 90071-3137

Telephone: (213) 542-5711

Facsimile: (213) 542-5710

16. SURVIVING COVENANTS

The parties agree that the covenants contained in Section 9, Section 10, Paragraph 12.2, and Section 13 of this Agreement shall survive the expiration or termination of this Agreement.

17. TERMINATION

17.1. City shall have the right to terminate this Agreement for any reason on five calendar days' written notice to Consultant. Consultant shall have the right to terminate this Agreement for any reason on sixty calendar days' written notice to City. Consultant agrees to cease all work under this Agreement on or before the effective date of any notice of termination. All City data, documents, objects, materials, or other tangible things shall be returned to the City upon the termination or expiration of this Agreement.

17.2 If the City terminates this Agreement due to no fault or failure of performance by the Consultant, then the Consultant shall be paid based on the work satisfactorily performed at the time of termination. In no event shall the Consultant be entitled to receive more than the amount that would be paid to the Consultant for the full performance of the services required by this Agreement.

18. GENERAL PROVISIONS

18.1 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 contingents upon or resulting from the award or making of this Agreement. Consultant further

agrees to file or shall cause its employees or subcontractor to file, a Statement of Economic Interest with the City's Filing Officer if required under state law in the performance of the services. For breach or violation of this warranty, the City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer, or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

- 18.2 Consultant shall not delegate, transfer, sub-contract, or assign its duties or rights hereunder, either in whole or in part, without City's prior written consent, and any attempt to do so shall be void and of no effect. The City shall not be obligated or liable under this Agreement to any party other than the Consultant.
- 18.3 This Agreement shall be binding on the successors and assigns of the parties. Except as expressly stated herein, there is no intended third-party beneficiary of any right or obligation assumed by the parties.
- 18.4 Time is of the essence for each and every provision of this Agreement.
- 18.5 In the performance of this Agreement, Consultant shall not discriminate against any employee, subcontractor, or applicant for employment because of race, color, creed, religion, sex, marital status, sexual orientation, national origin, ancestry, age, physical or mental disability or medical condition or any other unlawful basis.
- 18.6 The captions appearing at the commencement of the sections hereof, and in any paragraph thereof, are descriptive only and for convenience in reference to this Agreement. Should there be any conflict between such heading, and the section or paragraph thereof at the head of which it appears, the section or paragraph thereof, as the case may be, and not such heading, shall control and govern in the construction of this Agreement. Masculine or feminine pronouns shall be substituted for the neuter form and vice versa, and the plural shall be substituted for the singular form and vice versa, in any place or places herein in which the context requires such substitution(s).
- 18.7 The waiver by the City or Consultant of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, or condition or any subsequent breach of the same or any other term, covenant, or condition herein contained. No term, covenant, or condition of this

Agreement shall be deemed to have been waived by the City or Consultant unless in writing.

- 18.8 Consultant shall not be liable for any failure to perform if Consultant presents acceptable evidence, in City's sole judgment that such failure was due to causes beyond the control and without the fault or negligence of Consultant.
- 18.9 Each right, power, and remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise shall be cumulative and shall be in addition to every other right, power, or remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise. The exercise, the commencement of the exercise, or the forbearance of the exercise by any party of any one or more of such rights, powers, or remedies shall not preclude the simultaneous or later exercise by such party of any of all of such other rights, powers, or remedies. In the event legal action shall be necessary to enforce any term, covenant, or condition herein contained, the party prevailing in such action, whether reduced to judgment or not, shall be entitled to its reasonable court costs, including accountants' fees, if any, and attorneys' fees expended in such action. The venue for any litigation shall be San Bernardino County, California.
- 18.10 If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, then such term or provision shall be amended to, and solely to, the extent necessary to cure such invalidity or unenforceability, and in its amended form shall be enforceable. In such event, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.
- 18.11 This Agreement shall be governed and construed in accordance with the laws of the State of California.
- 18.12 All documents referenced as exhibits in this Agreement are hereby incorporated into this Agreement. In the event of any material discrepancy between the express provisions of this Agreement and the provisions of any document incorporated herein by reference, the provisions of this Agreement shall prevail. This instrument contains the entire Agreement between the City and the Consultant with respect to the transactions contemplated herein. No other prior

oral or written agreements are binding upon the parties. Amendments hereto or deviations therefrom shall be effective and binding only if made in writing and executed by the City and Consultant.

TO EFFECTUATE THIS AGREEMENT, the parties have caused their duly authorized representatives to execute this Agreement on the dates set forth below.

“City”

“Consultant”

City of Barstow

By: _____

By: _____

City Manager

Date: _____

Date: _____

By: _____

Date: _____

Attest:

By _____

, City Clerk

Date: _____

Approved as to form:

By _____
Matthew T. Summers, City Attorney

DRAFT

EXHIBIT A
SCOPE OF WORK

EXHIBIT B
APPROVED FEE SCHEDULE