



**Cathedral City**

**REQUEST FOR CONSULTANT PROPOSALS**

**FOR**

**PROFESSIONAL SERVICES  
FOR ANNEXATION ANALYSIS  
AND  
PUBLIC OUTREACH**

City of Cathedral City  
Business Development Manager  
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Cathedral City, California 92234  
(760) 770-0386

**May 23, 2018**

# REQUEST FOR PROPOSALS

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**CITY OF CATHEDRAL CITY**  
**REQUEST FOR CONSULTANT PROPOSALS**  
**FOR**  
**PROFESSIONAL PLANNING SERVICES**  
**FOR ANNEXATION ANALYSIS**  
**AND PUBLIC OUTREACH**

The City of Cathedral City is seeking proposal from experienced firms to assist the City with a study for potential annexation(s) and the public outreach integral to that analysis.

1. INTRODUCTION

The City of Cathedral City, California was incorporated on November 16, 1981 as the 18<sup>th</sup> city in Riverside County. It is located in western Coachella Valley and is bounded by the cities of Palm Springs on the west and Rancho Mirage to the east. The City abuts the foothills of the San Jacinto Mountains to the south and stretches north across Interstate 10 (I-10) to Edom Hill.

The developed portions of the City south of I-10 are predominantly flat, gradually rising south to north from an elevation of approximately 300 feet near Highway 111 (East Palm Canyon Drive) to approximately 600 feet near the base of Edom Hill. An exception is the Cathedral City Cove residential area to the very south end of the City, which rises up an alluvial fan to approximately 700 feet.

The City ranks in the top three Coachella Valley cities in population and size with a population of approximately 54,000 and corporate boundaries that encompass 22.6 square miles in area. The City's sphere of influence (SOI) was expanded to include approximately 14.2 square miles in 2011 in two separate actions by the Riverside Local Agency Formation Commission (LAFCO). The Agua Caliente Band of Cahuilla Indians own multiple sections of land within the City's boundaries and SOI. Approximately 682 acres of the sphere area was recently annexed into the City through a private annexation. The North City Extended Specific Plan was adopted by the City Council and established zoning for this area.

The City employs the Council-Manager form of government. In 2016, voters approved changing Cathedral City's designation from a general law to a charter city. The Charter commits the City to change the election of city council members from "at-large" to by-districts" no later than the November 2022 election or when the City's population reaches 65,000. In November 2018, the first districts will hold by-district elections and the remaining district elections will be held in November 2020. Beginning with the 2018 election, the mayor will rotate annually among the council members.

The City of Cathedral City is rated as one of the safest cities in Southern California. The City operates its own Police and Fire Departments and does not contract public safety services through Riverside County. A full range of other municipal services, including public works; maintenance of roads and facilities; planning and zoning; engineering; code compliance; and general administrative support is provided by the City.

Coachella Valley Water District (CVWD) and Desert Water Agency (DWA) provide the City's water and wastewater services. Flood control within the City is addressed by both CVWD and Riverside County Flood Control District. Southern California Edison provides electric service and The Gas Company provides gas service within the City.

The City Council and City Staff pride themselves on high quality delivery of services to residents. The City is clean, well maintained, and well managed. The City's General Plan, which establishes policy for the future growth of the City, was adopted in 2002. It is currently undergoing a complete update.

## 2. BACKGROUND

The City is seeking analytical, planning, and community outreach services to analyze a potential future annexation(s) of all or portions of the City's SOI. A map showing the City's current municipal boundaries and SOI area is attached.

SOIs are used as a planning tool for agencies to conduct service and facility planning for areas it intends to serve in the future. According to LAFCO, a SOI is defined as "a plan for expansion of the probable physical boundary and service area of a local agency, as determined by the Commission."

On January 27, 2011, Riverside LAFCO approved a SOI amendment (addition) to the City consisting of approximately 4,025 acres within unincorporated Riverside County. The area is generally located east of Da Vall Road, north of Interstate 10, south of Edom Hill Landfill and west of Rio del Sol Road. The portion of the City that abuts this area to the west is known as "North City" consistent with the name of the specific plan that established zoning for that area. The sphere amendment was initiated by the City for an area that was generally vacant and undeveloped at the time. It was anticipated that the City would seek to annex portions of this SOI in the future and potentially amend the North City Specific Plan to include the area. At the time the sphere expansion was approved, there was no other existing SOI area located beyond the City's municipal boundaries and thus the expanded sphere provided the City with its only reasonable future growth area.

The southern two-thirds of this sphere area overlapped the Thousand Palms Community Council boundaries and represented approximately 12 percent of the nearly 23,000-acre Community Council area. Much of the area is steeply sloped and within the Coachella Valley Multiple Species Habitat Conservation Plan area (MSHCP).

LAFCO first considered the City's request for the sphere expansion in 2008. The item was continued numerous times prior to the Commission's approval in 2011. During that period, many discussions were held with various community group representatives and the Thousand Palms Community Council. The primary focus of these discussions was preservation of Thousand Palms as a community in its entirety. Several groups indicted support for the proposed sphere expansion; however, many residents of Thousand Palms expressed opposition. Two major homeowner associations in the community and the Chamber of Commerce indicated support if the expansion covered all of Thousand Palms, not just the 4,100 acres. The Community Council was split in its decision to support Cathedral City's proposed sphere expansion and indicated they would support the City's request only if the entire unincorporated Thousand Palms area was included in the SOI.

On December 8, 2010, the City Council for Cathedral City adopted a resolution directing City Staff to prepare a second SOI amendment application to add the majority of the remaining Thousand Palms Community Planning Area to its sphere, pending approval by LAFCO of the initial 4,025-acre sphere expansion. Supervisor John Benoit submitted a letter to LAFCO on January 18, 2011, in support of Cathedral City's request to include the initial area into its SOI with the understanding the City would immediately file with LAFCO a SOI amendment application for the remainder of unincorporated Thousand Palms. LAFCO subsequently approved the initial SOI expansion ("SOI Area A" per Attachment I). Cathedral City followed this approval by submitting an application to LAFCO to further expand the City's SOI by adding an approximate 5,100 acres within the Thousand Palms boundaries. On September 29, 2011, LAFCO approved that application ("SOI Area B"), bringing the total number of land within Cathedral City's SOI to approximately 14.2 square miles.

LAFCO subsequently received a request for reconsideration by a landowner to exclude 700 acres from the approved SOI. At its December 8, 2011, hearing, the Commission denied the request for reconsideration on a 5-1 vote.

On January 15, 2015, LAFCO approved a private annexation application (the Messenger Annexation) to expand the City's municipal boundaries by approximately 682 acres that lay within the City's SOI. This area is generally located between I-10 and Varner Road, east of Da Vall Drive and west of Rio del Sol Road.

The City is now seeking consultant services to evaluate the feasibility of expanding the City's municipal boundaries within the remainder of its SOI as shown on Attachment I.

### 3. SCOPE OF WORK

#### PHASE 1: Annexation Study

The scope of work should include the following:

- Prepare a work program for an Annexation Study that contemplates one or more alternative annexation scenarios.

- Review existing related documents.
- Review and analyze the study area's natural environmental features and constraints.
- Review and analyze current and potential land uses and zoning designations.
- Review potential facility and service needs for the study area regarding streets and road maintenance, public safety (police and fire protection), park and recreation, solid waste, library, animal control, and other public services.
- Prepare a financial assessment of projected revenues and expenses, and the impacts on City operations, public services and infrastructure for various annexation scenarios.
- Assess and advise regarding existing and pending policies, regulations, and laws that may benefit or impair expansion.
- Provide community outreach, as needed, during the term of the Study to respond to inquiries and inform the public.
- Finalize the Annexation Study to include recommendations with regard to the City's potential boundary expansion.
- Present findings and recommendations to the Cathedral City Planning Commission and subsequently to the City Council.
- Receive direction regarding Phase 2

Optional Phase 2 – Annexation Application (pending direction to proceed)

The Scope of Work should include the following:

- Provide Staff support in preparing General Plan land use and pre-zoning designations for the proposed annexation area(s).
- Prepare the appropriate environmental document per the California Environmental Quality Act (CEQA).\*
- Prepare a Plan of Services for the proposed annexation area(s).
- Prepare a Fiscal Impact Report for the proposed annexation area(s) if greater than 100 acres.
- Provide all engineering and survey data maps as required.
- Conduct broad public outreach to identify community awareness, receptiveness and/or opposition, and to garner support through a defined public information program.
- Prepare an Annexation Application for submittal to Riverside LAFCO, with required documentation for the proposed annexation area(s).

NOTE: \*The Consultant shall prepare all noticing documents, be the primary participant at all public hearings for environmental review, and prepare a final environmental document for certification by the City Council.

#### 4. SCOPE OF SERVICES

Services to be provided by the selected Consultant include the following:

1. Establish one individual who will serve as Consultant's Project Manager and point of contact for all services performed under contract.
2. Work as an extension of City Staff. Maintain an open dialogue with Staff and work closely with the City Project Manager as the analysis progresses.
3. Notify the City Project Manager when contacting City Staff for necessary information and technical input.
4. Notify the City Project Manager of all contacts with community members.
5. Prepare agendas and exhibits, and conduct meetings and workshops as needed to complete the Scope of Work.
6. Comply with Riverside LAFCO guidelines and requirements.
7. Be prepared to provide services to complete Phase 2 per Council direction.

#### 5. AVAILABLE DOCUMENTS

The following documents are available upon request for Consultants responding to the Request for Proposals (RFP). Some of these documents are available in hard copy upon receipt of payment for copying costs.

1. City of Cathedral City Professional Consultant Services Agreement Template
2. 2002 City General Plan
3. City Municipal Code
4. The City's Operating and Capital Budgets
5. Master Property Tax Transfer Agreement between the City and Riverside County
6. North City Specific Plan
7. North City Extended Specific Plan
8. Riverside LAFCO Application Packet
9. Riverside LAFCO Municipal Services Review
10. North City Annexation Fiscal Analysis, Plan of Services and related documents
11. North City Extended Annexation Fiscal Analysis, Plan of Services and related documents
12. SOI Area A LAFCO application and related documents
13. SOI Area B LAFCO application and related documents

## 6. SCHEDULE

A suggested schedule is presented below. If the Consultant anticipates difficulties with the proposed delivery schedule, Consultant should so indicate and propose an alternate schedule in Item e. of Project Approach in the response to the RFP.

<b>Phase 1 - Scope of Work Schedule</b>	
Issue Request for Proposals	May 23, 2018
Proposals Due to City	5:00 pm, June 11, 2018
Consultant Interviews	Week of June 18, 2018
Award of Contract by City Council	July 11, 2018
Contract Execution	July 18, 2018
Notice to Proceed	July 19, 2018
Draft Report and Presentation to Staff	September 2018
Presentation to Planning Commission	October 3, 2018
Final Report and Presentation to City Council	October 24, 2018

<b>Phase 2 - Scope of Work Schedule</b>	
Additional Activities Upon Request	T.B.D.

## 7. PROPOSAL CONTENTS

To demonstrate its qualifications, its ability to perform the services described in this RFP, and its proposed method for performing these services, the Consultant shall submit six (6) hard copies and one (1) electronic copy of a proposal containing the following information in the format indicated below. Incomplete proposals and proposals not organized according to this format may be rejected. Faxed or emailed proposals will be rejected.

## 8. PROPOSAL FORMAT

- I. A transmittal letter including the following information:
  - a. Signature of an officer of the Consultant designated as the prime consultant who is authorized to bind the firm contractually. In case of a joint venture (JV), an officer of each JV partner shall sign.
  - b. The name, title, address, and telephone number of the individual to whom correspondence and other contacts should be directed during the consultant selection process.
  - c. The name, title, address, and telephone number of the individual who will negotiate with the City and who is authorized to contractually bind the Consultant.

- d. A statement that the firm has sufficient staff resources and capability to perform the work contained within the RFP.
- e. A statement that the firm can meet the City's insurance requirements, including certificates of insurance naming the City, its officers, officials, employees, and volunteers as additional insureds (reference Attachment II). Completed insurance endorsements will be required if your firm is selected. All endorsements must be on forms acceptable to the City.

II. Experience of the firm or Joint Venture (JV), including:

- a. A list of five (5) most recent similar projects by the proposed project team. Include at least one project on which all the principal team members, including key sub-consultants, worked together. Do not list any projects that were performed by key team members when they were employed by other firms. In the case of a JV, do not list projects performed by either of the firms, only ones performed by both firms as a joint venture. Each description shall include:
  - The name of the client and a contact name, address, and telephone number.
  - The scope of the Consultant's involvement in the project.
  - The month and year the project started and the month and year it was completed.
  - The total value of the services provided.
  - The key personnel involved and the sub-consultants employed.

Sub-consultants should identify at least three (3) recent projects of a similar nature as references. Give the following information on each project:

- The name and location of the project.
- The estimated total value.
- The year the project was started and completed.
- The firm's project responsibilities. Indicate which responsibilities were those of personnel who would be assigned to this project.
- The name, title, and telephone number of a contact person with the client who is familiar with the project.

- b. Summary description of any litigation (and outcomes) within the last seven years that the consultant firm or JV has been involved in concerning a general or specific plan, or elements thereof, or the adequacy of CEQA documentation prepared by the firm or proposed subcontractors.
- c. The current size of the consultant firm or JV and the size variation during the past seven years.
- d. A list of any of the Consultant's contracts terminated (partially or completely) by clients for convenience or default within the past seven years. Include contract value, description of work, client, contract number, and the name and telephone of the contracting entity.

III. Project approach, including:

A brief description of the project team's proposed technical and management approach to the project. Include the following information:

- a. Overall approach to the project.
- b. A description of the project team's organization required to conduct this project.
- b. The team's identification of the critical project elements that may arise during the term of the contract.
- c. The method and process for the flow of communications between team members and with City Staff.
- d. The team's approach to control cost, schedules, and quality. If revisions are suggested to the proposed schedule, discuss them here.
- e. Any assumptions or limitations as to technical study scope or process (type of services to be provided, timing of public outreach to be conducted, number of meetings to be attended, etc.)

IV. Qualifications of the project team's key personnel, including:

- a. The name, position, and a detailed resume of the proposed project manager. Identify the name, position, and a brief resume of the person who will be the actual key contact with City Staff.
- b. The name, position, brief resume, and proposed responsibilities for all other key personnel. Indicate their present assignments and their availability. Include alternate personnel that would be used if the persons identified as key personnel are not available at the time a specific project issue arises.

- c. Provide a team organization chart showing all key personnel.
- d. Describe any special resources the project team may bring to the Project, such as specific recent experience working on related projects and recent experience on City of Cathedral City or other local (Coachella Valley) projects. Elaborate on why the project team stands above the competition.

V. Cost proposal (based on the scope of work and scope of services described in this RFP), including:

An estimate of cost to complete the Phase 1 Scope of Work and Scope of Services as described in this RFP. Submit a separate estimate of cost to complete the Optional Phase 2 Scope of Work and Scope of Services to include annexation of the City's entire SOI area. The Consultant should be prepared to negotiate the final terms of the Phase 2 contract, including a schedule for completion, and have the staffing capabilities available to complete Phase 2 in a timely fashion based on Council's direction at the completion of Phase 1.

- a. Identify the expected hours by job classification. Estimate the percentage of hours that will be for work performed in the Coachella Valley. Include the work of all sub-consultants in these computations.
- b. A current hourly rate schedule.
- c. Expected budget for reimbursable expenses, if any.
- d. A description of assumptions made while preparing the cost proposal and any qualifications to that proposal.
- e. Suggestions of any modifications that the City could make to the scope of work or scope of services that would allow the project to be accomplished more cost effectively.

9. PROPOSAL EVALUATION

1. Consultant proposals will be evaluated based upon firm experience, qualifications of key personnel, project approach, cost, and location of firm (including what percentage of the work will be performed locally). Preferential consideration will be given to firms that are located in the Coachella Valley and that will perform the majority of the work locally.
2. The proposals will be evaluated by a Consultant Evaluation Committee comprised of City of Cathedral City Staff.
3. After review of the proposals, the Committee *may* choose to interview up to three top-ranked firms. If conducted, these interviews will allow the Consultant team to

make a presentation, then answer questions relative to their presentation and their written proposal. Firms invited to be interviewed will be given a minimum of seven calendar days' notice of the interview date.

4. The Committee will identify the top-ranked firm and recommend to the Cathedral City Council that a contract be awarded to that firm.
5. City Staff will negotiate a contract with the top-ranked firm based on the scope of work and scope of services described herein, and the cost proposal submitted by the Consultant, subject to such modifications in any of these as may be necessary and appropriate.
6. In the event that the City and the top-ranked Consultant are unable to reach a mutually satisfactory agreement for any reason, the City reserves the right to terminate negotiations with the top-ranked firm and to commence negotiations with the second-ranked firm.
7. The City Council will consider the recommendation of the Consultant Evaluation Committee and the negotiated contract, and make a decision regarding award of the contract during a regularly scheduled meeting that is open to the public.

#### 10. CITY OF CATHEDRAL CITY RIGHTS AND OPTIONS

This RFP does not commit the City of Cathedral City to award a contract, to pay any cost incurred with the preparation of a proposal, or to procure or contract for services described herein. The City of Cathedral City reserves the right to accept or reject any or all proposals received in response to this RFP, to negotiate with any qualified source, or to cancel in whole or in part this process if it is in the best interest of the City to do so. Subsequent to negotiations, prospective consultants may be required to submit revisions to their proposals. All respondents should note that any contract pursuant to this solicitation is dependent upon the recommendation of the City Council of Cathedral City.

The City reserves the right to postpone selection for its own convenience, to withdraw this RFP at any time, and to reject any and all proposals without indicating any reason for such rejection. As a function of the RFP process, the City of Cathedral City reserves the right to remedy technical errors in response to the RFP and to modify the published scope of services and scope of work. The City of Cathedral City will reserve the right to request that specific personnel with specific expertise be added to the team if the City determines that specific expertise is lacking on the project team.

#### 11. PROPOSAL SUBMITTAL

All proposals, whether selected or rejected, shall become the property of the City of Cathedral City. Proposals submitted in response to the RFP will not be returned. The City reserves the right to reject any or all proposals.

Attached is a copy of the City of Cathedral City's Professional Services Agreement. Please review it to ensure that all conditions can be met. All questions regarding this RFP shall be directed in writing to Leisa Lukes, llukes@cathedralcity.gov.

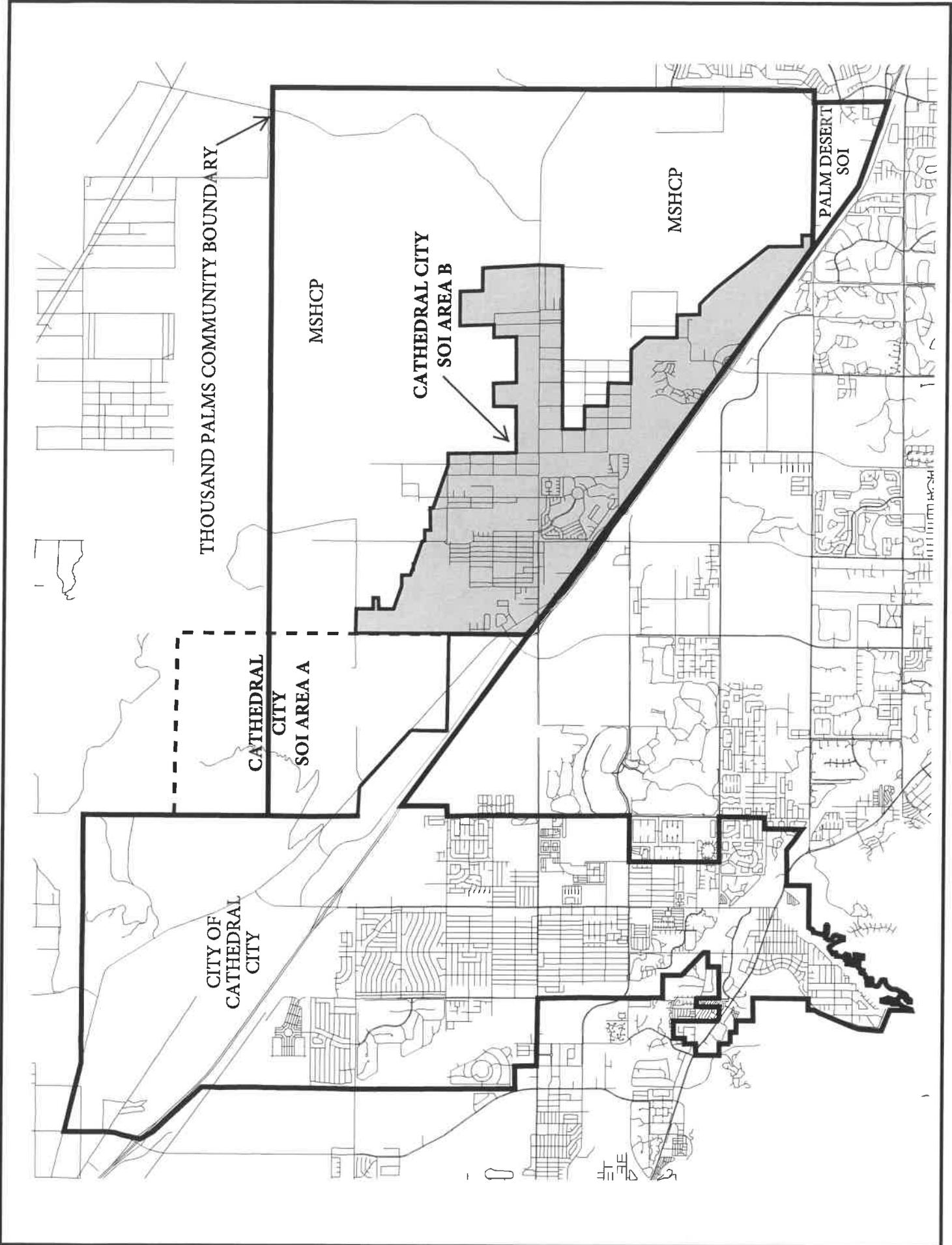
Responses to this RFP are due no later than **5:00 p.m. on Monday, June 11, 2018**. Proposals must be delivered to:

City of Cathedral City  
Attention: Leisa Lukes, Business Development Manager  
68-700 Avenida Lalo Guerrero  
Cathedral City, CA 92234

## 12. ATTACHMENTS

- I. Map of Cathedral City Municipal Boundaries and SOI
- II. Cathedral City Professional Services Agreement (Template)

ATTACHMENT I - MAP OF CATHEDRAL CITY MUNICIPAL BOUNDARIES AND SPHERE OF INFLUENCE (SOI)



**ATTACHMENT II**

**Cathedral City Professional Services Agreement (Template)**

**AGREEMENT FOR SERVICES  
BETWEEN  
THE CITY OF CATHEDRAL CITY, CALIFORNIA  
AND**

\_\_\_\_\_

This Agreement for Services ("Agreement") is entered into as of \_\_\_\_\_, 20\_\_ ("Effective Date") by and between the City of Cathedral City, a municipal corporation ("City") and \_\_\_\_\_, a \_\_\_\_\_ ("Service Provider"). City and Service Provider are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties."

**RECITALS**

A. City has sought, by [describe process used, i.e. request for qualifications, request for quotations, request for proposals, direct negotiation, informal quotes] the performance of the services defined and described particularly in Section 2 of this Agreement.

B. Service Provider, following submission of a [proposal, quote, bid, etc.] for the performance of the services defined and described particularly in Section 2 of this Agreement, was selected by the City to perform those services.

C. Pursuant to the City of Cathedral City's Municipal Code, City has authority to enter into this Services Agreement and the City Manager has authority to execute this Agreement.

D. The Parties desire to formalize the selection of Service Provider for performance of those services defined and described particularly in Section 2 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

**OPERATIVE PROVISIONS**

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained here and other consideration, the value and adequacy of which are hereby acknowledged, the Parties agree as follows:

**SECTION 1. TERM OF AGREEMENT.**

Subject to the provisions of Section 19 "Termination of Agreement" of this Agreement, the Term of this Agreement is for [\_\_\_ years/months] commencing on the Effective Date.

**SECTION 2. SCOPE OF SERVICES & SCHEDULE OF PERFORMANCE.**

(a) Scope of Services. Service Provider agrees to perform the services set forth in Exhibit "A" "Scope of Services" (hereinafter, the "Services") and made a part of this Agreement by this reference.

(b) Schedule of Performance. The Services shall be completed pursuant to the schedule specified in Exhibit "A." Should the Services not be completed pursuant to that schedule, the Service Provider shall be deemed to be in Default of this Agreement. The City, in its sole discretion, may choose not to enforce the Default provisions of this Agreement and may instead allow Service Provider to continue performing the Services.

**SECTION 3. ADDITIONAL SERVICES.**

Service Provider shall not be compensated for any work rendered in connection with its performance of this Agreement that are in addition to or outside of the Services unless such additional services are authorized in advance and in writing in accordance with Section 25 "Administration and Implementation" or Section 27 "Amendment" of this Agreement. If and when such additional work is authorized, such additional work shall be deemed to be part of the Services.

**SECTION 4. COMPENSATION AND METHOD OF PAYMENT.**

(a) Subject to any limitations set forth in this Agreement, City agrees to pay Service Provider the amounts specified in Exhibit "B" "Compensation" and made a part of this Agreement by this reference. The total compensation, including reimbursement for actual expenses, shall not exceed [REDACTED] dollars (\$ [REDACTED]), unless additional compensation is approved in writing in accordance with Section 25 "Administration and Implementation" or Section 27 "Amendment" of this Agreement.

(b) Each month Service Provider shall furnish to City an original invoice for all work performed and expenses incurred during the preceding month. The invoice shall detail charges by the following categories: labor (by sub-category), travel, materials, equipment, supplies, and sub-Service Provider contracts. Sub-Service Provider charges shall be detailed by the following categories: labor, travel, materials, equipment and supplies. If the compensation set forth in subsection (a) and Exhibit "B" include payment of labor on an hourly basis (as opposed to labor and materials being paid as a lump sum), the labor category in each invoice shall include detailed descriptions of task performed and the amount of time incurred for or allocated to that task. City shall independently review each invoice submitted by the Service Provider to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. In the event that no charges or expenses are disputed, the invoice shall be approved and paid according to the terms set forth in subsection

(c). In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Service Provider for correction and resubmission.

(c) Except as to any charges for work performed or expenses incurred by Service Provider which are disputed by City, City will use its best efforts to cause Service Provider to be paid within forty-five (45) days of receipt of Service Provider's correct and undisputed invoice.

(d) Payment to Service Provider for work performed pursuant to this Agreement shall not be deemed to waive any defects in work performed by Service Provider.

## **SECTION 5. INSPECTION AND FINAL ACCEPTANCE.**

City may inspect and accept or reject any of Service Provider's work under this Agreement, either during performance or when completed. City shall reject or finally accept Service Provider's work within sixty (60) days after submitted to City. City shall reject work by a timely written explanation, otherwise Service Provider's work shall be deemed to have been accepted. City's acceptance shall be conclusive as to such work except with respect to latent defects, fraud and such gross mistakes as amount to fraud. Acceptance of any of Service Provider's work by City shall not constitute a waiver of any of the provisions of this Agreement including, but not limited to, Section 15 "Indemnification" and Section 16 "Insurance."

## **SECTION 6. OWNERSHIP OF DOCUMENTS.**

All original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents prepared, developed or discovered by Service Provider in the course of providing the Services pursuant to this Agreement shall become the sole property of City and may be used, reused or otherwise disposed of by City without the permission of the Service Provider. Upon completion, expiration or termination of this Agreement, Service Provider shall turn over to City all such original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents.

If and to the extent that City utilizes for any purpose not related to this Agreement any maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files or other documents prepared, developed or discovered by Service Provider in the course of providing the Services pursuant to this Agreement, Service Provider's guarantees and warranties in Section 9 "Standard of Performance; Familiarity With Work" of this Agreement shall not extend to such use of the maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files or other documents.

## **SECTION 7. SERVICE PROVIDER'S BOOKS AND RECORDS.**

(a) Service Provider shall maintain any and all documents and records demonstrating or relating to Service Provider's performance of the Services. Service Provider shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, or other documents or records evidencing or relating to work, services, expenditures and disbursements charged to City pursuant to this Agreement. Any and all such documents or records shall be maintained in accordance with generally accepted accounting principles and shall be sufficiently complete and detailed so as to permit an accurate evaluation of the services provided by Service Provider pursuant to this Agreement. Any and all such documents or records shall be maintained for three (3) years from the date of execution of this Agreement and to the extent required by laws relating to audits of public agencies and their expenditures.

(b) Any and all records or documents required to be maintained pursuant to this section shall be made available for inspection, audit and copying, at any time during regular business hours, upon request by City or its designated representative. Copies of such documents or records shall be provided directly to the City for inspection, audit and copying when it is practical to do so; otherwise, unless an alternative is mutually agreed upon, such documents and records shall be made available at Service Provider's address indicated for receipt of notices in this Agreement.

(c) Where City has reason to believe that any of the documents or records required to be maintained pursuant to this section may be lost or discarded due to dissolution or termination of Service Provider's business, City may, by written request, require that custody of such documents or records be given to the City. Access to such documents and records shall be granted to City, as well as to its successors-in-interest and authorized representatives.

## **SECTION 8. INDEPENDENT CONTRACTOR.**

(a) Service Provider is and shall at all times remain a wholly independent contractor and not an officer, employee or agent of City. Service Provider shall have no authority to bind City in any manner, nor to incur any obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City.

(b) The personnel performing the Services under this Agreement on behalf of Service Provider shall at all times be under Service Provider's exclusive direction and control. Neither City, nor any elected or appointed boards, officers, officials, employees or agents of City, shall have control over the conduct of Service Provider or any of Service Provider's officers, employees, or agents except as set forth in this Agreement. Service Provider shall not at any time or in any manner represent that Service Provider or any of Service Provider's officers, employees, or agents are in any manner officials, officers, employees or agents of City.

(c) Neither Service Provider , nor any of Service Provider's officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City's employees. Service Provider expressly waives any claim Service Provider may have to any such rights.

**SECTION 9. STANDARD OF PERFORMANCE; FAMILIARITY WITH WORK.**

(a) Service Provider represents and warrants that it has the qualifications, experience and facilities necessary to properly perform the Services required under this Agreement in a thorough, competent and professional manner. Service Provider shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all Services. In meeting its obligations under this Agreement, Service Provider shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing services similar to the Services required of Service Provider under this Agreement. In addition to the general standards of performance set forth this section, additional specific standards of performance and performance criteria may be set forth in Exhibit "A" "Scope of Work" that shall also be applicable to Service Provider's work under this Agreement. Where there is a conflict between a general and a specific standard of performance or performance criteria, the specific standard or criteria shall prevail over the general.

(b) Service Provider warrants that (1) it has thoroughly investigated and considered the work to be performed, (2) it has investigated the issues, regarding the scope of services to be provided, (3) it has carefully considered how the work should be performed, and (4) it fully understands the facilities, difficulties and restrictions attending performance of the work under this Agreement.

**SECTION 10. COMPLIANCE WITH APPLICABLE LAWS; PERMITS AND LICENSES.**

Service Provider shall keep itself informed of and comply with all applicable federal, state and local laws, statutes, codes, ordinances, regulations and rules in effect during the term of this Agreement. Service Provider shall obtain any and all licenses, permits and authorizations necessary to perform the Services set forth in this Agreement. Neither City, nor any elected or appointed boards, officers, officials, employees or agents of City, shall be liable, at law or in equity, as a result of any failure of Service Provider to comply with this section.

**SECTION 11. PREVAILING WAGE LAWS**

It is the understanding of City and Service Provider that California prevailing wage laws do not apply to this Agreement because the Agreement does not involve any of the following services subject to prevailing wage rates pursuant to the California Labor Code or regulations promulgated thereunder: Construction, alteration, demolition, installation, or repair work performed on public buildings, facilities, streets or sewers done under contract and paid for in whole or in part out of public funds. In this context,

"construction" includes work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work.

**SECTION 12. NONDISCRIMINATION.**

Service Provider shall not discriminate, in any way, in the employment of persons to perform the Services in violation of any federal or state law prohibiting discrimination in employment, including based on the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, of any person, except as provided under California Government Code section 12940.

**SECTION 13. CONFLICTS OF INTEREST.**

(a) Service Provider covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Service Provider's performance of the Services. Service Provider further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the City Manager. Service Provider agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

(b) City may determine that Service Provider must disclose its financial interests by completing and filing a Fair Political Practices Commission Form 700, Statement of Economic Interests. If such a determination is made, Service Provider shall file the subject Form 700 with the City Clerk's Office pursuant to the written instructions provided by the Office of the City Clerk within ten (10) days of the request.

(c) City understands and acknowledges that Service Provider is, as of the date of execution of this Agreement, independently involved in the performance of non-related services for other governmental agencies and private parties. Service Provider is unaware of any stated position of City relative to such projects. Any future position of City on such projects shall not be considered a conflict of interest for purposes of this section.

(d) City understands and acknowledges that Service Provider will perform non-related services for other governmental agencies and private Parties following the completion of the Services under this Agreement. Any such future service shall not be considered a conflict of interest for purposes of this section.

**SECTION 14. CONFIDENTIAL INFORMATION; RELEASE OF INFORMATION.**

(a) All information gained or work product produced by Service Provider in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Service Provider. Service

Provider shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the City Manager, except as may be required by law.

(b) Service Provider, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the City Manager or unless requested by the City Attorney of City, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Service Provider gives City notice of such court order or subpoena.

(c) If Service Provider, or any officer, employee, agent or subcontractor of Service Provider, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Service Provider for any damages, costs and fees, including attorney's fees, caused by or incurred as a result of Service Provider's conduct.

(d) Service Provider shall promptly notify City should Service Provider, its officers, employees, agents or subcontractors, be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed thereunder. City retains the right, but has no obligation, to represent Service Provider or be present at any deposition, hearing or similar proceeding. Service Provider agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Service Provider. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

## **SECTION 15. INDEMNIFICATION.**

(a) Indemnification for Professional Liability. Where the law establishes a professional standard of care for Service Provider's services, to the fullest extent permitted by law, Service Provider shall indemnify, protect, defend and hold harmless City and any and all of its officials, employees and agents ("Indemnified Parties") from and against any and all liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorney's fees and costs, court costs, interest, defense costs, and expert witness fees) arise out of, are a consequence of, or are in any way attributable to, in whole or in part, any negligent or wrongful act, error or omission of Service Provider, or by any individual or entity for which Service Provider is legally liable, including but not limited to officers, agents, employees or subcontractors of Service Provider, in the performance of professional services under this Agreement.

(b) Indemnification for Other than Professional Liability. Other than in the performance of professional services and to the full extent permitted by law, Service Provider shall indemnify, protect, defend and hold harmless City, and any and all of its employees, officials and agents from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorney's fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Service Provider, or by any individual or entity for which Service Provider is legally liable, including but not limited to officers, agents, employees or subcontractors of Service Provider.

(c) Indemnification from Sub-Service Providers. Service Provider agrees to obtain executed indemnity agreements with provisions identical to those set forth in this section from each and every sub-Service Provider or any other person or entity involved by, for, with or on behalf of Service Provider in the performance of this Agreement naming the Indemnified Parties as additional indemnitees. In the event Service Provider fails to obtain such indemnity obligations from others as required herein, Service Provider agrees to be fully responsible according to the terms of this section. Failure of City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend City as set forth herein is binding on the successors, assigns or heirs of Service Provider and shall survive the termination of this Agreement or this section.

(d) Limitation of Indemnification. Notwithstanding any provision of this section to the contrary, design professionals are required to defend and indemnify the City only to the extent permitted by Civil Code Section 2782.8, which limits the liability of a design professional to claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the design professional. The term "design professional," as defined in Section 2782.8, is limited to licensed architects, licensed landscape architects, registered professional engineers, professional land surveyors, and the business entities that offer such services in accordance with the applicable provisions of the California Business and Professions Code.

(e) City's Negligence. The provisions of this section do not apply to claims occurring as a result of City's sole negligence. The provisions of this section shall not release City from liability arising from gross negligence or willful acts or omissions of City or any and all of its officials, employees and agents.

## **SECTION 16. INSURANCE.**

Service Provider agrees to obtain and maintain in full force and effect during the term of this Agreement the insurance policies set forth in Exhibit "C" "Insurance" and made a part of this Agreement. All insurance policies shall be subject to approval by City as to form and content. These requirements are subject to amendment or waiver if so approved in writing by the City Manager. Service Provider agrees to provide City with copies of required policies upon request.

**SECTION 17. ASSIGNMENT.**

The expertise and experience of Service Provider are material considerations for this Agreement. City has an interest in the qualifications and capability of the persons and entities who will fulfill the duties and obligations imposed upon Service Provider under this Agreement. In recognition of that interest, Service Provider shall not assign or transfer this Agreement or any portion of this Agreement or the performance of any of Service Provider's duties or obligations under this Agreement without the prior written consent of the City. Any attempted assignment shall be ineffective, null and void, and shall constitute a material breach of this Agreement entitling City to any and all remedies at law or in equity, including termination of this Agreement pursuant to Section 19 "Termination of Agreement." City acknowledges, however, that Service Provider, in the performance of its duties pursuant to this Agreement, may utilize subcontractors.

**SECTION 18. CONTINUITY OF PERSONNEL.**

Service Provider shall make every reasonable effort to maintain the stability and continuity of Service Provider's staff and subcontractors, if any, assigned to perform the Services. Service Provider shall notify City of any changes in Service Provider's staff and subcontractors, if any, assigned to perform the Services prior to and during any such performance.

**SECTION 19. TERMINATION OF AGREEMENT.**

(a) City may terminate this Agreement, with or without cause, at any time by giving thirty (30) days written notice of termination to Service Provider. In the event such notice is given, Service Provider shall cease immediately all work in progress.

(b) Service Provider may terminate this Agreement for cause at any time upon thirty (30) days written notice of termination to City.

(c) If either Service Provider or City fail to perform any material obligation under this Agreement, then, in addition to any other remedies, either Service Provider, or City may terminate this Agreement immediately upon written notice.

(d) Upon termination of this Agreement by either Service Provider or City, all property belonging exclusively to City which is in Service Provider's possession shall be returned to City. Service Provider shall furnish to City a final invoice for work performed and expenses incurred by Service Provider, prepared as set forth in Section 4

“Compensation and Method of Payment” of this Agreement. This final invoice shall be reviewed and paid in the same manner as set forth in Section 4 “Compensation and Method of Payment” of this Agreement.

**SECTION 20. DEFAULT.**

In the event that Service Provider is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Service Provider for any work performed after the date of default. Instead, the City may give notice to Service Provider of the default and the reasons for the default. The notice shall include the timeframe in which Service Provider may cure the default. This timeframe is presumptively thirty (30) days, but may be extended, though not reduced, if circumstances warrant. During the period of time that Service Provider is in default, the City shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices. In the alternative, the City may, in its sole discretion, elect to pay some or all of the outstanding invoices during the period of default. If Service Provider does not cure the default, the City may take necessary steps to terminate this Agreement under Section 19 “Termination of Agreement.” Any failure on the part of the City to give notice of the Service Provider’s default shall not be deemed to result in a waiver of the City’s legal rights or any rights arising out of any provision of this Agreement.

**SECTION 21. EXCUSABLE DELAYS.**

Service Provider shall not be liable for damages, including liquidated damages, if any, caused by delay in performance or failure to perform due to causes beyond the control of Service Provider. Such causes include, but are not limited to, acts of God, acts of the public enemy, acts of federal, state or local governments, acts of City, court orders, fires, floods, epidemics, strikes, embargoes, and unusually severe weather. The term and price of this Agreement shall be equitably adjusted for any delays due to such causes.

**SECTION 22. COOPERATION BY CITY.**

All public information, data, reports, records, and maps as are existing and available to City as public records, and which are necessary for carrying out the Services shall be furnished to Service Provider in every reasonable way to facilitate, without undue delay, the Services to be performed under this Agreement.

**SECTION 23. NOTICES.**

All notices required or permitted to be given under this Agreement shall be in writing and shall be personally delivered, or sent by telecopier or certified mail, postage prepaid and return receipt requested, addressed as follows:

To City: City of Cathedral City  
Attn: City Manager  
68-700 Avenida Lalo Guerrero  
Cathedral City, CA 92234

To Service Provider: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Notice shall be deemed effective on the date personally delivered or transmitted by facsimile or, if mailed, three (3) days after deposit of the same in the custody of the United States Postal Service.

**SECTION 24. AUTHORITY TO EXECUTE.**

The person or persons executing this Agreement on behalf of Service Provider represents and warrants that he/she/they has/have the authority to so execute this Agreement and to bind Service Provider to the performance of its obligations hereunder.

**SECTION 25. ADMINISTRATION AND IMPLEMENTATION.**

This Agreement shall be administered and executed by the City Manager or his or her designated representative. The City Manager shall have the authority to issue interpretations and to make amendments to this Agreement, including amendments that commit additional funds, consistent with Section 27 "Amendment" and the City Manager's contracting authority under the Cathedral City Municipal Code.

**SECTION 26. BINDING EFFECT.**

This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the Parties.

**SECTION 27. AMENDMENT.**

No amendment to or modification of this Agreement shall be valid unless made in writing and approved by the Service Provider and by the City. The City Manager shall have the authority to approve any amendment to this Agreement if the total compensation under this Agreement, as amended, would not exceed the City Manager's contracting authority under the Cathedral City Municipal Code. All other amendments shall be approved by the City Council. The Parties agree that the requirement for written modifications cannot be waived and that any attempted waiver shall be void.

**SECTION 28. WAIVER.**

Waiver by any Party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any Party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision nor a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any work or services by Service Provider shall not constitute a waiver of any of the provisions of this Agreement.

**SECTION 29. LAW TO GOVERN; VENUE.**

This Agreement shall be interpreted, construed and governed according to the laws of the State of California. In the event of litigation between the Parties, venue in state trial courts shall lie exclusively in the County of Riverside, California. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in Riverside.

**SECTION 30. ATTORNEYS FEES, COSTS AND EXPENSES.**

In the event litigation or other proceeding is required to enforce or interpret any provision of this Agreement, the prevailing Party in such litigation or other proceeding shall be entitled to an award of reasonable attorney's fees, costs and expenses, in addition to any other relief to which it may be entitled.

**SECTION 31. ENTIRE AGREEMENT.**

This Agreement, including the attached Exhibits "A" through "C", is the entire, complete, final and exclusive expression of the Parties with respect to the matters addressed therein and supersedes all other agreements or understandings, whether oral or written, or entered into between Service Provider and City prior to the execution of this Agreement. No statements, representations or other agreements, whether oral or written, made by any Party which are not embodied herein shall be valid and binding.

**SECTION 32. SEVERABILITY.**

If any term, condition or covenant of this Agreement is declared or determined by any court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall not be affected thereby and the Agreement shall be read and construed without the invalid, void or unenforceable provision(s).

**SECTION 33. CONFLICTING TERMS.**

Except as otherwise stated herein, if the terms of this Agreement conflict with the terms of any Exhibit hereto, or with the terms of any document incorporated by reference into this Agreement, the terms of this Agreement shall control.

**IN WITNESS WHEREOF**, the Parties hereto have executed this Agreement on the date and year first-above written.

**CITY OF CATHEDRAL CITY**

**[SERVICE PROVIDER NAME]**

\_\_\_\_\_  
Charles P. McClendon  
City Manager

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

\_\_\_\_\_  
Gary F. Howell  
City Clerk

**APPROVED AS TO FORM**

\_\_\_\_\_  
Eric S. Vail  
City Attorney

**NOTE: SERVICE PROVIDER'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO SERVICE PROVIDER'S BUSINESS ENTITY.**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

### ALL-PURPOSE ACKNOWLEDGMENT NOTARY FOR CALIFORNIA

STATE OF CALIFORNIA )  
COUNTY OF RIVERSIDE )  
COUNTY OF RIVERSIDE )

On \_\_\_\_\_, 2016, before me, \_\_\_\_\_,  
Date Name And Title Of Officer (e.g. "Jane Doe, Notary Public")

personally appeared \_\_\_\_\_,  
Name of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary Public

### OPTIONAL

Though this section is optional, completing this information can deter alternation of the document or fraudulent reattachment of this form to an unintended document.

#### CAPACIT(IES) CLAIMED BY SIGNER(S)

#### DESCRIPTION OF ATTACHED DOCUMENT

Signer's Name: \_\_\_\_\_

- .. Individual
- .. Corporate Officer

\_\_\_\_\_  
Title(s)

- .. Partner(s)
- .. Limited
- .. General

- .. Attorney-In-Fact
- .. Trustee(s)
- .. Guardian/Conservator
- .. Other: \_\_\_\_\_

\_\_\_\_\_  
Title or Type of Document

\_\_\_\_\_  
Number Of Pages

\_\_\_\_\_  
Date Of Document

Signer is representing:  
Name Of Person(s) Or Entity(ies)

\_\_\_\_\_  
Signer(s) Other Than Named Above

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

ALL-PURPOSE ACKNOWLEDGMENT NOTARY FOR CALIFORNIA

STATE OF CALIFORNIA )
COUNTY OF RIVERSIDE )

On \_\_\_\_\_, 2016, before me, \_\_\_\_\_,
Date Name And Title Of Officer (e.g. "Jane Doe, Notary Public")

personally appeared \_\_\_\_\_,
Name of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary Public

OPTIONAL

Though this section is optional, completing this information can deter alternation of the document or fraudulent reattachment of this form to an unintended document.

CAPACIT(IES) CLAIMED BY SIGNER(S)

DESCRIPTION OF ATTACHED DOCUMENT

Signer's Name: \_\_\_\_\_

- Individual
Corporate Officer

\_\_\_\_\_  
Title(s)

- Partner(s) Limited
General

- Attorney-In-Fact
Trustee(s)
Guardian/Conservator
Other: \_\_\_\_\_

\_\_\_\_\_  
Title or Type of Document

\_\_\_\_\_  
Number Of Pages

\_\_\_\_\_  
Date Of Document

Signer is representing:
Name Of Person(s) Or Entity(ies)

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signer(s) Other Than Named Above

**EXHIBIT "A"**  
**SCOPE OF SERVICES**

**I. Service Provider will perform the following Services:**

- A.
- B.
- C.
- D.

**II. As part of the Services, Service Provider will prepare and deliver the following tangible work products to the City:**

- A.
- B.
- C.
- D.

**III. During performance of the Services, Service Provider will keep the City appraised of the status of performance by delivering the following status reports:**

- A.
- B.
- C.
- D.

**IV. The tangible work products and status reports will be delivered to the City pursuant to the following schedule:**

- A.
- B.
- C.

D.

**V. Service Provider will utilize the following personnel to accomplish the Services:**

A.

B.

C.

D.

**VI. Service Provider will utilize the following subcontractors to accomplish the Services:**

A.

B.

C.

D.

**EXHIBIT "B"  
COMPENSATION**

**I. Service Provider shall use the following rates of pay in the performance of the Services:**

- A.     [job]                              [hourly rate]
- B.     [job]                              [hourly rate]
- C.     [job]                              [hourly rate]
- D.     [job]                              [hourly rate]
- E.     [job]                              [hourly rate]

**II. Service Provider may utilize subcontractors as indicated in this Agreement. The hourly rate for any subcontractor is not to exceed \$\_\_\_\_\_ per hour without written authorization from the City Manager or his designee.**

## **EXHIBIT "C" INSURANCE**

A. Insurance Coverages. Service Provider shall provide and maintain insurance, acceptable to the City, in full force and effect throughout the term of this Agreement, against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Services by Service Provider, its agents, representatives or employees. Service Provider shall procure and maintain the following scope and limits of insurance:

**Only the following "marked" requirements are applicable:**

**X** **Commercial General Liability (CGL):** Insurance written on an occurrence basis to protect Service Provider and City against liability or claims of liability which may arise out of this Agreement in the amount of one million dollars (\$1,000,000) per occurrence and subject to an annual aggregate of two million dollars (\$2,000,000). Coverage shall be at least as broad as Insurance Services Office form Commercial General Liability coverage (Occurrence Form CG 0001). There shall be no endorsement or modification of the CGL limiting the scope of coverage for either insured vs. additional insured claims or contractual liability. All defense costs shall be outside the limits of the policy.

**X** **Vehicle Liability Insurance:** Vehicle liability insurance in an amount not less than \$1,000,000 for injuries, including accidental death, to any one person, and subject to the same minimum for each person, in an amount not less than one million dollars (\$1,000,000) for each accident, and property damage insurance in an amount of not less than one million dollars (\$1,000,000). A combined single limit policy with aggregate limits in an amount of not less than \$2,000,000 shall be considered equivalent to the said required minimum limits. Coverage shall be at least as broad as Insurance Services Office form number CA 0001 covering Automobile Liability, including code 1 "any auto" and endorsement CA 0025, or equivalent forms subject to the approval of the City.

**X** **Workers' Compensation Insurance:** Workers' Compensation insurance that includes a minimum of one million dollars (\$1,000,000) of employers' liability coverage. Service Provider shall provide an endorsement that the insurer waives the right of subrogation against the City and its respective elected officials, officers, employees, agents and representatives. In the event a claim under the provisions of the California Workers' Compensation Act is filed against City by a bona fide employee of Service Provider participating under this Agreement, Service Provider is to defend and indemnify the City from such claim.

**X Professional Liability Insurance:** Professional liability insurance appropriate to the Service Provider's profession in an amount not less than one million dollars \$1,000,000 per occurrence. This coverage may be written on a "claims made" basis, and must include coverage for contractual liability. The professional liability insurance required by this Agreement must be endorsed to be applicable to claims based upon, arising out of or related to Services performed under this Agreement. The insurance must be maintained for at least three (3) consecutive years following the completion of Service Provider's services or the termination of this Agreement. During this additional three (3) year period, Service Provider shall annually and upon request of the City submit written evidence of this continuous coverage.

B. Other Provisions. Insurance policies required by this Agreement shall contain the following provisions:

1. All Coverages.

a. Each insurance policy required by this Agreement shall be endorsed and state the coverage shall not be suspended, voided, cancelled by the insurer or either Party to this Agreement, reduced in coverage or in limits except after 30 days' prior written notice by certified mail, return receipt requested, has been given to City.

b. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII.

2. Commercial General Liability and Automobile Liability Coverages.

a. City, and its respective elected and appointed officers, officials, and employees and volunteers are to be covered as additional insureds as respects: liability arising out of activities Service Provider performs; products and completed operations of Service Provider; premises owned, occupied or used by Service Provider; or automobiles owned, leased, hired or borrowed by Service Provider. The coverage shall contain no special limitations on the scope of protection afforded to City, and their respective elected and appointed officers, officials, or employees.

b. Service Provider's insurance coverage shall be primary insurance with respect to City, and its respective elected and appointed, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by City, and its respective elected and appointed officers, officials, employees or volunteers, shall apply in excess of, and not contribute with, Service Provider's insurance.

c. Service Provider'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.

d. Any failure to comply with the reporting or other provisions of the insurance policies, including breaches of warranties, shall not affect coverage provided to City, and its respective elected and appointed officers, officials, employees or volunteers.

e. The insurer waives all rights of subrogation against the City, its elected or appointed officers, officials, employees or agents.

3. Workers' Compensation Coverage. Unless the City Manager otherwise agrees in writing, the insurer shall agree to waive all rights of subrogation against City, and its respective elected and appointed officers, officials, employees and agents for losses arising from work performed by Service Provider.

C. Other Requirements. Service Provider agrees to deposit with City, at or before the effective date of this Agreement, certificates of insurance necessary to satisfy City that the insurance provisions of this contract have been complied with. The City may require that Service Provider furnish City with copies of original endorsements effecting coverage required by this Exhibit "C". The certificates and endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. City reserves the right to inspect complete, certified copies of all required insurance policies, at any time.

1. Service Provider shall furnish certificates and endorsements from each subcontractor identical to those Service Provider provides.

2. Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City or its respective elected or appointed officers, officials, employees and volunteers, or the Service Provider shall procure a bond guaranteeing payment of losses and related investigations, claim administration, defense expenses and claims.

3. The procuring of such required policy or policies of insurance shall not be construed to limit Service Provider's liability hereunder nor to fulfill the indemnification provisions and requirements of this Agreement.