

TOWN OF YUCCA VALLEY
CONTRACT SERVICES AGREEMENT FOR

THIS CONTRACT SERVICES AGREEMENT (herein "Agreement"), is made and entered into this ____ day of _____, 2010, by and between the TOWN OF YUCCA VALLEY, (herein "Town") and XXXXX. (herein "Consultant"). (The term Consultant includes professionals performing in a consulting capacity.) The parties hereto agree as follows:

1.0 SERVICES OF CONTRACTOR

1.1 Scope of Services. In compliance with all terms and conditions of this Agreement, the Consultant shall provide the services specified in the "Scope of Services" attached hereto as Exhibit "A" and incorporated herein by this reference, which services may be referred to herein as the "services" or "work" hereunder. As a material inducement to the Town entering into this Agreement, Consultant represents that it is experienced in performing the work and services contemplated herein, and that it can and will at all times perform hereunder in a first class, professional manner, meaning that Consultant's services shall be satisfied in accordance with the highest standards of practice recognized for Consultant firms of similar size, quality, experience and expertise as Consultant, performing similar work under similar circumstances.

1.2 Consultant Proposal. The Scope of Service shall include the Consultant's proposal or bid which shall be incorporated herein by this reference as though fully set forth herein. In the event of any inconsistency between the terms of such proposal and this Agreement, the terms of this Agreement shall govern.

1.3 Compliance with Law. All services rendered hereunder shall be provided in accordance with all ordinances, resolutions, statutes, rules, and regulations of the Town and any Federal, State or local governmental agency having jurisdiction in effect at the time service is rendered.

1.4 Licenses. Consultant shall obtain at its sole cost and expense such professional licenses as may be required by law to perform the professional services required of Consultant by this Agreement. Consultant shall have the sole obligation to pay for any licensing fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Consultant's performance of the services required by this Agreement, and shall indemnify, defend and hold harmless the Town against any such fees, assessments, taxes penalties or interest levied, assessed or imposed against Town hereunder.

1.5 Familiarity with Work. By executing this Agreement, Consultant represents that Consultant (a) has thoroughly investigated and considered the scope of services to be performed, (b) has carefully considered how the services should be performed, and (c) fully understands the facilities, difficulties and restrictions attending performance of the services under this Agreement. If the services involve work upon any site, Consultant represents that Consultant has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of services hereunder. Should the Consultant discover any latent or unknown conditions, which will materially affect the performance of the services hereunder, Consultant shall immediately inform the Town of such fact and shall not proceed except at Consultant's risk until written instructions are received from the Contract Officer.

1.6 Care of Work. The Consultant shall adopt reasonable methods during the life of the Agreement to furnish continuous protection to Consultant's work, materials, papers, documents, plans, studies and/or other instruments of Consultant's services to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the work by the Town, except such losses or damages as may be caused by the Town's own negligence.

1.7 Further Responsibilities of Parties. Both parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both parties agree to act in good faith to execute all instruments, prepare all documents and take all actions as may be reasonably necessary to carry out the purposes of this Agreement. Unless hereafter specified, neither party shall be responsible for the service of the other.

1.8 Additional Services. Town shall have the right at any time during the performance of the services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to or deducting from said work. No such extra work may be undertaken unless a written order is first given by the Contract Officer to the Consultant, incorporating therein any adjustment in (i) the Contract Sum, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of the Consultant. Any increases, taken either separately or cumulatively must be approved by the Town Council. It is expressly understood by Consultant that the provisions of this Section shall not apply to services specifically set forth in the Scope of Services or reasonably contemplated therein. Consultant hereby acknowledges that it accepts the risk that the services to be provided pursuant to the Scope of Services may be more costly or time consuming than Consultant anticipates and that Consultant shall not be entitled to additional compensation therefore.

1.9 Special Requirements. Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the "Special Requirements" attached hereto as Exhibit "B" and incorporated herein by this

reference. With the exception of Section 4.3, in the event of a conflict between the provisions of Exhibit "B" and any other provisions of this Agreement, the provisions of Exhibit "B" shall govern.

2.0 COMPENSATION

2.1 Contract Sum. For the services rendered pursuant to this Agreement, the Consultant shall be compensated in accordance with the "Schedule of Compensation" attached hereto as Exhibit "C" and incorporated herein by this reference, but not exceeding the maximum contract amount of:

Phase I: \$

Phase II: \$

Optional
Tasks: \$

Total Contract Amount (including reimbursables):
(\$)

The method of compensation may include: (i) a lump sum payment upon completion, (ii) payment in accordance with the percentage of completion of the services, (iii) payment for time and materials based upon the Consultant's rates as specified in the Schedule of Compensation, but not exceeding the Contract Sum or (iv) such other methods as may be specified in the Schedule of Compensation. Compensation may include reimbursement for actual and necessary expenditures for reproduction costs, telephone expense, transportation expense approved by the Contract Officer in advance, and no other expenses and only if specified in the Schedule of Compensation. The Contract Sum shall include the attendance of Consultant at all project meetings reasonably deemed necessary by the Town; Consultant shall not be entitled to any additional compensation for attending said meetings. Reimbursable expenses shall be paid to Consultant as stated in "Schedule of Compensation" Exhibit "C".

2.2 Method of Payment. Unless some other method of payment is specified in the Schedule of Compensation, in any month in which Consultant wishes to receive payment, no later than the first (1st) working day of such month, Consultant shall submit to the Town in the form approved by the Town's Director of Administrative Services, an invoice for services rendered prior to the date of the invoice. Except as provided in Section 7.3, Town shall pay Consultant for all expenses stated thereon which are approved by Town pursuant to this Agreement no later than the last working day of the month.

3.0 PERFORMANCE SCHEDULE

3.1 Time of Essence. Time is of the essence in the performance of this Agreement.

3.2 Schedule of Performance. Consultant shall commence the services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all services within the time period(s) established in the "Schedule of Performance" attached hereto as Exhibit "D", if any, and incorporated herein by this reference. When requested by the Consultant, extensions to the time period(s) specified in the Schedule of Performance may be approved in writing by the Contract Officer but not exceeding ninety (90) days cumulatively.

3.3 Force Majeure. The time period(s) specified in the Schedule of Performance for performance of the services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Consultant, including, but not restricted to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including the Town, if the Consultant shall within ten (10) days of the commencement of such delay notify the Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified. The Contract Officer's determination shall be final and conclusive upon the parties to this Agreement. In no event shall Consultant be entitled to recover damages against the Town for any delay in the performance of this Agreement, however caused, Consultant's sole remedy being extension of the Agreement pursuant to this Section.

3.4 Term. Unless earlier terminated in accordance with Section 7.8 of this Agreement, this Agreement shall continue in full force and effect until completion of the services, as determined by the Town, but not exceeding fifteen months from the date hereof, except as otherwise provided in the Schedule of Performance (Exhibit "D").

4.0 COORDINATION OF WORK

4.1 Representative of Consultant. The following principals of Consultant are hereby designated as being the principals and representatives of Consultant authorized to act in its behalf with respect to the work specified herein and make all decisions in connection therewith:

,Principal

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing principals were a substantial inducement for Town to enter into this Agreement. Therefore, the foregoing principal(s) shall be responsible during the term of this Agreement for directing all activities of Consultant and devoting sufficient time to personally supervise the services hereunder. For purposes of this Agreement, the foregoing principals may not be replaced nor may

their responsibilities be substantially reduced by Consultant without the express written approval of the Town.

4.2 Contract Officer. The Contract Officer shall be such person as may be designated by the Town Manager of the Town. It shall be the Consultant's responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the services and the Consultant shall refer any decisions which must be made by the Town to the Contract Officer. Unless otherwise specified herein, any approval of Town required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority to sign all documents on behalf of the Town required hereunder to carry out the terms of this Agreement. At the initiation of this Agreement, the Contract Officer shall be Deputy Town Manager Shane R. Stueckle.

4.3 Prohibition Against Subcontracting or Assignment. The experience, knowledge, capability and reputation of Consultant, its principals and employees were a substantial inducement for the Town to enter into this Agreement. Therefore, Consultant shall not contract with any other entity to perform in whole or in part the services required hereunder without the express written approval of the Town. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of Town. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty five percent (25%) of the present ownership and/or control of Consultant, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release the Consultant or any surety of Consultant of any liability hereunder without the express consent of Town.

4.4 Independent Contractor. Neither the Town nor any of its employees shall have any control over the manner, mode or means by which Consultant, its agents or employees, perform the services required herein, except as otherwise set forth herein. Town shall have no voice in the selection, discharge, supervision or control of Consultant's employees, servants, representatives or agents, or in fixing their number, compensation or hours of service. Consultant shall perform all services required herein as an independent contractor of Town and shall remain at all times as to Town a wholly independent contractor with only such obligations as are consistent with that role. Consultant shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of Town. Town shall not in any way or for any purpose become or be deemed to be a partner of Consultant in its business or otherwise or a joint venturer or a member of any joint enterprise with Consultant.

5.0 INSURANCE, INDEMNIFICATION AND BONDS

5.1 Insurance. The Consultant shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to Town, during the entire term of this Agreement including any extension thereof, the following policies of insurance:

(a) Comprehensive General Liability Insurance. A policy of comprehensive broad form general liability insurance written on a per occurrence basis. The policy of insurance shall be in an amount not less than either (i) a combined single limit of \$1,000,000 for bodily injury, death and property damage or (ii) bodily injury limits of \$500,000 per person, \$1,000,000 per occurrence and \$1,000,000 products and completed operations and property damage limits of \$500,000 per occurrence. If the Contract Sum is greater than \$100,000, the policy of insurance shall be in an amount not less than \$2,000,000 combined single limit.

(b) Worker's Compensation Insurance. A policy of worker's compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for both the Consultant and the Town against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by the Consultant in the course of carrying out the work or services contemplated in this Agreement.

(c) Automotive Insurance. A policy of comprehensive automobile liability insurance written on a per occurrence basis in an amount not less than either (i) bodily injury liability limits of \$500,000 per person and \$1,000,000 per occurrence and property damage liability limits of \$250,000 per occurrence and \$500,000 in the aggregate or (ii) combined single limit liability of \$1,000,000. Said policy shall include coverage for owned, non owned, leased and hired cars.

(d) Professional Liability. A policy of errors and omissions professional liability insurance in an amount not less than \$1,000,000.

All of the above policies of insurance shall be primary insurance and shall name the Town, its officers, employees as additional insureds, except that the Town shall not be named as an additional insured for the worker's compensation insurance nor the professional liability insurance. The insurer shall waive all rights of subrogation and contribution it may have against the Town, its officers, employees and agents and their respective insurers. All of said policies of insurance shall provide that said insurance may not be amended or canceled without providing thirty (30) days prior written notice by registered mail to the Town. In the event any of said policies of insurance are canceled, the Consultant shall, prior to the cancellation date, submit new evidence of insurance in conformance with this Section 5.1 to the Contract Officer. No work or services under this Agreement shall commence until the Consultant has provided the Town with Certificates of Insurance or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance or binders are approved by the Town.

Except for the worker's compensation and professional liability insurance, all certificates shall name the Town as additional insured (providing the appropriate endorsement), be signed by an authorized agent of the insurer, and shall contain the following "cancellation" notice:

"CANCELLATION: Should any of the above described policies be cancelled before the expiration date thereof, the issuing company shall mail an advance 30-day written notice to the Certificate holder named herein."

The Consultant agrees that the provisions of this Section 5.1 shall not be construed as limiting in any way the extent to which the Consultant may be held responsible for the payment of damages to any persons or property resulting from the Consultant's activities or the activities of any person or persons for which the Consultant is otherwise responsible.

In the event the Consultant subcontracts any portion of the work in compliance with Section 4.3 of this Agreement, the contract between the Consultant and such subcontractor shall require the subcontractor to maintain the same policies of insurance that the Consultant is required to maintain pursuant to this Section 5.1.

5.2 Indemnification.

(a) Town Held Harmless - General Liability. Except for the sole negligence of Town, Consultant undertakes and agrees to defend, indemnify and hold harmless Town, and any and all of Town's boards, officers, employees, agents, and successors in interest, from and against all suits and causes of action, claims, losses, demands and expenses, including but not limited to, reasonable attorney's fees and reasonable costs of litigation, damages(s) or liability of any nature whatsoever, for death or injury to any person, including Consultant's employees and agents, or for damage to, or destruction of, any property of either party hereto, or of third persons, in any manner to the extent arising by reasons of the acts or omissions in the performance of this Agreement on the part of Consultant, or any of Consultant's subcontractor's, employees, or anyone for whom Consultant has obligated itself under this Contract, whether or not contributed to by any act or omission of Town or any of the Town's boards, officers or employees.

(b) Town Held Harmless - Professional Liability. Consultant undertakes and agrees to indemnify and hold harmless Town, and any and all of Town's boards, officers, employees, and agents from and against all losses and expenses, including, but not limited to, reasonable attorney's fees and reasonable costs of litigation, damage(s) or liability of any nature whatsoever, for death or injury to any person, including Consultant's employees and agents, or for damage to, or destruction of, any property of third persons, in any manner to the extent caused by the negligent acts or omissions in performance of the professional services under this Agreement on the part of Consultant.

5.3 Performance Bond. Not applicable.

5.4 Sufficiency of Insurer or Surety. Insurance or bonds required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated "A" or better in the most recent edition of Best Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII or better, unless such requirements are waived by the Town Manager or designee of the Town ("Town Manager") due to unique circumstances. In the event the Town Manager determines that the work or services to be performed under this Agreement creates an increased or decreased risk of loss to the Town, the Consultant agrees that the minimum limits of the insurance policies and the performance bond required by this Section 5 may be changed accordingly upon receipt of written notice from the Town Manager or designee; provided that the Consultant shall have the right to appeal a determination of increased coverage by the Town Manager to the Town Council within ten (10) days of receipt of notice from the Town Manager.

6.0 REPORTS AND RECORDS

6.1 Reports. Consultant shall periodically, and no less than monthly, prepare and submit to the Contract Officer such reports concerning the performance of the services required by this Agreement as the Contract Officer shall require for internal use as well as for distribution to the Yucca Valley Town Council and Planning Commission. Consultant hereby acknowledges that the Town is greatly concerned about the cost of work and services to be performed pursuant to this Agreement. For this reason, Consultant agrees that if Consultant becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the work or services contemplated herein or, if Consultant is providing design services, the cost of the project being designed, Consultant shall promptly notify the Contract Officer of said fact, circumstance, technique or event and the estimated increased or decreased cost related thereto and, if Consultant is providing design services, the estimated increased or decreased cost estimate for the project being designed.

6.2 Records. Consultant shall keep, and require subcontractors to keep, such books and records as shall be necessary to perform the services required by this Agreement and enable the Contract Officer to evaluate the performance of such services. The Contract Officer shall have full and free access to such books and records at all times during normal business hours of Town, including the right to inspect, copy, audit and make records and transcripts from such records. Such records shall be maintained for a period of three (3) years following completion of the services hereunder, and the Town shall have access to such records in the event any audit is required.

6.3 Ownership of Documents. Town acknowledges the drawings, specifications and other documents prepared by Consultant, its employees, subcontractors and Consultants pursuant to this Agreement are instruments of professional service ("Instruments"). Upon payment in full of all undisputed monies due to Consultant, the Instruments shall become the property of Town. Consultant

shall have no claim for further employment or additional compensation as a result of the exercise by Town of its full rights of ownership of the Instruments; provided, however, that any modification of the Instruments or use for other projects for which Consultant is not retained and does not provide professional services shall be at Town's sole risk and without liability to Consultant, and shall require the removal of Consultant's title block and indicia from the Instruments unless otherwise agreed in writing by Consultant. Town shall indemnify and hold harmless Consultant, its officers, directors and employees from and against any loss, damage, liability, claims, demands, suits and expenses, including but not limited to reasonable attorneys' fees and costs, resulting from use of the Instruments as aforementioned, without agreement in writing from Consultant.

6.4 Release of Documents. The drawings, specifications, reports, records, documents and other materials prepared by Consultant in the performance of services under this Agreement shall not be released publicly without the prior written approval of the Contract Officer.

7.0 ENFORCEMENT OF AGREEMENT

7.1 California Law. This Agreement shall be construed and interpreted both as to validity and to performance of the parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of San Bernardino, State of California, or any other appropriate court in such county, and Consultant covenants and agrees to submit to the personal jurisdiction of such court in the event of such action.

7.2 Disputes. In the event of any dispute arising under this Agreement, the injured party shall notify the injuring party in writing of its contentions by submitting a claim therefore. The injured party shall continue performing its obligations hereunder so long as the injuring party commences to cure such default within ten (10) days of service of such notice and completes the cure of such default within forty five (45) days after service of the notice, or such longer period as may be permitted by the injured party; provided that if the default is an immediate danger to the health, safety and general welfare, such immediate action may be necessary. Compliance with the provisions of this Section shall be a condition precedent to termination of this Agreement for cause and to any legal action, and such compliance shall not be a waiver of any party's right to take legal action in the event that the dispute is not cured, provided that nothing herein shall limit Town's or the Consultant's right to terminate this Agreement without cause pursuant to Section 7.8.

7.3 Retention of Funds. Consultant hereby authorizes Town to deduct from any amount payable to Consultant (whether or not arising out of this Agreement) (i) any amounts the payment of which are in dispute hereunder or which are necessary to compensate Town for any losses, costs, liabilities, or damages suffered by Town, and (ii) all amounts for which Town may be liable to third parties, by reason of Consultant's acts or omissions in performing or failing to perform

Consultant's obligations under this Agreement. In the event that any claim is made by a third party, the amount or validity of which is disputed by Consultant, or any indebtedness shall exist which shall appear to be the basis for a claim of lien, Town may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. Notwithstanding anything in this Agreement to the contrary, Consultant does not waive, relinquish or release any claims or rights it may have to any amounts deducted hereunder, and shall be entitled to seek recourse for collection against Town for any amounts deducted (i) the payment of which should not have been disputed and/or (ii) are not necessary to compensate Town for any losses, costs, liabilities or damages, either suffered by Town or for which Town is liable to third parties, by reason of Consultant's acts or omissions in connection with this Agreement. The failure of Town to exercise such right to deduct or to withhold shall not, however, affect the obligations of the Consultant to insure, indemnify, and protect Town as elsewhere provided herein.

7.4 Waiver. No delay or omission in the exercise of any right or remedy by a non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. A party's consent to or approval of any act by the other party requiring the party's consent or approval shall not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

7.5 Rights and Remedies are Cumulative. Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

7.6 Legal Action. In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement.

7.7 Liquidated Damages. Not applicable.

7.8 Termination Prior to Expiration Of Term. This Section shall govern any termination of this Agreement except as specifically provided in the following Section for termination for cause. The Town reserves the right to terminate this Agreement at any time, with or without cause, upon thirty (30) days' written notice to Consultant, except that where termination is due to the fault of the Consultant, the period of notice may be such shorter time as may be determined by the Contract Officer. In addition, the Consultant reserves the right to terminate this Agreement at any time upon, with or without cause, upon sixty (60) days' written notice to Town, except that where termination is due to the fault of the Town, the

period of notice may be such shorter time as the Consultant may determine. Upon receipt of any notice of termination, Consultant shall immediately cease all services hereunder except such as may be specifically approved by the Contract Officer. Except where the Consultant has initiated termination, the Consultant shall be entitled to compensation for all services rendered prior to the effective date of the notice of termination and for any services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer. In the event the Consultant has initiated termination, the Consultant shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder, as determined by the Contract Officer. In the event of termination without cause pursuant to this Section, the terminating party need not provide the non-terminating party with the opportunity to cure.

7.9 Termination for Default of Consultant. If termination is due to the failure of the Consultant to fulfill its obligations under this Agreement, Town may, after compliance with the provisions of Section 7.2, take over the work and prosecute the same to completion by contract or otherwise, and the Consultant shall be liable to the extent that the total cost for completion of the services required hereunder exceeds the compensation herein stipulated (provided that the Town shall use reasonable efforts to mitigate such damages), and Town may withhold any payments to the Consultant for the purpose of set-off or partial payment of the amounts owed the Town as previously stated.

7.10 Attorneys' Fees. If either party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees. Attorney's fees shall include attorney's fees on any appeal, and in addition a party entitled to attorney's fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

8.0 TOWN AGENCY OFFICERS, EMPLOYEES AND AGENTS; NON DISCRIMINATION

8.1 Non-liability of Town Officers, Employees, and Agents. No officer, employee, or agent of the Town shall be personally liable to the Consultant, or any successor in interest, in the event of any default or breach by the Town or for any amount which may become due to the Consultant or to its successor, or for breach of any obligation of the terms of this Agreement.

8.2 Conflict of Interest. No officer, employee, or agent of the Town shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which

effects his financial interest or the financial interest of any corporation, partnership or association in which he is, directly or indirectly, interested, in violation of any State statute or regulation. The Consultant warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.

8.3 Covenant Against Discrimination. Consultant covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, or ancestry in the performance of this Agreement. Consultant shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, marital status, national origin, or ancestry.

9.0 MISCELLANEOUS PROVISIONS

9.1 Notice. Any notice, demand, request, document, consent, approval, or communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first class mail, in the case of the Town:

Town Manager
Town of Yucca Valley
57090 Twentynine Palms Highway,
Yucca Valley, CA 92284;

and in the case of the Consultant to:
XXXX

Either party may change its address by notifying the other party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy two (72) hours from the time of mailing if mailed as provided in this Section.

9.2 Interpretation. The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

9.3 Integration; Amendment. It is understood that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties, and

none shall be used to interpret this Agreement. This Agreement may be amended at any time by the mutual consent of the parties by an instrument in writing.

9.4 Severability. In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

9.5 Corporate Authority. The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound.

[Signatures on following page]

IN WITNESS WHEREOF, the parties have executed and entered into this Agreement as of the date first written above.

"TOWN"

ATTEST:

TOWN OF YUCCA VALLEY

By:

By:

Town Clerk

Mayor

APPROVED AS TO FORM:
ALESHIRE & WYNDER, LLP

Town Attorney

"CONSULTANT"

Signature

Print NAME & TITLE

By:

Signature

PRINT NAME & TITLE

(Corporations require two signatures; *one from each* of the following: A. Chairman of Board, President, any Vice President; *AND B.* Secretary, Assistant Secretary, Treasurer, Assistant Treasurer, or Chief Financial Officer.)

[End of Signatures]

SAMPLE

EXHIBIT "A"
SCOPE OF SERVICES

SAMPLE

EXHIBIT "B"
SPECIAL REQUIREMENTS

Not Applicable.

SAMPLE

EXHIBIT "C"
SCHEDULE OF COMPENSATION

Consultant shall be compensated pursuant to Section 2.2 of the Agreement based upon satisfactory completion of the work, as determined by the Town's Contract Officer.

The total compensation to Consultant, including reimbursables, shall not exceed the Contract Sum of xxxx (\$).

The Schedule of Compensation for each task shall be as follows:

- Phase One: xxxx(\$)
- Phase Two: xxxx(\$)
- Optional Tasks: xxxx(\$)

Fees for any additional services requested by the Town beyond those set forth in the Scope of Services at Exhibit "A" of this Agreement shall be provided by the Consultant based on the following information set forth below:

None

EXHIBIT "D"
SCHEDULE OF PERFORMANCE

SAMPLE