



**Rules & Policy Committee**  
 Tuesday February 22<sup>nd</sup>, 2022  
 9:00 A.M.

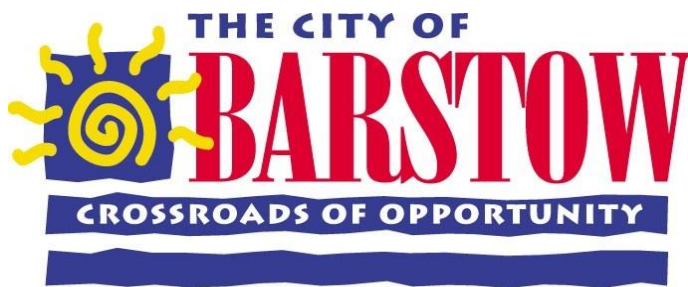
**Meeting Agenda**

Item	Topic	Presenter(s)
1	<u>Introductions</u>  <u>Call to Order</u>	All  Chair Rose
2	<u>New Business</u> <ul style="list-style-type: none"> <li>▪ Addendum to Purchasing &amp; Contract Policy for SB 1383 Procurement.</li> </ul>	Jessica Reed
3	<u>Old Business</u> <ul style="list-style-type: none"> <li>▪ Rental Inspection Ordinance</li> <li>▪ Municipal Code Sec. 6.28.030 – Public Nuisance’s Prohibited</li> <li>▪ Expense Policy</li> <li>▪ City Vehicle and Personal Vehicle Policies Updates (<b>Pending Item</b>)</li> </ul>	Chris Heldreth  Matthew Summers
4	<u>Open Forum Discussion</u> <ul style="list-style-type: none"> <li>▪ Public Comment</li> </ul>	All
5	<u>Committee Member Comments</u> <ul style="list-style-type: none"> <li>▪ Council Member Comments</li> <li>▪ City Staff Comments</li> </ul>	All
6	<u>Next Rules &amp; Policy Committee Meeting / Topics</u> <ul style="list-style-type: none"> <li>▪ Discuss Proposed Meeting Topics</li> <li>▪ Meetings Occur Last Tuesday of Each Month / 9:00 A.M.</li> <li>○ Tentative Date of Next Meeting: March 29, 2022 / 9:00 A.M.</li> </ul> <u>Adjournment</u>	All      Chair Rose

The greater danger for most of us is not that our aim is too high and we miss it,  
 but that it is too low and we reach it.

**MICHELANGELO**

# **PURCHASING and CONTRACT POLICY**



**MAY 2021**

## TABLE OF CONTENTS

I.	Introduction to Purchasing and Contract Policy.....	3
II.	Goods and Non-Professional Services (No Contract Required) .....	3
III.	Contracts for Non-Professional Services, Equipment, Supplies and Construction Contracts: Purchasing Requirements, Exceptions and Procedures.....	7
IV.	Professional Service Contracts: RFP/RFQ Requirements, Exceptions and Procedures.....	15
V.	Special Purchasing Transactions .....	24
VI.	Local Vendor Preference.....	25
VII.	Credit Cards / and/or Purchasing Cards.....	26
VIII.	Purchases with Federal Grant Funds.....	26
IX.	Purchasing Definitions.....	38
	Attachment: SCHEDULE OF DOLLAR LIMITS AND APPROVALS.....	43

## **I. INTRODUCTION TO PURCHASING AND CONTRACT POLICY**

The Purchasing and Contract Policy (“Policy”) represent a formalization of the City of Barstow’s (“City”) and Barstow Fire Protection District’s (“BFPD”) procedures as they relate to contracting with vendors for the provision of goods and services to the City/BFPD and its residents. It has been developed not only to document the procedures, but to also provide a tool for training staff, increasing standardization, clarifying responsibilities and promoting consistent application of management procedures. The Policy is established by which all City and BFPD procurement is to be conducted, as well as to ensure compliance with applicable laws relating to the expenditure of public funds.

In developing this Policy, consideration has been given to balance the need for consistency within and among the various departments, provide management with reasonable assurances that the City/BFPD is well served by each vendor, that contracts are implemented in accordance with management’s expectations and that the provisions of the contract are complied with by the vendor.

Both the term “contract” and the term “agreement” are used throughout this document. It is intended that both terms have the same meaning.

This Policy is distributed to all departments. As with all procurement Policies, this Policy is a living document; that is, from time to time, changes will be made to improve its clarity, understanding, scope, and usability. All changes to this Policy are subject to the written approval of the City Council/BFPD Board.

The Finance Director is the City/BFPD’s purchasing agent charged with the responsibility for overseeing the City’s purchasing system. Authority for establishing these policies and procedures is found in Chapters 2.40, 2.41 and 2.42 of the Barstow Municipal Code which sets forth, in both general and specific terms, the policies and procedures of the City/BFPD regarding purchasing. Those policies and procedures are incorporated into this Policy by this reference and provide the authority and basis on which it has been prepared. If any conflict arises between this Policy, Barstow Municipal Chapters 2.40, 2.41 or 2.42, and/or the procurement standards in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (commonly referred to as “Uniform Guidance”) as per 2 Code of Federal Regulations (CFR) 200.317 through 200.327, the conflict shall be resolved in the following order: 2 CFR 200.317 through 200.327, Barstow Municipal Code Chapters 2.40, 2.41, and/or 2.42, and this policy.

When authorized to procure material or service, all City and BFPD employees shall follow this policy to correctly and ethically process a procurement need and ensure the efficient use of public funds.

All City and BFPD rules, regulations, laws, resolutions and the Purchasing Ordinance are incorporated herein by reference see the following chapters of the Municipal Code and the procurement standards in 2 CFR 200.317 through 200.327:

Chapter 2.40 – Purchasing System  
Chapter 2.41 – Disqualification of Contractors  
Chapter 2.42 – Awarding Public Projects

## **II. GOODS AND NON-PROFESSIONAL SERVICES - NO CONTRACT REQUIRED**

### **A. An Overview of the Purchasing Process**

The purchasing process is decentralized; with each Department/Division responsible for compliance with City policies and procedures. Purchasing responsibility and authority shall be delegated to the lowest possible level consistent with good business practice and sound financial management policy to the extent practical. The Finance Department has designated the purchase order (PO) as the primary and preferable procurement and payment method. The PO is the main source of encumbering and procuring services and goods and serves to communicate to a vendor the City's/BFPD's terms and conditions, authorizes an encumbrance of City funds and is a contractual agreement to order goods and services.

1. The person requesting ("Initiator") the merchandise (other than office supplies and general printing) or service seeks out potential vendors, obtains the proposals and interacts with the vendor.
2. A Purchase Requisition is not required for City/BFPD credit card purchases or for nominal purchases, defined as purchases <\$1,000. A Purchase Requisition is prepared if the item exceeds the limit as set in the SCHEDULE OF DOLLAR LIMITS AND APPROVALS and/or if the vendor requires a Purchase Order. Purchasing requirements and approval levels are documented in this Policy. The Initiator in conjunction with the Finance Director is responsible for assuring that adequate budgeted funds are available. No purchase will be approved or undertaken unless an appropriation has been established, through either the adopted annual budget or City Council/Fire Board approval of additional appropriations. It is the responsibility of the Department/Division to maintain budget control of their respective budgets. Ultimate responsibility for a department/division budget rests with the Department Manager/Director.

3. A Purchase Requisition is routed for approval through the appropriate levels using the City's financial system. Once approved, it is routed to the Finance Department for further action as described below.
4. After review of a properly completed Purchase Requisition by the Finance Department, including all necessary approvals, a Purchase Order will be prepared when required. This process causes the funds to be encumbered.
5. The Purchase Order is sent to the Initiator who transmits the original to the vendor.
6. The merchandise or service is received; the invoice is received, checked and approved by the Initiator.
7. The invoice is approved either by the Initiator or by an authorized staff member, noting the Purchase Order number, if applicable, and it, along with any supporting documents are sent to the Finance Department for payment.
8. The check is prepared, signed and sent to the vendor. The encumbrance is liquidated if a Purchase Order is issued.

B. Purchase Requisitions/Purchase Orders

1. The Purchase Requisition is designed to document vendor and ordering information, approvals, and budget compliance. Purchase requisitions are submitted through the financial system to the Finance Department for the supplies, materials, equipment, and contractual services as required for operations and for the purposes of verifying that requested expenditures are within the limits of funds appropriated.
2. A complete and accurate Purchase Requisition contains all of the information necessary to allow a Purchase Order to be generated.
3. A Purchase Requisition is required when purchasing goods or services for capital improvement projects or capital outlay which exceed the limit as set in the SCHEDULE OF DOLLAR LIMITS AND APPROVALS and whenever a vendor requires a Purchase Order to be issued.

4. The Purchase Requisition requires approvals as set in the SCHEDULE OF DOLLAR LIMITS AND APPROVALS.
5. If the Purchase Requisition is for a first-time vendor, a completed "Request for Taxpayer Identification Number and Certification" (IRS form W-9) must accompany the Purchase Requisition. Form W-9 can be requested from the Finance Department, if needed. New vendors must fill out a W-9 and departments should forward this to the Finance Department for vendor setup. Checks will not be mailed to a new vendor until the form is completed and received by the Finance Department.
6. All vendors must comply with the Business License ordinance. Prior to contracting or using a selected vendor, the Initiator should verify the vendor has a business license, if required.
7. Grant expenditures may be subject to different and stricter rules. Grant documents are to be reviewed by Finance Department and the appropriate department director for such rules prior to preparing a Purchase Requisition.

C. Internal Review

Finance Department Review: The Finance Department is responsible for administering the financial policies and procedures of the City/ BFPD and provides a supportive role in assuring budget accountability. In addition, the Finance Department performs a "reasonableness review" which includes the following:

1. Review of the Purchase Requisition for completeness.
2. Determination that proposals or bids have been obtained, if required.
3. Determination that the appropriate approvals are included.
4. Determination that the account number charged is appropriate for the item being acquired.
5. Review for availability of funds or determination that the Request for Budget Transfer has been completed, when necessary.
6. Approval of the Purchase Requisition, if applicable (provided Items #1 through #5 are correct), that causes the Purchase Order to be printed when required, which results in the encumbrance to be recorded in the General Ledger.

If the Purchase Requisition has missing, or what appears to be incorrect information, Finance personnel will use their judgment in handling the situation.

Department Director/Manager Review: Budget accountability rests primarily with the operating departments of the City/BFPD. In accomplishing the programs and objectives for which the budget was authorized, department directors/managers are responsible for ensuring that their respective budgets stay within the prescribed funding levels.

D. Receipt of Merchandise or Service

1. The initiating department is responsible for receiving incoming goods or services, inspecting them as to quality and condition, and confirming the quantities received by counting, measuring or weighing. The receipt of goods or services must also be recorded in the City's financial system.
2. Documentation noting receipt and inspection of the merchandise should accompany the invoice when it is sent to the Finance Department for payment.
3. If there is a partial delivery, its receipt should be documented and a copy of the documentation should be attached to the invoice for payment.
4. If merchandise is not acceptable, the Initiator will arrange for replacement or return for credit of the defective items. The Finance Department should also be notified.
5. Many vendors will not give credit for returned merchandise unless a return authorization is obtained prior to returning the items. The vendor should be contacted for their specific requirements to expedite the return and credit or replacement.
6. If the Purchase Order has been issued for services, the Initiator will approve the invoice for payment denoting that the services were provided in a satisfactory manner.

**III. CONTRACTS FOR NON-PROFESSIONAL SERVICES, EQUIPMENT AND SUPPLIES: PURCHASING REQUIREMENTS, EXCEPTIONS AND PROCEDURES**

Non-professional services, equipment, and supply purchases have the same purchasing requirements and levels of approval. Non-professional services include



those activities which do not require a high degree of professional certification such as maintenance services or other services which do not require a specialized expertise or unique skills. When purchasing non-professional services, equipment, and supplies, the contract is awarded to the lowest responsive and responsible vendor, subject to the exceptions in III-A below. When purchasing computer equipment (hardware and software), it is required that the Information Technology Manager or his/her designee be contacted for assistance and approval. All public works projects for \$1,000 or more must comply with the California Department of Industrial Relations bid noticing and contract reporting requirements as defined by labor code section 1771.1 and 1773.3.

A. Exceptions

You do not need to obtain proposals or bids for non-professional services, equipment and supplies if one or more of the following conditions is (are) met:

1. The equipment or supplies is unique because of its quality, durability, proprietary nature (such as software licenses), availability or fitness for a particular use or where a warranty, guaranty or other assurance would be voided. However, if the price exceeds the City Manager/Executive Director's limit as set by City Council/Fire Board, the City Council/Fire Board must approve the purchase.
2. Sole source purchases are purchases of supplies, services and equipment are exempt if they are one-of-a-kind or unique and can be obtained from only one vendor. Any sole source purchase shall be made within the expenditure limits set by adopted administrative regulations.
3. The City Manager/City Administrator determines that emergency circumstances require the immediate purchase of the services, equipment or supplies pursuant to Barstow Municipal Code Section 2.40.110 or Section 2.42.070.
4. An open purchase order where the services, equipment or supplies is provided by an independent contractor who has a contract with the City/BFPD to provide labor and materials for projects other than a public works project (i.e., office supply contract which is in place for one year and purchases of supplies are made periodically based on the contract) pursuant to Barstow Municipal Code section 2.40.110.
5. Work performed by the City/BFPD with its own employees is exempt pursuant to Barstow Municipal Code section 2.40.110.

6. Where advantageous to the City/BFPD, purchases made under a cooperative purchasing program, utilizing purchasing agreements maintained by the state, county, or other public agencies are exempt from this Policy.

B. The Informal Purchasing Process

1. Responsibilities

The responsibilities for completion of the informal purchasing process pursuant to Barstow Municipal Code section 2.40.130 are shared by the City Manager/City Administrator, Finance Director and the Initiator.

*Initiator:*

- a. Initiator determines that sufficient funds are available for the proposed purchase prior to initiating the informal purchasing process.
- b. Solicit at least 3 proposals by telephone or written request from prospective vendors.
- c. Receive the proposals and prepare a proposal summary.
- d. Obtain authorization from the City Manager/City ~~Adminstrator~~Administrator and the Finance Director.
- e. Upon approval, award to the lowest responsive and responsible vendor, consistent with quality and delivery requirements.
- f. Prepare the contract in conformance with the City professional services agreement (PSA) template and submit to the City Attorney for review and subsequent approval before proceeding. Upon approval by the City Attorney, prepare 2 copies of the approved PSA for execution by the City/BFPD and its vendor. This will provide an original copy for the City/BFPD and the vendor.
- g. Submit the record of orders and proposals to the City Clerk who shall keep a record for six months.

*City Clerk:*

- a. Maintain the record of orders and proposals for a period of six months after placement of the order. This record, while so kept, shall be open to public inspection.
- b. Provide a copy of the contract and certificate of insurance to the Initiator, Risk Manager and Finance Department. An original copy of the contract is sent to the vendor and one original copy is also retained in the contract file.

C. The Informal Purchasing Process (Public Projects)

A list of contractors shall be developed and maintained in accordance with Public Contract Code section 22034. Such list shall be maintained by the City Manager/City Administrator or his/her/their designee.

When a public contract is to be bid pursuant to the procedures in section 2.42.040 of the Barstow Municipal Code, a notice inviting informal bids shall be mailed to all construction trade journals as specified by the California Uniform Construction Cost Accounting Commission in accordance with Public Contract Code section 22036.

As an option, notification may also be provided to contractors on the list created above for the category of work being bid, and to any additional contractors and/or construction trade journals.

Also, if the product or service is proprietary in nature such that it can be obtained only from a certain contractor (s), the notice may be sent exclusively to such contractor or contractors.

All mailing of notices to contractors and construction trade journals shall be completed not less than ten (10) calendar days before the bid is due.

The notice inviting informal bids shall describe the project in general terms, and how to obtain more information about the project, and state the time and place for the submission of bids.

The City Manager/City Administrator is authorized to award bids up to limits in the attached SCHEDULE OF DOLLAR LIMITS AND APPROVALS . Bid award for projects greater than City Manager/City Administrator's limit as set by City Council/BFPD,

must be awarded by City Council/BFPD Board. The contract shall be awarded to the lowest responsible bidder.

If no bids are received (either by informal or formal bid), the project may be performed by employees, or by negotiated contract.

D. The Formal Purchasing Process

1. Responsibilities

The responsibilities for completion of the formal purchasing process pursuant to Barstow Municipal Code section 2.40.140 are shared by the Finance Director and the Initiator. These responsibilities apply only to non-public project bids well as non-professional services (proposals).

*Initiator:*

- a. In conjunction with the Finance Director, determines that sufficient funds are available for the proposed purchase prior to initiating the formal proposal or bid process.
- b. Prepares a notice inviting sealed proposals or bids. The form contract for the proposal or bid package is prepared by the Initiator.
- c. Within the time period set forth in Barstow Municipal Code section 2.40.140 publish at least once the notice of bid in the Desert Dispatch or other Barstow newspaper with the widest circulation.
- d. If no bids are received, the city clerk shall publish the notice of bid within the time period set forth in Barstow Municipal Code section 2.40.140 in a trade or other publication likely to be received by prospective bidders.
- e. Reviews qualifications and references of the lowest responsible, responsive bidder(s).
- f. After opening of sealed proposals or bids by the City Clerk, negotiates contract with vendor selected as the lowest responsible, responsive bidder. Sends request for contract to Initiator who coordinates City Attorney approval of the contract.

- g. Prepares the agenda report for presentation to City Council/BFPD Board, which includes the proposed contract, and places contract on City Council/BFPD Board agenda for approval.
- h. Obtains certificate of insurance and required endorsements from the vendor. Copies of the ~~certficate~~certificate of insurance and endorsements are provided to the Risk Manager to ensure required compliance and appropriate coverages. If required, also obtains payment/performance bonds from the vendor and verifies that the surety is admitted in California. Also verifies contractor's current license in California where required under the contract. Sends these documents to the City Clerk and three original contracts signed by the vendor, to the Initiator. The Initiator coordinates execution of the contract with the City Clerk.
- i. After the City Clerk has completed execution of the contract, prepares and processes the Purchase Requisition if the vendor requires a Purchase Order.
- j. Deals with the vendor on a day-to-day basis for completion of the contract and processing of payments.
- k. Coordinates City Attorney approval of contracts.

*City Clerk:*

- a. Assists as described above in the publication process before the scheduled proposal or bid opening date.
- b. Opens the proposals or bids at the time and place stated in the public notice.
- c. Prepares a tabulation of all proposals or bids and makes the tabulation available for public inspection during regular business hours for at least thirty (30) calendar days after the proposal or bid opening.
- d. Notifies vendors whose proposals or bids were not accepted and returns bid bonds.
- e. Maintains copies of the losing proposals or bids in accordance with the City/BFPD's records retention schedule.

- f. Obtains the City Manager/City Administrator's or Mayor's signature on the contract with an attest by the City Clerk and approval as to form by the City Attorney.
- g. Sends a copy of the contract and certificate of insurance to the Initiator, Risk Manager and Finance Department. The City Clerk sends an original to the vendor and retains one original contract on file.
- h. Monitors contract expirations and follows up with Initiator as appropriate.

*Risk Manager:*

- a. Monitors certificates of insurance and follows up on expirations of coverage.

2. Notice Inviting Sealed Proposals or Bids

The notice should include the following:

- a. General description of the non-professional services or item to be purchased.
- b. Statement indicating where proposal or bid forms and specifications can be obtained.
- c. Statement specifying the date, time and place for the opening of proposals or bids.
- d. Statement describing the bid security required, if any. (Example: A bid bond equal to 10% of the amount of the bid.)
- e. Statement describing payment/performance bond requirements if the vendor is selected.

F. The Formal Purchasing Process--Notice of Inviting Bids & Awarding Formal Bids:

In addition to the above requirements, the following apply to public projects per Sections 2.42.050 and 2.42.060 of the Barstow Municipal Code.

Notices inviting bids shall state the time and place for the receiving and opening of sealed bids and distinctly describe the project.

The notice shall be published for at least fourteen (14) calendar days before the opening of bids in a newspaper of general circulation, printed and published in the City, or otherwise comply with the requirements of Public Contract Code 22037.

The notice inviting formal bids shall also be sent electronically, if available, by either facsimile or electronic mail and mailed to all construction trade journals specified in Public Contract Code 22036. Such notice shall be sent at least 15 calendar days before the date of opening the bids. The City/BFPD may provide additional notice.

The City/BFPD may reject any bids presented, if the City/BFPD, prior to rejecting all bids and declaring that the project can be more economically performed by its employees, furnishes a written notice to the apparent low bidder. Please see Section 2.42.060 of the Barstow Municipal Code for specific procedural details.

If a contract is awarded, it shall be awarded to the lowest responsible bidder. If two bids are the same, either may be selected.

If no bids are received (either by informal or formal bid), the project may be performed by employees, or by negotiated contract.

G. Selecting a Vendor and Review of Proposals or Bids

The City/BFPD's policy is to obtain non-professional services, equipment and supplies from the lowest responsible, responsive bidder. Criteria for determining the lowest responsible, responsive bidder shall include, but not be limited to, the following:

1. Cost to City/BFPD.
2. Ability, capacity and skill.
3. Ability to meet time requirements.
4. Character, integrity and reputation.
5. Previous experience with the vendor.
6. Responsiveness of the bid.
7. Sufficiency of financial resources needed to perform. (Note security and bid bond requirements when formal bids are received.)

8. Ability to provide future maintenance and service, if necessary.

H. Contract Award

Contracts shall be awarded in the manner described in this policy and Chapter 2.40 of the Barstow Municipal Code as set in the attached SCHEDULE OF DOLLAR LIMITS AND APPROVALS

I. Change Orders

- a. A contract for non-professional services, equipment, supplies or construction contracts within the City Manager/City Administrator's limit or less awarded pursuant to Chapter 2.40 of the Municipal Code, may be amended by the issuance of a change order or written contract amendment, provided the change which is the subject of amendment is reasonably related to the scope of the original contract. Any change order or amendment may be approved by the City Manager/City Administrator's limit, provided the aggregate amount of all changes to a particular contract, including the change order under consideration, does not exceed 10% of the original contract cost. Any change order or amendment in the amount greater than the limit of the City Manager/City Administrator or any change order which, when considered with the aggregate amount of all other changes to a contract, exceeds 10% of the original contract cost, shall be approved by the City Council/BFPD Board.
- b. A contract for a public project awarded pursuant to Chapter 2.42 of the Municipal Code may be amended by the issuance of a change order, provided the change which is the subject of amendment is reasonably related to the scope of the original contract. The requesting department will maintain control relative to the scoping, estimating, and negotiation of the proposed change(s) and the Finance Director will certify the availability of funds for the proposed change in the event that the change order increases the contract cost. Any change order with a total cost that does not exceed 10% of the original contract amount may be approved by the City Manager/City Administrator, provided the aggregate amount of all changes to a particular contract, including the change order under consideration, does not exceed 10% of the original contract cost. Any change order which, when considered with the aggregate amount of all other changes to a contract, exceeds 10% of the original contract cost, shall be approved by the City Council/BFPD Board.



**IV. PROFESSIONAL SERVICES: RFP/RFQ REQUIREMENTS, EXCEPTIONS AND PROCEDURES**

A. Introduction to Requirements for Professional Services

Professional services are those activities to be performed by specially-trained persons or firms who provide services in connection with financial, economic, accounting, engineering, administrative or other matters involving specialized expertise or unique skills. The price, however, should be reasonable. A Request for Proposal ("RFP") or Request for Qualifications ("RFQ") is required if the service exceeds the amount on the attached SCHEDULE OF DOLLAR LIMITS AND APPROVALS. All consultants must execute the City/BFPD's professional services agreement template unless approved otherwise by the City Attorney. Any professional service agreement submitted to the City Council/BFPD Board for approval must provide sufficient background analysis to support the recommendation. In the event of a vacancy of a City/BFPD employee position previously approved by the City Council/BFPD Board, the City Manager/City Administrator shall have the authority to award any and all contracts for the same or substantially similar services to independent contractors or consultants. Each agreement needs to be properly executed and held on file with the City Clerk.

B Engineering and Design Contracts - Federally Funded

For engineering and design contracts that are either federally funded or funded through the State Transportation Agency, Caltrans, the City/BFPD do hereby adopt 23 CFR, 172.3 by reference and shall follow the procurement procedures detailed in Caltrans Local Assistance Procedures Manual Chapter 10 "Consultant Selection."

C. Phase I – Development and Approval

This section covers the actions from determination of need for service to recommendation of the best qualified vendor.

1. Method of Service Delivery

The very first step in the process is to determine if the service should be provided by the City/BFPD. Factors to consider for a mandated program are: if the service can be provided by another entity, if it is a budgeted service and if City/BFPD management and the City Council/BFPD Board authorized the provision of the service, etc.

The next step is to determine whether the service should be provided by a vendor through a contract or by City/BFPD employees. This method has been proven to provide greater flexibility to the City/BFPD when increasing or decreasing the service level, changing the service delivery method, changing the service provider, etc. However, for each new proposed service or significant expansion of existing service, one needs to determine the most cost effective method (contract or employee) to deliver the service.

2. Scope of Work

The scope of work outlines the tasks and duties to be performed by the vendor. It is also one of the key elements by which the performance of the vendor will be measured. The scope of work is similar to the job description for an employee.

After the scope of work has been drafted by the department that will supervise and evaluate the service, the department should then review the scope from two different viewpoints. First, the vendor should understand what needs to be done and how to tell if the job has been done well. Secondly, the scope should be sufficiently detailed so the vendor can do the work without needing to ask a lot of questions and described in such a way that staff can evaluate the vendor's performance. Extra time spent in developing the scope of work will result in improved analysis of RFP/RFQ responses, contract administration and performance evaluation.

3. Prequalification

Depending on the department in question and prior to issuing an RFP, a department may conduct a prequalification of professionals for anticipated services. Prequalification of professionals can streamline the process of evaluating and selecting professionals during a future RFP process by categorizing prequalified professional services and professional service firms. After prequalification of professionals pursuant to this process, notices for a subsequent RFP process in a particular category of services are sent only to the list of prequalified consultants. The qualification of prequalified consultants in areas relating to a specific project are rated later in connection with the RFP for that particular project. The prequalification process should include a review of the statement of qualifications, interviews, if necessary, and reference checks.

4. Request for Proposal

An RFP should be prepared in accordance with the SCHEDULE OF DOLLAR LIMITS AND APPROVALS and should include the following at minimum: the scope of work, the deadline for submitting responses, and a few areas of optional wording. These need to be completed before the RFP is considered to be complete. In addition, the City's professional services agreement (PSA) template must be attached to the RFP. When the service is expected to exceed the City Manager/Executive Director's signing authority as set forth in the SCHEDULE OF DOLLAR LIMITS AND APPROVALS, the department supervising and evaluating the proposed service prepares a report to the City Council/BFPD Board. The agenda report is to include the entire RFP as an attachment.

The project/contract should be approved by the City Manager/City Administrator and the City Attorney prior to the development of the RFP and at completion of the RFP. The entire modified RFP would be attached to the report to the City Council.

If the department is issuing an RFP to a list of prequalified vendors (from the RFQ process), the department should include in the agenda report to City Council the results of that prequalification and the list of prequalified consultants. The RFP will require information relating to professional service provider's qualifications as they relate to the particular project, in addition to the prequalification information. If no prequalification has occurred, the RFP will require general and project-specific qualifications.

5. Requesting Authorization-City Council/Fire Board to Issue RFP

When the service is expected to require City Council/Fire Board approval, the City Council/Fire Board must authorize the issuance of an RFP. This report should include a description of the service; scope of service; justification, especially for a new service; budget amount, if any; estimated cost of the service; key dates in the RFP and the proposed term of the contract. The changes to it need to be stated along with the proposed RFP attached to the agenda report.

C. Phase II - Selection of Vendor

1. Solicit Proposals From Qualified Vendors

The RFP is to be distributed to vendors after approval. There are a variety of methods to use in developing a list of vendors to receive the RFP.

In some instances, a department may decide to establish a list of prequalified vendors. In those instances, an RFP is distributed to prequalified vendors at the time the service is required.

In all other cases, notice of the RFP shall be disseminated by the broadest means possible. For example, notices should be mailed to previous vendors used by the City/BFPD (provided their performance meets the requirements of the City/BFPD), firms shown in listings or ads in professional journals/magazines, listings or ads in *Western Cities Magazine*, those who have sent a letter to the City/BFPD or otherwise contacted the City/BFPD. A copy of the RFP is then mailed to each prospective vendor. A list of those who were sent the RFP should be maintained. This not only documents those who were sent the RFP, but also those who need to be contacted if there are clarifications and/or changes to the RFP.

The RFP should require the responders to state any requested exceptions or changes to the RFP. Exceptions or changes not identified in the response to the RFP will not be considered by the City/BFPD.

2. Review Proposals and Select Best Vendor

Promptly after the deadline for submitting proposals, either the City Clerk or a designated representative opens them. They are generally submitted in two parts; the main or technical proposal and the cost proposal. If a cost proposal is submitted in a separate envelope, this envelope remains sealed until the qualitative review is completed.

The City Clerk retains one copy of the proposal from each vendor. The department that will supervise and evaluate the service takes all other copies and begins the evaluation process. This process includes the following:

a. General Review

A Selection Committee, comprised of at least three members of City/BFPD employees, will be formed by the Initiator, or his or her designee, to determine if the vendor submitted all required items, completed their response in the format specified in the RFP, and exceptions or changes to the RFP and/or Agreement, if any, noted by the vendor. If the vendor did not submit all required items or respond in the specified format, the vendor can be eliminated from further consideration. Additionally, based on the exceptions or

changes to the RFP and/or Agreement taken, the vendor may also be eliminated from further consideration.

b. Qualitative Evaluation

A detailed analysis of each vendor's qualifications and proposal is conducted by the approved multi-department Selection Committee (at least three). One of the panelists must be from the department issuing the RFP. Each person selected to perform the review is to thoroughly read the proposals and score each firm considered for qualitative review pursuant to the Project Proposal Evaluation Criteria in the approved RFP, which includes:

- i. Mandatory elements (licenses, absence of conflicts of interest, letter of transmittal and conformance to RFP instructions);
- ii. Expertise and Experience (expertise, experience and past performance on comparable engagements, quality of personnel and support, references, understanding of work to be done and firm's statement regarding qualifications);
- iii. Allocation of Resources (appropriateness of qualifications and proposed level of services to the requirements of the City/BFPD, distinguishing features, skills and/or services); and
- iv. Scope of Work (responses to all items and additional information, prioritization of tasks in the scope of services, appreciation of the difficulty and complexity of tasks in the scope, and "fit" between firm's qualification and City/BFPD's needs).

The department director/manager appoints one person on the Selection Committee as the coordinator. It is the responsibility of the coordinator to call references, including those listed as clients lost, and to combine the scoring of each member of the Selection Committee performing the review. The coordinator will then average the scores of each vendor, based on the scoring provided by each member of the Selection Committee. The potential vendors and their respective average score will be ranked.

c. Oral Presentations/Interview

The Selection Committee will request all firms with a minimum score of 70 points to make oral presentations. Such presentations will provide firms with an opportunity to answer any questions the Selection Committee may have on the firm's Project Proposal.

d. **Review of Cost Proposal**

The cost proposal is opened for each vendor who has received a score of at least 70 points after the qualitative review and the oral presentation. The cost proposal of the top ranked vendor is evaluated to determine if it is reasonable. The primary tests of reasonableness are comparison of the cost proposal to the City/BFPD's estimated project cost and the City/BFPD's project budget. Additional factors include prior experience, comparative project costs in neighboring or other relevant communities, professional judgment and comparison to the costs submitted by qualified vendors for the proposed project.

Prior to submitting an agenda report to City Council/BFPD Board, the department shall also negotiate contract terms with the selected vendor and include such terms in the draft Agreement submitted to City Council/BFPD Board.

e. **Contract Award.** Contracts shall be awarded per the attached SCHEDULE OF DOLLAR LIMITS AND APPROVALS.

f. **Contract Execution by Selected Vendor**

The professional services agreement template ,which is an exhibit to the RFP, is completed by the Department, based on the contents of the selected vendor's proposal and it is approved by the City Attorney. The Agreement (three originals) is then submitted to the vendor for signature. Agreements requiring City Council/BFPD Board approval must be executed by the vendor prior to submission of the agenda report.

3. **Report to the City Council/Fire Board**

Once the vendor has been selected, the City Council/Fire Board approval before contract execution by the City/BFPD is required per the SCHEDULE OF DOLLAR LIMITS AND APPROVALS. This is accomplished by the responsible department preparing an agenda report in accordance with the Standardized Agenda Format. This agenda report should include a description of the service, the cost of the service and the City/BFPD 's budget amount or the requested appropriation amount, a description of the process used in selecting the vendor, results of the reference checks, ranking of the vendors, the cost proposal for each qualified vendor, the total number of RFPs mailed, and the total number of vendors submitting proposals. The agenda report should allow the City Council/BFPD Board to determine why the recommended vendor was selected. The agenda report also needs to include a statement that the City/BFPD's standard form Agreement was used or, if not, a discussion of the changes to it. Any changes to the standard form Agreement must be submitted in red-line form to the City Attorney for review and approval *prior* to scheduling the item for City Council/BFPD Board consideration.

The City Council/BFPD Board retains the authority (1) to approve or reject the staff recommendation, (2) to reject all proposals, (3) to instruct staff to re-negotiate all or any portion of the proposed contract, (4) to seek supplemental information from any or all participating firms, or (5) to instruct staff to re-evaluate any staff determination made in the RFP process based on criteria contained in this Policy as articulated by the City Council/BFPD Board.

4. Contract Execution

After approval by City Council/BFPD Board, three copies of the Agreement are signed by either the City Manager/City Administrator or the Mayor. The three originals are provided to the City Clerk. The City Clerk sends one original to the vendor and one to the department administering the contract and a copy to the Finance Department.

a. Vendor Signature Requirements

**Corporation:**

Two signatures required, one from each category as follows:

- (1) Chairman of the Board, President or Vice President; and
- (2) Secretary, Assistant Secretary, Chief Financial Officer or Assistant Treasurer.

**Limited Liability Company:**

Two signatures required, one from each category as follows:

- (1) Chairman of the Board, President or Vice President; and
- (2) Secretary, Assistant Secretary, Chief Financial Officer or Assistant Treasurer.

**Partnership:**

One signature from any partner of the Partnership.

**Limited Partnership:**

One signature from one of the General Partners of the Limited Partnership.

**Sole Proprietorship:**

From the individual doing business under a fictitious name.

5. Contract Addendum

Any written amendment to the contract Scope of Work with a total cost in the amount within the City Manager/City Administrator's limit may be approved, provided that the aggregate amount of all amendments to a particular contract, including the amendment under consideration, does not exceed 10% of the original contract cost. Any written amendment in an amount exceeding the City Manager/City Administrator's limit or any amendment which, when considered with the aggregate amount of all other amendments to a contract, exceeds 10% of the original contract cost, shall be approved by the City Council/BFPD Board.

A written amendment to the contract scope of work may be allowed if the addendum or amendment is related to the current scope of work. If the work is for an unrelated project, contract procurement procedures should be followed.

D. Phase III - Contract Operation

1. Internal Approvals

Prior to the vendor beginning the work, the City/BFPD must verify that the required elements of the Agreement are in place. The elements would include insurance and any other requirements that are in the Agreement. Once all contract requirements are resolved, the department issues the vendor a notice to proceed. In instances where a purchase order is required, a purchase requisition is to be prepared by the department administering the contract and submitted to the Finance Department.

2. Administration of Contract

Administration of the contract is vital to the City/BFPD. Elements of administration include:



- a. Periodic Performance Review: Each vendor should receive a periodic performance review. Vendors performance should be reviewed internally by the initiating department in conjunction with each request for payment. When the vendor's performance is fails to meet the terms of the RFP or agreement, the department should refer to Barstow Municipal Code Section 2.41.
- b. Insurance Requirements: The Risk Manager in conjunction with the initiating department, maintains a system which verifies that the appropriate insurance coverage is secured by the vendor and maintained throughout the term of the contract. Prior to expiration of the insurance, the vendor is notified of the pending expiration. If appropriate documentation has not been received prior to expiration, the Risk Manager and/or responsible department notifies the vendor. In the event the vendor fails to provide updated insurance policy information and the required insurance expiration has exceeded thirty (30) days, payments to the vendor may be withheld until appropriate insurance documentation is in place.

E. Phase IV - Contract Completion/Extension

At least two (2) months prior to the contract termination date, the department administering the contract shall prepare an agenda report to the City Council/BFPD Board regarding the contract and related service. The agenda report requests authorization to issue an RFP including the scope of services and key dates to be included in the RFP, or the department may recommend continuing with the same vendor beyond the contract termination date. The agenda report must contain the reasons/justification for continuing with the vendor.

If the department recommends continuing with the same vendor, Council/BFPD Board approval is required for a one-year contract extension with a maximum of two one-year extensions. The maximum term for any software agreements is up to five (5) years. Two-month Council/BFPD Board notification is required when the initial term will expire and the software agreement will continue on an automatic extension basis from year to year.

V. **SPECIAL PURCHASING TRANSACTIONS**

A. Organic Materials

The attached Addendum A: SB 1383 Recovered Organic Waste Procurement Policy is hereby incorporated into this document and in the event of a conflict between or among the terms of the Addendum, the higher standard or greater requirement shall prevail.

A.B. Office Supplies

In general, all Departments will order their own standard office supplies utilizing the company offering the best price, delivery, and service. Staff is encouraged to consider and use local vendors. The Department should use their City/BFPD issued credit card for amounts per the attached schedule, SCHEDULE OF DOLLAR LIMITS AND APPROVALS, charging it to their department's office supply budget category. Central Services will be coordinated between the Finance Department and the City Clerk's Office.

B. Business Cards

Business cards must conform to the City standard logo and title of the employee. They should be approved by the respective department director/manager. Any exceptions must be approved by the City Manager/City Administrator. Requests are to given to local Barstow vendors whenever possible. Delivery times can vary.

C. Petty Cash Reimbursement

The Petty Cash fund is used to reimburse purchases which were originally paid out-of-pocket by a City/BFPD official or employee. Reimbursements will either be paid in cash or check/ACH, depending on the amount. If the amount is \$100.00 or less, the reimbursement will be paid in cash. Amounts larger than \$100.00 will be paid by check. The petty cash fund is maintained by the Finance Department, and reimbursements are processed through the Clerk/Cashier/Receptionists.

1. Petty Cash Procedures (\$100.00 or less)

The Expense Reimbursement Form should be coded with appropriate account numbers. Petty cash requests are submitted to the Finance Department for review, then forwarded to the Cashier for payment.

2. Petty Cash Procedures (over \$100.00)

Completion of an Expense Reimbursement Form is required, including the account number to be charged, description, date requested and amount. Supporting documentation should be attached to the check request and department director approval is required. The documents are submitted to Accounts Payable for processing via check/ACH.

**VI. LOCAL VENDOR PREFERENCE**

Pursuant to Barstow Municipal Code section 2.40.180, and as permitted under 2 Code of Federal Regulations (CRF) 200.317 through 200.327 (Uniform Guidance), it is the City/BFPD's policy to encourage the purchase of supplies, services and equipment from vendors located within the boundaries of the City/BFPD. Local vendors are individuals, businesses, partnerships, or corporations which maintain a place(s) of business located within the limits of the City of Barstow, which have a current City of Barstow business license.

The City Council/BFPD Board finds and declares all of the following with respect to the provision of a local vendor preference:

Qualified local vendors bidding on the purchase of services, supplies and equipment, and meeting the above criteria will receive a 10% preference. The City/BFPD will also encourage local vendors by seeking to develop local vendor outreach and education programs and involving local vendors to the maximum extent possible. The local vendor preference shall not apply to those contracts where State or Federal law, or other laws or regulations precludes such a preference.

Bid documents on public works projects will include language requiring bidders to circulate the opportunity to subcontract for components of the project to local businesses and demonstrate that they have made a reasonable effort to inform local businesses of the opportunity. Local vendor preference may not apply to those projects

**VII. CREDIT CARD AND/OR PURCHASING CARD PURCHASES**

The City/BFPD uses a variety of methods for the purchase of goods and services and recognizes that in certain circumstances the issuance of a City/BFPD credit card will allow for efficient, cost effective and secure purchasing within the Policy of the program.

For specific details on processes, acceptable use, necessary forms, and all other details of the program see the City/BFPD Board Policy

Memorandum's and/or Purchasing Card Policy. City/BFPD credit cards are under no circumstances to be used for personal purchases, even if the purchase is reimbursed.

## **VIII. PURCHASES WITH FEDERAL GRANT FUNDS**

The following section is being added to the Purchasing and Contract Policy to establish standards for the procurement of supplies, equipment, real property, and other services as required by 2 CFR 200.317 through 200.327 to comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards commonly called "Uniform Guidance".

### **A. Purchases Using Federal Grant Funds**

Follow applicable state statutes and rules and local policies only to the extent that those statutes, rules, and policies do not conflict with the Uniform Administrative Requirements (UAR) outlined below. 2 CFR 200.318(a)

### **B. Contract Performance and Payments**

Contract performance and payments must be monitored during the course of the contract. 2 CFR 200.318(b).

### **C. Written Standards of Conduct and Conflict of Interest**

1. No employee, officer, or agent must participate in the selection, award, or administration of a contract supported by a federal award if he or she (the employee, officer, or agent), any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ
  - the employee, officer, or agent;
  - an immediate family member of the employee, officer, or agent; or
  - the partner of the employee, officer, or agenthas a financial or other interest in or will receive a tangible personal benefit from a firm considered for the contract. Officers, employees, and agents must neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. 2 CFR 200.318(c)(1)

### **D. Before Starting a Procurement Process**

1. Review of All Proposed Procurements

Review all proposed procurements to avoid unnecessary/duplicative purchases of equipment, supplies, and services. Consider whether it will it save money/time to consolidate procurements; if so, consolidate. If relevant, consider whether a lease or a purchase is the most economical approach (and document how you came to your decision). 2 CFR 200.318(d).

2. State or Local Agreements / Competitive Bidding Group Purchasing Programs

Look for state or local intergovernmental agreements (such as competitive bidding group purchasing programs, state term contracts, GSA contracts, or formal intergovernmental agreements—but get awarding agency approval before using one of those agreements. 2 CFR 200.318(e).

E. Purchasing Guidelines

1. Documentation

Keep records showing:

- Basis for vendor selection
- Documentation of lack of competition when competitive bids or offers are not obtained
- Why you chose a specific procurement method;
- The basis for your award (why did you select the contractor or vendor you selected? Why did you reject the others?);
- The basis for the contract price; and
- Any other significant decisions that were a part of the procurement process.

2. Award Only to “Responsible Contractors Possessing the Ability to Perform Successfully Under the Terms and Conditions of a Proposed Procurement.”

In determining which contractors are responsible, you must consider “matters such as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.” 2 CFR 200.318(h). (Note: This means that your solicitation documents must ask for information that will allow you to assess whether a contractor is “responsible.”)

3. Keep Records to Detail the History of Each Procurement.

These records must include, at least, records showing your rationale for (1) the method of procurement, (2) the selection of contract type, (3) contractor selection or rejection, and (4) the basis for the contract price. 2 CFR 200.318(i)

4. Prohibit Awarding of Time and Materials Type Contracts

Prohibit awarding time and materials type contracts unless (1) you have determined that no other contract is suitable and (2) the contract includes a ceiling price that the contractor exceeds at its own risk.

The UAR defines a time and materials type contract as “a contract whose cost to a non-Federal entity is the sum of: (1) the actual cost of materials; and (2) direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.” 2 CFR 200.318(j). For the purposes of this policy, the term “non-Federal Entity” means the City of Barstow.

5. Restricting Competition.

The following actions on procurements funded with federal grants are prohibited:

- a. Allowing contractors that develop or draft specifications, requirements, statements of work, invitations for bids, or requests for proposals to compete for such procurements;
- b. Placing unreasonable requirements on firms for them to qualify to do business (if you’re not sure if a requirement is unreasonable, ask the Federal awarding agency);
- c. Requiring unnecessary experience or excessive bonding;
- d. Permitting noncompetitive pricing practices between companies;
- e. Awarding contracts to consultants on “retainer” contracts;
- f. Permitting organizational conflicts of interest
- g. Specifying a brand name product without permitting an equal product to be offered, and without describing the performance requirements that must be met for a product to qualify as an equal;
- h. Acting arbitrarily in awarding contracts. 2 CFR 200.319(a).

5. Local Vendor Geographic Preference

Prohibit awards based on local geographic preferences, except where applicable Federal statutes expressly mandate or encourage geographic preference. However, geographic location may be a selection criteria when awarding contracts for architectural or engineering services, provided that using such criteria “leaves an appropriate number of qualified firms” to compete for the work, “given the nature and size of the project.” 2 CFR 200.319(b).

6. All solicitations must identify: (1) all requirements which the offerors/offers must fulfill and (2) all other factors to be used in evaluating bids or proposals. 2 CFR 200.319(c)

7. Use of ~~Prequalified~~ Prequalified Lists of Entities or Products

If you use prequalified lists of entities or products when procuring goods or services, make sure those lists are “current and include enough qualified sources to ensure maximum open and free competition,” and do not preclude other potential entities or products from participating in the solicitation. 2 CFR 200.319(d).

F. Methods of Procurement to be Followed

1. Micro-Purchases

Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold as set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions) and adjusted periodically for inflation. As of the date of this ordinance, the micro-purchase threshold is \$3,500.

2. Small Purchase Procedures

Procurement by small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies or other property that do not cost more than the simplified acquisition threshold as set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions) and in accordance with 41 U.S.C. 1908 and periodically adjusted for inflation. If small purchase procedures are used, price or rate quotations shall be obtained from an adequate number of qualified sources. As of the date of this ordinance, the simplified acquisition threshold is \$150,000. For purchases exceeding one hundred fifty thousand (\$150,000), City Council approval is required.

3. Purchases Requiring Sealed Bids with Formal Advertising

Procurement by sealed bids that require formal advertising are publicly solicited (Post to the [BidsOnlineBids Online](#) System) and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction.

- a. In order for sealed bidding to be feasible, the following conditions should be present:
  - i. A complete, adequate, and realistic specification or purchase description is available;
  - ii. Two or more responsible bidders are willing and able to compete effectively for the business; and
  - iii. The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.
- b. If sealed bids are used, the following requirements apply:
  - i. The invitation for bids must be publicly advertised, providing suppliers sufficient response time prior to the date set for opening the bids;
  - ii. The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
  - iii. The bids must be opened publicly at the time and place prescribed in the invitation for bids;
  - iv. A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
  - v. Any or all bids may be rejected if there is a sound documented reason. 2 CFR 200.320(c)

4. Procurement by Competitive Proposals



Procurement by competitive proposals are normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

- a. Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;
- b. Proposals must be solicited from an adequate number of qualified sources;
- c. The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;
- d. Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
- e. The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort. 2 CFR 200.320(d)

5. Procurement by Noncompetitive Proposals

Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

- a. The item is available only from a single source;
- b. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- c. The Federal awarding agency expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or
- d. After solicitation of a number of sources, competition is determined inadequate.

2 CFR 200.320(f)

6. Use of Minority Firms and Women's Business Enterprises

Take certain steps to assure that minority firms and women's business enterprises are used when possible. These steps are:

- a. Place qualified small and minority businesses and women's business enterprises on solicitation lists;
- b. Assure that small and minority businesses and women's business enterprises are solicited whenever they are potential sources;
- c. Divide total requirements into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises;
- d. Establish delivery schedules which encourage participation by small and minority businesses and women's business enterprises;
- e. Use the services and assistance of the Small Business Administration (<http://www.sba.gov>) and the Minority Business Development Agency of the Department of Commerce (<http://www.mbda.gov>); and
- f. Require prime contractors to take the same steps listed above. 2 CFR 200.321

G. Contract Cost and Price

1. Cost or Price Analysis

Perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold (\$150,000), including contract modifications. Make the Independent Cost Estimates (ICE) before receiving bids or proposals. 2 CFR 200.324(a)

2. Profit Negotiation

Negotiate profit as a separate element of the price (1) for each contract in which there is no price competition and (2)

in all cases where cost analysis is performed. 2 CFR 200.324(b)

3. Prohibited Methods of Contracting

A prohibition on using “cost plus a percentage of cost” or “percentage of construction cost” methods of contracting. 2 CFR 200.324(d)

H. Federal Awarding Agency Review

1. Availability of Technical Specifications

The non-Federal entity must make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the non-Federal entity desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase. 2 CFR 200.325(a)

2. Availability of Procurement Documents

The non-Federal entity must make available upon request, for the Federal awarding agency pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:

- a. The non-Federal entity's procurement procedures or operation fails to comply with the procurement standards in this part;
- b. The procurement is expected to exceed the Simplified Acquisition Threshold (\$150,000) and is to be awarded without competition or only one bid or offer is received in response to a solicitation;
- c. The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a “brand name” product;
- d. The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

- e. A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold. 2 CFR 200.325(b)

3. Exemption from Pre-~~Procurement~~Procurement Review

The non-Federal entity is exempt from the pre-procurement review in the above paragraph if the Federal awarding agency determines that its procurement systems comply with the standards of this part.

- a. The non-Federal entity may request that its procurement system be reviewed by the Federal awarding agency to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third party contracts are awarded on a regular basis;
- b. The non-Federal entity may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the non-Federal entity that it is complying with these standards. The non-Federal entity must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review. 2 CFR 200.325(c)

I. Bonding Requirements

- 1. For construction or facility improvement contracts or sub contracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency may accept the bonding policy and requirements of the local agency provided that the Federal awarding agency has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:
  - a. A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified. 2 CFR 200.326(a)

- b. A performance bond on the part of the contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract. 2 CFR 200.326(b)
- c. A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract. 2 CFR 200.326(c)

J. Contracting Provisions - Appendix II to Part 200 - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

1. Remedies

Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

2. Terminations

All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

3. Equal Employment Opportunity

Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” ( 30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246

Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

4. Davis-Bacon Act, As Amended ( 40 U.S.C. 3141- 3148)

When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act ( 40 U.S.C. 3141- 3144) as supplemented by Department of Labor regulations ( 29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

5. Copeland “Anti-Kickback” Act: ( 40 U.S.C. 3145)

As supplemented by Department of Labor regulations ( 29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”), the Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

6. Contract Work Hours and Safety Standards Act: ( 40 U.S.C. 3701-3708).

Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations ( 29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work

in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

7. Rights to Inventions Made Under a Contract or Agreement

If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

8. Clean Air Act: ( 42 U.S.C. 7401- 7671q.) and the Federal Water Pollution Control Act ( 33 U.S.C. 1251- 1387), As Amended

Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act ( 42 U.S.C. 7401- 7671q) and the Federal Water Pollution Control Act as amended ( 33 U.S.C. 1251- 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

9. Debarment and Suspension: (Executive Orders 12549 and 12689)

Verify that a vendor is not debarred, suspended or otherwise excluded from or ineligible for participation in Federal assistance programs or activities. Confirm and document that vendors are not on the federal government’s Excluded Party list found at [www.sam.gov](http://www.sam.gov).

10. Byrd Anti-Lobbying Amendment: ( 31 U.S.C. 1352)

Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not use, and has not used, Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

**IX. PURCHASING DEFINITIONS:**

**ARCHITECTURAL AND ENGINEERING SERVICES:** Professional services within the scope of the practice of architecture and professional engineering, as defined by the jurisdiction, usually involving research, design, development, construction, alteration or repair of real property. Includes those professional services of an architectural, landscape architectural, engineering, environmental, geotechnical or land surveying nature as well as incidental services that members of these professions and those in their employ may logically or justifiably perform.

**BID SPLITTING:** It is unlawful to split or separate procurement into smaller work orders or projects for any public work project for the purpose of evading the provisions of Article 4, Division 2, Section 20163 of the Public Contract Code, requiring public work to be done by contract after competitive bidding. Every person who willfully violates this provision of this section is guilty of a misdemeanor.

**CAPITAL ASSET:** A capital asset is either tangible or intangible, with a life expectancy of two or more years, and a combined purchase amount as stated below:

Buildings/Building Improvements	\$50,000
Furniture	\$10,000
Equipment	\$20,000
Infrastructure	\$100,000
Capital Improvement Projects	\$100,000

**CAPITAL EXPENDITURE:** Money spent for the acquisition of an item, inclusive of all costs, relating to assets that add to long-term net worth. Can be used for the acquisition of hardware, equipment, real property, buildings or permanent improvements to existing assets. Must meet certain level of criteria and/or expense set by purchasing agency.



**COMPETITIVE QUOTE:** A statement of price, terms of sale and description of goods or services offered by a vendor to a prospective purchaser. Used by the purchaser to evaluate and compare quotes from competing sources.

**FORMAL BID:** An offer submitted by a prospective vendor in response to an invitation to bid issued by a purchasing authority; becomes a contract upon acceptance by the buyer. Public opening (versus closing time and place). Read prices, items bid, discounts offered, delivery terms, etc. No discussion with bidders. Responses evaluated against specifications. Award made to lowest responsive and responsible bidder. Once the City Clerk has received a bid, no changes may be made. Entire record is public after award.

**OPEN MARKET PURCHASE:** The procurement of materials, supplies or equipment, usually of a limited monetary amount, from any available and reliable source. Open market purchases shall be made when feasible and when in the best interest of the City/BFPD utilizing the methods prescribed herein.

**OPEN (OR ANNUAL) PURCHASE ORDER:** A purchaser's written document to a vendor allowing for the purchase of a variety of materials and supplies, by authorized personnel, during a specified period of time. Issued for a specific amount of consideration that is drawn from throughout the specified time frame for payment of invoices related to the annual purchase order.

**PIGGYBACK:** A form of intergovernmental cooperative purchasing in which an agency purchaser requests competitive sealed bids, enters into a contract and arranges, as part of the contract, for other public purchasing agencies to purchase from the selected vendor under the same terms and conditions as itself.

**PROCUREMENT:** Purchasing, renting, leasing, or otherwise acquiring any supplies, services, or construction; includes all functions that pertain to the acquisition, including description or requirements, selection and solicitation or sources, preparation and award of contract, and all phases of contract administration..

**PROFESSIONAL SERVICES:** Services rendered by members of a recognized profession or possessing a special skill. Such services are generally acquired to obtain information, advice, training or direct assistance. For purposes of this document, the following are, but not limited to, professional services:

- a) Architectural, construction management, construction surveys, material testing, inspection services, appraising, ad campaigns, engineering, environmental, finance, fine arts, insurance, land surveying, landscape architectural, legal management consultants, management information consultants, janitorial, landscape maintenance, grounds keeping, medical, document processing

services, municipal program implementation, performing arts, personnel, psychological, sports and underwriting. Providers of such services are hereinafter referred to individually as “consultant” or collectively as “consultants”.

**PROPOSAL:** In competitive negotiations, the document submitted by the vendor in response to the RFP to be used as the basis for negotiations to enter into a contract.

**PUBLIC PROJECT:** As defined in Section 22002 of the Public Contract Code

**PURCHASE AMOUNT:** The “purchase amount” for purposes of applying the limits of this policy can be defined as all purchases from an individual vendor, purchased at the same time. For example, if three vehicles are purchased from a vendor on the same day, or same order, this would be considered one purchase, rather than three separate purchases.

**PURCHASE ORDER:** The primary procurement method. Used to communicate to a vendor the City/BFPD’s terms and conditions, authorizes an encumbrance of City/BFPD funds and is a contractual agreement to pay for acceptable goods or services received. Used to process payment and track an expenditure in the financial system.

**REQUEST FOR PROPOSAL (R.F.P):** All documents, whether attached or incorporated by reference, utilized for soliciting competitive proposals.

**REQUEST FOR QUALIFICATIONS (R.F.Q.):** A document issued by the City/BFPD that provides for a scope of work and requirements of the project in enough detail to let potential proposers determine if they wish to compete. This differs from the request for proposal (R.F.P) in that more emphasis is placed on the qualifications of the bidder.

**RETENTION:** The withholding of a part of the payment due, until final acceptance of the purchase by the purchaser, in accordance with the contract terms.

**REQUISITION:** A written (or electronic) document used to communicate a need to the Purchasing Agent. Unless otherwise noted in this policy, the requisition requires appropriate signatures as outlined in the signature authority section. At least expenditure code must be designated for the purchase. Indicate a description of the item or service to be purchased and include any pertinent documentation, i.e. insurance documentation, contracts, quotes received, etc.

**SOLE SOURCE:** When only one vendor possesses the unique and singularly available capability to meet the requirement of the solicitation, such as technical qualifications, matching to currently owned equipment or supplies, the ability to deliver at a particular time, or services from a public utility.





**ADDENDUM A:**  
**SB 1383 RECOVERED ORGANIC  
WASTE PRODUCT PROCUREMENT  
POLICY**

---

**FEBRUARY 2022**

**Prepared By:**  
**City of Barstow**  
**Environmental Services Department**  
**Solid Waste Division**

1                                   **RECOVERED ORGANIC WASTE PRODUCT**  
2                                   **PROCUREMENT POLICY**

---

3   **SECTION 1. PURPOSE**

4   A.    It is the policy of the City, applicable to all departments and divisions, to incorporate  
5         environmental considerations including recycled-content and recovered Organic  
6         Waste product use into purchasing practices and procurement. This Recovered  
7         Organic Waste Product Procurement Policy (Policy) will help the City to:

- 8           1.    Protect and conserve natural resources, water, and energy;
- 9           2.    Minimize the City's contribution to climate change, pollution, and solid waste  
10          disposal; and,
- 11          3.    Comply with State requirements as contained in 14 CCR Division 7, Chapter  
12          12, Article 12 (SB 1383 procurement regulations) to procure a specified  
13          amount of Recovered Organic Waste Products to support Organic Waste  
14          disposal reduction targets and markets for products made from recycled  
15          and recovered Organic Waste materials, and to purchase Recycled-  
16          Content Paper Products and Recycled-Content Printing and Writing Paper.

17   **SECTION 2. DEFINITIONS**

18   A.    “Annual Recovered Organic Waste Product Procurement Target” means the  
19         amount of Organic Waste in the form of a Recovered Organic Waste Product that  
20         the City is required to procure annually under 14 CCR Section 18993.1. This target  
21         shall be calculated by multiplying the per capita procurement target, which shall be  
22         0.08 tons of Organic Waste per California resident per year, times the City's  
23         residential population using the most recent annual data reported by the California  
24         Department of Finance. Annually, CalRecycle will provide notice to each City of its  
25         Annual Recovered Organic Waste Product Procurement Target by posting such  
26         information on CalRecycle's website and providing written notice directly to the  
27         City.

28   B.    “Compost” means the product resulting from the controlled biological  
29         decomposition of organic solid wastes that are source separated from the  
30         municipal solid waste stream or which are separated at a centralized facility or as  
31         otherwise defined in 14 CCR Section 17896.2(a)(4).

32         Compost eligible for meeting the Annual Recovered Organic Waste Product  
33         Procurement Target must be produced at a compostable material handling  
34         operation or facility permitted or authorized under 14 CCR Chapter 3.1 of Division  
35         7 or produced at a large volume in-vessel digestion facility that composts on-site

36 as defined and permitted under 14 CCR Chapter 3.2 of Division 7. Compost shall  
37 meet the State's composting operations regulatory requirements.

38 C. "Direct Service Provider" means a person, company, agency, district, or other  
39 entity that provides a service or services to City pursuant to a contract or other  
40 written agreement or as otherwise defined in 14 CCR Section 18982(a)(17).

41 D. "Electricity Procured from Biomass Conversion" means electricity generated from  
42 biomass facilities that convert recovered Organic Waste, such as wood and  
43 prunings from the municipal stream, into electricity. Electricity procured from a  
44 biomass conversion facility may only count toward the City's Annual Recovered  
45 Organic Waste Product Procurement Target if the facility receives feedstock  
46 directly from certain permitted or authorized compostable material handling  
47 operations or facilities, transfer/processing operations or facilities, or landfills, as  
48 described in 14 CCR Section 18993.1(i).

49 E. "City" means the City of Barstow.

50 F. "Organic Waste" means solid wastes containing material originated from living  
51 organisms and their metabolic waste products including, but not limited to, food,  
52 yard trimmings, organic textiles and carpets, lumber, wood, Paper Products,  
53 Printing And Writing Paper, manure, biosolids, digestate, and sludges, or as  
54 otherwise defined in 14 CCR Section 18982(a)(46). Biosolids and digestate are as  
55 defined in 14 CCR Section 18982(a)(4) and 14 CCR Section 18982(a)(16.5),  
56 respectively.

57 G. "Paper Products" include, but are not limited to, paper janitorial supplies, cartons,  
58 wrapping, packaging, file folders, hanging files, corrugated boxes, tissue, and  
59 toweling; or as otherwise defined in 14 CCR Section 18982(a)(51).

60 H. "Printing and Writing Papers" include, but are not limited to, copy, xerographic,  
61 watermark, cotton fiber, offset, forms, computer printout paper, white wove  
62 envelopes, manila envelopes, book paper, note pads, writing tablets, newsprint,  
63 and other uncoated writing papers, posters, index cards, calendars, brochures,  
64 reports, magazines, and publications; or as otherwise defined in 14 CCR Section  
65 18982(a)(54).

66 I. "Procurement of Recovered Organic Waste Products" shall mean purchase or  
67 acquisition (e.g., free delivery or free distribution from a hauler or other entity via a  
68 written agreement or contract), and end use by the City or others. The City's  
69 Annual Recovered Organic Waste Product Procurement Target can be fulfilled  
70 directly by the City or by Direct Service Providers through written contracts or  
71 agreements for Procurement of Recovered Organic Waste Products at the City's  
72 behest.

73 J. "Publicly-Owned Treatment Works" or "POTW" has the same meaning as in  
74 Section 403.3(r) of Title 40 of the Code of Federal Regulations. For the purposes  
75 of this Policy, the POTW shall be the City of Barstow Wastewater Treatment Plant.

- 76 K. "Recovered Organic Waste Products" means products made from California,  
77 landfill-diverted recovered Organic Waste processed at a permitted or otherwise  
78 authorized operation or facility, or as otherwise defined in 14 CCR Section  
79 18982(a)(60). Products that can be used to meet the Annual Recovered Organic  
80 Waste Product Procurement Target shall include Compost, SB 1383 Eligible  
81 Mulch, Renewable Gas from an in-vessel digestion facility, and Electricity Procured  
82 from Biomass Conversion as described herein and provided that such products  
83 meet requirements of 14 CCR, Division 7, Chapter 12, Article 12.
- 84 L. "Recordkeeping Designee" means the public employee appointed by the City  
85 Manager or their designee to track procurement and maintain records of  
86 Recovered Organic Waste Product procurement efforts both by the City and  
87 others, if applicable, as required by 14 CCR, Division 7, Chapter 12, Articles 12  
88 and 13.
- 89 M. "Recyclability" means that the Paper Products and Printing and Writing Paper  
90 offered or sold to the City are eligible to be labeled with an unqualified recyclable  
91 label as defined in 16 Code of Federal Regulations Section 260.12 (2013).
- 92 N. "Recycled-Content Paper Products and Recycled-Content Printing and Writing  
93 Paper" means such products that consist of at least thirty percent (30%), by fiber  
94 weight, postconsumer fiber, consistent with the requirements of Sections 22150 to  
95 22154 and Sections 12200 and 12209 of the Public Contract Code, and as  
96 amended.
- 97 O. "Renewable Gas" means gas derived from Organic Waste that has been diverted  
98 from a landfill and processed at an in-vessel digestion facility that is permitted or  
99 otherwise authorized by 14 CCR to recover Organic Waste, or as otherwise  
100 defined in 14 CCR Section 18982(a)(62).
- 101 P. "SB 1383" means Senate Bill 1383 of 2016 approved by the Governor on  
102 September 19, 2016, which added Sections 39730.5, 39730.6, 39730.7, and  
103 39730.8 to the Health and Safety Code, and added Chapter 13.1 (commencing  
104 with Section 42652) to Part 3 of Division 30 of the Public Resources Code,  
105 establishing methane emissions reduction targets in a statewide effort to reduce  
106 emissions of short-lived climate pollutants, as amended, supplemented,  
107 superseded, and replaced from time to time.
- 108 Q. "SB 1383 Regulations" or "SB 1383 Regulatory" means or refers to, for the  
109 purposes of this policy, the Short-Lived Climate Pollutants (SLCP): Organic Waste  
110 Reductions regulations developed by CalRecycle and adopted in 2020 that created  
111 Chapter 12 of 14 CCR, Division 7 and amended portions of regulations of 14 CCR  
112 and 27 CCR.
- 113 R. "SB 1383 Eligible Mulch" means mulch eligible to meet the Annual Recovered  
114 Organic Waste Product Procurement Target, pursuant to 14 CCR Chapter 12 of  
115 Division 7. This SB 1383 Eligible Mulch shall meet the following conditions for the

116 duration of the applicable procurement compliance year, as specified by 14 CCR  
117 Section 18993.1(f)(4):

- 118 1. Produced at one of the following facilities:
- 119 i. A compostable material handling operation or facility as defined in  
120 14 CCR Section 17852(a)(12), that is permitted or authorized under  
121 14 CCR Division 7, other than a chipping and grinding operation or  
122 facility as defined in 14 CCR Section 17852(a)(10);
- 123 ii. A transfer/processing facility or transfer/processing operation as  
124 defined in 14 CCR Sections 17402(a)(30) and (31), respectively, that  
125 is permitted or authorized under 14 CCR Division 7; or,
- 126 iii. A solid waste landfill as defined in Public Resources Code Section  
127 40195.1 that is permitted under 27 CCR Division 2.
- 128 2. Meet or exceed the physical contamination, maximum metal concentration,  
129 and pathogen density standards for land application specified in 14 CCR  
130 Sections 17852(a)(24.5)(A)1 through 3, as enforced by the City.

131 S. "State" means the State of California.

### 132 SECTION 3. RECOVERED ORGANIC WASTE PRODUCT PROCUREMENT

#### 133 3.1 Procurement Target

- 134 A. City will annually procure for use or giveaway a quantity of Recovered Organic  
135 Waste Products that meets or exceeds its Annual Recovered Organic Waste  
136 Product Procurement Target through the implementation of Sections 3 through 5  
137 of this Policy.
- 138 B. To be eligible to meet the Annual Recovered Organic Waste Product Procurement  
139 Target, products that may be procured include the following (provided that each  
140 product meets the criteria included in their respective definition in Section 2 of this  
141 Policy):
- 142 1. SB 1383 eligible Compost (as defined in Section 2.B).
- 143 2. SB 1383 Eligible Mulch (as defined in Section 2.R).
- 144 3. Renewable Gas (in the form of transportation fuel, electricity, or heat) (as  
145 defined in Section 2.O).
- 146 4. Electricity Procured from Biomass Conversion (as defined in Section 2.D).



147 **3.2 Requirements for City Departments**

148 A. Compost and SB 1383 Eligible Mulch procurement. Divisions and departments  
149 responsible for landscaping maintenance, renovation, or construction shall:

150 1. Use Compost and SB 1383 Eligible Mulch produced from recovered  
151 Organic Waste, as defined in Section 2.B and 2.R of this Policy, for  
152 landscaping maintenance, renovation, or construction, as practicable,  
153 whenever available, and capable of meeting quality standards and criteria  
154 specified. SB 1383 Eligible Mulch used for land application must [meet or](#)  
155 [exceed the physical contamination, maximum metal concentration and](#)  
156 [pathogen density standards specified in 14 CCR Section](#)  
157 [17852\(a\)\(24.5\)\(A\)\(1\) through \(3\).](#)

158 2. When City uses Compost and SB 1383 Eligible Mulch and the applications  
159 are subject to the City's Water Efficient Landscaping Ordinance (WELO),  
160 pursuant to the Barstow Municipal Code, it must comply with one of the  
161 following, whichever is more stringent, (i) the City's WELO, if more stringent  
162 than the State's Model Water Efficient Landscape Ordinance (MWELO), or  
163 (ii) [Sections 492.6 \(a\)\(3\)\(B\), \(C\), \(D\), and \(G\) of the State's Model Water](#)  
164 [Efficient Landscape Ordinance, Title 23, Division 2, Chapter 2.7 of the CCR,](#)  
165 [as amended September 15, 2015,](#) which requires the submittal of a  
166 landscape design plan.

167 3. Keep records, including invoices or proof of Recovered Organic Waste  
168 Product procurement (either through purchase or acquisition), and submit  
169 records to the Recordkeeping Designee, upon completion of project.

170 Records shall include:

- 171 a. General procurement records, including:
- 172 (i) General description of how and where the product was used  
173 and applied, if applicable;
  - 174 (ii) Source of product, including name, physical location, and  
175 contact information for each entity, operation, or facility from  
176 whom the Recovered Organic Waste Products were  
177 procured;
  - 178 (iii) Type of product;
  - 179 (iv) Quantity of each product; and,
  - 180 (v) Invoice or other record demonstrating purchase or  
181 procurement.

182 b. For Compost and SB 1383 Eligible Mulch provided to residents

183 through giveaway events or other types of distribution methods, keep  
184 records of the Compost and SB 1383 Eligible Mulch provided to  
185 residents. Records shall be maintained and submitted to the  
186 Recordkeeping Designee in accordance with the requirements  
187 specified in Section 3.2.A.3.

188 c. For procurement of SB 1383 Eligible Mulch, maintain an updated  
189 copy of the ordinance or enforceable mechanism(s) requiring that the  
190 mulch procured by the City or Direct Service Provider meets the land  
191 application standards specified in 14 CCR Section 18993.1, as it may  
192 be amended from time to time, as currently reflected in Barstow  
193 Municipal Code.

194 4. When Procurement of Recovered Organic Waste Products occurs through  
195 a Direct Service Provider, enter into a written contract or agreement or  
196 execute a purchase order with enforceable provisions that includes: (i)  
197 definitions and specifications for SB 1383 Eligible Mulch, Compost,  
198 Renewable Gas, and/or Electricity Procured from Biomass Conversion;  
199 and, (ii) an enforcement mechanism (e.g., termination, liquidated damages)  
200 in the event the Direct Service Provider is not compliant with the  
201 requirements.

202 B. Renewable Gas procurement (used for fuel for transportation, electricity, or heating  
203 applications). For Renewable Gas procurement, City shall:

204 1. Procure [Renewable Gas](#) made from recovered Organic Waste [for](#)  
205 [transportation fuel, electricity, and heating applications](#) to the degree that it  
206 is appropriate and available for the City and to help meet the Annual  
207 Recovered Organic Waste Product Procurement Target, which requires  
208 compliance with criteria specified in 14 CCR Section 18993.1.

209 2. Keep records in the same manner indicated in Section 3.2.A.3 for the  
210 amount of Renewable Gas procured and used by the City, including the  
211 general procurement record information specified in Section 3.2.A.3.a, and  
212 submit records to the Recordkeeping Designee on a schedule on a  
213 schedule to be determined by Recordkeeping Designee. City shall  
214 additionally obtain the documentation and submit records specified in  
215 Section 3.2.B.3 below, if applicable.

216 3. If the City procures Renewable Gas from a POTW,

217 a. Annually verify that the Renewable Gas from the [POTW complies](#)  
218 [with the requirements specified in 14 CCR Section 18993.1\(h\)](#),  
219 including, but not limited to the exclusion in 14 CCR Section  
220 17896.6(a)(1) and the items listed in this Section 3.2.B.3.

221 b. Annually receive [a record from the POTW documenting the tons of](#)

222 Organic Waste received by the POTW from: (i) a compostable  
223 material handling operation or facility as defined in 14 CCR Section  
224 17852(a)(12), other than a chipping and grinding operation or facility  
225 as defined in 14 CCR Section 17852(a)(10), that is permitted or  
226 authorized under 14 CCR Division 7; (ii) transfer/processing facility  
227 or transfer/processing operation as defined in 14 CCR Sections  
228 17402(a)(30) and (31), respectively, that is permitted or authorized  
229 under 14 CCR Division 7; or (iii) a solid waste landfill as defined in  
230 Public Resources Code Section 40195.1 that is permitted under 27  
231 CCR Division 2.

232 c. Annually receive documentation from the POTW of the percentage  
233 of biosolids that the POTW produced and transported to activities  
234 that constitute landfill disposal in order to demonstrate that the  
235 POTW transported less than twenty-five percent (25%) of the  
236 biosolids it produced to activities that constitute landfill disposal. For  
237 the purposes of this Policy, landfill disposal is defined pursuant to 14  
238 CCR Section 18983.1(a) and includes final disposition at a landfill;  
239 use of material as alternative daily cover or alternative intermediate  
240 cover at a landfill, and other dispositions not listed in 14 CCR Section  
241 18983.1(b). Alternative daily cover or alternative intermediate cover  
242 are defined in 27 CCR Sections 20690 and 20700, respectively.

243 d. Annually receive documentation that the POTW receives vehicle-  
244 transported solid waste that is an anaerobically digestible material  
245 for the purpose of anaerobic co-digestion with POTW treatment plant  
246 wastewater to demonstrate that the POTW meets the requirement of  
247 14 CCR Section 18993.1(h)(2).

248 e. City shall submit these records to the Recordkeeping Designee on a  
249 schedule to be determined by Recordkeeping Designee.

250 C. Electricity Procured from Biomass Conversion. For Electricity Procured from  
251 Biomass Conversion, City shall:

252 1. Procure electricity from a biomass conversion facility that receives  
253 feedstock from a composting facility, transfer/processing facility, a solid  
254 waste landfill, and/or receives feedstock from the generator or employees  
255 on behalf of the generator of the Organic Waste and to the degree that it is  
256 available and practicable for the City and to help meet the Annual  
257 Recovered Organic Waste Product Procurement Target, which requires  
258 compliance with criteria specified in 14 CCR Section 18993.1.

259 2. Maintain records and conduct the following recordkeeping activities:

260 a. Keep records in the same manner indicated in Section 3.2.A.3 of this  
261 Policy for the amount of Electricity Procured from Biomass

262 Conversion facilities, including the general procurement record  
263 information specified in Section 3.2.A.3.a.

264 b. Receive written notification by an authorized representative of the  
265 biomass conversion facility certifying that biomass feedstock was  
266 received from a permitted solid waste facility identified in 14 CCR  
267 Section 18993.1(i).

268 c. Provide these records to the Recordkeeping Designee.

269 **3.3 Requirements for Direct Service Providers**

270 A. Direct Service Providers of landscaping maintenance, renovation, and  
271 construction shall:

272 1. Use Compost and SB 1383 Eligible Mulch, as practicable, produced from  
273 recovered Organic Waste, as defined in Section 2.B and 2.R of this Policy,  
274 for all landscaping renovations, construction, or maintenance performed for  
275 the City, whenever available, and capable of meeting quality standards and  
276 criteria specified. SB 1383 Eligible Mulch used for land application shall  
277 comply with 14 CCR, Division 7, Chapter 12, Article 12 and must meet or  
278 exceed the physical contamination, maximum metal concentration and  
279 pathogen density standards specified in 14 CCR Section  
280 17852(a)(24.5)(A)(1) through (3).

281 2. If Direct Service Provider is subject to the City's WELO pursuant to Barstow  
282 Municipal Code Section 19.06.080, comply with one of the following,  
283 whichever is more stringent: (i) the locally-adopted WELO that is more  
284 stringent than the State's MWELo, or (ii) Sections 492.6 (a)(3)(B), (C), (D),  
285 and (G) of the State's MWELo, Title 23, Division 2, Chapter 2.7 of the CCR,  
286 as amended September 15, 2015, which requires the submittal of a  
287 landscape design plan.

288 3. Keep and provide records of Procurement of Recovered Organic Waste  
289 Products (either through purchase or acquisition) to Recordkeeping  
290 Designee, upon completion of projects. Information to be provided shall  
291 include:

292 a. General description of how and where the product was used and if  
293 applicable, applied;

294 b. Source of product, including name, physical location, and contact  
295 information for each entity, operation, or facility from whom the  
296 Recovered Organic Waste Products were procured;

297 c. Type of product;

298 d. Quantity of each product; and,

- 299 e. Invoice or other record demonstrating purchase or procurement.
- 300 B. Direct Service Provider of Organic Waste collection services shall:
- 301 1. Provide a specified quantity of Compost or SB 1383 Eligible Mulch to City  
302 and its customers via periodic “giveaways” as specified in a franchise  
303 agreement or other agreement.
- 304 2. Keep and provide records to the City including the following:
- 305 a. Dates provided
- 306 b. Source of product including name, physical location and contact  
307 information for each entity, operation or facility from whom the  
308 Recovered Organic Waste Products were procured;
- 309 c. Type of product;
- 310 d. Quantity provided; and,
- 311 e. Invoice or other record or documentation demonstrating purchase,  
312 procurement, or transfer of material to giveaway location. Other  
313 record or documentation can include franchise agreement  
314 provisions, written contracts, MOUs, or other written documentation  
315 demonstrating such agreement.

316 **SECTION 4. RECYCLED-CONTENT PAPER PROCUREMENT**

317 **4.1 Requirements for City Departments**

318 Section 22150 of the Public Contract Code requires local governments to purchase  
319 recycled products instead of non-recycled products whenever recycled products are  
320 available at the same or a lesser total cost than non-recycled items, if fitness and quality  
321 are equal. SB 1383 regulations require Cities to procure Paper Products and Printing and  
322 Writing Paper consistent with the requirements of Sections 22150 through 22154 of the  
323 Public Contract Code. Under SB 1383 regulations, Cities are not prohibited from either  
324 using a price preference (usually 5 to 10 percent) for Recycled-Content Paper Products  
325 and Recycled-Content Printing and Writing Paper or requiring Recycled-Content Paper  
326 Products and Recycled-Content Printing and Writing Paper regardless of price. Options  
327 1 and 2 are presented below for these strategies. Option 3 presents an option in which  
328 no price preference is provided such that Recycled-Content Paper Products and  
329 Recycled-Content Printing and Writing Paper shall be purchased in all cases when the  
330 fitness and quality is equal to that of non-recycled products.

- 331 A. **Option 1: Comparable or more favorable pricing:** If fitness and quality of Recycled-  
332 Content Paper Products and Recycled-Content Printing and Writing Paper are  
333 equal to that of non-recycled items, all departments and divisions of City shall

**Commented [JR1]:** Need Finance & Public Works input here since they primarily order these products..... Do we want to go with Option 1,2, or 3? Green highlighted area is guidance from CR.

334 purchase Recycled-Content Paper Products and Recycled-Content Printing and  
335 Writing Paper that consists of at least thirty percent (30%), by fiber weight,  
336 postconsumer fiber, whenever available at the same or a lesser total cost than  
337 non-recycled items, consistent with the requirements of the Public Contracts Code,  
338 Sections 22150 through 22154 and Sections 12200 and 12209, as amended.

339 **Option 2: Price preference:** If fitness and quality of Recycled-Content Paper  
340 Products and Recycled-Content Printing and Writing Paper are equal to that of  
341 non-recycled items, all departments and divisions of City shall purchase Recycled-  
342 Content Paper Products and Recycled-Content Printing and Writing Paper that  
343 consists of at least thirty percent (30%), by fiber weight, postconsumer fiber,  
344 whenever the total cost is the same or a lesser total cost than non-recycled items  
345 or whenever the total cost is no more than \_\_\_ percent (\_\_\_%) of the total cost for  
346 the non-recycled items, consistent with the requirements of the Public Contract  
347 Code, Sections 22150 through 22154 and Sections 12200 and 12209, as  
348 amended.

349 **Option 3: No price preference:** If fitness and quality of Recycled-Content Paper  
350 Products and Recycled-Content Printing and Writing Paper are equal to that of  
351 non-recycled items, all departments and divisions of City shall purchase Recycled-  
352 Content Paper Products and Recycled-Content Printing and Writing Paper (rather  
353 than non-recycled items) that consists of at least thirty percent (30%), by fiber  
354 weight, postconsumer fiber, consistent with the requirements of the Public Contract  
355 Code, Sections 22150 through 22154 and Sections 12200 and 12209, as  
356 amended.

357 B. All Paper Products and Printing and Writing Paper shall be eligible to be labeled  
358 with an unqualified recyclable label as defined in Title 16 Code of Federal  
359 Regulations Section 260.12 (2013).

360 C. Provide records to the Recordkeeping Designee of all Paper Products and Printing  
361 and Writing Paper purchases within thirty (30) days of the purchase (both recycled-  
362 content and non-recycled content, if any is purchased) made by a division or  
363 department or employee of the City. Records shall include a copy of the invoice or  
364 other documentation of purchase, written certifications as required in Section  
365 4.2.A.3-4 for recycled-content purchases, vendor name, purchaser name, quantity  
366 purchased, date purchased, and recycled content (including products that contain  
367 none), and if non-Recycled-Content Paper Products and/or non-Recycled-Content  
368 Printing and Writing Paper are provided, include a description of why Recycled-  
369 Content Paper Products and/or Recycled-Content Printing and Writing Paper were  
370 not provided.

#### 371 **4.2 Requirements for Vendors**

372 A. All vendors that provide Paper Products (including janitorial Paper Products) and  
373 Printing and Writing Paper to City shall:

374 1. Provide Recycled-Content Paper Products and Recycled-Content Printing

375 and Writing Paper that consists of at least thirty percent (30%), by fiber  
376 weight, postconsumer fiber, if fitness and quality are equal to that of non-  
377 recycled item, and available at equal or lesser price.

378 2. Only provide Paper Products and Printing and Writing Papers that meet  
379 Federal Trade Commission Recyclability standard as defined in Title 16  
380 Code of Federal Regulations Section 260.12 (2013).

381 3. Certify in writing, under penalty of perjury, the minimum percentage of  
382 postconsumer material in the Paper Products and Printing and Writing  
383 Paper offered or sold to the City. This certification requirement may be  
384 waived if the percentage of postconsumer material in the Paper Products,  
385 Printing and Writing Paper, or both can be verified by a product label,  
386 catalog, invoice, or a manufacturer or vendor internet website.

387 4. Certify in writing, under penalty of perjury, that the Paper Products and  
388 Printing and Writing Paper offered or sold to the City is eligible to be labeled  
389 with an unqualified recyclable label as defined in Title 16 Code of Federal  
390 Regulations Section 260.12 (2013).

391 5. Provide records to the Recordkeeping Designee of all Paper Products and  
392 Printing and Writing Paper purchased from the vendor within thirty (30) days  
393 of the purchase (both recycled-content and non-recycled content, if any is  
394 purchased) made by a division or department or employee of the City.  
395 Records shall include a copy of the invoice or other documentation of  
396 purchase, written certifications as required in Section 4.2.A.3-4 for recycled-  
397 content purchases, purchaser name, quantity purchased, date purchased,  
398 and recycled content (including products that contain none), and if non-  
399 Recycled-Content Paper Products and/or non- Recycled-Content Printing  
400 and Writing Paper are provided, include a description of why Recycled-  
401 Content Paper Products and/or Recycled-Content Printing and Writing  
402 Paper were not provided.

403 B. All vendors providing printing services to the City via a printing contract or written  
404 agreement, shall use Printing and Writing Paper that consists of at least thirty  
405 percent (30%), by fiber weight, postconsumer fiber, or as amended by Public  
406 Contract Code Section 12209.

407 **SECTION 5. RECORDKEEPING RESPONSIBILITIES**

408 A. The Environmental Services Department will be the responsible department and  
409 will select an employee to act as the Recordkeeping Designee that will be  
410 responsible for obtaining records pertaining to Procurement of Recovered Organic  
411 Waste Products and Recycled-Content Paper Products and Recycled-Content  
412 Printing and Writing Paper.



413 B. The Recordkeeping Designee will do the following to track Procurement of  
414 Recovered Organic Waste Products, Recycled-Content Paper Products, and  
415 Recycled-Content Printing and Writing Paper:

416 1. Collect and collate [copies of invoices or receipts \(paper or electronic\) or](#)  
417 [other proof of purchase that describe the procurement of Printing and](#)  
418 [Writing Paper and Paper Products, including the volume and type of all](#)  
419 [paper purchases; and, copies of certifications and other required](#)  
420 [verifications](#) from all departments and/or divisions procuring Paper Products  
421 and Printing and Writing Paper (whether or not they contain recycled  
422 content) and/or from the vendors providing Printing and Writing Paper and  
423 Paper Products. These records must be kept as part of City's  
424 documentation of its compliance with 14 CCR Section 18993.3.

425 2. Collect and collate copies of invoices or receipts or documentation  
426 evidencing procurement from all departments and divisions procuring  
427 Recovered Organic Waste Products and invoices or similar records from  
428 vendors/contractors/others procuring Recovered Organic Waste Products  
429 on behalf of the City to develop evidence of City meeting its Annual  
430 Recovered Organic Waste Product Procurement Target. These records  
431 must be kept as part of the City's documentation of its compliance with 14  
432 CCR Section 18993.1.

433 3. Collect, collate, and maintain documentation submitted by the City, Direct  
434 Service Providers, and/or vendors, including the information reported to the  
435 Recordkeeping Designee in accordance with Sections 3.2.A.3, 3.2.B.2,  
436 3.2.C.2, 3.3.A.3, 3.3.B.2, 3.3.C.3, 4.1.C, and 4.2.A.5.

437 4. Compile an annual report on the City's direct procurement, and  
438 vendor/other procurement on behalf of the City, of Recovered Organic  
439 Waste Products, Recycled-Content Paper Products, and Recycled-Content  
440 Printing and Writing Paper, consistent with the recordkeeping requirements  
441 contained in 14 CCR Section 18993.2 for the Annual Recovered Organic  
442 Waste Product Procurement Target and 14 CCR Section 18993.4 for  
443 Recycled-Content Paper Products and Recycled-Content Printing and  
444 Writing Paper procurement. This report shall be made available to the City's  
445 responsible entity for compiling the annual report to be submitted to  
446 CalRecycle (which will include a description of compliance on many other  
447 SB 1383 regulatory requirements) pursuant to 14 CCR Division 7, Chapter  
448 12, Article 13. The procurement report shall also be shared with the City  
449 Council annually as evidence of implementing this Policy.

450 **SECTION 6. EFFECTIVE DATE OF POLICY**

451 This Policy shall go into effect immediately.



**ORDINANCE NO. 975 - 2021**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BARSTOW ADDING CHAPTER 5.91 ENTITLED "ANNUAL RENTAL PROPERTY INSPECTION REQUIREMENTS" ESTABLISHING A RESIDENTIAL RENTAL REGISTRATION AND INSPECTION PROGRAM**

**WHEREAS**, in recent years the City of Barstow ("City") has experienced an increase in deteriorating neighborhoods and increased public safety costs which negatively impact the quality of life within the City and compromises the City's ability to provide services and attract new businesses and residents; and

**WHEREAS**, the City has experienced an increase in the occurrence of substandard maintenance, unsafe conditions, illegal activity and public nuisances in single-family rental property, especially those rented by absentee landlords; and

**WHEREAS**, unmaintained properties lower property values, destroy community aesthetics and lead to problems with safety because deteriorated neighborhoods and properties potentially lead to higher incidences of crime, and

**WHEREAS**, many rental houses are unkempt, with little, missing or deteriorating landscaping, unattractive weed growth, automobiles parked on lawn areas, trash and debris, peeling paint, boarded or broken windows and lack of overall routine maintenance; and

**WHEREAS**, these conditions may contribute to a further decline in neighborhoods throughout the City; and

**WHEREAS**, rental properties are typically the cause of a higher percentage of Code Compliance cases and tenant complaints due to many non-local owners failure to comply with their responsibilities of property ownership; and

**WHEREAS**, the City desires to increase the value of our residential communities and create an aesthetically pleasing community by cleaning up neighborhoods and enforcing municipal codes; and

**WHEREAS**, the rental property inspection requirements ordinance is designed to ensure that owners of rental property properly maintain their rental units adequately and continually, help reduce community blight and deter illegal tenant activities; and

**WHEREAS**, the City Council finds and determines that having an ordinance regulating residential rental dwelling units is critical to preserving the public health, safety and welfare of all residents of the City; and

**WHEREAS**, the City Council, in the exercise of its discretion as the final legislative and adjudicatory body of the City, based on substantial evidence in the record, votes to approve the amendment to the Barstow Municipal Code; and

**Section 1. FINDINGS**

The City Council incorporates the recitals hereinabove, finds, and determines the following based on the information presented:

- **Finding 1:** The need to establish minimum inspection requirements for the issuance of an Annual Rental Property Permit and is in the best interest for the health, safety, and welfare of the citizens of Barstow to improve neighborhoods experiencing a high number of rental housing units.
  - a. The City Council makes Finding 1 based on the fact that unkempt rental properties with unmaintained landscaping and weed growth, automobiles parked on landscaped areas, trash, and debris within the yard, deteriorating paint and boarded windows is not in the best interest of health, safety and welfare.
  - b. The City Council also makes Finding 1 based on the fact that Barstow defines that rental housing is a business and not solely an investment tool. Consequently, businesses may be subject to reasonable requirements for the public health, safety, and welfare of residents.
- **Finding 2:** To accomplish the City Council's goal of higher residential value the City must help to raise property values by reducing blight, improving neighborhoods, and establishing certain rental requirements for rental property owners such as annual rental inspections.
  - a. The City Council makes Finding 2 based on the fact that an annual inspection will help to ensure that the rental housing stock is maintained, therefore preventing blight and improving neighborhoods.
  - b. The City Council makes Finding 2 based on the fact that rental properties contribute to code compliance calls and cases at a higher proportion compared to owner occupied properties.
- **Finding 3:** To carry out the City Council's goal of having an aesthetically pleasing, cleaner community, with pride of ownership and improved neighborhoods the City shall require annual rental inspections to help achieve this goal.
  - a. The City Council makes Finding 3 based on the fact that many rental owners are from out of the area and do not have the close contact or knowledge of what condition their property is in.
  - b. The City Council also makes Finding 3 based on the fact that rental housing can become unkempt, unmaintained, and unattractive because many renters do not have what is referred to as 'pride of ownership.'
- **Finding 4:** The City finds that unmaintained rental properties are a public nuisance and subject to abatement procedures as set forth in Chapter 6.28 the Barstow Municipal Code.
  - a. The City Council makes Finding 4 based on the fact that rental properties that are not maintained are a public health, safety and welfare issue and must be addressed.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BARSTOW DOES HEREBY ORDAIN AS FOLLOWS:**

**Section 2. AMENDMENT TO THE BARSTOW MUNICIPAL CODE adding Chapter 5.91 to the Barstow Municipal Code.**

The Barstow Municipal Code Title 5 entitled Health and Sanitation is hereby amended by adding Chapter 5.91, related to rental property inspection requirements, which shall read as follows:

**ALL TEXT BELOW IS NEW TEXT**

**Article 1: RENTAL PROPERTY INSPECTION REQUIREMENTS**

**Sec. 5.91.010 Purpose**

**Sec. 5.91.020 Scope**

**Sec. 5.91.030 Definitions**

**Sec. 5.91.040 Rebuttable Presumption**

**Sec. 5.91.050 Annual Rental Permit/Change of Ownership Sec. 5.91.060 Owners**

**Authorized Representative**

**Sec. 5.91.070 Reserved**

**Sec. 5.91.080 Initial and Annual Inspection**

**Sec. 5.91.090 Certificate of Compliance**

**Sec. 5.91.100 Re-registration and Certificate of Compliance Renewal**

**Sec. 5.91.110 Re-inspection Process to Renew a Certificate of Compliance Sec.**

**5.91.120 Violations**

**Sec. 5.91.130 Complaint Based Inspections Sec. 5.91.140 Expired Certificate of**

**Compliance Sec. 5.91.150 Failure to Pay Fees**

**Sec. 5.91.010:**

**Purpose**

The City Council of the City of Barstow finds and declares that there exist in the City of Barstow substandard and unsanitary residential buildings and dwelling units with the physical conditions and characteristics of which violate state and local housing and technical codes and render them unfit or unsafe for human occupancy and habitation, and which are detrimental to or jeopardize the health, safety, and welfare of their occupants and the public.

The City Council further finds and declares that the existence of such substandard buildings and dwelling units threatens the physical, social, and economic stability of sound institutions, necessitates disproportionate expenditures of public funds for remedial action; and destroys the amenity of residential areas and neighborhoods and of the community as a whole. The City Council has determined requiring all properties within the City of Barstow with rental residential units to be registered with the City and inspected serves these legitimate governmental interests.

For these reasons, it is hereby declared to be the policy of the City of Barstow:

- (a) That it is in the public interest of the people of Barstow to protect and promote the existence of sound and wholesome residential buildings, dwelling units, and neighborhoods by the adoption and enforcement of such standards, regulations, and procedures as will remedy the existence or prevent the development or creation of dangerous, substandard, or unsanitary and deficient residential buildings and dwelling

units; and

- (b) That the adoption of this chapter protects and promotes the health, safety, and welfare of the people of Barstow.

It is further the intent that the inspection requirements will be self-funded by the required annual regulatory permit fee as per the Master Fee Schedule.

**Sec. 5.91.020:**

**Scope**

The Comprehensive Residential Rental Unit (CRRU) inspection program shall apply to all properties within the City of Barstow with residential rental units; except ~~that hotels and motels~~ those hotels and motel subject to the transient occupancy tax pursuant to Chapter 3.16 of this code shall be exempt. All properties subject to this chapter shall be inspected by the Building Official or his or her designee for compliance with the City of Barstow housing and property maintenance standards. No interior inspection shall take place without the consent of the owner or their authorized representative, unless the Building Inspector or their designee has an inspection permit/warrant or upon exigent circumstances. Landlords may also self-certify under the penalty of perjury that their property is in compliance with the City's housing and property maintenance standards by completing the City's Self-Certification Checklist.

**Sec. 5.91.030:**

**Definitions**

For the purpose of this article, unless otherwise apparent from their context, certain words and phrases used in this article shall have the meanings hereinafter designated. The definitions in this article are included for reference purposes only and are intended to define the terms used in this article in relation to the rental inspection requirements.

- (a) "Annual Rental Permit" means the annual permit issued per Rental Property after the property has successfully passed a Rental Property inspection performed by City Building Inspectors and successfully complied with all other applicable laws, including payment of all applicable fees.
- (b) "Applicable Laws" means and includes all federal, state and local statutes, ordinances and regulations that pertain to the condition, habitability and safety of Dwelling Units and residential property. Applicable Laws, include, but are not limited to, the State Housing Law (California Health & Safety Code, Sections 1791 O et. seq.), (California Health and Safety Code, Sections 11570 et. seq.), and the Barstow Municipal Code.
- (c) "Building Official" means the Director of the Building and Safety Department, or his/her designee who shall possess all statutorily mandated certifications to enforce state building and construction codes.
- (d) "Certificate of Compliance" means a certificate issued by the Building Official for residential rental unit properties, certifying compliance with this chapter and the housing and property maintenance standards of the City of Barstow.
- (e) "Dwelling Unit" means a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking

and sanitation.

~~(e)~~(f) "Exigent circumstances" means a situation where a Rental Property constitutes an imminent danger to life, health, or safety.

~~(f)~~(g) "Frequency Upgrade" means modifying the inspection frequency to extend the length of time between compliant inspections.

~~(g)~~(h) "Inspection Frequency" means the length of time between inspections for renewal of certification of residential rental units.

~~(h)~~(i) "Maintenance Request Log" means the log required to be maintained by the owner or manager of a residential rental unit, which shall record all tenant requests for repairs, the time estimated at the time of the request for repairs to be completed, and the completion date of the repairs.

~~(i)~~(j) "Major Violation" shall mean any one or more of the following violations:

(1) Heating system not fully operational at any time between October and April of the following year.

(k) "Self-Certification Checklist" means a City-created form listing the minimum standards that landlords must attest that their buildings meet under penalty of perjury. Any person who makes a false statement on the Self-Certification Checklist or submits false information shall be guilty of an infraction. The City may also promulgate rules regarding which landlords are eligible. The Building Official retains the authority to determine which landlords are eligible to complete the Self-Certification Checklist.

- (1) Cooling system not fully operational at any time between May and October.
- (2) Hazardous code violations, including but not limited to any of the following:
  - (i) Exposed electrical wiring;
  - (ii) Collapsed ceiling or walls caused by water leakage;
  - (iii) Sewage leakage into walls, floors or onto the ground;
  - (iv) Structural damage resulting in the building being determined by the Building Official to be unsafe;
  - (v) Fire alarm and/or carbon monoxide alarm system not fully operational;
  - (vi) Firewalls damaged or not maintained.
- U) "Non-compliance with Notice and Order" means that the owner, his authorized agent, or other responsible party does not make required repairs as provided in Notice and Order from the Building Official.
- (k) "Occupant or tenant" means any person who occupies a Rental Property, whether as a tenant or permittee of the owner.
- (l) "Owner's Authorized Representative" means a person, agent, Property Owner or property Management Company with respect to a Rental Property who has the legal authority to act upon the Owner's behalf with respect to the Rental Property.
- (m) "Owner" or "Property Owner" means any person having legal title to real property, including all individuals, partner, joint venture, stock owner, persons in care of the Rental Property as shown as owners on the last equalized assessment roll of the San Bernardino County Assessor's Office, or an owner's authorized representative. If more than one person or an entity owns the Rental Property, Owner or Property Owner refers to each person or entity holding any kind of ownership interest in the Rental Property, and the property owners' obligations in this article are joint and several as to each Property Owner.
- (n) "Other Violations" means any violation other than those defined as a major violation.
- (o) "Property Management Posting" means a sign required to be posted and maintained at all times which shall include the address and location to obtain repair requests and a current 24-hour emergency phone number. The sign shall be posted close to the main entrance in an area accessible and visible to the general public, or as may otherwise be approved in writing by the Building Official.
- (p) "Rental Property (ies)" means any single or multiple dwelling unit(s) zoned parcel, or any multiuse zoned parcel, used for occupancy by a person(s) other than the owner of the dwelling unit and is occupied or intended to be occupied for rental or lease purposes. This definition includes the exterior of the structure, and the entire legal property upon which the structure **exists**, including but not limited to all yards, parking lots, driveways, landscaped area, accessory structures, fences, walls, swimming pools, hot tubs and spas. For the purpose of this article, the following types of dwelling units or facilities are not considered Rental Property/ Dwelling / Unit:
  - (1) Conventional hotels or motels.
  - (2) Accommodations in any hospital, extended care facility, residential care facility, convalescent home, nonprofit home for the aged, or dormitory that is owned and operated by an educational institution.
- (q) "Repair Request Form" means a two-part form the owner of a property must provide to



all tenants. The form shall indicate the address the form is to be delivered to for repair and an area for the manager or owner to sign the receipt of the repair request. The owner shall provide a copy of the request to the tenant.

**Sec. 5.91.040:  
Rebuttable Presumption**

For the purposes of this Article, if a property tax bill, water, or sanitation utility bill for a property is mailed to an address other than the property's address, it shall be a rebuttable presumption that the property is a Rental Property. This presumption can be rebutted by

the owner of record by providing reasonable documentation to the City sustaining that the property is owner occupied or is not being used, actively or not, for rental income.

**Sec. 5.91.050:**

**Annual Rental Permit Required/Change of Ownership**

Every owner of one or more dwelling units that are Rental Properties, whether single family or multi-family dwelling units, or any combination thereof, shall be required to obtain an Annual Rental Permit for each Rental Property within sixty (60) days of becoming a residential rental unit, or being converted to a residential rental unit. An Annual Rental Permit shall be issued after the Rental Property has passed an initial Rental Property inspection of each dwelling unit located on the parcel as provided in Section 5.91.080 and has complied with all other applicable laws, including payment of the Annual Rental Permit fees. No interior inspection shall take place without the consent of the owner or their authorized representative, unless the Building Inspector or their designee has an inspection permit warrant or upon exigent circumstances. Landlords may also self-certify under the penalty of perjury that their property is in compliance with the City's housing and property maintenance standards by completing the City's Self-Certification Checklist.

The Annual Rental Permit shall not be transferable. Upon property ownership change, the Annual Rental Permit issued to the prior Property Owner shall be null and void and such Annual Rental Permit file shall be closed. New Property Owners must make application for the required Annual Rental Permit within 30 calendar days of taking ownership of rental property(ies). Licenses will be backdated to the first day of the month in which ownership is recorded with the County of San Bernardino.

**Sec. 5.91.060:**

**Owner's Authorized Representative**

- (a) For purposes of this article, all owners of Rental Property shall designate a local authorized representative with full authority to act on behalf of the owner for all purposes under this article, including the acceptance of service of all notices from the city. An original copy of the authorization must be submitted to the City, signed by the Property Owner and be either notarized or accompanied by a copy of the Property Owner's identification.
- (b) All owners of Rental Property (ies) must establish and maintain, at all times, a working telephone number and a current address of residence. Any designated local authorized representative must establish and maintain, at all times, a working telephone number and a residence or business address within fifteen 15 miles of any of his/her designated Rental Property(ies). The owner of Rental Property (ies) or their local authorized contact representative shall be accessible to the City through the provided telephone number(s) 24 hours a day, 7 days a week.

**Sec. 5.91.070:**

**RESERVED**

**Sec. 5.91.080:**

**Initial and Annual Inspection**

- (a) As a condition of exercising the privilege of renting or leasing a Rental Property to any person and/or entity, the Owner of any dwelling unit considered Rental Property per this Code which is located in the City shall register with the City for an Annual Rental Permit.
- (b) All dwelling units that are considered Rental Property per this Code which are located in the City shall be subject to an initial inspection upon submittal of an Annual Rental Permit application, and an annual inspection thereafter by the Building Official or his/her designee for compliance with all applicable laws. The intent of the inspections shall be limited to the scope stated in section 5.91.020 to verify compliance with the Barstow Municipal Code and/or California Building Code and/or California Fire Codes in regard to housing, building, land use, and property maintenance codes.
- (c) If the Owner of Rental Property fails to register or reregister such units in compliance with this Chapter, the Building Official shall register or reregister said units in the name of the owner and set a date and time for initial inspection of said units, and shall send written notification to the Owner that the property has been so registered and advising of the date and time set for inspection, accompanied with a bill for the registration/processing fee and the total initial inspection fee for each unit, and include information on the self-certification program
- (d) The City will mail out a notice of inspection along with a checklist the City will use on the inspection no less than thirty (30) calendar days prior to the expiration of the Annual Rental Permit.
- (e) The City's designated personnel shall conduct an exterior and interior site inspection of each Rental Property prior to the initial issuance of an Annual Rental Permit or prior to the annual issuance of a renewal Annual Rental Permit, unless specifically indicated elsewhere. The scope of the inspection shall include, but is not limited to:
  - (1) Exterior property maintenance and cleanliness.
  - (2) Landscape maintenance in accordance with the Barstow Municipal Code;
  - (3) Land use such as off-street parking requirements, storage of inoperative vehicles and accessory structure and uses related to unpermitted business;
  - (4) Maintenance and upkeep of the primary structure such as windows, paint, stucco, weather protection, roof and other architectural features and accessory structures such as sheds, cabanas, trash enclosures, etc.
  - (5) An interior inspection to ensure compliance with this code, as well as the Barstow Municipal Code, California Residential Code and the Uniform Building Code. No interior inspection shall take place without the consent of the owner or their authorized representative, unless the Building Inspector or their designee has an inspection permit warrant or upon exigent circumstances
- (f) Annual Rental Permit Initial Application and Annual Renewal Inspections: a Rental Property seeking either an initial or annual renewal Rental Permit shall require an inspection conducted within thirty (30) calendar days after the submittal of an Annual

Rental Permit application or within thirty (30) days of expiration of the Annual Rental Permit and one compliance re-inspection conducted within fourteen (14) calendar days after a failed initial compliance inspection. Any violation found after the compliance re-inspection or by a valid tenant complaint shall be enforced in accordance with Barstow Municipal Code or the adopted California Building and/or Fire Codes. Additionally, any re-inspections conducted after two (2) will be charged an Annual Rental Permit re-inspection fee as per the City's adopted Master Fee Schedule.

(g) Notice of Annual Rental Permit Renewal Inspection.

- (1) Prior to an Annual Rental Permit expiration, an Annual Rental Permit renewal notice will be sent to the Property Owner:
  - (2) Said renewal notice will be mailed by first class mail to the Owner at the Owner's last known address as it appears in the Rental Annual Permit records. In the case of multiple Owners of the same Rental Property, notice to anyone of the Property owners is sufficient notice.
  - (3) In the event an Owner, Owner's Authorized Representative or Tenant in possession of the Rental Property refuses to allow access to conduct the exterior or interior inspection, City personnel and the City Attorney may use all legal remedies to ensure that an inspection is conducted as required by this Article.
  - (4) The City's Building Department will make reasonable arrangements to inspect the interior of the property with the owner or authorized representative's consent during reasonable times.
- (h) After completion of the initial or annual renewal inspection for the Annual Rental Permit, where the Rental Property fails the inspection due to having violation(s) on the property, the City shall provide a copy of the written report to the owner or the Owner's Authorized Representative upon conclusion of the inspection. The report shall contain:
- (1) An itemization of any violation(s) of the applicable laws identified during the inspection.
  - (2) The period of time given for correcting each of the identified violation(s).
  - (3) Notice that the City will re-inspect the Rental Property at the end of the period of time for correction.
  - (4) A statement that if the violation(s) are found to be out of compliance during the re-inspection, the City will not issue the Annual Rental Permit provided under Section 5.91.050 of this Code, and the City may pursue any legal remedies available to it, whether from this Code or any other applicable law, in order to abate said violations.
- (i) After completion of a failed initial Annual Rental Permit inspection or a failed annual renewal Annual Rental Permit re-inspection, a report listing the violations shall be provided to the property owner and the tenant. The database shall reflect the failed re-inspection and the matter shall be enforced under the Barstow Municipal Code to include Titles 1, 6 and 15, although not excluding any portion of said Code.
- (j) If no violations are found as a result of an initial or annual renewal inspection or re-inspection, the report and database shall state so, and the City shall issue the Annual Rental Permit to the owner. All inspection reports shall be available as a public record upon request.
- (k) A site that has had no violations for two (2) consecutive years may be eligible for an automatic extension of the annual Certificate of Compliance. The annual fee will be reduced by fifty (50) percent of the fee as based upon the fee schedule as adopted by the City Council. An eligible extension may only be issued one time before another inspection is issued. If, after the initial two years with no violations the property shall be eligible to be inspected at two (2) year intervals. Upon a validated complaint, or a violation

within the required inspection, the automatic extension shall cease until another two (2) years of annual inspections occurs with no violations. The fifty percent reduction will only apply to non-inspection years.

**Sec. 5.91.090:**

**Certificate of Compliance**

- (a) Owners of all residential rental units shall obtain and maintain a valid and current certificate of compliance. All residential rental units that do not have a certificate of compliance, and their owners, shall be in violation of this ordinance.
- (b) A certificate of compliance shall be issued for all residential rental units upon completion of the following:
  - (1) The residential rental unit property has been inspected and approved by the Building Official or designee.
  - (2) Any existing code violations have been corrected and/or repaired with proper permits and inspections.
  - (3) The repair request form and maintenance request log is complete and approved by the Building Official. On properties with an on-site manager's unit or a management office, the maintenance request log shall be maintained at that location. On properties with no on-site manager's unit or management office, it shall be maintained at a location designated by the Building Official. The maintenance log shall at all times be available for review when requested by the Building Official or designee.
  - (4) The residential rental unit property is posted as follows:
    - (i) 1-4 Units - A property management posting a sign as defined in Section 5.91.030, above shall be posted in a prominent outdoor location and in a manner approved by the Building Official. If the property owner as a private individual manages the unit(s), no posting is required. However, contact information must be identified on the registration application. Any change in contact information shall be made within thirty (30) days of the change. Failure to update the contact information shall be considered a violation of this code.
    - (ii) 5 or more units - The onsite manager unit or management office, if any, shall be identified in a manner approved by the Building Official. A property management posting sign as defined shall be posted in a prominent outdoor location and in a manner approved by the Building Official.
  - (5) All residential rental unit registration and inspection fees are paid in full.
  - (6) A current complete registration application is on file with the Building Official.
- (c) Issuance of a certificate of compliance shall not constitute a guarantee or warranty of the habitability or complete compliance with the city housing and property maintenance standards, including but not limited to, the California Residential Code, Uniform Building Code and local codes, and the occupant of any residential rental unit shall not rely on the Certificate of Compliance as such a guarantee or warranty. The Certificate of Compliance shall contain a notice to this effect. The city shall not assume any liability to any person by reason of the inspections required by this chapter or the issuance of a Certificate of Compliance. Certificates of compliance shall expire on the expiration date shown on the Certificate and shall be renewed prior to such date. The Building Official shall determine the expiration dates of Certificates of Compliance and inspection frequency based upon the nature of violations found during the residential rental unit inspections, the following registration and inspection frequency schedule, in conjunction with his review of past compliance violations within the preceding twelve months.

Registration and Inspection Frequency Schedule

**Single Family or Detached**

- New Construction - Certificate of Occupancy issued within the preceding six months:  
No registration fee One year
- Conversion of Existing Unit(s):



Registration fees at one hundred percent. One year

- No Violations:  
Registration fees due as prescribed in the Master Fee Schedule. Each year. After two years of no violations, inspections may be extended to two years. Registration fee may be reduced by fifty percent.
- Violations:  
Registration fees at one hundred percent. One year

**Multiple Family - Two units and above**

- New Construction or Conversion of Existing Units - Certificate of Occupancy issued within the preceding six months:  
Registration fees at one hundred percent. One year
- No Violations:  
Registration fees due as prescribed in the Master Fee Schedule. Each year. After two years of no violations, inspections may be extended to two years. Registration fee may be reduced by fifty percent.
- Violations:  
Registration fees at one hundred percent. One year

**Sec. 5.91.100:**

**Re-registration and Certificate of Compliance Renewal**

The owner of a residential rental unit shall apply and pay all required fees not less than thirty (30) days prior to the scheduled expiration of the certificate of compliance. The owner of a residential rental unit property shall re-register and meet all the requirements and pay all fees as for a new certificate, except as outlined in Section 5.91.090 above. Upon re-registration, inspection and the issuance of a new certificate of compliance, the Building Official in the exercise of his discretion may grant a frequency upgrade to extend the inspection frequency for no more than two years, after two or more years of consecutive inspections with no violations.

**Sec. 5.91.110:**

**Re-inspection Process to Renew a Certificate of Compliance**

The owner shall make available all residential rental units for inspection within ten working days of the Building Official's request. The Building Official in his discretion may require inspections by other city departments and/or San Bernardino County enforcement agencies, including but not limited to the County Health Department and Barstow Fire Department. According to the inspection frequency of the property, the Building Official may, but is not required to, randomly select the following percentage of units for inspection:

- (a) Two-year inspection frequency - Inspection of 10-40% of the units on the property for the initial inspection. If recurring or major violations are found during the initial inspection, then

additional units will be inspected. Any major violations found will result in an inspection of 100% of all units. The site may also default back to a one-year inspection schedule at the discretion of the Building Official.

- (b) One year inspection frequency- Inspection of 50-60% of all units on the property for the initial inspection. If recurring or major violations are found during the initial inspection, then additional units will be inspected. Any major violation found will result in 100% inspection of all units.

**Sec. 5.91.120:  
Violations**

- (a) Whenever the Building Official or his/her designee determines that a violation of this Article exists, designated City personnel shall issue a notice of violation and provide an order to correct the violation(s) located at the Rental Property. The notice shall be provided (1) by hand delivery or U.S. mail to the Owners or Owner's Authorized Representative, and (2) either by mail or hand delivery to the Rental Property Tenant, or by posting said notice on the front door of Tenant's dwelling unit. Said notice shall be in writing and shall describe with reasonable detail the violation(s) so that the Property Owner has the opportunity to identify and correct any identified violation. Any person who fails to comply with any provisions of this article after receiving written notice of the violation(s) and has been given a minimum of 14 days from the date of initial or re-inspection to correct such violation(s) shall be deemed to be in violation of this Article.
- (b) A violation of this article shall be enforced in accordance with Barstow Municipal Code Titles 1, 6 and 15, although not excluding any portion of said Code. The Building Department may also take action to suspend or revoke the Annual Rental Permit issued to the property owner if the property owner has failed to correct any or all violations.
- (c) Any Rental Property which has been subjected to enforcement actions under Barstow Municipal Code Titles 1, 6 and 15, although not excluding any portion of said Code, and has continued to fail to comply with this Code, including any Rental Property maintenance requirements, and any state or local law relating to housing standards, property maintenance, building codes, or land use requirements, shall be considered a public nuisance and subject to abatement procedures as set forth in Chapters 6.28 and 6.30 of the Barstow Municipal Code.
- (d) Violations of this Chapter shall be treated as a strict liability offense regardless of intent. Any person, firm and/or corporation that violates any portion of this Chapter shall be subject to prosecution under this Chapter, Barstow Municipal Code Titles 1, 6 and 15, and/or Section 11570 et. seq. of the California Health and Safety Code (Drug Abatement)
- (e) The City may also utilize the provisions of the Revenue and Taxation Code Section 24436.5 to encourage the elimination of substandard conditions in rental housing. The City is also authorized to bring an action under the Business and Professions Code for unfair business practices.

- (f) In an action, administrative proceeding, or special proceeding to abate a violation of this Chapter, the prevailing party may recover Attorneys' fees pursuant to Government Code Section 38773.5. Recovery of Attorneys' fees is limited to those individual actions or proceedings in which the City elects, at the initiation of that individual action or proceeding, to seek recovery of its own Attorneys' fees. An award of Attorneys' fees to a prevailing

party shall not exceed the amount of reasonable Attorneys' fees incurred by the City in an action, administrative proceeding, or special proceeding.

- (g) The remedies provided in this section are in addition to the remedies and penalties available under this Code, and all other laws of this state.

**Section 5.91.130:  
Complaint Based Inspections**

Nothing contained in this article shall prevent or restrict the City's authority to inspect any Residential Rental Property in response to a complaint alleging Code violations or violations of any other applicable laws, or to pursue all remedies available under this Code or applicable laws. If a complaint is validated by a complaint-based inspection, the residential rental inspection frequency may, at the Building Officials discretion, be reduced to a one year inspection.

**Section 5.91.140:  
Expired Certificate of Compliance**

- (a) This chapter is not intended to and shall not be construed to limit in any way the remedies available to the City to prosecute or abate public nuisances or violations of the City's property maintenance standards, the California Residential Code and/or Uniform Building Code. Upon expiration of a certificate of compliance the city may proceed with any remedy permitted by law or equity to abate the violations or prosecute the owner and/or responsible party.
- (b) Upon termination or expiration of a certificate of compliance, the Building Official shall not re- issue a new certificate of compliance until all of the following conditions are met:
  - (1) All violations must be repaired and inspected;
  - (2) All costs and fees due for enforcement actions shall be paid to the city;
  - (3) New registration and fees shall be filed and paid;
  - (4) Re-inspection shall be completed for all residential units on the property.
- (c) Certificate of compliance issued after being terminated or expired for any reason shall automatically be scheduled for one-year inspection frequency.

**Section 5.91.150:  
Failure to Pay Fees**

Should a property owner fail to pay the Annual Rental Permit fee within 15 days after the expiration date on the Annual Rental Permit, they shall be assessed penalties and interest as per Section 5.04.080 of the Barstow Municipal Code. In addition, any cost recovery fee or administrative fine related to the enforcement of and compliance with this article shall be a debt to the City and shall be enforced in accordance with Titles 1, 6 and 15 of the Barstow Municipal Code. Any Annual Rental Permit fee more than 15 days late shall be considered expired and shall be subject to Section 5.91.120 above.

**Section 3. Severability.**

The City Council declares that, should any provision, section, paragraph, sentence or word of this ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this ordinance as hereby adopted shall remain in full force and effect.

**Section 4. CEQA Exemption.**

The adoption of this Ordinance and the implementation of the regulatory programs of this Ordinance do not require further review under the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15301, in view of the fact that the regulatory programs are hereby enacted, apply to existing structures and buildings and are intended to provide for continuous and appropriate maintenance and protection of such structures and buildings for so long as the structures and buildings may remain unoccupied or vacant.

**Section 5. Effective Date.**

This ordinance shall take effect January 1, 2022.


**Section 6. Repeal of Conflicting Provisions.**

All the provisions of the Barstow Municipal Code as heretofore adopted by the City of Barstow that are in conflict with the provisions of this ordinance are hereby repealed.

**Section 7. Certification.**

The City Clerk of the City of Barstow is hereby directed to certify to the passage and adoption of this Ordinance and to cause it to be published as required by law.

**PASSED, APPROVED and ADOPTED this 19th day of July 2021.**

  
Paul Anthony Courtney, Dr. B.A., Mayor

ATTEST:

APPROVED AS TO FORM:

2

---

Matthew T. Summers, City Attorney

I, Andrea Flores, City Clerk for the City of Barstow, California, and ex-officio Clerk of the City Council, do hereby certify under penalty of perjury that the foregoing is a true and correct copy of Ordinance No. 975-2021, which was introduced at the regular meeting of the City Council of the City of Barstow held on the 21st day of June, 2021, and adopted at the regular meeting of the City Council of the City of Barstow on the 19th day of July, 2021, by the following vote:

AYES: COUNCIL MEMBERS KRUSE, SILVA, ROSE, MAYOR PRO TEM  
NOBLE AND MAYOR COURTNEY

NOES: NONE

ABSTAIN:

ABSENT:

NONE



Sec. 6.28.030. - Public nuisances prohibited.

The city council hereby finds and declares that it is a public nuisance and unlawful for any person to allow, cause, create, maintain, or permit others to cause, create, or maintain, real property or premises in the city in such a manner that:

- (1) Any one or more of the following conditions are found to exist thereon:
  - a. Land, the topography, geology or configuration of which, whether in natural state or as a result of grading operations, excavation or fill, causes or tends to cause erosion, subsidence, or surface water drainage problems of such magnitude as to be injurious or potentially injurious to the public health, safety and welfare, or to adjacent properties.
  - b. Buildings or other structures, or portions thereof, that are partially constructed or destroyed or allowed to remain in a state of partial construction or destruction for an unreasonable period of time. As used herein, an unreasonable period shall mean any portion of time exceeding the period given to a responsible person by the city for the complete abatement of this nuisance condition with all required city approvals, permits, and inspections. Factors that may be used by the city to establish a reasonable period for the complete abatement of this nuisance include, but are not limited to, the following:
    1. The degree of partial construction or destruction and the cause therefore.
    2. Whether or not this condition constitutes an attractive nuisance or if it otherwise poses or promotes a health or safety hazard to occupants of the premises, or to others.
    3. The degree of visibility, if any, of this condition from public property or adjacent private real property.
    4. The scope and type of work that is needed to abate this nuisance.
    5. The promptness with which a responsible person has applied for and obtained all required city approvals and permits in order to lawfully commence the nuisance abatement actions.
    6. Whether or not a responsible person has complied with other required technical code requirements, including the acquisition of any necessary city approvals and/or permits, and requesting and passing required inspections in a timely manner, while completing nuisance abatement actions.
    7. Whether or not a responsible person has applied for extensions to a technical code permit or renewed an expired permit, as well as the number of extensions and renewals that a responsible person has previously sought or obtained from the city.
    8. Whether or not a responsible person has made substantial progress, as determined by the city, in performing nuisance abatement actions under a technical code permit that has expired, or is about to expire.
    9. Whether delays in completing nuisance abatement actions under a technical code permit have occurred, and the reasons for such delays.
  - c. Abandoned buildings, structures or property.
  - d. Abandoned personal property that is visible from public or private property.
  - e. Accessible property through a gate, fence, wall, or other barrier that is broken, unlocked, unsecured or otherwise missing or lacking.
  - f. Accessible structure that is unsecured in any manner that could allow access to the interior of the building or structure by unauthorized persons.
  - g. Interior portions of buildings or structures (including, but not limited to, attics, ceilings, walls, floors, basements, mezzanines, and common areas) that have become defective, unsightly, or are maintained in a condition of dilapidation, deterioration or disrepair to such an extent

as to result in, or tend to result in, a diminution in property values, or interferes with the peaceful use, possession and/or enjoyment of properties in the vicinity, or where such condition otherwise violates or is contrary to the Barstow Municipal Code, or state or federal law.

- h. Exterior portions of buildings or structures (including, but not limited to, roofs, balconies, decks, fences, stairs, stairways, walls, signs and fixtures), as well as on-site sidewalks, walkways, driveways and parking areas, that have become defective, unsightly, or are maintained in a condition of dilapidation, deterioration or disrepair to such an extent as to result in, or tend to result in, a diminution in property values, or interferes with the peaceful use, possession and/or enjoyment of adjacent properties, or where such condition otherwise violates or is contrary to the Barstow Municipal Code, or state or federal law.
- i. Clotheslines in front yard areas.
- j. Obstruction of any kind, cause or form that interferes with light or ventilation for a building, or that interferes with or hinders ingress therein and/or egress therefrom.
- k. Broken, defective, damaged, dilapidated, or missing windows, doors, or vents in a building or structure, and/or broken, defective, damaged, dilapidated, or missing screens for windows, doors, or crawl spaces in a building or structure.
- l. Windows or doors that remain boarded up or sealed after 90 days may receive a written notice from the city to a responsible person requesting the removal of these coverings and the installation of fully functional or operable windows or doors. City actions to board up or seal windows or doors in order to deter unauthorized entry into structures shall not relieve responsible persons from installing fully functional or operable windows or doors. If the responsible person involved with this property requests the site remain fully boarded due to a long-term security request (that is, no active plans to revive and utilize the site), then the building must be boarded with plywood (all windows and doors) and the plywood shall be painted to match the exterior.
- m. Overgrown vegetation, including, but not limited to, any one of the following:
  - 1. Vegetation likely to harbor, or promote the presence of, rats, vermin and/or insects.
  - 2. Vegetation causing or tending to cause detriment to neighboring properties, or that is out of conformity with neighboring community standards to such an extent as to result in, or contribute to, a diminution of property values, including, but not limited to:
    - (i) Lawns with grass in excess of six inches.
    - (ii) Hedges, trees, or other plant material that are not maintained in a neat, orderly, and healthy manner as a result of lack of adequate mowing, grooming, trimming, pruning, and/or watering.
  - 3. Vegetation that creates, or promotes, the existence of a fire hazard.
  - 4. Vegetation that overhangs or grows onto or into any public property, including, but not limited to, any public alley, highway, land, sidewalk, street or other right-of-way, so as to cause an obstruction to any person or vehicle using such public property.
  - 5. Tree branches or other vegetation within five feet of the rooftop of a structure so as to facilitate rodent or animal access thereto.
- n. Dead, decayed, diseased or hazardous trees, weeds, ground cover, and other vegetation, or the absence of healthful vegetation, that causes, contributes to, or promotes, any one of the following conditions or consequences:
  - 1. An attractive nuisance.
  - 2. A fire hazard.
  - 3. The creation or promotion of dust or soil erosion.

4. A diminution in property values.
  5. A detriment to public health, safety or welfare.
- o. Any form of an attractive nuisance.
  - p. Items of junk or other personal property that constitute a fire or safety hazard or that are visible from public or adjoining private real property, or that are accumulated, kept, placed or stored in exterior portions of premises in such a manner as to constitute a violation of any provision of the Barstow Municipal Code, or that are otherwise out of conformity with neighboring community standards to such an extent as to result in, or tend to result in, a diminution in property values. Notwithstanding the foregoing, the existence of a junkyard is not a nuisance when such use and the premises on which such use occurs are in full compliance with all provisions of title 19, Zoning, of this Code (including all approvals and permits required thereby), and all other applicable provisions of the Barstow Municipal Code, as well as all applicable state and federal laws.
  - q. Garbage cans, yard waste containers, and recycling containers that are kept, placed or stored in front or side yards and visible from public streets, except at times that solid or yard waste, or recyclables, are scheduled for collection by the city or its permitted collectors.
  - r. The keeping or disposing of, or the scattering or accumulating of combustible or other material, including, but not limited to, composting, firewood, lumber, junk, trash, debris, packing boxes, pallets, plant cuttings, tree trimmings or wood chips (except when used as mulch and contained within landscape planters), in interior or exterior areas of buildings or structures, when such items or accumulations:
    1. Render premises unsanitary or substandard as defined by the Uniform Housing Code adopted by the city.
    2. Violate the Barstow Municipal Code.
    3. Cause, create, or tend to contribute to a fire or safety hazard.
    4. Harbor, promote, or tend to contribute to the presence of rats, vermin and insects.
    5. Cause, create, or tend to contribute to an offensive odor.
    6. Cause the premises to be out of conformity with neighboring community standards to such an extent as to result in, or tend to result in, a diminution of property values; provided, however, that this use of land or condition shall not constitute a nuisance when expressly permitted under the applicable zone classification and the premises are in full compliance with all provisions of title 19, Zoning, of this Code and all other applicable provisions of this Code, as well as all state and federal laws.
  - s. Vehicles exceeding the permissible gross vehicle weight for the streets or public property upon which they are located. A nuisance also exists under this provision when a vehicle is stopped, kept, placed, parked, or stored on private real property and when such vehicle exceeds the permissible gross vehicle weight for the streets or public property that were utilized in its placement on said private real property.
  - t. Abandoned, dismantled, inoperable or wrecked boats, campers, motorcycles, trailers, vehicles, or parts thereof, unless kept, placed, parked or stored within a completely enclosed, lawfully constructed structure.
  - u. Trailers, campers, boats, and other mobile equipment parked or stored in yard areas contiguous to streets or highways in violation of title 19, Zoning, of this Code and/or causing or tending to cause depreciation of nearby property values.
  - v. Any equipment, machinery, or vehicle of any type or description that is designed for or customarily used for construction-type activities that is kept, parked, placed or stored on public or private real property except when such item is being used during excavation,

construction or demolition operations at the site where said equipment, machinery, or vehicle is located pursuant to an active building and/or other technical code permit.

- w. Maintenance of signs, or sign structures, on real property relating to uses that have not been lawfully conducted or products that have not been lawfully sold thereon for a period of 180 calendar days or more, or for such shorter period as is established by this Code, or signs and their structures that are in disrepair or which are otherwise in violation of, or contrary to, this Code.
- x. Specialty structures that have been constructed for a specific use, and which are unfeasible to convert to other uses, and which are abandoned, partially destroyed or are permitted to remain in a state of partial destruction or disrepair. Such specialty structures include, but are not limited to, the following: tanks for gas or liquids, lateral support structures and bulkheads, utility high-voltage towers and poles, utility high-rise support structures, electronic transmitting antennas and towers, structures which support or house mechanical and utility equipment and are located above the roof lines of existing buildings, high rise freestanding chimneys and smoke stacks, and recreational structures such as tennis courts and cabanas.
- y. Any personal property or building or structure that obstructs or encroaches on any public property, including, but not limited to, any public alley, highway, land, sidewalk, street or other right-of-way, unless a valid encroachment permit has been issued authorizing said encroachment or obstruction.
- z. Causing, maintaining or permitting graffiti, as defined in the Barstow Municipal Code or other applicable state law, to be present or to remain on a building, structure or vehicle, or portion thereof, that is visible from a public right-of-way or from adjoining property.
- aa. Storage of hazardous material on real property in such a manner as to be injurious, or potentially injurious or hazardous, to the public health, safety or welfare, or to adjacent properties, or that otherwise violates any local, state or federal law or regulation.
- bb. Failure to provide and maintain adequate weather protection to structures or buildings, so as to cause, or tend to cause or promote, the existence of cracked, peeling, warped, rotted, or severely damaged paint, stucco or other exterior covering.
- cc. Any discharge of any substance or material, other than stormwater, which enters, or could possibly enter, the city's storm sewer system in violation of the Barstow Municipal Code.
- dd. Maintenance of any tarp or similar covering on, or over, any graded surface or hillside, except in the following circumstances:
  - 1. A state of emergency has been declared by local, state or federal officials directly impacting the area to be covered; and
  - 2. Covering with a tarp performed pursuant to an active building or grading permit.
- ee. Maintenance of any tarp or similar covering on, or over, any roof of any structure, except during periods of active rainfall, or when specifically permitted under an active roofing or building permit.
- ff. Unsanitary, polluted or unhealthful pools, ponds, standing water or excavations containing water, whether or not they are attractive nuisances but which are nevertheless likely to harbor mosquitoes, insects or other vectors. The likelihood of insect harborage is evidenced by any of the following conditions: water which is unclear, murky, clouded or green; water containing bacterial growth, algae, insect larvae, insect remains, or animal remains; or bodies of water which are abandoned, neglected, unfiltered or otherwise improperly maintained.
- gg. Maintenance of premises so out of harmony or conformity with the maintenance standards of properties in the vicinity as to cause, or that tends to cause, substantial diminution of the enjoyment, use, or property values of such properties in the vicinity.

- hh. Maintenance of inadequate landscaping upon any portion of any premises that is visible from any public street, public property or right-of-way if the premises is located in a residential zone; or maintenance of inadequate landscaping upon any portion of any premises in any commercial or industrial zone. For purposes of this subsection, the term "inadequate landscaping" shall mean such landscaping as results in a diminution of the appearance of the subject premises as compared with neighboring property, or degrades the aesthetic quality of the subject premises, or reduces property values in the immediate neighborhood, and includes, but is but not limited to, the following:
    - 1. Lack of groundcover or lawns, shrubs, or other vegetation in any portion of the premises not otherwise developed with a structure, paving, or landscaping hardscape.
    - 2. Insufficient groundcover, lawn, or other landscaping material on the premises, resulting in blowing dust and/or soil erosion.
    - 3. Trees, shrubs, lawn, or other plants that are dying from lack of water, fertilizer or maintenance, or from disease.
    - 4. Failure to comply with any landscaping plan approved by the city in connection with the issuance of any land use approval for the premises.
    - 5. Tract homes built after December 19, 2007, shall maintain front yard landscaping to current standards identified in section 19.06.080.
    - 6. Non-tract homes built after November 19, 2008, shall maintain front yard landscaping to current standards identified in section 19.06.080.
    - 7. All single-family residential dwellings built prior to December 19, 2007, for tract homes, or November 19, 2008, for non-tract homes, shall maintain front yard landscaping in a healthy condition. Any overgrown landscaping shall be trimmed to be aesthetically pleasing.
  - ii. Any condition recognized in local or state law or in equity as constituting a public nuisance, or any condition existing on real property that constitutes, or tends to constitute, blight, or that is a health or safety hazard to the community or neighboring properties.
  - jj. Any violation of the Barstow Municipal Code, state law, or federal law that constitutes a misdemeanor or felony violation.
  - kk. Any distressed property.
  - ll. Any property showing evidence of vacancy.
  - mm. Property in foreclosure.
  - nn. Any property under a notice of default.
  - oo. Properties that are in the process of environmental remediation and have any attractive nuisance issues, to include the need for weed abatement, are littered, have fencing of poor quality and have exposed environmental remediation equipment are not acceptable and constitute a public nuisance. Regular maintenance on the property needs to take place to ensure that litter is picked up, to include wind-blown debris attached to fences. All fencing must be maintained in good repair and be of high quality (rental fencing is not acceptable, and slatted visual barrier fencing shall be installed where appropriate). A visual barrier to remediation equipment (tanks, piping, monitoring equipment, drums, etc.) must be provided so that the equipment is not visible from the street or adjacent properties.
- (2) Any building or structure, or portion thereof, or the premises on which the same is located, in which there exists any of the conditions listed in chapter 3 of the 1997 Uniform Code for the Abatement of Dangerous Buildings, as adopted by the Barstow Municipal Code.
  - (3) Any building or structure, or portion thereof, or the premises on which the same is located, in which there exists any of the conditions listed in Health and Safety Code § 17920.3, and any future amendments thereto.

- (4) Any building or structure used by any person to engage in acts which are prohibited pursuant to the laws of the state, the provisions of this Code or any other ordinance of this city, including, but not limited to, the following acts:
  - a. Unlawful possession and/or use of controlled substances;
  - b. Prostitution; and/or
  - c. Unlawful gambling.
- (5) A condition, use or activity is present that constitutes a public nuisance as defined by Civil Code § 3479 or 3480, and any future amendments thereto.
- (6) Any building, structure, or use of real property that violates or fails to comply with:
  - a. Any applicable approval, permit, license, or entitlement or condition relating thereto;
  - b. Any ordinance of the city, including, but not limited to, any provision of this Code; or
  - c. Any applicable, county or state law or regulation.
- (7) If applicable the securing of real property rendering the site inaccessible to unauthorized persons.
- (8) Any property that is not legally occupied and deemed vacant.

(Ord. No. 905-2013, § 6.28.030, 5-20-2013)

**RESOLUTION NO. 4942-2018**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BARSTOW, CALIFORNIA, ADOPTING AN UPDATED EXPENSE REIMBURSEMENT POLICY**

**WHEREAS**, The Expense Reimbursement Policy of the City of Barstow establishes City Council policy regarding any travel, meals, lodging, and other actual and necessary expenses covered by the City; and

**WHEREAS**, the City Council wishes to make amendments to the Expense Reimbursement Policy.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BARSTOW DOES HEREBY RESOLVE AS FOLLOWS:**

**SECTION 1.** The "Expense Reimbursement Policy" attached hereto as Exhibit "A" is hereby adopted.

**SECTION 2.** All previous versions of the "Expense Reimbursement Policy" are hereby repealed.


**SECTION 3.** Any and all resolutions in conflict with this Resolution are hereby repealed.

**SECTION 4.** This Resolution shall take effect immediately and the City Clerk shall certify to the adoption of this Resolution.

**PASSED, APPROVED AND ADOPTED THIS 3<sup>RD</sup> DAY OF DECEMBER, 2018.**

  
Julie Hackbarth-McIntyre, Mayor

**ATTEST:**

  
JoAnne V. Cousino, City Clerk

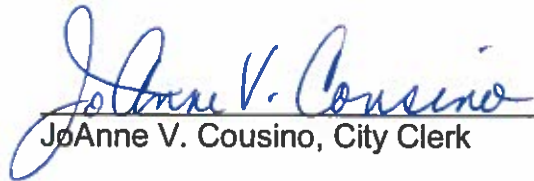
I, JoAnne V. Cousino, City Clerk of the City of Barstow do hereby certify that the foregoing Resolution No. 4942-2018 is the actual Resolution duly and regularly adopted by the City Council at a regular meeting on the 3<sup>rd</sup> day of December 2018, by the following vote:

AYES: COUNCILMEMBERS GRACEY, HARPOLE, SILVA, MAYOR PRO TEM HERNANDEZ, MAYOR HACKBARTH-MCINTYRE.

NOES: NONE

ABSENT: NONE

ABSTAIN: NONE

  
JoAnne V. Cousino, City Clerk





**EXHIBIT A**

**CITY COUNCIL POLICY MEMORANDUM #2018-16  
EXPENSE REIMBURSEMENT POLICY**

## **City Council Policy Memorandum**

**To:** City Manager  
**From:** City Council  
**CC:** City Clerk, Treasurer, and City Attorney  
**Effective Date:** December 3, 2018  
**Subject:** City Council Policy Memorandum #2018-16, Expense Reimbursement Policy

1. **PURPOSE:** This memorandum establishes City Council policy regarding any city-related travel, meals, lodging, and other actual and necessary expenses eligible for reimbursement by the City. This includes, but is not limited to conference, training, and education travel.
2. **APPLICABILITY:** This City Council Policy Memorandum applies to any employee or elected or appointed officials authorized for any city-related travel in which expenses will be incurred on behalf of the City.
3. **POLICY:**
  - A. **Travel at City Expense.** The Barstow City Council understands the importance of travel for training, education and conference representation. This memo is, therefore, not intended to discourage travel but rather to establish what the Council deems is a policy that ensures all travel executed on behalf of the city is necessary.
  - B. **Who May Travel at City Expense?** Members of the City Council, other elected officials, appointed boards, commissions, and employees of the City of Barstow, both sworn and non-sworn, may incur necessary travel expenses for activities and functions involving City business and be reimbursed for such expenses by the City provided that the travel is pre-approved.
  - C. **Authorized/Reimbursable Expenses.** Expenses incurred in connection with the following types of activities generally constitute authorized expenses, as long as the other requirements of this policy are met:
    - i. Communicating with representatives of regional, state and national government on City of Barstow adopted policy positions;
    - ii. Attending educational seminars designed to improve skill and information levels;
    - iii. Participating in regional, state and national organizations whose activities affect the City of Barstow's interests;

- iv. Recognizing service to the City of Barstow (for example, thanking a longtime employee with a retirement gift or celebration of nominal value and cost);
  - v. Attending City of Barstow sponsored events, for which two tickets will be made available for each Councilmember;
  - vi. Implementing a City of Barstow approved strategy for attracting or retaining businesses to the City of Barstow, which will typically involve at least one staff member;
  - vii. Attending local events in his or her capacity as a Councilmember; at such local events, the City will pay for the meals of the Councilmember and spouse or one escort; and
  - viii. Engaging in other business related activities with a direct connection to the implementation of adopted City plans, policies, goals or programs.
- D. Non-Reimbursable Expenses.** Examples of personal expenses that the City of Barstow will not reimburse include, but are not limited to:
- i. The personal portion of any trip;
  - ii. Political, religious or charitable contributions or events;
  - iii. Family expenses, including partner's or spouse's expenses when accompanying official on City-related business, as well as children- or pet-related expenses, except that the City will reimburse the cost of meals at local events only for each Councilmember;
  - iv. Entertainment expenses, including theater, movies (either in-room or at the theater), sporting events (including gym, massage and/or golf related expenses), or other cultural events;
  - v. Non-mileage personal automobile expenses, including repairs, traffic citations, insurance or gasoline;
  - vi. Personal losses incurred while on City of Barstow business;
  - vii. Cost of alcoholic beverages, medication (prescription or over-the-counter), laundry, dry cleaning, messenger service; and
  - viii. Optional tours, banquets, or other activities offered through a conference as an additional cost are solely at the discretion of the employee and will be considered a personal expense.
- E. Questions.** Any questions regarding the propriety of a particular type of expense should be resolved by consulting the approving authority before the expense is incurred.
- F. Travel Requests – City Employees.** Travel for City staff, appointed commission members, contracted, salaried and hourly employees will be approved with the adoption of the fiscal year budget and need not come back to the City Council for a second approval. All requests for travel require approval of the department head or the City Manager, in the case of travel by a department head, and will include the purpose of the travel, destination, and projected costs. Cost data will include the budgeted line item. The exception would be any travel request in

excess of the amount budgeted, which would then require separate City Council review and approval as a consent calendar item.

- G. **Travel Requests** – City Council, Other Elected Officials and Appointed Commission and Committee Members. Travel for City Council, other elected officials and appointed Commission and Committee members requires separate City Council review and approval in advance as a consent calendar item for each instance of travel.
- H. **Cost Control.** To conserve City of Barstow resources and keep expenses within community standards for public officials, expenditures should adhere to the following guidelines. In the event that expenses are incurred which exceed these guidelines, the cost borne or reimbursed by the City of Barstow will be limited to the costs that fall within the guidelines. These guidelines do not require you to take a bus, stay in a cheap motel or eat only fast food. A bus or train may be less expensive than a plane, but the added time away from work may make these slower options more expensive to the City overall. The meal allowances established in these guidelines allow you to eat in moderately priced restaurants.

In all areas, not just economy, you are responsible for exercising good judgment in requesting, arranging and making a trip. It should be thoroughly planned, well in advance. You should not mix personal business with official business if it will cost the City anything in dollars or lost time, or if it will harm the City's interests in any way.

- i. **Transportation.** The most economical mode and class of transportation reasonably consistent with scheduling needs and cargo space requirements should be used. Government and group rates must be used when available. Reimbursement will be made for the most economical form of travel.
- ii. **Airfare.** All air travel on City business should be coach class.
- iii. **Automobile.** Automobile mileage is reimbursed at Internal Revenue Service rates presently in effect (see [www.irs.gov](http://www.irs.gov)) and are published by the Finance Department annually. These rates are designed to compensate the driver for gasoline, insurance, maintenance, and other expenses associated with operating the vehicle. This amount does not include bridge and road tolls, which are also reimbursable. The Internal Revenue Service rates will not be paid for rental vehicles; only receipted fuel expenses will be reimbursed.
- iv. **Car Rental.** Rental rates that are equal or less than those available through the State of California's website (<http://www.catravelsmart.com/default.htm>) shall be considered the most economical and reasonable for purposes of reimbursement under this policy.
- v. **Taxis/Shuttles.** Taxi or shuttle fares may be reimbursed, including a 20 percent gratuity per fare, when the cost of such fares is equal to or less than the cost of car rentals, gasoline and parking combined, or when such transportation is necessary for time-efficiency.
- vi. **Lodging.** Lodging expenses will be reimbursed or paid for when travel on official City of Barstow business reasonably requires an overnight stay.

- vii. **Conferences/Meetings.** If such lodging is in connection with a conference, lodging expenses must not exceed the group rate published by the conference sponsor for the meeting in question if such rates are available at the time of booking. If the group rate is not available, see next section.
- viii. **Other Lodging.** Travelers must request government rates, when available. A listing of hotels offering government rates in different areas is available at <http://www.catravelsmart.com/lodguideframes.htm>. Lodging rates that are equal or less to government rates are presumed to be reasonable and hence reimbursable for purposes of this policy.
- ix. **Meals.** The following amounts (including beverages, taxes and gratuities) are allowed for meals:

Breakfast: \$20

Lunch: \$30

Dinner: \$50

As noted above, receipts are required for all meal costs. For same day travel, expenses for meals are limited to activities outside normal duties. Meal expenses incurred while conducting daily work assignments will not be considered reimbursable (i.e. employee evaluations, project discussions, etc.) without prior approval of the City Manager. Reimbursement for a meal is provided when it is not reasonable for a person to provide his or her own meal (when attending a non-City sponsored conference or a non-City sponsored training course). It is sometimes necessary to conduct City business with non-employees, such as oral board participants or consultants. Actual amounts will be reimbursed with approval from the appropriate approving authority. Such costs should fall within the maximum actual meal limits as described above. The names of the individuals attending the function and the business purpose must be documented on the expenditure reimbursement and original receipts must be attached.

- x. **Airport Parking.** Long-term parking must be used for travel exceeding 24-hours.
  - xi. **Telecommunications.** On authorized travel, necessary business-related telephone calls incurred and modem connections for employees with City-issued laptop computers, fax or Internet service may be reimbursed. In addition, individuals may be reimbursed for reasonable costs incurred for phone calls to their personal residences. The Finance Director or Accounting Supervisor shall make the final determination of reasonable costs on a case-by-case basis.
  - xii. **Other.** Baggage handling fees of up to \$1 per bag and gratuities of up to 20 percent will be reimbursed. Expenses for which City of Barstow officials receive reimbursement from another agency are not reimbursable.
- I. **Cash Advance Policy.** From time to time, it may be necessary for an official to request a cash advance to cover anticipated expenses while traveling or doing business on the City of Barstow's behalf. Such request for an advance should be submitted to the Finance Director or designee on the appropriate form far enough in advance of the need for the advance and consistent with the City's accounts

payable schedule so that the advance can be received prior to incurring the anticipated expenses. Such request for an advance should contain the following information:

1. the purpose of the expenditures;
2. the benefits of such expenditures to the residents of the City of Barstow;
3. the anticipated amount of the expenditures (s) (for example, hotel rates, meal costs and transportation expenses); and
4. the dates of the expenditures.

Cash advances will not exceed the expense allowances set forth herein. The minimum amount to be advanced is \$50. Any unused advance must be returned to the City of Barstow's treasury within five business days of the official's return, along with an expense report and receipts documenting how the advance was used in compliance with this expense policy.

- J. Expense Report Content and Submission Deadline.** All cash advance expenditures and expense reimbursement requests must be submitted on an expense report form provided by the City of Barstow. This form shall include the following advisory:

*"All expenses reported on this form must comply with the City of Barstow's policies relating to expenses and use of public resources. The information submitted on this form is a public record. Penalties for misusing public resources and violating the City of Barstow's policies include loss of reimbursement privileges, restitution, civil and criminal penalties as well as additional income tax liability."*

Expense reports must document that the expense in question met the requirements of this policy. For example, if the meeting is with a legislator, the local agency official should explain whose meals were purchased, what issues were discussed and how those relate to the City of Barstow's adopted legislative positions and priorities.

Officials must submit their expense reports within 30 days of an expense being incurred, accompanied by receipts documenting each expense, unless a cash advance has been obtained, in which case the five-business-day deadline (see paragraph 3 H) applies. Restaurant receipts, in addition to any credit card receipts, are also part of the necessary documentation. Inability to provide such documentation in a timely fashion may result in the expense not being reimbursed by the City.

- K. Audits of Expense Reports.** All expenses are subject to verification that they comply with this policy.
- L. Reports on Travel/Meetings.** Members of the City Council and other elected officials shall provide brief reports on meetings attended at the expense of the City of Barstow at the next regular meeting of the City Council. If more than one Councilmember or other elected official(s) attended, a joint report may be made.
- M. Emergency Travel.** The City Manager may approve travel deemed "emergency travel" without prior council approval if in his/her judgment the travel is both vital and necessary. The City Manager will report the authorized "emergency travel" to

the council at its next scheduled meeting. The requirements of paragraph 3L above will still apply.

- N. **Routine Travel.** This travel policy does not involve routine, same-day travel in the course and scope of City business. Under existing policy, staff members are to use available city vehicles for routine, same-day travel activities unless specifically authorized by the City Manager to use their privately owned vehicle and claim mileage reimbursement.
  - O. **Implementation.** The City Manager is hereby directed to initiate the appropriate changes to the applicable City policy and procedures manuals to insure that this policy is implemented on a permanent basis and to bring those policy and procedures back to the council for final approval in accordance with the Barstow Municipal Code.
  - P. **Compliance with Laws.** City of Barstow officials should keep in mind that some expenditures may be subject to reporting under the Political Reform Act and other laws. All agency expenditures are public records subject to disclosure under the Public Records Act and other laws.
  - Q. **Violation of This Policy.** Use of public resources or falsifying expense reports in violation of this policy may result in any or all of the following: 1) loss of reimbursement privileges, 2) a demand for restitution to the City of Barstow, 3) the City's reporting the expenses as income to the elected official to state and federal tax authorities, 4) civil penalties of up to \$1,000 per day and three times the value of the resources used, and 5) prosecution for misuse of public resources, pursuant to California Government Code Section 53232.4.
4. All City Council Policy Memorandums will remain in effect until amended or rescinded by majority approval of the City Council.