

# Barrow County Board of Commissioners

30 North Broad Street Winder Georgia 30680 Phone: (770) 867-1977 Fax: (770) 307-3141

Cindy F. Clack  
Purchasing Agent



## MEMORANDUM

**To:** Companies Interested In RFQP2015-10  
**From:** Cindy Clack  
**Date:** 2/18/2015  
**Re:** RFQP2015-10 EMS Billing and Collection Services

---

RFQP2015-10 is attached for your consideration. ***Anyone accessing this Request for Qualification-Based Proposal from the Barrow County website [www.barrowga.org](http://www.barrowga.org) is responsible to insure the latest documents are in their possession including any addenda. All addenda and all questions and answers will be posted on this site. This site should be visited frequently to insure an awareness of any updates.***

Please insure proposals are submitted exactly as specified in the RFQP. If you have any questions, please submit them in writing to the Barrow County Purchasing Agent as called for in the RFQP.

Thank you.



**BARROW COUNTY, GEORGIA**

**REQUEST FOR QUALIFICATIONS/PROPOSALS (RFQ/P)  
TO PROVIDE EMS BILLING AND COLLECTION SERVICES**

**RFQ/P 2015-10  
EMS BILLING AND COLLECTION SERVICES**

**ISSUED ON: February 18, 2015**

**SUBMITTAL DEADLINE: Thursday, March 19, 2015 at 12:00 p.m.**

# TABLE OF CONTENTS

---

<b><u>SECTION</u></b>	<b><u>PAGE</u></b>
PURPOSE OF THIS REQUEST FOR QUALIFICATIONS/PROPOSALS (RFQ/P)	3
BACKGROUND	3
SCOPE OF WORK	3
TENTATIVE RFQ/P TIMELINE	7
INQUIRIES ABOUT THIS RFQ/P	7
SUBMITTAL DEADLINE	7
RESPONSE FORMAT	8
SELECTION CRITERIA	9
GENERAL TERMS AND CONDITIONS	9
ASSIGNMENTS	11
LOCAL VENDOR'S PREFERENCE	11
ATTACHMENTS	11
A) Professional Services Agreement (19 Pages)	
B) Non-Collusion Affidavit (1 page)	
C) Cost Proposal Form (1 Page)	
D) Selection Criteria Matrix (1 Page)	
E) Barrow County Code of Ethics (30 Pages)	

## PURPOSE OF THIS REQUEST FOR QUALIFICATIONS/PROPOSALS (RFQ/P)

The Barrow County Board of Commissioners is soliciting for written qualifications and sealed proposals from interested and qualified companies to provide EMS billing, collection from ambulance transport clients and/or their insurance carriers, financial reporting, analytical services, and training. The goal is to increase the amount of collections, provide a more up-to-date process of collections, and increase training for county EMS personnel.

## BACKGROUND

Barrow County, Georgia is located in NE Georgia about 45 miles from Atlanta along the I-85 and SR 316 corridor with a population of 70,000. Currently, the county government operates an Emergency Services Department consisting of six ALS medical units (2 ALS units in reserves) on a 24/7 basis providing emergency transport for all county citizens including the six municipalities within the county. The blended Fire/EMS department has one EMS Officer, 27 firefighter/paramedics, 29 firefighter/EMTs, and 36 firefighter/Medic/EMT for a total of 93 budgeted personnel. Below are selected statistics for EMS activity:

### Transports

Emergency transports during calendar year 2014 – 4,176.

### Charges

ALS I charge -	\$819.50	75.86% of use
ALS II charge -	\$819.50	1.53% of use
BLS charge -	\$470.00	8.97% of use
Mileage charge -	\$10.25	13.64% of use

### Collections

FY 2014 total amount charged -	\$3,587,273
Less write-offs for Medicare/Medicaid/other -	(\$1,262,840)
Less amount turned over to collection agency -	(\$579,532)
Cash Collections -	\$1,560,861
Total Net Receivables	\$681,609

### Process

The Emergency Service Department uses Dell tablet computers and Image Trend EMS reporting software to capture initial information in the field. The information is sent to the EMS Officer for quality assurance. The information is then electronically sent to the Finance Department for billing using Tritech Respond Billing software. The Finance Department has one full-time employee performing all billing and collecting functions. All payments are directed to a lock box at Community and Southern bank in Winder, Georgia. The county uses United Collection Service, Inc. as a third party collection agency for all past due EMS bills. United charges 18% commission and has a month to month agreement. The county does not have a contract with any commercial insurance company and therefore what the insurance company does not pay, the county bills the patient for the remainder and the county does not write-off any portion of a commercial insurance company payment.

## SCOPE OF WORK

This section outlines the minimum contract requirements for EMS billing, collection, financial reporting, analytical services, training, and technology. The county's goal is to pursue a partnership to build an optimal revenue cycle.

## SCOPE OF WORK

### Billing

- 1) The company will begin billing on or before May 1, 2015.
- 2) The company shall maintain certified ambulance coders on their staff. Certifications should be through the National Academy of Ambulance Coders (NAAC).
- 3) The company shall prepare invoices and bill in the following manner:
  - a) According to correct rates, guidelines, and procedures as established by the county in consultation with the company.
  - b) According to all applicable laws and regulations including those from Medicare and Medicaid services.
  - c) All invoices shall be billed in compliance with the Fair Debt Collection Practices Act.
  - d) Electronic filing is the required method of filing primary Medicare and Medicaid claims and the preferred method of filing all other guarantors' claims. Otherwise, paper invoices may be issued directly to appropriate patient guarantors.
  - e) The company shall pre-screen all claims to confirm compliance with guarantors' guidelines (i.e. physician certification statements, assignment of benefits signature forms, and medical necessity documentation).
  - f) The company shall verify insurance eligibility utilizing available resources and commercial databases prior to the submission of any patient claim for reimbursement.
  - g) The company shall process the initial invoices within three business days of the electronic posting of the billing file on the company's secure server.
  - h) The company's billing software must configure their billing export and import with the county's current EMS reporting system (Image Trend).
  - i) Upon awarding of the bid and execution of a contract, the company shall evaluate the county's current billing and reporting software, equipment, and data collection configuration and shall be responsible to make recommendations to the county of any software, equipment, or reconfigurations that might be required or needed to assure minimal interruption of the data stream.

### Collections

- 1) Claims shall be divided into multiple revenue categories: Medicare, Medicaid, Commercial Insurance, Contract, and Private Pay.
- 2) Claims shall be appropriately re-categorized after receiving payment from the primary guarantor. All denials shall be processed according to the timeline jointly defined by the county and the company.
- 3) The company shall provide customer service from 7 a.m. to 7 p.m. EST seven days per week using a toll-free telephone number and a company web site. The company's telephone system must be able to accept voice mails and route incoming calls to the appropriate persons. The company shall make a good faith effort to return contact to all customers within 24 hours after initial contact from any customer. The company shall treat all debtors fairly with professionalism, honesty, courtesy, and integrity while obtaining maximum results. The county will be the final arbitrator of disputes between the company and customers. The county's decision shall be final.
- 4) All funds billed by the company shall be directed and deposited by the insurance companies or individuals directly into a bank account or lock box designated by the county. A daily report of funds deposited shall be electronically submitted to the company on the date of posting.
- 5) Fees charged by the company for billing and collections services will be based on net cash collections (total funds collected less refunds issued as a result of overpayments or erroneous payments).

## SCOPE OF WORK

### Collections

Refunds shall be processed by the company and submitted to the county with supporting documentation for final authorization by the county. The county will make payment of all refund requests upon receipt of the appropriate documentation from the company.

- 6) The company shall maintain an active quality assurance and internal auditing controls program for detecting, correcting, and avoiding process errors.

### Financial Reporting

- 1) Accounting for all billing pursuant to generally accepted accounting principles shall be provided on a daily, weekly, monthly, and annual basis or as requested by the county. Such reports and all supporting documentation shall be submitted to the county within ten business days after the end of the month. Detailed below are reports required by the county to monitor the effectiveness of the billing and collection process. This list is not all-inclusive. The reports must be provided to the county's CFO and Chief of Emergency Services. Reports should be prepared in Excel and/or PDF and submitted electronically by email or secure server.
- 2) Additional reports may be requested on an as-needed basis.

#### Sample Weekly Reports

- a) An activity report showing all transports billed. At a minimum, the report shall include the date of transport or service, incident number, patient name, origin, destination, procedure code, gross charges, and adjustments for Medicare and Medicaid.
- b) A payment report showing all payments posted by payer class.

#### Sample Monthly Reports

- a) An activity report showing all transports billed. At a minimum, the report shall include the date of transport or service, incident number, patient name, origin, destination, procedure code, gross charges, and adjustments for Medicare and Medicaid.
- b) A payment report showing all payments posted by payer class.
- c) An outstanding aged accounts receivable report sorted by payer including a total outstanding aged report. The report should show four categories of outstanding accounts: 30, 60, 90, and more than 120 days outstanding. The report shall also show the last date of activity on the account.
- d) A listing of all refund requests processed.
- e) Listing of all claims written-off. Any write-offs shall be authorized by the County prior to removing any outstanding balance.

#### Sample Annual Report

A comprehensive year-end report (FYE Sept. 30) showing all EMS billing and collections performance and aging summary.

#### Other Reports

The company shall provide reports to the Georgia Dept. of Health in accordance with state requirements.

The county reserves the right to audit the records of the company related to the county's billing and collection efforts. The company shall make and keep full and complete records and books of accounts of revenue and income, costs and expenses that specifically relate to performance. Records and books of accounts, together with any and all other

## **SCOPE OF WORK**

### Financial Reporting

memoranda pertaining thereto that may be kept, maintained, or possessed by the company shall be open to examination during regular business hours by the county or its representatives for the purpose of inspection, auditing verifying, or copying. The company shall make and keep said records and books of accounts in accordance with generally accepted accounting principles and state laws.

### Analytical Services

- 1) The company shall be required to provide analysis and expertise in all issues related to EMS billing and collections. This analysis shall include developing trends within EMS operations and other pertinent issues that may develop. The company shall provide other analytical services as requested by the county at no additional cost.
- 2) The company shall schedule regular meetings with county representatives to review performance.

### Training

The company shall provide, at no additional cost, in Barrow County in-depth training to all county EMS employees that are responsible for the delivery of pre-hospital emergency medical care and non-emergency transports relating to all aspects of EMS billing including but not limited to Medicare and Medicaid rules and regulations, compliance and documentation procedures, HIPAA compliance, and use of technology to acquire all needed initial documentation for the county's Image Trend EMS reporting software. Training shall be at a time and place designated by the county. The company shall also provide any additional training as requested by the county throughout the contract term at no additional cost.

### Technology Requirements

The company shall provide all necessary software and hardware associated with the billing and collections process and must provide the required interface with the county's current EMS billing reporting software (Image Trend).

The company shall provide a system that will ensure complete and uninterrupted flow of service via back-up systems and a data recovery project plan should a disaster occur. Upon awarding of the bid, the company shall provide a copy of the written plan for review by the county's IT staff.

Records shall be retained according to an agreed upon record retention schedule and state laws.

### Other Information

Any agreement for services is scheduled to commence on May 1, 2015 and shall terminate on September 30, 2015 (the "Term"). Upon the expiration of the Term, as required by O.C.G.A. 36-60-13, the Agreement shall terminate absolutely and without further obligation on part of the County. However, the agreement shall automatically renew on the first day of each subsequent County fiscal year for a period of up to four (4) additional years, unless the County provides to Company written notice of non-renewal at least thirty (30) days prior to the end of the then fiscal year.

## **SCOPE OF WORK**

## Other Information

All of the company's operation, including but not limited to, billing, collections, financial reporting, analytical services, and customer service shall be performed within the continental United States.

The county intends to retain the full-time employee that currently performs EMS billing and collections as a county employee. This employee can assist the company and act as a local agent to resolve issues and problems and also perform other unrelated tasks.

The county intends to continue to collect past-due accounts through a third party collection agent that is not part of the selected company to not create a conflict of interest.

## **TENTATIVE RFQ/P TIMELINE**

- |                                    |  |
|------------------------------------|--|
| • Issue RFQ/P                      | Mon. Feb. 18, 2015                       |
| • Newspaper advertising            | Wed. Feb. 18 & Mar. 4, 2015              |
| • Inquiry deadline                 | Wed. March 11, 2015 (5:00 p.m.)          |
| • Submittal deadline               | Thurs. March 19, 2015 (12:00 p.m.)       |
| • RFQ/P Opening                    | Thurs. March 19, 2015 (2:00 p.m.)        |
| • Evaluation & ranking of RFQ/Ps   | Fri. March 20 – Fri. March 27, 2015      |
| • Board consideration of agreement | Tues. April 14, 2015                     |
| • Contracts period begin           | May 1 to Sept. 30, 2015 (FY 16,17,18,19) |

## **INQUIRIES ABOUT THIS RFQ/P**

All inquiries and questions regarding this RFQ/P shall be in writing and directed to:

Cindy Clack, Purchasing Agent  
[cclack@barrowga.org](mailto:cclack@barrowga.org)

The deadline for submission of any written questions relating to this RFQ/P shall be Wednesday, March 11, 2015 at 5:00 p.m. All questions and answers will be documented and posted to the county's website, [www.barrowga.org](http://www.barrowga.org) as an addendum prior to the submittal deadline. Please check the county's web site often to review the addendums, if any. Proposing companies shall not contact any member of the Board of County Commissioners or any county employee regarding this RFQ/P, proposal evaluation, or selection process from the time the RFQ/P is issued until the time that a company is selected.

## **SUBMITTAL DEADLINE**

Responses are due no later than 12:00 p.m. on Thursday March 19, 2015. The responses (**one unbound original and 5 copies**) must be enclosed in a sealed envelope plainly marked, "RFQ/P 2015-10 EMS Billing and Collections," and **delivered to the Barrow County Clerk's Office, 30 N. Broad Street, Winder, GA 30680**, by the above deadline date and time. A representative of Barrow County government will publically read the names of the companies submitting responses at 2:00 p.m. on Thursday, March 19, 2015. Incomplete responses may not be considered if the omissions are determined to be significant. The county will not be responsible for late mail deliveries and any responses received after the deadline date and time will not be accepted and returned unopened.

## **RESPONSE FORMAT**

All interested companies that will be submitting qualifications/proposals shall include the following information in this order:

- Brief history, profile, and location of the company's headquarters and other offices, number of years the company has been in the business of providing EMS billing services to local governments in Georgia and other states, name, telephone number, and email address of the primary point of contact.
- Resumes of key personnel that will be working on this project as team members, including their experience in providing EMS billing and collections for local governments, length of time with the company, and length of time in the EMS billing service.
- References (company name, the primary point of contact, telephone number, and email address) from at least five current clients for whom the company has performed services similar to those that Barrow County is requesting. Include the company's project manager in charge of the project.
- Methodology and approach to addressing the Scope of Work as defined in this RFQ/P, including but not limited to, discussion of the company's specific abilities and expertise to provide the requested professional services, discussion of the company's billing system and billing processes including the flow of funds from the payer to the county, software used and whether it is third-party or proprietary, evaluation of the county's current billing system software and equipment (Image Trend EMS reporting system and TriTech Respond Billing software), discussion of the company's training activities initially and on-going, any other service that will be provided by the company not mentioned in this RFP/Q that would assist the county in enhancing its cash collections, and discussion of how the company would use the retained full-time county employee and in what capacity, if any.
- Identification of any previous, existing, or pending litigation of the company and any company team member and/or subcontractor that will provide services to Barrow County, including, but not limited to, a narrative for each identified matter that provides court file numbers, a brief description of the claims, and the resolution of the matter.
- Statement and documentation of the company's financial strength and capabilities to provide the requested services.
- Statement that the company will execute the county's Professional Services Agreement, which is attached hereto and incorporated herein as Attachment A or statement as to which provision(s) is(are) not agreeable to the company. It is the intention of the county that the Professional Services Agreement will be executed in the form presented with this RFQ/P or in substantially similar form. In particular, please include a statement that the insurances set out in the Professional Services Agreement can be provided, and that each insurance policy shall name Barrow County as an additional insured, that the company will specifically adhere to the indemnification provision contained in the Professional Services Agreement, and that all required E-verify forms will be submitted as these are key terms of importance to the county.
- Statement that the company will execute the Non-Collusion Affidavit, which is attached hereto and incorporated herein as Attachment B.

## **RESPONSE FORMAT**

- Proof that the company is an authorized business entity and is authorized to do business in the State of Georgia.
- Acknowledgement(s) of receipts of all addenda, if any.
- Cost proposals that detail the total cost of services including but not limited to: fee for collections expressed as a percentage of net collections (total funds collected less refunds issued as a result of overpayments or erroneous payments) and any additional fees and charges (explain in detail). The cost proposal form (Attachment C) shall be in a separate sealed envelope plainly marked, "Cost Proposal." The successful company will be selected based primarily on their qualifications and experience providing EMS billing and collection services for local government. Pricing, even though very important, is one of other factors that will be considered.

## **SELECTION CRITERIA**

- Company experience in providing EMS billing and collection services to local governments and qualifications and experience of the key personnel, company team members, and subcontractors, if any, that will be involved in this project.
- Overall reference results.
- Methodology and approach narrative.
- Financial strengths, litigation, and ability to obtain the stated insurances.
- Overall response quality.
- Costs proposals.

A Selection Criteria Matrix with point structure will be utilized for purposes of selecting the successful company. See Attachment D.

A selection committee composed of the Chief of Emergency Services, EMS Officer, CFO, and the EMS billing employee at a minimum will evaluate all proposals received and will rank them according to the selection criteria.

If negotiations with the top ranked company are not successful, those negotiations will be terminated and negotiations with the second ranked company will begin, and so on. A final contract is tentatively scheduled to be presented to the Board of Commissioners for their consideration on Tuesday, April 14, 2015.

## **GENERAL TERMS AND CONDITIONS**

- There are no expressed or implied obligations for Barrow County to reimburse responding companies for any expenses incurred in preparing qualification/proposals in response to this RFQ/P or in attending meetings required in this process.
- The county reserves the right to request clarifications regarding information submitted as well as request additional information from one or more companies submitting qualifications/proposals.
- By submitting qualifications/proposals, a company certifies that it has fully read and understood this RFQ/P, has full knowledge of the nature scope, quantity, and quality of work to be performed, the detailed requirements of the services to be provided and the

## **GENERAL TERMS AND CONDITIONS**

conditions under which the services are to be performed. Failure to do so will not relieve the successful company of their obligation to enter into a contract.

- No qualifications/proposals may be withdrawn or revoked for a period of 120 days after the date of qualification/proposal opening. It is understood that the details at the RFQ/P level are insufficient to constitute a binding final contract as the details will be worked out in accordance with this RFQ/P. However, the county's Professional Services Agreement is included in this RFQ/P. This contract should remain substantially in the form presented to become the final contract, unless modified during final contract negotiations to the satisfaction of the county.
- Ownership of all data, materials, and documentation prepared for and submitted in response to this RFQ/P shall belong exclusively to Barrow County and it will be considered a public record and subject to public inspection in accordance with the Georgia Open Records Act, unless otherwise provided by law. The cost proposals will be kept confidential until a final contract is awarded.
- The Barrow County Board of Commissioners reserves the right to reject any or all qualifications/proposals, call for new qualifications/proposals, to waive any formalities, or to award a contract to the next qualified company if the selected company does not execute a contract satisfactory to Barrow County promptly after notification of the award. The Barrow County Board of Commissioners reserves the right to accept, reject, and/or negotiate any and all qualifications/proposals or parts of qualifications/proposals deemed by the Board to be in the best interest of citizens of Barrow County.
- This RFQ/P and any resulting contract shall be governed in all respects by the laws of the State of Georgia and the successful company shall comply with all applicable federal, state, and local laws and regulations. Any agreement for services is scheduled to commence on May 1, 2015 and shall terminate on September 30, 2015 (the "Term"). Upon the expiration of the Term, as required by O.C.G.A. 36-60-13, the Agreement shall terminate absolutely and without further obligation on part of the County. However, the agreement shall automatically renew on the first day of each subsequent County fiscal year for a period of up to four (4) additional years, unless the County provides to Company written notice of non-renewal at least thirty (30) days prior to the end of the then fiscal year.
- By submitting their qualifications/proposals, all responding companies and their subcontractors certify that their qualifications/proposals are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other person or party in connection with their qualifications, and they have not conferred on any Barrow County employee having official responsibility for this procurement transaction of any payment, loan, subscription, advance, deposit of money, services, or anything of value or more than nominal value, present or promise, unless consideration of substantially equal or greater value was exchanged.
- The responding companies and their subcontractors specifically certify that submitting their qualification/proposals that they are not in violation of O.C.G.A. 16-10-22 and 16-10-22 for acts of bribery, and /or conspiracy in restraint of free and open competition in transaction with state or political subdivision.

## **GENERAL TERMS AND CONDITIONS**

- By submitting their qualifications/proposals, all responding companies and their subcontractors certify that they are not currently debarred from submitting bids or proposals on contracts by an agency of the State of Georgia and the federal government, nor are they an agent of any person or entity that is currently debarred from submitting bids on contracts by any agency of the State of Georgia or the federal government.

## **ASSIGNMENTS**

The successful company may not assign or transfer any interest in, nor delegate any duties of the Professional Services Agreement without the prior written consent of the County Manager.

## **LOCAL VENDOR'S PREFERENCE**

Because bids awarded to Local Vendors contribute to the County's tax base and promote the local economy, the County has determined that, under certain circumstances described in this Section, Local Vendors shall be provided an additional privilege, whenever not otherwise prohibited by State law (including, but not limited to, public works and road construction projects as contemplated by Section 1-7(6) above), when bidding against non-Local Vendors.

For bids in the amount of \$25,000.00 or more, if a Local Vendor's bid shall meet all specifications and does not exceed four percent (4%) more than the lowest responsive and responsible bidder, the lowest bidding Local Vendor shall be offered three (3) business days from the opening of such bids in which to notify the Purchasing Office in writing that it agrees to match the low bid submitted by any non-Local Vendor. If such Local Vendor shall not agree to match the low bid, then the next lowest Local Vendor, if any, shall be offered within three (3) business days thereafter to notify the Purchasing Office in writing that it agrees to match the low bid submitted by any non-Local Vendor, and so on until all applicable Local Vendors are offered the opportunity to match the low bid.

## **ATTACHMENTS**

- A) Professional Services Agreement (19 Pages)
- B) Non-Collusion Affidavit (1 Page)
- C) Cost Proposal Form (1 page)
- D) Selection Criteria Matrix (1 Page)
- E) Barrow County Code of Ethics (30 Pages)

**ATTACHMENT A**

This is the Standard Professional Services Agreement of Barrow County. Any consultant doing business with the County must enter into this Agreement.

**PROFESSIONAL SERVICES AGREEMENT**

**THIS AGREEMENT** is effective as of this \_\_\_\_ day of \_\_\_\_\_, 2015, by and between **BARROW COUNTY**, a political subdivision of the State of Georgia, acting by and through its governing authority, the Barrow County Board of Commissioners (“County”), and \_\_\_\_\_, a \_\_\_\_\_, (“Consultant”), collectively referred to as the “Parties.”

**WITNESSETH THAT:**

**WHEREAS**, the County desires to retain Consultant to provide certain services generally described as Emergency Services Billing and Collection Services; and

**WHEREAS**, the County finds that specialized knowledge, skills, and training are necessary to perform the Work contemplated under this Agreement; and

**WHEREAS**, the Consultant has represented that it is qualified by training and experience to perform the Work; and

**WHEREAS**, the Consultant desires to perform the Work under the terms and conditions set forth in this Agreement; and

**WHEREAS**, the public interest will be served by this Agreement;

**NOW, THEREFORE**, for and in consideration of the mutual promises, the public purposes, and the acknowledgements and agreements contained herein, together with other good and adequate consideration, the sufficiency of which is hereby acknowledged, the Parties hereto do mutually agree as follows:

**I. SCOPE OF SERVICES AND TERMINATION DATE**

**A. Project Description**

Emergency Services Billing and Collection Services.

**B. The Work**

The Work to be completed under this Agreement (the “Work”) consists of Emergency Services Billing and Collection Services as described in Exhibit “A.1” (the County’s RFP/Q 2015-10), a copy of which is attached hereto and incorporated herein by reference, and Exhibit “A.2” (Consultant’s Response to RFP/Q 2015-10), a copy of which is attached hereto and

incorporated herein by reference. In the event of any discrepancy among this Agreement and the Exhibits attached hereto, that provision operating most to the benefit of the County, as determined by the County in its sole discretion, shall govern.

**C. Schedule, Completion Date, and Term of Agreement**

Consultant warrants and represents that it will perform its services in a prompt and timely manner, which shall not impose delays on the progress of the Work. This Agreement shall commence as of May 1, 2015, and the Work shall be completed on or before September 30, 2019. The Parties agree that this Agreement, as required by O.C.G.A. § 36-60-13, shall terminate absolutely and without further obligation on the part of the County at the end of the County's fiscal year each year of the Term, and further, that this Agreement shall automatically renew on the first day of each subsequent County fiscal year of the Term absent the County's provision of written notice of non-renewal to Consultant at least five (5) days prior to the end of the then current calendar or fiscal year, as applicable. Title to any supplies, materials, equipment, or other personal property shall remain in Consultant until fully paid for by the County.

**II. WORK CHANGES**

**A.** The County reserves the right to order changes in the Work to be performed under this Agreement by altering, adding to, or deducting from the Work. All such changes shall be incorporated in written change orders executed by the Consultant and the County. Such change orders shall specify the changes ordered and any necessary adjustment of compensation and completion time. If the Parties cannot reach an agreement on the terms for performing the changed work within a reasonable time to avoid delay or other unfavorable impacts as determined by the County in its sole discretion, the County shall have the right to determine reasonable terms, and the Consultant shall proceed with the changed work.

**B.** Any work added to the scope of this Agreement by a change order shall be executed under all the applicable conditions of this Agreement. No claim for additional compensation or extension of time shall be recognized, unless contained in a written change order duly executed on behalf of the County and the Consultant.

**C.** The County Manager has authority to execute without further action of the Barrow County Board of Commissioners, any number of change orders so long as their total effect does not materially alter the terms of this Agreement or materially increase the total amount to be paid under this Agreement, as set forth in Section III(B) below. Any such change orders materially altering the terms of this Agreement or increasing the total amount to be paid under this Agreement in excess of \$25,000 must be approved by resolution of the Barrow County Board of Commissioners.

**III. COMPENSATION AND METHOD OF PAYMENT**

**A.** County agrees to pay the Consultant for the Work performed and costs incurred by Consultant upon certification by the County that the Work was actually performed and costs

actually incurred in accordance with the Agreement. Compensation for Work performed and reimbursement for costs incurred shall be paid to the Consultant upon receipt and approval by the County of invoices setting forth in detail the services performed and costs incurred. Invoices shall be submitted on a monthly basis, and such invoices shall reflect charges incurred versus charges budgeted. Any material deviations in tests or inspections performed, or times or locations required to complete such tests or inspections, and like deviations from the Work described in this Agreement shall be clearly communicated to the County *before charges are incurred* and shall be handled through change orders as described in Section II above. The County shall pay the Consultant within thirty (30) days after approval of the invoice by County staff.

**B.** The total amount paid under this Agreement as compensation for Work performed and reimbursement for costs incurred shall not, in any case, exceed \_\_\_\_\_, except as outlined in Section II(C) above. The compensation for Work performed shall be based upon \_\_\_\_\_ [specify hourly rate, flat fee, or other basis]\_\_\_\_\_.

#### **IV. COVENANTS OF CONSULTANT**

**A. Expertise of Consultant**

Consultant accepts the relationship of trust and confidence established between it and the County, recognizing that the County's intention and purpose in entering into this Agreement is to engage an entity with the requisite capacity, experience, and professional skill and judgment to provide the Work in pursuit of the timely and competent completion of the Work undertaken by Consultant under this Agreement.

**B. Budgetary Limitations**

Consultant agrees and acknowledges that budgetary limitations are not a justification for breach of sound principals of Consultant's profession and industry. Consultant shall take no calculated risk in the performance of the Work. Specifically, Consultant agrees that, in the event it cannot perform the Work within the budgetary limitations established without disregarding sound principals of Consultant's profession and industry, Consultant will give written notice immediately to the County.

**C. County's Reliance on the Work**

The Consultant acknowledges and agrees that the County does not undertake to approve or pass upon matters of expertise of the Consultant and that, therefore, the County bears no responsibility for Consultant's Work performed under this Agreement. The Consultant acknowledges and agrees that the acceptance of designs, plans, and specifications by the County is limited to the function of determining whether there has been compliance with what is required to be produced under this Agreement. The County will not, and need not, inquire into adequacy, fitness, suitability or correctness of Consultant's performance. Consultant further agrees that no approval of designs, plans, or specifications by any person, body or agency shall

relieve Consultant of the responsibility for adequacy, fitness, suitability, and correctness of Consultant's Work under professional and industry standards, or for performing services under this Agreement in accordance with sound and accepted professional and industry principals.

**D. Consultant's Reliance on Submissions by the County**

Consultant must have timely information and input from the County in order to perform the Work required under this Agreement. Consultant is entitled to rely upon information provided by the County, but Consultant shall be required to provide immediate written notice to the County if Consultant knows or reasonably should know that any information provided by the County is erroneous, inconsistent, or otherwise problematic.

**E. Consultant's Representative**

\_\_\_\_\_ shall be authorized to act on Consultant's behalf with respect to the Work as Consultant's designated representative.

**F. Assignment of Agreement**

The Consultant covenants and agrees not to assign or transfer any interest in, nor delegate any duties of this Agreement, without the prior express written consent of the County. As to any approved subcontractors, the Consultant shall be solely responsible for reimbursing them, and the County shall have no obligation to them.

**G. Responsibility of Consultant and Indemnification of County**

The Consultant covenants and agrees to take and assume all responsibility for the Work rendered in connection with this Agreement. The Consultant shall bear all losses and damages directly or indirectly resulting to it and/or the County on account of the performance or character of the Work rendered pursuant to this Agreement. Consultant shall defend, indemnify and hold harmless the County, its officers, boards, commissions, elected and appointed officials, employees, servants, volunteers and agents (hereinafter referred to as "County Parties") from and against any and all claims, injuries, suits, actions, judgments, damages, losses, costs, expenses and liability of any kind whatsoever, including but not limited to, attorney's fees and costs of defense, (hereinafter "Liabilities") which may be the result of willful, negligent or tortious conduct arising out of the Work, performance of contracted services, or operations by the Consultant, any subcontractor, anyone directly or indirectly employed by the Consultant or subcontractor or anyone for whose acts the Consultant or subcontractor may be liable, regardless of whether or not the negligent act is caused in part by a party indemnified hereunder. This indemnity obligation does not include Liabilities caused by or resulting from the sole negligence of the County or County Parties. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this provision. In any and all claims against the County or County Parties, by any employee of the Consultant, any subcontractor, anyone directly or indirectly employed by the Consultant or subcontractor or anyone for whose acts the Consultant or subcontractor may be liable, the indemnification obligation set forth in this provision shall not

be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Consultant or any subcontractor under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts. This obligation to indemnify, defend, and hold harmless the County and County Parties shall survive expiration or termination of this Agreement, provided that the claims are based upon or arise out of actions that occurred during the performance of this Agreement.

**H. Independent Contractor**

Consultant hereby covenants and declares that it is engaged in an independent business and agrees to perform the Work as an independent contractor and not as the agent or employee of the County. The Consultant agrees to be solely responsible for its own matters relating to the time and place the services are performed; the instrumentalities, tools, supplies and/or materials necessary to complete the Work; hiring of Consultants, agents or employees to complete the Work; and the payment of employees, including compliance with Social Security, withholding and all other regulations governing such matters. The Consultant agrees to be solely responsible for its own acts and those of its subordinates, employees, and subcontractors during the life of this Agreement. Any provisions of this Agreement that may appear to give the County the right to direct Consultant as to the details of the services to be performed by Consultant or to exercise a measure of control over such services will be deemed to mean that Consultant shall follow the directions of the County with regard to the results of such services only.

**I. Insurance**

(1) Requirements:

The Consultant shall have and maintain in full force and effect for the duration of this Agreement, insurance insuring against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Work by the Consultant, its agents, representatives, employees or subcontractors. All policies shall be subject to approval by the County Attorney to form and content. These requirements are subject to amendment or waiver if so approved in writing by the County Manager.

(2) Minimum Limits of Insurance:

Consultant shall maintain the following insurance policies with limits no less than:

- (a) Comprehensive General Liability of \$1,000,000 (one million dollars) combined single limit per occurrence for bodily and personal injury, sickness, disease or death, injury to or destruction of property, including loss of use resulting therefrom.
- (b) Comprehensive Automobile Liability (owned, non-owned, hired) of \$1,000,000 (one million dollars) combined single limit per occurrence for

bodily and personal injury, sickness, disease or death, injury to or destruction of property, including loss of use resulting therefrom.

- (c) Professional Liability of \$1,000,000 (one million dollars) limit for claims arising out of professional services and caused by the Consultant's errors, omissions, or negligent acts.
- (d) Workers' Compensation limits as required by the State of Georgia and Employers Liability limits of \$1,000,000 (one million dollars) per accident.

(3) Deductibles and Self-Insured Retentions:

Any deductibles or self-insured retentions must be declared to and approved by the County in writing.

(4) Other Insurance Provisions:

The policy is to contain, or be endorsed to contain, the following provisions:

(a) General Liability and Automobile Liability Coverage.

- (i) The County and County Parties are to be covered as insureds as respects: liability arising out of activities performed by or on behalf of the Consultant; products and completed operations of the Consultant; premises owned, leased, or used by the Consultant; automobiles owned, leased, hired, or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the County or County Parties.
- (ii) The Consultant's insurance coverage shall be primary noncontributing insurance as respects to any other insurance or self-insurance available to the County or County Parties. Any insurance or self-insurance maintained by the County or County Parties shall be in excess of the Consultant's insurance and shall not contribute with it.
- (iii) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County and County Parties.
- (iv) Coverage shall state that the Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought.
- (v) Coverage shall be provided on a "pay on behalf" basis, with

defense costs payable in addition to policy limits. There shall be no cross liability exclusion.

- (vi) The insurer shall agree to waive all rights of subrogation against the County and County Parties for losses arising from work performed by the Consultant for the County.

(b) Workers' Compensation Coverage.

The insurer providing Workers' Compensation Coverage will agree to waive all rights of subrogation against the County and County Parties for losses arising from work performed by the Consultant for the County.

(c) All Coverages.

- (i) Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the County.
- (ii) Policies shall have concurrent starting and ending dates.

(5) Acceptability of Insurers:

Insurance is to be placed with insurers with an A.M. Bests' rating of no less than A:VII.

(6) Verification of Coverage:

Consultant shall furnish the County with certificates of insurance and endorsements to the policies evidencing coverage required by this Article prior to the start of work. The certificate of insurance and endorsements shall be on a form utilized by Consultant's insurer in its normal course of business and shall be received and approved by the County prior to execution of this Agreement by the County. The County reserves the right to require complete, certified copies of all required insurance policies at any time. The Consultant shall provide proof that any expiring coverage has been renewed or replaced at least two (2) weeks prior to the expiration of the coverage.

(7) Subcontractors:

Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated in this Agreement, including but not limited to naming the parties as additional

insureds.

(8) Claims-Made Policies:

Consultant shall extend any claims-made insurance policy for at least six (6) years after termination or final payment under the Agreement, whichever is later.

(9) County as Additional Insured and Loss Payee:

The County shall be named as an additional insured and loss payee on all policies required by this Agreement, except the County need not be named as an additional insured and loss payee on any Professional Liability policy or Workers' Compensation policy.

**J. Employment of Unauthorized Aliens Prohibited – E-Verify Affidavit**

It is the policy of County that unauthorized aliens shall not be employed to perform work on County contracts involving the physical performance of services. Therefore, the County shall not enter into a contract for the physical performance of services within the State of Georgia unless:

- (1) the Consultant shall provide evidence on County-provided forms, attached hereto as Exhibits "A" and "B" (affidavits regarding compliance with the E-Verify program to be sworn under oath under criminal penalty of false swearing pursuant to O.C.G.A. § 16-10-71), that it and Consultant's subcontractors have conducted a verification, under the federal Employment Eligibility Verification ("EEV" or "E-Verify") program, of the social security numbers, or other identifying information now or hereafter accepted by the E-Verify program, of all employees who will perform work on the County contract to ensure that no unauthorized aliens will be employed, **or**
- (2) the Consultant provides evidence that it is not required to provide an affidavit because it is licensed pursuant to Title 26 or Title 43 or by the State Bar of Georgia and is in good standing as of the date when the contract for services is to be rendered.

The Consultant hereby verifies that it has, prior to executing this Agreement, executed a notarized affidavit, the form of which is provided in Exhibit "A", and submitted such affidavit to County or provided the County with evidence that it is not required to provide such an affidavit because it is licensed and in good standing as noted in subsection (2) above. Further, Consultant hereby agrees to comply with the requirements of the federal Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603, O.C.G.A. § 13-10-91 and Rule 300-10-1-.02.

In the event the Consultant employs or contracts with any subcontractor(s) in connection with the covered contract, the Consultant agrees to secure from such subcontractor(s) attestation of the subcontractor's compliance with O.C.G.A. § 13-10-91 and Rule 300-10-1-.02 by the subcontractor's execution of the subcontractor affidavit, the form of which is attached hereto as

Exhibit “B”, which subcontractor affidavit shall become part of the contractor/subcontractor agreement, or evidence that the subcontractor is not required to provide such an affidavit because it is licensed and in good standing as noted in subsection (2) above. If a subcontractor affidavit is obtained, Consultant agrees to provide a completed copy to the County within five (5) business days of receipt from any subcontractor.

Where Consultant is required to provide an affidavit pursuant to O.C.G.A. § 13-10-91, the County Manager or his/her designee shall be authorized to conduct an inspection of the Consultant’s and Consultant’s subcontractors’ verification process at any time to determine that the verification was correct and complete. The Consultant and Consultant’s subcontractors shall retain all documents and records of their respective verification process for a period of three (3) years following completion of the contract. Further, where Consultant is required to provide an affidavit pursuant to O.C.G.A. § 13-10-91, the County Manager or his/her designee shall further be authorized to conduct periodic inspections to ensure that no County Consultant or Consultant’s subcontractors employ unauthorized aliens on County contracts. By entering into a contract with the County, the Consultant and Consultant’s subcontractors agree to cooperate with any such investigation by making their records and personnel available upon reasonable notice for inspection and questioning. Where a Consultant or Consultant’s subcontractors are found to have employed an unauthorized alien, the County Manager or his/her designee may report same to the Department of Homeland Security. The Consultant’s failure to cooperate with the investigation may be sanctioned by termination of the contract, and the Consultant shall be liable for all damages and delays occasioned by the County thereby.

Consultant agrees that the employee-number category designated below is applicable to the Consultant. [Information only required if a contractor affidavit is required pursuant to O.C.G.A. § 13-10-91.]

\_\_\_\_\_ 500 or more employees.

\_\_\_\_\_ 100 or more employees.

\_\_\_\_\_ Fewer than 100 employees.

Consultant hereby agrees that, in the event Consultant employs or contracts with any subcontractor(s) in connection with this Agreement and where the subcontractor is required to provide an affidavit pursuant to O.C.G.A. § 13-10-91, the Consultant will secure from the subcontractor(s) such subcontractor(s’) indication of the above employee-number category that is applicable to the subcontractor.

The above requirements shall be in addition to the requirements of State and federal law, and shall be construed to be in conformity with those laws.

**K. Records, Reports and Audits**

(1) Records:

- (a) Records shall be established and maintained by the Consultant in accordance with requirements prescribed by the County with respect to all matters covered by this Agreement. Except as otherwise authorized, such records shall be maintained for a period of three years from the date that final payment is made under this Agreement. Furthermore, records that are the subject of audit findings shall be retained for three years or until such audit findings have been resolved, whichever is later.
- (b) All costs shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to this Agreement shall be clearly identified and readily accessible.

(2) Reports and Information:

Upon request, the Consultant shall furnish to the County any and all statements, records, reports, data and information related to matters covered by this Agreement in the form requested by the County.

(3) Audits and Inspections:

At any time during normal business hours and as often as the County may deem necessary, there shall be made available to the County for examination all records with respect to all matters covered by this Agreement. The Consultant will permit the County to audit, examine, and make excerpts or transcripts from such records, and to audit all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and or data relating to all matters covered by this Agreement.

**L. Conflicts of Interest**

Consultant agrees that it shall not engage in any activity or conduct that would result in a violation of the Barrow County Code of Ethics.

**M. Confidentiality**

Consultant acknowledges that it may receive confidential information of the County and that it will protect the confidentiality of any such confidential information and will require any of its subcontractors, consultants, and/or staff to likewise protect such confidential information. The Consultant agrees that confidential information it receives or such reports, information, opinions or conclusions that Consultant creates under this Agreement shall not be made available to, or discussed with, any individual or organization, including the news media, without prior written approval of the County. The Consultant shall exercise reasonable precautions to prevent the unauthorized disclosure and use of County information whether specifically deemed

confidential or not.

Consultant acknowledges that the County's disclosure of documentation is governed by Georgia's Open Record's Act, and Consultant further acknowledges that if Consultant submits records containing trade secret information, and if Consultant wishes to keep such records confidential, Consultant must submit and attach to such records an affidavit affirmatively declaring that specific information in the records constitutes trade secrets pursuant to Article 27 of Chapter 1 of Title 10, and the Parties shall follow the requirements of O.C.G.A. § 50-18-72(a)(34) related thereto.

**N. Licenses, Certifications and Permits**

The Consultant covenants and declares that it has obtained all diplomas, certificates, licenses, permits or the like required of the Consultant by any and all national, state, regional, county, local boards, agencies, commissions, committees or other regulatory bodies in order to perform the Work contracted for under this Agreement. All work performed by Consultant under this Agreement shall be in accordance with applicable legal requirements and shall meet the standard of quality ordinarily expected of competent professionals.

**O. Key Personnel**

All of the individuals identified in Exhibit "C" are necessary for the successful completion of the Work due to their unique expertise and depth and breadth of experience. There shall be no change in Consultant's Project Manager or members of the project team, as listed in Exhibit "C", without written approval of the County. Consultant recognizes that the composition of this team was instrumental in the County's decision to award the work to Consultant and that compelling reasons for substituting these individuals must be demonstrated for the County's consent to be granted. Any substitutes shall be persons of comparable or superior expertise and experience. Failure to comply with the provisions of this section shall constitute a material breach of Consultant's obligations under this Agreement and shall be grounds for termination. Consultant shall not subcontract with any third party for the performance of any portion of the Work without the prior written consent of the County. Consultant shall be solely responsible for any such subcontractors in terms of performance and compensation.

**P. Authority to Contract**

The Consultant covenants and declares that it has obtained all necessary approvals of its board of directors, stockholders, general partners, limited partners or similar authorities to simultaneously execute and bind Consultant to the terms of this Agreement, if applicable.

**Q. Ownership of Work**

All reports, designs, drawings, plans, specifications, schedules, work product and other materials prepared or in the process of being prepared for the Work to be performed by the Consultant ("Materials") shall be the property of the County, and the County shall be entitled to full access and copies of all such Materials. Any such Materials remaining in the hands of the

Consultant or subcontractor upon completion or termination of the Work shall be delivered immediately to the County. The Consultant assumes all risk of loss, damage or destruction of or to such Materials. If any Materials are lost, damaged or destroyed before final delivery to the County, the Consultant shall replace them at its own expense. Any and all copyrightable subject matter in all Materials is hereby assigned to the County, and the Consultant agrees to execute any additional documents that may be necessary to evidence such assignment.

**R. Nondiscrimination**

In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and all other provisions of Federal law, the Consultant agrees that, during performance of this Agreement, Consultant, for itself, its assignees and successors in interest, will not discriminate against any employee or applicant for employment, any subcontractor, or any supplier because of race, color, creed, national origin, gender, age or disability. In addition, Consultant agrees to comply with all applicable implementing regulations and shall include the provisions of this Section IV(R) in every subcontract for services contemplated under this Agreement.

**V. COVENANTS OF THE COUNTY**

**A. Right of Entry**

The County shall provide for right of entry for Consultant and all necessary equipment to \_\_\_\_\_, in order for Consultant to complete the Work.

**B. County's Representative**

\_\_\_\_\_ shall be authorized to act on the County's behalf with respect to the Work as the County's designated representative; provided that any changes to the Work or the terms of this Agreement must be approved as provided in Section II above.

**VI. TERMINATION**

**A.** The County shall have the right to terminate this Agreement for convenience by providing written notice thereof at least five (5) calendar days in advance of the termination date. The Consultant shall have no right to terminate this Agreement prior to completion of the Work, except in the event of the County's failure to pay the Consultant within thirty (30) days of Consultant providing the County with notice of a delinquent payment and an opportunity to cure.

**B.** Upon termination, County shall provide for payment to the Consultant for services rendered and expenses incurred prior to the termination date.

**C.** Upon termination, the Consultant shall: (1) promptly discontinue all services affected, unless the notice directs otherwise; and (2) promptly deliver to the County all data, drawings, reports, summaries, and such other information and materials as may have been

generated or used by the Consultant in performing this Agreement, whether completed or in process, in the form specified by the County.

**D.** The rights and remedies of the County and the Consultant provided in this Article are in addition to any other rights and remedies provided under this Agreement or at law or in equity.

## **VII. NO PERSONAL LIABILITY**

Nothing herein shall be construed as creating any individual or personal liability on the part of any County Party. No County Party shall be personally liable to the Consultant or any successor in interest in the event of any default or breach by the County or for any amount which may become due to the Consultant or successor or on any obligation under the terms of this Agreement. Likewise, Consultant's performance of services under this Agreement shall not subject Consultant's individual employees, officers or directors to any personal liability. The Parties agree that their sole and exclusive remedy, claim, demand or suit shall be directed and/or asserted only against Consultant or the County, respectively, and not against any employee, officer, director, or elected or appointed official.

## **VIII. ENTIRE AGREEMENT**

This Agreement constitutes the complete agreement between the Parties and supersedes any and all other agreements, either oral or in writing, between the Parties with respect to the subject matter of this Agreement. No other agreement, statement or promise relating to the subject matter of this Agreement not contained in this Agreement shall be valid or binding. This Agreement may be modified or amended only by a written document signed by representatives of both Parties with appropriate authorization.

## **IX. SUCCESSORS AND ASSIGNS**

Subject to the provision of this Agreement regarding assignment, this Agreement shall be binding on the heirs, executors, administrators, successors and assigns of the respective Parties, provided that no party may assign this Agreement without prior written approval of the other party.

## **X. APPLICABLE LAW**

If any action at law or in equity is brought to enforce or interpret the provisions of this Agreement, the rules, regulations, statutes and laws of the State of Georgia will control. Any action or suit related to this Agreement shall be brought in the Superior Court of Barrow County, Georgia.

## **XI. CAPTIONS AND SEVERABILITY**

The caption or headnote on articles or sections of this Agreement are intended for

convenience and reference purposes only and in no way define, limit or describe the scope or intent thereof, or of this Agreement nor in any way affect this Agreement. Should any article(s) or section(s), or any part thereof, later be deemed unenforceable by a court of competent jurisdiction, the offending portion of the Agreement should be severed, and the remainder of this Agreement shall remain in full force and effect to the extent possible.

**XII. BUSINESS LICENSE**

Prior to commencement of the services to be provided hereunder, Consultant shall apply to the County for a business license, pay the applicable business license fee, and maintain said business license during the term of this Agreement.

**XIII. NOTICES**

**A. Communications Relating to Day-to-Day Activities**

All communications relating to the day-to-day activities of the Work shall be exchanged between \_\_\_\_\_ for the County and \_\_\_\_\_ for the Consultant.

**B. Official Notices**

All other notices, requests, demands, writings, or correspondence, as required by this Agreement, shall be in writing and shall be deemed received, and shall be effective, when: (1) personally delivered, or (2) on the third day after the postmark date when mailed by certified mail, postage prepaid, return receipt requested, or (3) upon actual delivery when sent via national overnight commercial carrier to the Parties at the addresses given below, or at a substitute address previously furnished to the other Parties by written notice in accordance herewith:

**NOTICE TO THE COUNTY** shall be sent to:

County Manager  
Barrow County Board of Commissioners  
Historic Courthouse  
30 N. Broad Street  
Winder, Georgia 30680

**NOTICE TO THE CONSULTANT** shall be sent to:

\_\_\_\_\_

Future changes in address shall be effective only upon written notice being given by the County to Consultant or by Consultant to County Manager via one of the delivery methods described in this Section.

**XIV. WAIVER OF AGREEMENT**

No failure by the County to enforce any right or power granted under this Agreement, or to insist upon strict compliance by Consultant with this Agreement, and no custom or practice of the County at variance with the terms and conditions of this Agreement shall constitute a general waiver of any future breach or default or affect the County's right to demand exact and strict compliance by Consultant with the terms and conditions of this Agreement.

**XV. NO THIRD PARTY RIGHTS**

This Agreement shall be exclusively for the benefit of the Parties and shall not provide any third parties with any remedy, claim, liability, reimbursement, cause of action or other right.

**XVI. SOVEREIGN IMMUNITY**

Nothing contained in this Agreement shall be construed to be a waiver of the County's sovereign immunity or any individual's qualified good faith or official immunities.

**XVII. FORCE MAJEURE**

Neither the County nor Consultant shall be liable for their respective non-negligent or non-willful failure to perform or shall be deemed in default with respect to the failure to perform (or cure a failure to perform) any of their respective duties or obligations under this Agreement or for any delay in such performance due to: (a) any cause beyond their respective reasonable control; (b) any act of God; (c) any change in applicable governmental rules or regulations rendering the performance of any portion of this Agreement legally impossible; (d) earthquake, fire, explosion or flood; (e) strike or labor dispute, excluding strikes or labor disputes by employees and/or agents of CONSULTANT; (f) delay or failure to act by any governmental or military authority; or (g) any war, hostility, embargo, sabotage, civil disturbance, riot, insurrection or invasion. In such event, the time for performance shall be extended by an amount of time equal to the period of delay caused by such acts, and all other obligations shall remain intact.

**IN WITNESS WHEREOF** the County and the Consultant have executed this Agreement effective as of the date the last Party executes this Agreement.

[SIGNATURES ON FOLLOWING PAGE]

Approved as to form:

\_\_\_\_\_  
County Attorney

**CONSULTANT:**

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

[CORPORATE SEAL]

SIGNED, SEALED, AND DELIVERED  
in the presence of:

\_\_\_\_\_  
**Witness**

\_\_\_\_\_  
Notary Public

[NOTARY SEAL]

**My Commission Expires:**  
\_\_\_\_\_

**BARROW COUNTY**

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

[COUNTY SEAL]

SIGNED, SEALED, AND DELIVERED  
in the presence of:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
**Notary Public**

[NOTARY SEAL]

**My Commission Expires:**  
\_\_\_\_\_

**EXHIBIT "A"**

**STATE OF GEORGIA  
COUNTY OF BARROW**

**CONTRACTOR AFFIDAVIT AND AGREEMENT**

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm, or corporation which is engaged in the physical performance of services on behalf of Barrow County has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned contractor will continue to use the federal work authorization program throughout the contract period and the undersigned contractor will contract for the physical performance of services in satisfaction of such contract only with subcontractors who present an affidavit to the contractor with the information required by O.C.G.A. § 13-10-91(b).

Contractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

\_\_\_\_\_  
Federal Work Authorization User Identification  
Number

\_\_\_\_\_  
Date of Authorization

\_\_\_\_\_  
Name of Contractor

\_\_\_\_\_  
Name of Project

\_\_\_\_\_  
Name of Public Employer

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_, \_\_\_\_, 201\_\_ in \_\_\_\_\_(city),  
\_\_\_\_\_(state).

\_\_\_\_\_  
Signature of Authorized Officer or Agent

\_\_\_\_\_  
Printed Name and Title of Authorized Officer or  
Agent

SUBSCRIBED AND SWORN BEFORE ME ON  
THIS THE \_\_\_\_\_ DAY OF  
\_\_\_\_\_, 201\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

[NOTARY SEAL]

My Commission Expires:  
\_\_\_\_\_

**EXHIBIT "B"**

**STATE OF GEORGIA  
COUNTY OF BARROW**

**SUBCONTRACTOR AFFIDAVIT**

By executing this affidavit, the undersigned subcontractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services under a contract with \_\_\_\_\_ (name of contractor) on behalf of Barrow County has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned subcontractor will continue to use the federal work authorization program throughout the contract period, and the undersigned subcontractor will contract for the physical performance of services in satisfaction of such contract only with sub-subcontractors who present an affidavit to the subcontractor with the information required by O.C.G.A. § 13-10-91(b). Additionally, the undersigned subcontractor will forward notice of the receipt of an affidavit from a sub-subcontractor to the contractor within five (5) business days of receipt. If the undersigned subcontractor receives notice that a sub-subcontractor has received an affidavit from any other contracted sub-subcontractor, the undersigned subcontractor must forward, within five (5) business days of receipt, a copy of the notice to the contractor.

Subcontractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

\_\_\_\_\_  
Federal Work Authorization User Identification  
Number

\_\_\_\_\_  
Date of Authorization

\_\_\_\_\_  
Name of Subcontractor

\_\_\_\_\_  
Name of Project

\_\_\_\_\_  
Name of Public Employer

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_, \_\_\_\_, 201\_\_ in \_\_\_\_\_(city),  
\_\_\_\_\_(state).

\_\_\_\_\_  
Signature of Authorized Officer or Agent

\_\_\_\_\_  
Printed Name and Title of Authorized Officer or  
Agent

SUBSCRIBED AND SWORN BEFORE ME  
ON THIS THE \_\_\_\_\_ DAY OF  
\_\_\_\_\_,201\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

[NOTARY SEAL]

My Commission Expires:  
\_\_\_\_\_

**EXHIBIT “C”**

[Insert any list of key personnel pursuant to Section IV(O).]

ATTACHMENT B

NON-COLLUSION AFFIDAVIT

RFQP2015-10

(This Affidavit is Part of the Proposal Documents)

PROPOSAL DATE: \_\_\_\_\_

PROJECT DESCRIPTION: \_\_\_\_\_

STATE OF GEORGIA

COUNTY OF BARROW

\_\_\_\_\_, being first duly sworn, deposes

and says that he/she is \_\_\_\_\_ (sole owner,

partner, president, etc.) of \_\_\_\_\_, the party making the foregoing Proposal or Bid; that such Proposal/Bid is genuine and not collusive or sham; that said Proposer/Bidder has not colluded, conspired, connived, or agreed, directly or indirectly, with any Proposer, Bidder, or person, to put in a sham Proposal/Bid, or that such other person refrain from bidding, and has not in any manner, directly or indirectly sought by agreement or collusion, or communication or conference, with any person, to fix the Proposal/Bid Price of affiant or any other Proposer/Bidder, or to fix any overhead, profit or cost element of said Proposal/Bid Price, or of that of any other Proposer/Bidder, or to secure any advantage against Barrow County, or any person interested in the proposed Agreement; and that all statements in said Proposal/Bid are true; and further, that such Proposer/Bidder has not, directly or indirectly submitted this Proposal/Bid, or the contents thereof, or divulged information or data relative thereto to any association or to any member or agent thereof.

Affiant: \_\_\_\_\_

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires \_\_\_\_\_, 20\_\_\_\_.

**BARROW COUNTY, GEORGIA**

**RFQ/P 2015-10  
EMS BILLING AND COLLECTION SERVICES**

**ATTACHMENT C**

**COST PROPOSAL FORM**

Fee for Collections (% of net collections): \_\_\_\_\_  
(total funds collected less refunds issued as a result of overpayments or erroneous payments)

Additional Fees or Charges (explain in detail): \_\_\_\_\_

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

**Submitted by:**

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Company Representative: \_\_\_\_\_

Signature of Representative: \_\_\_\_\_

Email of Representative: \_\_\_\_\_

Date Submitted: \_\_\_\_\_

BARROW COUNTY, GEORGIA

RFQ/P 2015-10  
EMS BILLING AND COLLECTION SERVICES

ATTACHMENT D

SELECTION CRITERIA MATRIX

Company Name: \_\_\_\_\_

Selection Criteria	Max Points Assigned	Points Awarded
Company experience in providing EMS billing and collection services to local governments and qualifications and experience of the key personnel and company team members that will be involved in this project.	30	
Overall reference results.	10	
Methodology and approach narrative.	25	
Financial strengths, litigation, and ability to obtain the stated insurances.	10	
Overall response quality.	10	
Costs proposals.	15	
<b>Total</b>	<b>100</b>	

Evaluator: \_\_\_\_\_

Date: \_\_\_\_\_

Comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

# ATTACHMENT E

COUNTY OF BARROW

STATE OF GEORGIA

## BARROW COUNTY ETHICS ORDINANCE

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF BARROW COUNTY, TO ESTABLISH THE CODE OF ETHICS FOR BARROW COUNTY; TO FURTHER AND INCORPORATE THE POLICIES AND LAWS OF THE STATE OF GEORGIA RELATING TO ETHICAL STANDARDS; TO CREATE THE BOARD OF ETHICS AND PROVIDE FOR ITS CONSTITUENT MEMBERSHIP, DUTIES, AND RESPONSIBILITIES; TO PROVIDE FOR THE INVESTIGATION OF ETHICS COMPLAINTS; TO PROVIDE FOR THE ENFORCEMENT OF ETHICAL STANDARDS; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**WHEREAS**, the Constitution of the State of Georgia, approved by the voters of the State in November of 1982, and effective July 1, 1983, provides in Article IX, Section II, Paragraph I Thereof, that the governing authority of the county may adopt clearly reasonable ordinances, resolutions and regulations;

**WHEREAS**, O.C.G.A. § 36-1-20 authorizes counties to enact ordinances for protection and preserving the public health, safety and welfare of the population of the unincorporated areas of the County;

**WHEREAS**, the governing authority of Barrow County, to wit, the Board of Commissioners, desires to exercise its authority in adopting this Ordinance;

**WHEREAS**, it is essential to the proper operation of democratic government that public officials of independent and impartial, that governmental decisions and policy be made in the proper channels of the governmental structure, that public office not be used for private gain other than the remuneration provided by law, and that there be public confidence in the integrity of government;

**WHEREAS**, the attainment of one or more of these ends is impaired whenever there exists a conflict between the private interests of an elected official or a governmental employee and his duties as such;

**WHEREAS**, the public interest, therefore, requires that the law protect against such conflicts of interest and establish appropriate ethical standards with respect to the conduct of elected officials and government employees in situations where conflicts exist;

**WHEREAS**, it is also essential to the proper operation of government that those best qualified be encouraged to serve the government. Accordingly, legal safeguards against conflicts of interest must be so designed as not unnecessarily or unreasonably to impede the recruitment and retention by the government of those men and women who are best qualified to serve it;

**WHEREAS**, an essential principle underlying the staffing of our government structure is that its elected officials and employees should not be denied the opportunity, available to all other citizens, to acquire and retain private economic and other interests, except where conflicts with the responsibility of such elected officials and employees to the public cannot be avoided;

**WHEREAS**, in recognition of these goals and principles, it is the policy of the Board of Commissioners to institute, establish, promote and enforce standards of ethical conduct for all of Barrow County's officers and employees; and

**WHEREAS**, it is a further policy of the Board of Commissioners that the proper administration of Barrow County's government and the promotion and enforcement of standards of ethical conduct for Barrow County's officers and employees would be best served by the creation of a Barrow County Board of Ethics for the investigation of complaints related to ethical standards;

NOW, THEREFORE, BE IT ORDAINED AND RESOLVED BY THE BOARD OF COMMISSIONERS OF BARROW COUNTY, GEORGIA AS FOLLOWS:

**ARTICLE ONE: GENERAL PROVISIONS**

**Section One.      Short Title.**

This Ordinance shall be known as "The Barrow County Ethics Ordinance," and may be Cited and referred to as such.

**Section Two.      Definitions.**

For the purposes of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning provided herein. When no inconsistent with the context, words used in the present tense include the future, words in the plural number included the singular number and words in the singular number include the plural number.

- (A) **"Board"** means the Barrow County Board of Commissioners.
- (B) **"Board of Ethics"** means the Barrow County Board of Ethics as formed and described herein.
- (C) **"Business Entity"** means any business of whatever nature regardless of how designated or formed, whether a sole proprietorship, partnership, joint venture, association, trust, corporation, limited liability company, or any other type of business enterprise and whether a person acting on behalf of, or as a representative or agent of, the business entity.
- (D) **"Confidential Information"** means any information that, by law or practice, is not reasonably available to the public.
- (E) **"County Official"** means the Barrow County Board of Commissioners, any member  
  
of a board, commission or authority appointed by the Board, the Chief of

Operations or his/her equivalent and any other elected or appointed officer or employee of Barrow County, including those employees who are exempt from the Barrow County Civil Service System, except to the extent prohibited by law.

- (F) **"Employee"** means all those persons employed on a regular or part-time basis by The County, as well as those persons whose services are retained under the terms of a contract with the County, including those employees who are exempt from the Barrow County Civil Service System, except to the extent prohibited by law.
- (G) **"Family"** means the spouse, parents, children, brothers and sisters, related by blood or marriage of a county official or employee.
- (H) **"Interest"** means direct or indirect pecuniary or material benefit accruing to a County Official or Employee as a result of a contract or transaction which is or may be the subject of an official act or action by or with the County, except for such contracts or transactions which, by their terms and by the substance of their provisions, confer the opportunity and right to realize the accrual of similar benefits to all other persons and/or property similarly situated. The term "interest" shall not include any remote interest. For purposes of this Ordinance, a County Official or Employee shall be deemed to have an interest in the affairs of:
- (1) His or her family;
  - (2) Any business entity in which the county official or employee is a member, officer, director, employee or prospective employee;
  - (3) Any business entity as to which the stock, legal ownership, or beneficial ownership of a county official or employee is in excess of five percent (5%) of the total stock or total legal and beneficial ownership, or which is

controlled or owned directly or indirectly by the county official or employee.

- (1) **“Official Act” or “Official Duties”** means any legislative, administrative, appointive or discretionary act of any County Official or Employee of the County or any agency, board, authority or commission thereof.

**ARTICLE TWO: CODE OF ETHICS FOR COUNTY SERVICE GENERALLY AND FOR EMPLOYEES**

This Article Two is intended to adopt and incorporate herein for local enforcement the ethical standards of O.C.G.A. § 45-10-1, as it may be amended from time to time.

Any person in County service shall;

**Section One.**

Put loyalty to the highest moral principles and to country above loyalty to person, party, or government department.

**Section Two.**

Uphold the Constitution, laws and legal regulations of the United States and the State of Georgia and of all governments therein and never be a party to their evasion.

**Section Three.**

Give a full day's labor for a full day's pay and give to the performance of his duties his earnest effort and best thought.

**Section Four.**

Seek to find and employ more efficient and economical ways of getting tasks accomplished.

**Section Five**

Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not, and never accept, for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.

**Section Six**

Make no private promises of any kind binding upon the duties of office, since a government employee has no private word that can be binding on public duty.

**Section Seven.**

Engage in no business with the government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties.

**Section Eight.**

Never use any information coming to him confidentially in the performance of governmental duties as a means for making private profit.

**Section Nine.**

Expose corruption wherever discovered.

**Section Ten.**

Uphold these principles, ever conscious that public office is a public trust.

**ARTICLE THREE: CODE OF ETHICS FOR COUNTY OFFICIALS AND DEPARTMENT DIRECTORS**

This Article Three is intended to adopt and incorporate herein for local enforcement the ethical standards of O.C.G.A. § 45-10-3, as it may be amended from time to time.

All County Officials and Department Directors shall:

**Section One.**

Uphold the Constitution, laws and regulations of the United States, the State of Georgia, the County of Barrow and all governments therein and never be a party to their evasion.

**Section Two.**

Never discriminate by the dispensing of special favors or privileges to anyone, whether or not for remuneration.

**Section Three.**

Not engage in any business with the government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties.

**Section Four.**

Never use any information coming to him confidentially in the performance of governmental duties as a means for making private profit.

**Section Five.**

Expose corruption wherever discovered.

**Section Six.**

Never solicit, accept, or agree to accept gifts, loans, gratuities, discounts, favors, hospitality or services from any person, association or corporation under circumstances from which it could reasonably be inferred that a major purpose of the donor is to influence the performance of the member's official duties.

**Section Seven.**

Never accept any economic opportunity under circumstances where he knows or should know that there is a substantial possibility that the opportunity is being afforded him with intent to influence his conduct in the performance of his official duties.

**Section Eight.**

Never engage in other conduct which is unbecoming to a member or which constitutes a breach of public trust.

**Section Nine.**

Never take any official action with regard to any matter under circumstances in which he knows or should know that he has a direct or indirect monetary interest in the subject matter of such matter or in the outcome of such official action.

**ARTICLE FOUR: SPECIFIC PROVISIONS RELATED TO CONFLICT OF INTEREST TRANSACTIONS AND DISCLOSURES**

The following provisions related to conflict of interest transactions and disclosures are intended to supplement and elaborate upon the Code of Ethics set forth in Articles Two and Three above and all such provisions shall be read and interpreted in accordance therewith.

**Section One. Compliance with Applicable Law.**

No County Official or Employee shall engage in any activity or transaction that is prohibited by law, now existing or hereafter enacted, which is applicable to him or her by virtue of his or her office or employment. Other provisions of law or regulations shall apply when any provisions of this Ordinance shall conflict with the laws of the State of Georgia or the United States, except to the extent that this Ordinance permissibly sets forth a more stringent standard of conduct. The laws of the State of Georgia or the United States shall apply when this Ordinance is silent.

**Section Two. Conflict of Interest Transactions.**

- (A) No County Official or Employee shall acquire or maintain an interest in any contract or transaction if a reasonable basis exists that such an interest will be affected directly by his or her official act or action or by official acts or actions of

the County, which the County Official or Employee has a reasonable opportunity to influence, except consistent with the disclosure and abstention provisions set forth herein.

- (B) Barrow County shall not enter into any contract involving services or property with a County Official or Employee or with a business entity in which the County Official or an Employee has an interest. Provided that the disclosure and abstention provisions set forth herein are followed, this paragraph shall not apply to the following:
- (1) The designation of a bank or trust company as a depository for county funds;
  - (2) The borrowing of funds from any bank or lending institution which offers competitive rates for such loans;
  - (3) Contracts entered into with a business which employs a consultant, provided that the consultant's employment with the business is not incompatible with this Ordinance;
  - (4) Contracts for services entered into with a business which is the only available source for such goods or services; and
  - (5) Contracts entered into under circumstances that constitute an emergency situation, provided that a record explaining the emergency is prepared by the Board and submitted to the Chief of Operations (or his/her equivalent) to be kept on file.

**Section Three.**                    **Financial Disclosures.**

Financial disclosures shall be governed by federal and state law as it may be amended from time to time and this Ordinance shall not require any additional financial disclosure reports to be filed other than those required by federal and state law.

**Section Four.**                    **Zoning Application Disclosures.**

All disclosures with regard to zoning applications shall be governed in their entirety by the Conflict of Interest in Zoning Actions provisions contained in O.C.G.A. § 36-67A-1, et seq., as it may be amended from time to time.

**Section Five.**                    **Disclosures Related to Submission of Bids or Proposals for County Work or Contract.**

Persons submitting bids or proposals for county work who have contributed \$250.00 or more to a County Official must disclose on their bid or proposal the name of the County Official(s) to whom the contribution was made and the amount contributed. Such a disclosure must also be made prior to a request for any change order or extension of any contract awarded to the person who submitted the successful bid or proposal.

**Section Six.**                    **Withholding of Information.**

No County Official or Employee shall knowingly withhold any information that would impair the proper decision making of the Board or any of the County's boards, agencies, authorities or departments.

**Section Seven.**                    **Incompatible Service.**

No County Official or Employee shall engage in or accept private or public employment or render service for any private or public entity, when such employment or service is incompatible with the proper discharge of his or her official duties or would tend to impair his or her independence of judgment or action in the performance of his or her official duties, unless

otherwise permitted by law and unless public disclosure is made.

**Section Eight. Unauthorized Use of Public Property.**

No County Official or Employee shall request or permit the unauthorized use of county-owned vehicles and equipment, including but not limited to computers, pagers and cellular telephones, materials or property for personal convenience or profit.

**Section Nine. Political Recrimination and Activity.**

- (A) No County Official or Employee, whether elected or appointed, shall either cause the dismissal or threaten the dismissal from any county position as a reward or punishment for any political activity. No County Official or Employee shall direct any person employed by the County to undertake political activity on behalf of such County Official or Employee, any other County Official or Employee, or any other individual, political party, group or business organization, during such time that the Employee is required to conduct county business. This section does not prohibit incidental telephone calls made for the purpose of scheduling a County Official's daily county business.
- (B) Employees of the county are encouraged to exercise their right to vote, but no employee shall make use of government time or equipment to aid a political candidate, party or cause; or use a government position to influence, coerce, or intimidate any person in the interest of a political candidate, party or cause. No employee shall be hired, promoted, favored or discriminated against with respect to employments because of his or her political opinions or affiliations.
  - (1) *Seeking elective office.* A government employee seeking elective office within the county may, upon declaring candidacy, either resign or submit a

request in writing to the Chief of Operations (or his/her equivalent) for a leave of absence without pay from the date of his or her announcement through the duration of the campaign or announcement of the election results. In the alternative, the government employee seeking elective office within the County may continue to work for the County, provided, however, that the employee shall not engage in election activities during his or her County working hours or with use of County equipment. If elected to office, the employee shall immediately, upon the date of election, be separated from employment with the county upon written request and approval of the Chief of Operations (or his/her equivalent).

(2) *Political campaign involvement.* A government employee may not be involved in any political activity which would constitute a conflict of interest; including participation in any aspect of any political campaign for any office in Barrow County Government.

(3) *Solicitation of contributions.* A government employee may not knowingly solicit, accept or receive political contributions from any person, to be used in support of or opposition to any candidate for office in the county.

**Section Ten. Appearance Before County Entities.**

No County Official or Employee shall appear on behalf of any private person other than himself or herself, his or her spouse, or his or her minor children, before any county agency, authority or board. However, a member of the Board of Commissioners may appear before such groups on behalf of his constituents in the course of his duties as a representative of the electorate or in the performance of public or civic obligations.

**Section Eleven. Timely Payment of Debts to the County and Fiscal Responsibility.**

All County Officials and Employees shall pay and settle, in a timely and prompt fashion, all accounts between them and Barrow County, including the prompt payment of all taxes and shall otherwise demonstrate personal fiscal responsibility.

**Section Twelve. Solicitation or Acceptance of Gifts.**

(A) County Officials and employees shall not accept gifts, gratuities or loans from organizations, business concerns, or individuals with whom he or she has official relationships on business of the county government. These limitations are not intended to prohibit the acceptance of articles of negligible value which are distributed generally, nor to prohibit employees from accepting social courtesies which promote good public relations, or to prohibit employees from obtaining loans from regular lending institutions. It is particularly important that inspectors, contracting officers and enforcement officers guard against relationships which might be construed as evidence of favoritism, coercion, unfair advantage or collusion.

(B) Consistent with the provisions set forth in Articles Two and Three and Section 12(A) above, there shall be no violation of this Ordinance in the following circumstances:

- (1) Meals and beverages given in the usual course of entertaining associated with normal and customary business or social functions.
- (2) An occasional gift from a single source of \$101.00 or less in any calendar year.
- (3) Ceremonial gifts or awards.

- (4) Gifts of advertising value only or promotional items generally distributed  
To public officials.
- (5) Awards presented in recognition of public service.
- (6) Reasonable expenses of food, travel, lodging and scheduled entertainment  
for a meeting that is given in return for participation in a panel or speaking  
engagement at the meeting.
- (7) Courtesy tickets or free admission extended for an event as a courtesy or  
for ceremonial purposes, given on an occasional basis and not to include  
season tickets of any nature.
- (8) Gifts from relatives or members of the County Official or Employee's  
household.
- (9) Honorariums or awards for professional achievement.
- (10) Courtesy tickets or free admission to educational seminars, educational or  
information conventions or other similar events.

**Section Thirteen. Disclosure of Interest.**

Any member of the Board who has a financial or personal interest in any proposed legislation or action before the Board shall immediately disclose publicly the nature and extent of such interest.

Any other County Official or Employee who has a financial or personal interest in any proposed legislation or action before the Board and who participates in discussion with or gives an official opinion or recommendation to the Board in connection with such proposed legislation or action shall disclose publicly the nature and extent of such interest.

**Section Fourteen.      Abstention to Avoid Conflicts of Interest.**

- (A) Except as otherwise provided by law, no County Official or Employee shall participate in the discussion, debate, deliberation, vote or otherwise take part in the decision-making process on any item before him in which the County Official or Employee has a conflict of interest as set forth above.
- (B) To avoid the appearance of impropriety, if any County Official or Employee has a conflict of interest or has an interest that he or she has reason to believe either violates this Ordinance or may affect his or her official acts or actions in any matter, the County Official or Employee shall immediately leave the meeting room, except that if the matter is being considered at a public meeting, the County Official or Employee may remain in the meeting room.
- (C) In the event of a conflict of interest, the County Official or Employee shall announce his or her intent to abstain prior to the beginning of the discussion, debate, deliberation or vote on the item, shall not participate in any way, and shall abstain from casting a vote.

**ARTICLE FIVE: THE BOARD OF ETHICS**

**Section One.      Creation and Composition of Board of Ethics.**

There is hereby created a five-member Barrow County Board of Ethics, which shall consist of the following members:

- (A) One appointee by the Board of Directors of the Barrow County Chamber of Commerce.
- (B) One appointee selected by a majority of the voting County elected officials (not including the members of the Board of Commissioners) who shall each have one vote for such appointee:

- (C) One appointee selected by a majority of the voting employees of Barrow County (not including the County elected officials or the members of the Board of Commissioners) who are in the employ of Barrow County on a full-time basis on The effective date of the vote, which vote shall be conducted by the Director of Human Resources or his/her designee;
- (D) One appointee of the Barrow County Personnel Review Board; and
- (E) One appointee of the Barrow County Board of Commissioners, which appointee Shall be selected by a majority vote of the Board of Commissioners.

**Section Two.**                    **Appointment Procedures.**

The initial appointments of the members of the Board of Ethics shall be accomplished as follows: Within five (5) business days of the effective date of this Ordinance, the Barrow County Chief of Operations (or his/her equivalent) or his/her designee shall notify the respective appointing body or individuals of the duty to appoint or vote upon a member for placement on the Board of Ethics. The body or individuals so notified shall have thirty (30) days in which to conduct their appointment process and provide the Chief of Operations (or his/her equivalent) with the name of the appointment, or the name of the individual for whom he or she is voting as the appointee in the case of the elected officials. Within five (5) business days of receipt of the appointment information or calculation of the votes as the case may be, the Chief of Operations (or his/her equivalent) shall thereafter provide the names of the appointees to the Board of Commissioners. The Board of Commissioners shall appoint the five persons so identified at the next regular meeting of the Board of Commissioners following receipt of the names of the appointees from the Chief of Operations (or his/her equivalent).

All appointments following the expiration of the initial terms and all appointments made

In the cases of vacancies created during a particular term shall be made by the applicable body or individuals as indicated in Section One of this Article. The Chief of Operations (or his/her equivalent) or his/her designee shall notify the applicable body or individuals responsible for making an appointment at least forty-five (45) days prior to the expiration of the respective term or immediately upon knowledge of a vacancy created during a term. Upon such notification, the appointment process shall proceed as set forth above in this Section.

**Section Three.**                    **Qualifications of Members of Board of Ethics.**

A person is eligible to be appointed as a member of the Board of Ethics if the person, while serving:

- (A) Resides in the County and is a registered voter;
- (B) Is not an Employee or County Official and has not been an Employee or County Official during the three (3) months immediately preceding his or her appointment  
Or be the spouse, parent, child or sibling of an Employee or County Official;
- (C) Is not an officer or employee of any political party;
- (D) Does not hold any elected or appointed office and is not a candidate for office of the United States, this State or the County and has not held any elected or appointed office during the three (3) months immediately preceding his or her appointment.

**Section Four.**                    **Terms; Vacancies.**

Members of the Board of Ethics shall each serve a two (2) year term without compensation, and shall continue to serve until their successors are appointed and qualified. The Board positions appointed pursuant to sub-sections (A), (B), and (C) of Section One of this

Article shall serve an initial full two-year term and shall thereafter serve two-year terms upon appointment. The Board positions appointed pursuant to sub-sections (D) and (E) of Section One of this Article shall serve an initial one-year term and shall thereafter serve two-year terms upon appointment. If any vacancy occurs during a term, the remaining members shall at that time choose an alternate member mutually agreed upon to temporarily serve until the position is filled by appointment as provided in Section One and Section Two to fulfill the remainder of the then existing term.

**Section Five.**                    **Removal of Member.**

The Board of Commissioners may remove a member of the Board of Ethics on the grounds of neglect of duty, misconduct in office or engagement in political activity in violation of this Ordinance. Before initiating the removal of a member from the Board of Ethics, the Board of Commissioners shall give the member written notice of the reason for the intended action and the member shall have the opportunity to reply. Thereafter, the Board of Commissioners shall afford such member an opportunity for a hearing before the Board of Commissioners.

**Section Six.**                    **Organization and Internal Operating Regulations.**

- (A) Members of the Board of Ethics shall not be compensated.
- (B) The Board of Ethics shall elect one of its members to act as Chairperson for a term of one year or until a successor is duly elected. The Board of Ethics shall also elect one of its members to act as Vice-Chairperson for the same term and to act for the Chairperson in his or her absence, because of disqualification or vacancy.
- (C) There shall be no regularly scheduled monthly or bimonthly meetings of the

Board of Ethics, however, the Board of Ethics shall meet at least once annually in January of each year for purposes of election of officers and such other business as the Board of Ethics deems proper and in accordance with this Ordinance. Meetings shall be called by majority vote or by call of the chairperson. Meetings of the Board of Ethics shall be conducted in the public hearing room utilized by the Board of Commissioners, shall be duly publicized, and shall be otherwise conducted in accordance with the open meetings requirements under state law.

- (D) Three members of the Board of Ethics shall constitute a quorum for the transaction of business. The Chairperson shall be entitled to the same voting rights as the other members of the Board of Ethics.
- (E) No official action concerning complaints shall be taken by the Board of Ethics, except by the affirmative vote of at least four (4) members of the Board of Ethics.

**Section Seven. Duties and Powers.**

The Board of Ethics shall have the following duties and powers:

- (A) To establish any procedures, rules and regulations governing its internal organization and conduct of its affairs, provided that such procedures, rules and regulations do not conflict with any provision contained herein.
- (B) To receive and hear complaints of violations of standards required by this Ordinance.
- (C) To make investigations as it deems necessary to determine whether any person has violated this Ordinance, but only after a least four (4) members of the Board of Ethics have voted affirmatively to conduct the investigation.
- (D) To take such action as provided in this Ordinance as deemed appropriate because of any violation of this Ordinance.

- (E) To perform any other function authorized by this Ordinance.
- (F) To issue advisory opinions as provided in this Ordinance.

**Section Eight. Staffing and Expenses.**

The Board of Ethics shall be provided sufficient meeting space and other reasonable supportive services to carry out its duties required under this Ordinance. The Chief of Operations (or his/her equivalent) shall designate an administration employee who shall serve as the filing clerk for the Board of Ethics and who shall be authorized to receive all filings before the Board of Ethics to publish notices of all meetings upon request of the Board of Ethics' Chairperson and to serve as the recording clerk for the Board of Ethics.

**Section Nine. Counsel.**

The Board of Ethics may petition the Barrow County Board of Commissioners for appointment of counsel on a case-by-case basis to assist it in carrying out its responsibilities or to act as a hearing officer. Any such appointed counsel shall be approved by the Board of Commissioners, shall perform services at an approved hourly rate, and shall serve at the joint pleasure of the Board of Ethics and the Board of Commissioners.

**Section Ten. Adherence to the Ethics Ordinance.**

The Board of Ethics shall be governed by and subject to this Ordinance, except as to any requirements related to financial disclosures. If a member of the Board of Ethics has a conflict of interest or must disqualify himself under this Ethics Code or by law, the remaining members shall at that time choose an alternate person mutually agreed upon to hear that matter.

**Section Eleven. Prohibition Against Certain Conflicting Political Activity.**

(A) **Definitions.** The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning:

- (1) **“Member of the Board of Ethics”** means an individual who occupies the position of a member of the Board of Ethics or a prospective member of the Board of Ethics.
- (2) **“Political Party”** means a national political party, a state political party, a political action committee, and/or any affiliated organization.
- (3) **“Election”** includes a primary, special and general election.
- (4) **“Nonpartisan Election”** means:
  - (a) An election at which none of the candidates is to be nominated or elected as representing a political party, any of whose candidates for presidential elector received votes in the last preceding election at which presidential electors were selected; and
  - (b) An election involving a question or issue which is not specifically identified with a political party, such as a constitutional amendment, referendum, approval of a governmental ordinance, or any question or issue of similar character
- (5) **“Partisan”** when used as an adjective, refers to a political party.
- (6) **“Political Fund”** means any fund, organization, political action committee or other entity that, for purposes of influencing in any way the outcome of any partisan election, receives or expends money or

anything of value or transfers money or anything of value to any other fund, political party, candidate, organization, political action committee or other entity.

- (7) **“Contribution”** means any gift, subscription, loan, advance, deposit of money, allotment of money, or anything of value given or transferred by one person to another, including in cash, by check, by draft, through a payroll deduction or allotment plan, by pledge or promise, whether or not enforceable, or otherwise.

(B) **Permissible Activities.** All members of the Board of Ethics are free to engage in political activity to the widest extent consistent with the restrictions imposed in this Section, which restrictions are imposed for the sole purpose of ensuring neutrality and the appearance of neutrality of the Board of Ethics. Each member of the Board of Ethics retains the right to:

- (1) Register and vote in any election;
- (2) Participate in the nonpartisan activities of a civic, community, social, labor, or professional organization or of a similar organization;
- (3) Be a member of a political party or other political organization and participate in its activities to the extent consistent with law;
- (4) Attend a political convention, rally, fundraising function, or other political gathering;
- (5) Sign a political petition as an individual;
- (6) Make a financial contribution to a political party or organization;
- (7) Take an active part, as a candidate or in support of a candidate, in a

nonpartisan election;

- (8) Be politically active in connection with a question which is not specifically identified with a political party, such as a constitutional amendment, referendum, approval of a governmental ordinance or any other question or issue of a similar character;
- (9) Serve as an election judge or clerk or in a similar position to perform nonpartisan duties as prescribed by state or local law; and
- (10) Otherwise participate fully in public affairs in a manner which does not materially compromise his or her efficiency or integrity as a member of the Board of Ethics or the neutrality, efficiency or integrity of the Board of Ethics.

**(C) Prohibited Activities.**

- (1) A member of the Board of Ethics may not take an active part in political management or in a political campaign, except as permitted by subsection of this section.
- (2) A member of the Board of Ethics shall not take part in or be permitted to do any of the following activities:
  - (a) Serve as an officer of a political party, a member of a national, state or local committee of a political party, an officer or member of a committee of a partisan political club, or be a candidate for any of these positions;
  - (b) Organize or reorganize a political party organization or political club;
  - (c) Directly or indirectly solicit, receive, collect, handle, disburse, or

account for assessments, contributions or other funds for a partisan political purpose;

- (d) Organize, sell tickets to, promote or actively participate in a fundraising activity of a candidate in a partisan election or of a political party or political club;
- (e) Take an active part in managing the political campaign of a Candidate for public office in a partisan election or a candidate for political party office;
- (f) Become a candidate for, or campaign for, an elective public office in a partisan election;
- (g) Solicit votes in support of or in opposition to a candidate for Public office in a partisan election;
- (h) Act as recorder, watcher, challenger or similar officer at the polls on behalf of a political party or a candidate in a partisan election;
- (i) Drive voters to the polls on behalf of a political party or a candidate in a partisan election;
- (j) Endorse or oppose a candidate for public office in a partisan election or a candidate for political party office in a political advertisement, broadcast, campaign literature, or similar material;
- (k) Serve as a delegate, alternate or proxy to a political party convention;
- (l) Address a convention, caucus, rally or similar gathering of a political party in support of or in opposition to a partisan

candidate for public office or political party office;

(m) Initiate or circulate a partisan nominating position.

- (3) Nothing contained in this section shall prohibit activity in political management or in a political campaign by any member of the Board of ethics connected with a nonpartisan election or a nonpartisan issue of any type.

**Section Twelve. Limitation of Liability.**

No member of the Board of Ethics, or any person acting on behalf of the Board of Ethics, shall be liable to any person for any damages arising out of the enforcement or operation of this Ethics Ordinance, except in the case of willful or wanton conduct. This limitation of liability shall apply to the County, the members of the Board of Ethics, the employees of the Board of Ethics and any person acting under the direction of the Board of Ethics.

**Section Thirteen. Advisory Opinion.**

The Board of Ethics shall render an advisory opinion based on a real or hypothetical set of circumstances when requested to do so in writing by a County Official or Employee related to that County Official's or Employee's conduct or transaction of business. Such advisory opinions shall be rendered pursuant only to a written request, fully setting forth the circumstances to be reviewed by the Ethics Board. The proceedings of the Ethics Board pursuant to this section shall be held in public to the extent consistent with state law and the opinions of the Ethics Board shall be made available to the public.

**Section Fourteen. Complaints.**

The Board of Ethics shall be responsible for hearing and deciding any complaints filed regarding alleged violations of this Ordinance by any person. The following procedures shall be followed when filing a complaint:

- (A) Any person may file a complaint alleging a violation of any of the provisions of This Ordinance by submitting it to the Chief of Operations (or his/her equivalent), who shall immediately deliver such complaint to the Chairman of the Board of Ethics or his or her designee. A copy of such complaint shall immediately be forwarded by registered mail to the County Official or Employee against whom the complaint was filed. The complaint must be supported by affidavits based on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. All documents referred to in an affidavit(s) should be attached to the affidavits(s). The person filing the complaint shall verify the complaint by his or her signature thereon. A complaint must be filed within six (6) months of the date the alleged violation is said to have occurred, or in case of concealment or nondisclosure within six (6) months of the date the alleged violation should have been discovered after due diligence. In the event the Board of Ethics makes an initial determination that a complaint is technically deficient, the Board of Ethics shall submit a list of deficiencies to the complainant and offer the complainant the opportunity to correct the deficiencies within seven (7) days prior to the complaint being dismissed for technical deficiencies.
- (B) Upon receipt of a complaint alleging misconduct, the County Official or Employee against whom the complaint was filed may reply to the complaint within thirty (30) days, unless such time for reply is extended by the Board of Ethics upon good cause shown. The response of the County Official or Employee must be supported by affidavits based on personal knowledge, must set forth such facts as would be admissible in evidence and must show

affirmatively that the affiant is competent to testify to the matters stated therein.

All documents referred to in an affidavit(s) should be attached to the affidavit(s).

- (C) Within sixty (60) days of receipt of a complaint, the Board of Ethics shall conduct an investigatory review to determine whether specific substantiated evidence from a credible source(s) exists to support a reasonable belief that there has been a violation of this Ordinance. If after reviewing the complaint the Board of Ethics by vote determines that no specific, substantiated evidence from a credible source(s) exists to support a reasonable belief that there has been a violation of this Ordinance or determines that no violation occurred, it may dismiss the complaint without further proceedings. In the event a complaint is dismissed based upon the merits of the complaint, the complaint may not be re-filed.
- (D) If the Board of Ethics determines that specific, substantiated evidence from a credible sources(s) exists to support a reasonable belief that there has been a violation of this Ordinance, certified written notice of a hearing, containing the time, date and place of such hearing, shall be given to each party by the Board of Ethics and a formal public hearing shall be conducted and both parties afforded an opportunity to be heard. Any formal public hearing shall be conducted in accordance with the requirements of due process. The Board of Ethics is authorized to swear witnesses.
- (E) Any final determination resulting from the hearing shall include written findings of fact and conclusions of law. The Board of Ethics shall determine if clear and convincing evidence shows any violation of this Ordinance.
- (F) Nothing in this section shall be considered to limit or encumber the right of the Board of Ethics to initiate an investigation on its own cognizance as it deems

Necessary to fulfill its obligations under this Ordinance.

**Section Fifteen.            Disciplinary Action.**

- (A) Upon a determination that an employee has violated this Ordinance, the Board of Ethics may recommend the following penalties and actions:
  - (1) Written warning or reprimand;
  - (2) Suspension without pay;
  - (3) Termination of employment; and
  - (4) Repayment to the County of any unjust enrichment.
  
- (B) Upon a determination that a County Official has violated this Ordinance, the Board of Ethics may recommend the following penalties and actions:
  - (1) Written warning, censure or reprimand;
  - (2) Removal from office to the extent provided by Georgia law; and
  - (3) Repayment to the County of any unjust enrichment.
  
- (C) Upon direction of the Board of Ethics, a petition may be filed for injunctive relief, or any other appropriate relief, in the county superior court or in any other court having proper venue and jurisdiction, for the purpose of requiring compliance with the provisions of this Ordinance. In addition, the court may issue an order to cease and desist from the violation of the Ordinance. The court also may void an official action that is the subject of the violation, provided that the legal action to void the matter was brought within ninety (90) days of the occurrence of the official action, if the court deems voiding the action to be in the best interest of the public. The Court, after hearing and considering all the circumstances in the case, may grant all or part of the relief sought. However, the court may not void any official action appropriating public funds, levying taxes or providing for the

issuance of bonds, notes or other evidence of public obligation under this Ordinance.

- (D) In addition to any other remedy provided herein, upon determination of a Violation of this Ordinance, the Board of Ethics may recommend to the Board of Commissioners in writing that any contract, bid or change order that was the Subject of the violation should be cancelled or rescinded. The Board of Commissioners, however, shall retain the discretion to determine whether such a Cancellation or rescission would be in the best interest of the County and shall not be bound in any way by a recommendation of the Board of Ethics.
- (E) The Ethics Board may also forward its findings of fact and conclusions of law to the Barrow County District Attorney's Office and/or the Office of the Governor for appropriate action.

**Section Sixteen. Judicial review.**

- (A) Any party against whom a decision of the Board of Ethics is rendered may obtain judicial review of the decision by writ of certiorari to the superior court of the County. The application for the writ must be filed within thirty (30) days from the date of the written decision. Judicial review shall be based upon the record. No party shall be entitled to a de novo appeal.
- (B) Upon failure to timely request judicial review of the decision by writ of certiorari as provided in this section, the decision shall be binding and final upon all parties.
- (C) The appellate rights afforded hereunder shall be in lieu of any right to appeal an adverse employment action under the Barrow County Civil Service

System, to the extent the County Official or employee may be subject to the Civil Service System.

**ARTICLE SIX: MISCELLANEOUS**

**Section One.                  Severability.**

If any provision of this Ordinance is found by a court of competent jurisdiction to be invalid or unconstitutional, or if the application of this Ordinance to any person or circumstances is found to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid or unconstitutional provision or application.

**Section Two.                  Repealer**

All laws, resolution, or ordinances or parts thereof that conflict with the provisions of this Ordinance are repealed.

**Section Three.              Effective Date.**

The effective date of this Ordinance shall be July 1, 2004.

**AMENDED:**

Article Five, Section 1, Subparagraph (A)      January 25, 2005

Article Five, Section 6, Subparagraph (C)      January 8, 2008