



AGREEMENT PURSUANT TO SOLICITATION

**CITY OF MESA AGREEMENT NUMBER 2021117
WINDOW CLEANING AND POWER-WASHING SERVICES**

CITY OF MESA, Arizona (“City”)

Department Name	City of Mesa – Purchasing Division
Mailing Address	P.O. Box 1466 Mesa, AZ 85211-1466
Delivery Address	20 East Main St, Suite 450 Mesa, AZ 85201
Attention	Jess Romney, NIGP-CPP, CPPB Procurement Officer II
E-Mail	Jess.Romney@MesaAZ.gov
Phone	(480) 644-5798

With a copy to: City of Mesa – PRCF
Attn: Candace Robideau
Purchasing & Accounting Specialist
P.O. Box 1466
Mesa, AZ 85211-1466
Candace.Robideau@MesaAZ.gov

AND

IMPERIAL WINDOW CLEANING, INC., (“Contractor”)

Mailing Address	3080 E. Cotton Lane Gilbert, AZ 85234
Remit to Address	
Attention	Judy Walker President
E-Mail	IWC13@MSN.com
Phone	(480) 926-8999
Fax	(480) 926-8622

CITY OF MESA AGREEMENT PURSUANT TO SOLICITATION

This Agreement pursuant to solicitation ("Agreement") is entered into this 16th day of March 2021, by and between the City of Mesa, Arizona, an Arizona municipal corporation ("City"), and **Imperial Window Cleaning, Inc.**, a(n) Arizona corporation ("Contractor"). The City and Contractor are each a "Party" to the Agreement or together are "Parties" to the Agreement.

RECITALS

- A. The City issued solicitation number **2021117** ("Solicitation") for **Window Cleaning and Power-Washing Services**, to which Contractor provided a response ("Response"); and
- B. The City Selected Contractor's Response as being in the best interest of the City and wishes to engage Contractor in providing the services/materials described in the Solicitation and Response.

In consideration of the reciprocal promises contained in the Agreement, and for other valuable and good consideration, which the Parties acknowledge the receipt and sufficiency of, the Parties agree to the following Terms & Conditions.

TERMS & CONDITIONS

1. **Term.** This Agreement is for a term beginning on **May 1, 2021** and ending on **April 30, 2024**. The use of the word "Term" in the Agreement includes the aforementioned period as well as any applicable extensions or renewals in accordance with this Section 1.
 - 1.1 **Renewals.** On the mutual written agreement of the Parties, the Term may be renewed up to a maximum of two (2) years. Any renewal(s) will be a continuation of the same terms and conditions as in effect immediately prior to the expiration of the then-current term.
 - 1.2 **Extension for Procurement Processes.** Upon the expiration of the Term of this Agreement, including any renewals permitted herein, at the City's sole discretion this Agreement may be extended on a month-to-month basis for a maximum of six (6) months to allow for the City's procurement processes in the selection of a vendor to provide the services/materials provided under this Agreement. The City will notify the Contractor in writing of its intent to extend the Agreement at least thirty (30) calendar days prior to the expiration of the Term. Any extension under this Subsection 1.2 will be a continuation of the same terms and conditions as in effect immediately prior to the expiration of the then-current term.
2. **Scope of Work.** The Contractor will provide the necessary staff, services and associated resources to provide the City with the services, materials, and obligations attached to this Agreement as **Exhibit A** ("Scope of Work") Contractor will be responsible for all costs and expenses incurred by Contractor that are incident to the performance of the Scope of Work unless otherwise stated in **Exhibit A**. Contractor will supply all equipment and instrumentalities necessary to perform the Scope of Work. If set forth in **Exhibit A**, the City will provide Contractor's personnel with adequate workspace and such other related facilities as may be required by Contractor to carry out the Scope of Work.

The Agreement is based on the Solicitation and Response which are hereby incorporated by reference into the Agreement as if written out and included herein. In addition to the requirements specifically set forth in the Scope of Work, the Parties acknowledge and agree that the Contractor shall perform in accordance with all terms, conditions, specifications and other requirements set forth within the Solicitation and Response unless modified herein.
3. **Orders.** Orders be placed with the Contractor by either a: (i) Purchase Order when for a one-time purchase; (ii) Notice to Proceed, or (iii) Delivery Order off of a Master Agreement for Requirement Contract where multiple as-needed orders will be placed with the Contractor. The City may use the Internet to communicate with Contractor and to place orders as permitted under this Agreement.

4. **Document Order of Precedence.** In the event of any inconsistency between the terms of the body of the Agreement, the Exhibits, the Solicitation, and Response, the language of the documents will control in the following order.

- a. Agreement
- b. Exhibits
 1. Mesa Standard Terms & Conditions
 2. Scope of Work
 3. Other Exhibits not listed above
- c. Solicitation including any addenda
- d. Contractor Response

5. **Payment.**

5.1 **General.** Subject to the provisions of the Agreement, the City will pay Contractor the sum(s) described in **Exhibit B** ("Pricing") in consideration of Contractor's performance of the Scope of Work during the Term.

5.2 **Prices.** All pricing shall be firm for the Term and all extensions or renewals of the Term except where otherwise provided in this Agreement and include all costs of the Contractor providing the materials/service including transportation, insurance and warranty costs. No fuel surcharges will be accepted unless allowed in this Agreement. The City shall not be invoiced at prices higher than those stated in the Agreement.

The Contractor further agrees that any reductions in the price of the materials or services covered by this Agreement will apply to the undelivered balance. The Contractor shall promptly notify the City of such price reductions.

No price modifications will be accepted without proper request by the Contractor and response by the City's Purchasing Division.

5.3 **Price Adjustment.** Any requests for reasonable price adjustments must be submitted in accordance with this Section 5.3. Requests for adjustment in cost of labor and/or materials must be supported by appropriate documentation. There is no guarantee the City will accept a price adjustment therefore Contractor should be prepared for the Pricing to be firm over the Term of the Agreement. The City is only willing to entertain price adjustments based on an increase to Contractor's actual expenses or other reasonable adjustment in providing the services/materials under the Agreement. If the City agrees to the adjusted price terms, the City shall issue written approval of the change.

During the sixty (60) day period prior to Contract expiration date of the Agreement, the Contractor may submit a written request to the City to allow an increase to the prices in an amount not to exceed the twelve (12) month change in the **Consumer Price Index for All Urban Consumers** (CPI-U), US City Average, All Items, Not Seasonally Adjusted as published by the U.S. Department of Labor, Bureau of Labor Statistics (<http://www.bls.gov/cpi/home.htm>). The City shall review the request for adjustment and respond in writing; such response and approval shall not be unreasonably withheld.

5.4 **Renewal and Extension Pricing.** Any extension of the Agreement will be at the same pricing as the initial Term. If the Agreement is renewed in accordance with Section 1, pricing may be adjusted for amounts other than inflation that represent actual costs to the Contractor based on the mutual agreement of the parties. The Contractor may submit a request for a price adjustment along with appropriate supporting documentation demonstrating the cost to the Contractor. Renewal prices shall be firm for the term of the renewal period and may be adjusted thereafter as outlined in the previous section. There is no guarantee the City will accept a price adjustment.

5.5 **Invoices.** Payment will be made to Contractor following the City's receipt of a properly completed invoice. No terms set forth in any invoice, purchase order or similar document issued by Contractor will be deemed accepted by the City; the terms of the contractual relationship between the Parties are as set forth in this Agreement. Any issues regarding billing

or invoicing must be directed to the City Department/Division requesting the service or material from the Contractor. A properly completed invoice should contain, at a minimum, all of the following:

- a. Contractor name, address, and contact information;
- b. City billing information;
- c. City contract number as listed on the first page of the Agreement;
- d. Invoice number and date;
- e. Payment terms;
- f. Date of service or delivery;
- g. Description of materials or services provided;
- h. If materials provided, the quantity delivered and pricing of each unit;
- i. Applicable Taxes;
- j. If applicable, mileage or travel costs; and
- k. Total amount due.

5.6 **Payment of Funds.** Contractor acknowledges the City may, at its option and where available use a Credit Card/Procurement Card to make payment for orders under the Agreement with no additional charge/fee. Otherwise, payment will be through a traditional method of a check.

5.7 **Disallowed Costs, Overpayment.** If at any time the City determines that a cost for which payment was made to Contractor is a disallowed cost, such as an overpayment or a charge for materials/service not in accordance with the Agreement, the City will notify Contractor in writing of the disallowance; such notice will state the means of correction which may be, but is not limited to, adjustment of any future claim/invoice submitted by Contractor in the amount of the disallowance, or to require repayment of the disallowed amount by Contractor. Contractor will be provided with the opportunity to respond to the notice.

6. **Insurance.**

6.1 Contractor must obtain and maintain at its expense throughout the term of Contractor's agreement, at a minimum, the types and amounts of insurance set forth in this Section 6 from insurance companies authorized to do business in the State of Arizona; the insurance must cover the materials/service to be provided by Contractor under the Agreement. For any insurance required under the Agreement, Contractor will name the City of Mesa, its agents, representatives, officials, volunteers, officers, elected officials, and employees as additional insured, as evidenced by providing either an additional insured endorsement or proper insurance policy excerpts.

6.2 Nothing in this Section 6 limits Contractor's responsibility to the City. The insurance requirements herein are minimum requirements for the Agreement and in no way limit any indemnity promise(s) contained in the Agreement.

6.3 The City does not warrant the minimum limits contained herein are sufficient to protect Contractor and subcontractor(s) from liabilities that might arise out of performance under the Agreement by Contractor, its agents, representatives, employees, or subcontractor(s). Contractor is encouraged to purchase additional insurance as Contractor determines may be necessary.

6.4 Each insurance policy required under the Agreement must be in effect at or prior to the execution of the Agreement and remain in effect for the term of the Agreement.

6.5 Prior to the execution of the Agreement, Contractor will provide the City with a Certificate of Insurance (using an appropriate "ACORD" or equivalent certificate) signed by the issuer with applicable endorsements. The City reserves the right to request additional copies of any or all of the policies, endorsements, or notices relating thereto required under the Agreement.

6.6 When the City requires a Certificate of Insurance to be furnished, Contractor's insurance is primary of all other sources available. When the City is a certificate holder and/or an additional insured, Contractor agrees no policy will expire, be canceled, or be materially changed to affect the coverage available without advance written notice to the City.

- 6.7 The policies required by the Agreement must contain a waiver of transfer rights of recovery (waiver of subrogation) against the City, its agents, representatives, officials, volunteers, officers, elected officials, and employees for any claims arising out of the work of Contractor.
- 6.8 All insurance certificates and applicable endorsements are subject to review and approval by the City's Risk Management Division.
- 6.9 **Types and Amounts of Insurance.** Contractor must obtain and retain throughout the term of the Agreement, at a minimum, the following:
- 6.9.1 Worker's compensation insurance in accordance with the provisions of Arizona law. If Contractor operates with no employees, Contractor must provide the City with written proof Contractor has no employees. If employees are hired during the course of this Agreement, Contractor must procure worker's compensations in accordance with Arizona law.
 - 6.9.2 The Contractor shall maintain at all times during the term of this contract, a minimum amount of \$1 million per occurrence/\$2 million aggregate Commercial General Liability insurance, including Contractual Liability. For General Liability insurance, the City of Mesa, their agents, officials, volunteers, officers, elected officials or employees shall be named as additional insured, as evidenced by providing an additional insured endorsement.
 - 6.9.3 Automobile liability, bodily injury and property damage with a limit of \$1 million per occurrence including owned, hired and non-owned autos.
7. **Requirements Contract.** Contractor acknowledges and agrees the Agreement is a requirements contract; the Agreement does not guarantee any purchases will be made (minimum or maximum). Orders will only be placed when the City identifies a need and issues a purchase order or a written notice to proceed. The City reserves the right to cancel purchase orders or a notice to proceed within a reasonable period of time of issuance; any such cancellation will be in writing. Should a purchase order or notice to proceed be canceled, the City agrees to reimburse Contractor for any actual and documented costs incurred by Contractor. The City will not reimburse Contractor for any avoidable costs incurred after receipt of cancellation including, but not limited to, lost profits, shipment of product, or performance of services.
8. **Notices.** All notices to be given pursuant to the Agreement will be delivered to the Contractor as listed on Page 1 of this Agreement. Notice will be delivered pursuant to the requirements set forth the Mesa Standard Terms and Conditions that is attached to the Agreement as **Exhibit C**.
9. **Representations of Contractor.** To the best of Contractor's knowledge, Contractor agrees that:
- a. Contractor has no obligations, legal or otherwise, inconsistent with the terms of the Agreement or with Contractor's undertaking of the relationship with the City;
 - b. Performance of the services called for by the Agreement do not and will not violate any applicable law, rule, regulation, or any proprietary or other right of any third party;
 - c. Contractor will not use in the performance of Contractor's responsibilities under the Agreement any proprietary information or trade secret of a former employer of its employees (other than City, if applicable); and
 - d. Contractor has not entered into and will not enter into any agreement, whether oral or written, in conflict with the Agreement.
10. **Mesa Standard Terms and Conditions.** **Exhibit C** to the Agreement is the Mesa Standard Terms and Conditions as modified by the Parties, which are incorporated by reference into the Agreement as though fully set forth herein. In the event of any inconsistency between the terms of the Agreement and the Mesa Standard Terms and Conditions, the language of the Agreement will control. The Parties or a Party are referred to as a "party" or "parties" in the Mesa Standard Terms and Conditions. The Term is referred to as the "term" in the Mesa Standard Terms and Conditions.

11. **Counterparts and Facsimile or Electronic Signatures.** This Agreement may be executed in two (2) or more counterparts, each of which will be deemed an original and all of which, taken together, will constitute one agreement. A facsimile or other electronically delivered signature to the Agreement will be deemed an original and binding upon the Party against whom enforcement is sought.
12. **Incorporation of Recitals and Exhibits.** All Recitals and Exhibits to the Agreement are hereby incorporated by reference into the Agreement as if written out and included herein. In the event of any inconsistency between the terms of the body of the Agreement and the Exhibits, the language of the Agreement will control.
- Exhibits to this Agreement are the following:
- (A) Scope of Work
 - (B) Pricing
 - (C) Mesa Standard Terms and Conditions
13. **Attorneys' Fees.** The prevailing Party in any litigation arising out of the Agreement will be entitled to the recovery of its reasonable attorney's fees, court costs, and other litigation related costs and fees from the other Party.
14. **Additional Acts.** The Parties agree to execute promptly such other documents and to perform such other acts as may be reasonably necessary to carry out the purpose and intent of the Agreement.
15. **Headings.** The headings of the Agreement are for reference only and will not limit or define the meaning of any provision of the Agreement.

By executing below, each Party acknowledges that it understands, approves, and accepts all of the terms of the Agreement and the attached exhibits.

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

CITY OF MESA, ARIZONA

By: _____

Printed Name _____

Title _____

Date _____

IMPERIAL WINDOW CLEANING, INC.

By: Judy Walker

Printed Name Judy Walker

Title President

Date March 3, 2021

REVIEWED BY:

By: Jess Romney

Jess Romney, NIGP-CPP, CPPB
Procurement Officer II

EXHIBIT A
SCOPE OF WORK

1. **DEFINITION OF TERMS:** For the purpose of these specifications, the following words and terms shall be defined as hereinafter set forth:
 - 1.1 "Agreement" shall mean this contract with the City of Mesa for Window Washing and Power Washing Services.
 - 1.2 "City" shall mean the City of Mesa, Arizona, its officers, employees, or representatives.
 - 1.3 "Contract Boundaries" shall mean the area within the perimeter of each individual contract service area described and listed in this original agreement or later added by change order.
 - 1.4 "Contractor" shall mean the person, corporation, or partnership contracted to Window Washing and Power Washing Services under this Agreement.
 - 1.5 "May" shall mean permissive.
 - 1.6 "Should" shall mean expected.
 - 1.7 "Shall" shall mean mandatory.
 - 1.8 "Routine Work" shall mean all work tasks/requirements described in the Detailed Specifications Section of this contract for each site, or those added by change order.
 - 1.9 "Seasonal Hours" shall mean the operational hours and/or schedule which the Parks, Recreation, and Community Facilities (PRCF) - Parks Maintenance Division utilizes.
 - October 1 – April 30: 6:00 AM – 2:30 PM
 - May 1 – September 30: 5:00 AM – 1:30 PM
 - 1.10 "Corrective Work" shall mean any requested work tasks the City finds to be incomplete, deficient, or unsatisfactory that must be rectified by the Contractor.
 - 1.11 "Withholding Notice" a notice used to inform the Contractor of unsatisfactory work performance, correction time limits, and deduction amounts if not satisfactorily resolved.
 - 1.12 "Release" is the notice issued to the Contractor that demonstrates Withholding deficiencies have been corrected to the City's satisfaction.
 - 1.13 "Deduction" shall mean money that is deducted from the Contractor's invoice as a result of unsatisfactory performance of services that were not satisfactorily corrected.
 - 1.14 "Nonperformance Fee" shall mean a predetermined amount of money that must be paid as damages for failure to perform under a contract.
2. **PROJECT SPECIFICATIONS:** Unless otherwise specified, service for routine contract pay items and special work items shall include furnishing all labor, supervision, equipment, tools, fuel, materials (unless provided by the City in accordance with these documents), insurance, bonding, and all other items incidental thereto which are necessary to perform the work as specified. The Contractor shall provide a yard for parking, maintenance, and storage of supplies and equipment at a site other than on City property and at no added cost to the City.
3. **ADDITIONS AND DELETIONS:** The City may add and/or delete maintenance areas at any time by change order. The Contractor will be paid for all approved services satisfactorily completed. The City reserves the right to utilize the prices and services originally proposed for future award recommendations. Pricing for areas added to the contract shall be consistent with pricing for other comparable contract sites.
4. **VANDALISM AND VEHICLE ACCIDENTS:** If an accident occurs while performing work on City or Mesa Public Schools property, the Contractor shall report the accident to the City within two (2) working hours of discovery. All cases of vandalism shall be reported to the City immediately. The City will review the situation and determine the appropriate course of action.
5. **DISPOSAL OF DEBRIS, TRASH, OR OTHER WASTE:** All debris, trash or other waste that is accumulated or generated from the work performed under this agreement shall be removed from the Contract Sites. Using City waste receptacles are prohibited. The transport and disposal of said

materials shall be in compliance with federal, state, county, and City laws and regulations.

The Contractor is solely responsible for any disposal fees (dumping charges), incurred due to routine work. Fees for disposal of debris accumulated from extra work or emergency response work shall be listed as "Extra" or "Emergency Response Work" on the invoices as a separate item to be reimbursed by the City. The disposal must be at an authorized landfill. Disposal costs greater than the areas current fee range will be the responsibility of the Contractor. A copy of the disposal fee invoice must be submitted with the extra work invoice to receive payment.

6. **CONTRACTOR/CITY COMMUNICATIONS:**

6.1 **Local Office.** Throughout the period of this contract, the Contractor shall establish and maintain a local office and an authorized managing agent. The local office shall be within a one (1) hour drive time from the contract area.

Contractor's local managing agent shall serve as the point of contact for dealing and communicating with the City. Upon City request, the General Manager, President, or their designee shall meet with City representatives within twenty-four (24) hours of receiving notice.

6.2 **City Contact.** The Contractor's primary contact will be the PRCF Contract Specialist or authorized City representative in all matters pertaining to change orders, invoice authorization, schedule approvals or daily performance of this contract.

6.3 **Field Supervisor.** The Contractor shall furnish one (1) qualified field supervisor that speaks, reads, and writes in English. The field supervisor shall oversee the work of their staff, perform inspections of completed work, meet with the City representative upon request within one (1) working day, and submit inspections and daily work reports to the City during the first hour of the City's workday (Monday thru Friday).

Field Supervisors should be available to manage staff, respond to deficiencies and emergency callouts, inspect work of field staff, complete and submit daily paperwork to the City.

The Field Supervisor may not supervise other contracts unless approved by the City.

The Contractor shall provide the Field Supervisor a mobile telephone device with voice calling, text, company email, and photo capabilities for the purpose of communicating with City. The device must be kept in operational condition.

Contractor shall provide a daytime contact to address complaints as they arise.

7. **CONTRACTOR'S EMPLOYEES:** The awarded Contractor shall supply proper levels of manpower, equipment and supplies to perform work to acceptable standards in the required timeframes.

7.1 **Identification.** All Contractor staff assigned to work under this contract shall be cleared through the City's background check process, have a City issued security badge with a rating of level three (3) visibly displayed, and be in company uniform bearing the Contractors name upon commencing work.

Contractor personnel assigned to this contract will be required to be fingerprinted in conjunction with a background check through the City of Mesa. All expenses related to this process will be paid by the City of Mesa.

City security/identification badges issued to Contractor personnel are City property that shall be returned to the City upon termination/separation of employment, or at the end of contract term. Failure to do so will result in Nonperformance Fee charges being deducted from the billing cycle immediately following the incident.

Only Contractor employees authorized by the City are allowed on contract sites while

performing services. Individuals not authorized by the City (friends, acquaintances, family members, assistants, etc.) are prohibited.

7.2 **Driver's License.** Employees driving the Contractor's vehicles shall at all times possess and carry a valid vehicle operator's license issued by the State of Arizona, the class of which shall be appropriate for the vehicles operated, in accordance with State law.

7.3 **Conduct.** Contractor personnel (employees and/or officers) shall not identify themselves as being employees of the City of Mesa. They shall conduct themselves in such a manner as to avoid embarrassment to the City of Mesa. Additionally, it is expected that all interactions with the public or City officials be professional and courteous. In the event of difficulty with the public or City officials, the City shall be notified immediately.

The Contractor shall prohibit its employees from using any substances (drugs, alcohol, etc.) that may cause impairment while performing their duties under this contract. Contractor staff suspected of being impaired shall be immediately removed from performing work under this contract.

Contractor employees that exhibit poor conduct, as determined by City shall be removed from the contract upon the City's request.

The Contractor shall be liable for any damages or losses caused by its employees, equipment, or agents during the agreement period.

7.4 **List of Employees.** The Contractor shall submit a list of all employee names who will perform work under this contract no later than ten (10) business days prior to the start date. The list must include full name, driver's license number with expiration date, job title, and relevant certifications. Changes to the employment list shall be reported to the City within twenty-four (24) hours with an updated list provided at least monthly. Failure to submit lists as stated shall be subject to nonperformance fees as set forth in Scope of Work Section 13.0. Repeated failures may result in a Notice of Default.

7.5 **Communications Skills.** Supervisors and at least one (1) crew member of each work crew shall be proficient enough in the English language to receive/transmit oral or written instructions, interpret work request and otherwise communicate with City representatives.

8. **CONTRACTOR'S EQUIPMENT:**

8.1 **Vehicles and Equipment.** The Contractor shall submit to the City prior to the start of the contract and keep up to date for the duration, its inventory of vehicles and equipment that will be used. All vehicles and equipment are to be maintained in good repair, both mechanically and in appearance.

The City reserves the right to inspect the Contractor's vehicles at any time to ascertain said condition.

Contractor vehicles that cause damage (turf or irrigation system, leaking fluids on concrete or other hard surface areas, etc.) may be subject to actual repair and/or cleanup costs. A Nonperformance Fee may also apply.

8.2 **Vehicle Identification.** All Contractor vehicles used under this agreement must be clearly identified with the name of the company, assigned vehicle number, and phone number of the local office on each side of the vehicle (i.e., driver side, passenger side, and rear).

8.3 **Vehicle Use and Access.** Designated access points, pathways, and parking areas are generally the least likely to cause damage and it is expected that they be used. Departing from these approved instructions will result in Nonperformance fees, and additional repair costs shall be the responsibility of the Contractor if damage occurs.

Vehicles shall not be permitted to enter a turf, xeriscape, or natural habitat area from a perimeter roadway, pathway, or parking lot, without the prior approval of the City. Parking on sidewalks shall be restricted. The Contractor will not at any time be allowed to park on a sidewalk adjacent to any Arterial or Major Collector Street without providing appropriate barricading or traffic control (per Traffic Barricading Manual), to allow Pedestrian traffic a safe route around vehicles. The contractor will repair any damage caused by entering these areas at no cost to the City of Mesa.

9. **SCHEDULING OF WORK:**

9.1 **Routine and Extra Work Schedule.**

- A. All work will be scheduled so it is not disruptive to the public, City personnel, meetings, or events held at City facilities, which will require frequent communication with the City's contract representative.
- B. Ten (10) business days before the official start of the initial contract term and annually prior to each renewal, the Contractor shall submit to the City for approval a proposed annual work plan/schedule that utilizes all Routine and Supplemental task frequencies for each site.
- C. Monthly, no later than the 25th of the month, the Contractor shall submit to the City for their approval a proposed Service Schedule for the coming month. Work plans shown on the submitted Monthly Schedule must be updated to the annual schedule when changes are approved and implemented. The work plans must be specific by listing the type of tasks being performed each day at each location.
- D. Upon request, the Contractor will supply additional help for special events or other extra cleaning within twenty-four (24) hours of the City's request. Compensation for these requests shall be invoiced to the City separately from Routine Services and shall be in accordance with the approved Extra Work Rates.
- E. The City reserves the right to reject any schedule and/or demand reasonable changes/adjustments (whether approved or under review) when it can be shown that it is not in the best interest of the City.
- F. Routine work shall be scheduled Monday through Friday of each week. No weekend work is permitted, unless approved by the City representative and Building Rep.

9.2 **Work Hours/Holiday Schedule.**

Work shall not be conducted on the following holidays observed by the City of Mesa.

- A. New Year's Day – January 1
- B. Martin Luther King Day - Third Monday in January
- C. Presidents' Day - Third Monday in February
- D. Memorial Day - Last Monday in May
- E. Independence Day - July 4
- F. Labor Day - First Monday in September
- G. Veterans' Day - November 11
- H. Thanksgiving Holiday - Fourth Thursday and the following Friday in November
- I. Christmas Day - December 25

Holidays that fall on a Saturday are observed the Friday before and holidays that fall on Sunday are observed the Monday following the holiday.

9.3 **Weather Suspension of Work.** In the event of inclement weather, the Contractor must obtain approval from the City prior to performing any work. The City reserves the right to suspend any or all work due to poor weather conditions or other extreme conditions. The City also reserves the right to authorize the delayed work to be performed at a later date, or the City's Contract Representative may deem it more appropriate to omit the delayed work and resume the normal schedule. The Contractor shall not perform any suspended work without written authorization from the City.

10. **COMPENSATION:**

10.1 **Payment.** Payment will be made on a monthly basis within thirty (30) working days after receipt of an itemized invoice from the Contractor and acceptance of the work by the City, less any deductions or assessments as described. Monthly invoices are requested to be submitted on or before the 10th of each month for the preceding month. Invoices shall be itemized by completed job. Each invoice shall include:

1. Location of work, contract number, and annual Master Agreement number
2. Description of labor charges
3. Applicable taxes
4. Total charge

Any and all work for which a complete and accurate invoice is not received by the City within forty-five (45) days of completion shall not be paid.

Payment for work in any given area will be upon completion and acceptance by the City.

At the City's request, the Contractor shall submit copies of payroll reports. Payroll reports shall include names of employees, hours worked, days worked, location worked, and classification for all employees who performed the work.

The amounts invoiced shall be those agreed upon by this contract or by change order to the contract. The unit price shall include all labor, materials (unless supplied by the City), equipment, overhead, profit, and any other incidental costs to perform the contracted maintenance.

A. **Deductions to Payments Due:** The City shall establish the payment amount. If the Contractor fails to perform the work in accordance with the contract, the City may hold part or all payments due to the Contractor. Payment may be withheld (never paid) if the Contractor fails to perform or fails to satisfactorily correct poor performance within the Correction Time Limit Schedule. Deficiencies resolved within acceptable time limits and to the City's satisfaction will be released for payment.

The City may determine it is necessary to hire an outside contractor to perform work that was not or could not be corrected to the City's satisfaction by the primary Contractor. The City shall withhold the cost of such outside services in the billing cycle immediately following the incident.

B. Failure to correct areas identified as deficient by the City within the limits of this correction time limit schedule, unless written extensions have been authorized, may result in cause for termination of the contract in accordance with provisions of this document.

CORRECTION TIME LIMIT SCHEDULE (Time starts upon receipt of notification)	
Emergency Response Work	1 Hour Response – Complete ASAP
Correction of Unsatisfactory Service	2 Working Days

Unsatisfactory Performance of Supplemental Work	3 Working Days
Failure to Submit Schedules, Work Plans and/or Basic Reports	1 Working Day
Extra Work – Submission/Completion	2 Working Days

10.2 **Payment Requests, Work Reports, and Re-inspection.** The Contractor shall submit to the City a detailed report of work items completed the previous day. The report will be due within one (1) hour after the City work shift begins on the workday after completion of the work. Late submittal of reports or inclusion of incomplete tasks may result in a re-inspection fee charge.

Extra Work which includes a status of Emergency Response items shall be reported daily on the provided form, whether complete or not.

The City will inspect the work listed and approve or disapprove each item for payment. Items found to be incomplete or deficient in workmanship will be noted and a withholding notice issued to the Contractor. The withholding notice will be considered official notification of deficiencies. Additional information concerning the specifics of the deficiency will be given to the Contractor upon request. Deficient or incomplete work must be corrected in accordance with Scope of Work paragraph 10.1B.

If after a second inspection by the City, the City Inspector again finds serious deficiencies, or incompleteness, a \$50.00 re-inspection fee will be assessed for each area found in this condition. Accumulated re-inspection fees will be deducted from the Contractor's monthly payment.

The work report forms shall be used by the Contractor in the preparation of payment requests. A consolidated worksheet must be submitted with the Contractor's invoice. Invoices must be numbered and shall reference each work report attached by listing the work report number and/or date and billed amount. All contractor submitted paperwork must contain a company logo.

10.3 **Extra Work.** The City reserves the right to request quotes for "Extra Work" at any City facility not on contract. All "Extra Work" ordered in the contracted area shall be compensated for in accordance with the established Extra Work Rates found in Exhibit B. Extra or Emergency Response Work shall be billed separate from routine services. Landfill fees for Extra or Emergency Response Work shall be listed on invoices as a separate item to be reimbursed by the City. If the Contractor is asked to quote on Extra Work in another Contractor's area, labor rates may be quoted at the hourly wage rate determined by the Contractor.

10.4 The Contractor shall not perform any Extra Work until authorization is obtained from the City. This authorization will be in the form of a work order authorization form. All extra work shall commence within forty-eight (48) hours or at the date and time agreed upon, except Emergency Response Work that requires a one (1) hour response/commencement. Extra work performed without authorization may not be paid. The Contractor is not guaranteed exclusive rights to perform extra work that may be required. The City reserves the right to obtain competitive quotations or otherwise select the most appropriate Contractor for performing extra work.

11. **EMERGENCY RESPONSE:** An emergency call/response is required when a condition and/or failure presents an immediate danger to personnel or property. For circumstances that interrupt or otherwise adversely impact City operations or property occupant operations, the Contractor must respond within one (1) hour of notification, with appropriate equipment and supplies to remediate the adverse condition. Failure to respond shall be considered a default of Contract. Repeated

failures are subject to termination as set forth in Mesa Scope of Work Section 13.

The Contractor shall provide the City the names and phone numbers of employees who will respond to "Emergency" situations. The City shall also be kept informed of the name of the specific person assigned to respond on any given day.

The Contractor's employee who responds to each emergency shall fill out a "Daily Work Report" for "Extra Work" with the information that explains the emergency call-out and the actions taken to correct the problem. The report shall also indicate the name of the City Employee who called, the time of day when he/she received the call, the time of day upon his/her arrival at the job site and the elapsed time spent on the job site correcting the problem.

Payment for "Emergency Response" shall comply with the contract rates in Exhibit B. However, if the emergency was caused by the Contractor's failure to adequately perform "Routine" or "Extra" work, no compensation shall be made for responding to the emergency. The City shall make the determination whether or not payment is due after reviewing the "Daily Work Report" and the work performed.

12. **OFFICIAL ADDRESSES AND TITLES:** The official City representative and overall Contract Administrator is the Business Services Dept. Director, whose address is City of Mesa Purchasing, 20 E. Main Street, Suite 400 (85201), P. O. BOX 1466, Mesa, Arizona 85211-1466. This person is authorized to approve change orders to the contract.

13. **NONPERFORMANCE FEE / PERFORMANCE GUARANTEES:**

It is the City's expectation that all work under this agreement be performed as defined in this agreement. If tasks are omitted or not satisfactorily completed, public health, safety and welfare are compromised, the Contractor and City agree upon the following schedule of Nonperformance Fees to be deducted from monies due or to become due to the Contractor. These sums are fixed and agreed upon, not as a penalty, but because the parties agree that the actual loss to the City and to the public caused by the omission of work or substandard performance is impractical and extremely difficult to ascertain.

NONPERFORMANCE FEE TABLE

SITUATION	DEDUCTION AMOUNT
A. Failure to correct deficiencies within the time allowed in the Correction Time Limit Schedule. <i>(Scope of Work Sec. 10.1B)</i>	\$100 per site/day
B. Failure to start and satisfactorily complete routine work within contract or schedule requirements. <i>(Scope of Work Sec. 9.1)</i>	\$100 per site/day
C. Illegal or non-conforming waste disposal. <i>(Scope of Work Sec. 5.0)</i>	\$100 per site/day
D. Failure to attend meetings, submit reports, or schedules within the dates and times required. <i>(Scope of Work Sec. 6.1)</i>	\$100 per occurrence
E. Failure to meet identification requirements of contract, either person or vehicle. <i>(Scope of Work Sec. 7.1 and 8.2)</i>	\$100 per occurrence
F. Failure to comply with Parking Restrictions on Arterial and Major Collector Streets, and/or failure to provide alternative pedestrian route around work areas when parking on or blocking sidewalks. <i>(Scope of Work Sec. 8.3)</i>	\$100 per occurrence
G. Failure to return City issued badges of past employees. <i>(Scope of Work Sec. 7.1)</i>	\$100 per incident/employee

NONPERFORMANCE FEE TABLE

SITUATION	DEDUCTION AMOUNT
H. Failure to comply with List of Employees requirements. <i>(Scope of Work Sec. 7.4)</i>	\$100 per occurrence
I. Failure to comply with environmental regulations or wasting resources.	\$100 per occurrence
J. Damage caused by Contractor to City property (turf and/or irrigation systems, vehicle fluids leaking, etc.) <i>(Scope of Work Sec. 7.3 and 8.1)</i>	\$100 per occurrence/actual repairs costs may also apply

14. **QUALITY STANDARDS:** The instructions, requirements, and specifications found herein are the minimum standards that are acceptable to the City. Upon inspection, the area and windows must appear aesthetically clean in appearance.

14.1 **Quality Control and Reporting.**

- A. The Contractor shall ensure all work hereunder be performed in a satisfactory manner and in accordance with contract specifications. The Contractor's supervisory personnel shall perform frequent and systematic inspections of all premises on which work is being performed to assure a high quality of work by the Contractor's employees.
- B. The City shall perform contract compliance inspections on work the Contractor submits or reports as complete. Deficiencies identified will be handled as outlined in the Scope of Work sections 10 and 13.

15. **SCOPE OF WORK:** Unless otherwise specified, service for routine contract pay items and special work items shall include furnishing all labor, supervision, equipment, tools, fuel, materials (unless provided by the City in accordance with these documents), insurance, bonding, and all other items incidental thereto which are necessary to perform the work as specified, for window washing and power-washing. The Contractor shall provide a yard for parking, maintenance, and storage of all equipment at a site other than on City property and at no added cost to the City.

The Contractor shall clean all windows to include inside windows (as specified in the Pricing and Compensation page, Exhibit B), outside windows, panes, frames, and attaching/supported hardware as outlined. This Contract includes cleaning the entrance doors (inside and outside) unless otherwise specified for a particular building.

Windows shall be cleaned at times in accordance with the approved Routine and Extra Work Schedule as noted in Scope of Work Section 9.1, in order that City business will be disrupted as little as possible.

Glass cleaning with appropriate tools and glass cleaning chemicals is required for all glass surfaces to remove all dirt, streaks, film, glue, unwanted stickers, and other substances.

Floors and ledges below cleaned glass shall be dried after the glass cleaning is completed.

Contractor shall have access to a 40' plus boom and/or scissor lift to reach various buildings windows and power washing of Mesa Arts Center canopy sails. The contractor shall wear appropriate fall protection as required by OSHA Standard Number 1926.501.

Power washing will be optional and on an "as requested" basis, except were identified on the Pricing and Compensation page. Any nearby windows/window ledges or glass partitions indirectly affected by power-washing shall be cleaned as part of power-washing service.

**EXHIBIT B
PRICING**

Pursuant to all the contract specifications enumerated and described in this solicitation, we agree to furnish **Window Cleaning and Power-Washing Services** to the City of Mesa at the price(s) stated below.

200 S Center Bldg 1				
200 S. Center St				
100527				
	(1 Floor)			
	<u>Unit Cost</u>	<u>Estimated Frequency</u>	<u>Unit Total</u>	<u>Annual Total</u>
Inside Cleaning	\$25.00	X 3 per year	\$75.00	
Outside Cleaning	\$25.00	X 3 per year	\$75.00	
				\$150.00
200 S Center Bldg 2				
200 S. Center St				
100528				
	(1 Floor)			
	<u>Unit Cost</u>	<u>Estimated Frequency</u>	<u>Unit Total</u>	<u>Annual Total</u>
Inside Cleaning	\$50.00	X 3 per year	\$150.00	
Outside Cleaning	\$50.00	X 3 per year	\$150.00	
				\$300.00
200 S Center Bldg 3				
200 S. Center St				
100529				
	(1 Floor)			
	<u>Unit Cost</u>	<u>Estimated Frequency</u>	<u>Unit Total</u>	<u>Annual Total</u>
Inside Cleaning	\$25.00	X 3 per year	\$75.00	
Outside Cleaning	\$25.00	X 3 per year	\$75.00	
				\$150.00
708 W Baseline Bldg 1				
708 W. Baseline Rd.				
100535				
	(1 Floor)			
	<u>Unit Cost</u>	<u>Estimated Frequency</u>	<u>Unit Total</u>	<u>Annual Total</u>
Inside Cleaning	\$75.00	X 4 per year	\$300.00	
Outside Cleaning	\$75.00	X 4 per year	\$300.00	
				\$600.00
708 W Baseline Bldg 2				
708 W. Baseline Rd.				
100536				
	(1 Floor)			
	<u>Unit Cost</u>	<u>Estimated Frequency</u>	<u>Unit Total</u>	<u>Annual Total</u>

Inside Cleaning	\$75.00	X 4 per year	\$300.00	
Outside Cleaning	\$75.00	X 4 per year	\$300.00	
				\$600.00
708 W Baseline Bldg 3				
708 W. Baseline Rd.				
100537				
(1 Floor)				
	Unit Cost	Estimated Frequency	Unit Total	Annual Total
Inside Cleaning	\$75.00	X 4 per year	\$300.00	
Outside Cleaning	\$75.00	X 4 per year	\$300.00	
				\$600.00
708 W Baseline Bldg 4				
708 W. Baseline Rd.				
100538				
(1 Floor)				
	Unit Cost	Estimated Frequency	Unit Total	Annual Total
Inside Cleaning	\$75.00	X 4 per year	\$300.00	
Outside Cleaning	\$75.00	X 4 per year	\$300.00	
				\$600.00
AZ Labs				
3060 S. Kent St.				
100189				
(5 Buildings)				
	Unit Cost	Estimated Frequency	Unit Total	Annual Total
Inside Cleaning	\$200.00	X 4 per year	\$800.00	
Outside Cleaning	\$200.00	X 4 per year	\$800.00	
Interior Partition and Office Glass	\$300.00	X 1 per year	\$300.00	
				\$1,900.00
Cemetery				
1212 N. Center St				
100019				
(1 Floor)				
	Unit Cost	Estimated Frequency	Unit Total	Annual Total
Outside Cleaning	\$25.00	X 4 per year	\$100.00	
Power Washing	\$50.00	X 1 per year	\$50.00	
				\$150.00
Charles K Luster Bldg				
640 N. Mesa Dr				
100157				
(2 Floors)				
	Unit Cost	Estimated Frequency	Unit Total	Annual Total
Inside Cleaning	\$100.00	X 3 per year	\$300.00	
Outside Cleaning	\$125.00	X 3 per year	\$375.00	
Power Wash - Entrances & South Patio incl ceiling	\$300.00	X 2 per year	\$600.00	

Communications				\$1,275.00
161 E. 6th Place				
100027				
(3 Floors)				
	<u>Unit Cost</u>	<u>Estimated Frequency</u>	<u>Unit Total</u>	<u>Annual Total</u>
Inside Cleaning	\$150.00	X 4 per year	\$600.00	
Outside Cleaning	\$200.00	X 4 per year	\$800.00	
Power Washing (To include 3rd floor patio & ceiling)	\$400.00	X 3 per occurrence	\$1,200.00	
				\$2,600.00
Convention Center Bldg A				
263 N. Center St				
100137				
(1 Floor)				
	<u>Unit Cost</u>	<u>Estimated Frequency</u>	<u>Unit Total</u>	<u>Annual Total</u>
Inside Cleaning	\$25.00	X 4 per year	\$100.00	
Outside Cleaning	\$25.00	X 4 per year	\$100.00	
				\$200.00
Convention Center Bldgs B & C				
201 N. Center St				
100029				
(1 Floor)				
	<u>Unit Cost</u>	<u>Estimated Frequency</u>	<u>Unit Total</u>	<u>Annual Total</u>
Inside Cleaning	\$100.00	X 4 per year	\$400.00	
Outside Cleaning	\$100.00	X 4 per year	\$400.00	
				\$800.00
Court				
250 E. 1st Ave				
100032				
(3 Floors)				
	<u>Unit Cost</u>	<u>Estimated Frequency</u>	<u>Unit Total</u>	<u>Annual Total</u>
Inside Cleaning (1st Flr Lobby)	\$200.00	X 4 per year	\$800.00	
Inside Cleaning (2 & 3 Flr)	\$400.00	X 2 per year	\$800.00	
Inside Cleaning (2 & 3 Floor Lobby, includes lobby Ledge)	\$400.00	X 2 per year	\$800.00	
Outside Cleaning	\$1,000.00	X 4 per year	\$4,000.00	
Power Washing (including bench & adjacent sidewalk area to right of front entrance)	\$200.00	X 4 per occurrence	\$800.00	
				\$7,200.00
Eagles Community Center				
828 E. Broadway Rd.				
100423				
(1 Floor)				
	<u>Unit Cost</u>	<u>Estimated Frequency</u>	<u>Unit Total</u>	<u>Annual Total</u>
Inside Cleaning	\$25.00	X 4 per year	\$100.00	

Outside Cleaning	\$50.00	X 4 per year	\$200.00	
Power Wash Cleaning	\$400.00	X 2 per year	\$800.00	
				\$1,100.00
EMSC Fleet Support				
6935 E. Decatur St				
100043				
(1 Floor)				
	Unit Cost	Estimated Frequency	Unit Total	Annual Total
Inside Cleaning	\$50.00	X 2 per year	\$100.00	
Outside Cleaning	\$50.00	X 2 per year	\$100.00	
Power Washing (include main entrance & employee west patio)	\$200.00	X 3 per occurrence	\$600.00	
				\$800.00
EMSC Utilities				
7115 E. Adobe Rd				
100044				
(1 Floor)				
	Unit Cost	Estimated Frequency	Unit Total	Annual Total
Inside Cleaning	\$50.00	X 2 per year	\$100.00	
Outside Cleaning	\$50.00	X 2 per year	\$100.00	
				\$200.00
Facilities				
340 E. 6th St				
100048				
(1 Floor)				
	Unit Cost	Estimated Frequency	Unit Total	Annual Total
Inside Cleaning	\$25.00	X 2 per year	\$50.00	
Outside Cleaning	\$25.00	X 2 per year	\$50.00	
				\$100.00
Falcon Field Administration				
4800 E. Falcon Dr				
100050				
(1 Floor)				
	Unit Cost	Estimated Frequency	Unit Total	Annual Total
Inside Cleaning	\$50.00	X 4 per year	\$200.00	
Outside Cleaning	\$50.00	X 4 per year	\$200.00	
Power Washing (both north & south patios)	\$150.00	X 4 per occurrence	\$600.00	
				\$1,000.00
Fire Admin				
13 W. 1st St				
100056				
(2 Floors)				
	Unit Cost	Estimated Frequency	Unit Total	Annual Total
Inside Cleaning	\$125.00	X 3 per year	\$375.00	

Outside Cleaning	\$150.00	X 3 per year	\$450.00	
Power Wash - Main entrances & mechanical enclosure	\$100.00	X 3 per year	\$300.00	
				\$1,125.00
Fire Station #201 (Admin. Offices and Park)				
360 E. 1 st St				
100057				
(1 Floor)				
	Unit Cost	Estimated Frequency	Unit Total	Annual Total
Inside Cleaning	\$50.00	X 4 per year	\$200.00	
Outside Cleaning	\$50.00	X 4 per year	\$200.00	
Power Wash Park Monuments	\$200.00	X 2 per year	\$400.00	
Power Wash - NW entrance & mechanical enclosure	\$100.00	X 2 per year	\$200.00	
				\$1,000.00
Fire Station #208 (Admin. Offices Only)				
4530 E. McKellips				
100064				
	Unit Cost	Estimated Frequency	Unit Total	Annual Total
Inside Cleaning	\$25.00	X 2 per year	\$50.00	
Outside Cleaning	\$25.00	X 2 per year	\$50.00	
				\$100.00
Fire Station #215 and Police Dept. (Admin. Offices Only)				
6353 Downwind Dr				
100071				
(1 Floor)				
	Unit Cost	Estimated Frequency	Unit Total	Annual Total
Inside Cleaning	\$50.00	X 2 per year	\$100.00	
Outside Cleaning	\$50.00	X 4 per year	\$200.00	
				\$300.00
Fleet Support West				
310 E. 6 th St				
100080				
(1 Floor)				
	Unit Cost	Estimated Frequency	Unit Total	Annual Total
Inside Cleaning	\$25.00	X 4 per year	\$100.00	
Outside Cleaning	\$25.00	X 4 per year	\$100.00	
				\$200.00
Hohokam Stadium				
1235 N Center St				
100090				
(2 Levels)				
	Unit Cost	Estimated Frequency	Unit Total	Annual Total
Inside Cleaning	\$100.00	X 1 per year	\$100.00	
Outside Cleaning	\$200.00	X 1 per year	\$200.00	

Power Wash Cleaning - Concourses as requested	\$4,900.00	X 1 per year	\$4,900.00	
Power Wash Cleaning - High dust cleaning of exposed pipes as requested	\$3,000.00	X 1 per year	\$3,000.00	
				\$8,200.00
IDEA Museum				
150 W. Pepper				
100108				
(2 Buildings, 2 Floors)				
	Unit Cost	Estimated Frequency	Unit Total	Annual Total
Inside Cleaning	\$75.00	X 4 per year	\$300.00	
Outside Cleaning	\$75.00	X 4 per year	\$300.00	
Power Washing - Entrances	\$100.00	X 4 per year	\$400.00	
Power Washing - Courtyard, upcn request	\$300.00	X 2 per year	\$600.00	
				\$1,600.00
Library Dobson				
2425 S. Dobson Rd				
100098				
(1 Floor)				
	Unit Cost	Estimated Frequency	Unit Total	Annual Total
Inside Cleaning	\$100.00	X 4 per year	\$400.00	
Outside Cleaning	\$100.00	X 4 per year	\$400.00	
Power Washing	\$100.00	X 4 per year	\$400.00	
				\$1,200.00
Library Main				
64 E. 1st St				
100099				
(2 Floors)				
	Unit Cost	Estimated Frequency	Unit Total	Annual Total
Inside Cleaning (including staircase and conf. room)	\$150.00	X 4 per year	\$600.00	
Outside Cleaning	\$150.00	X 4 per year	\$600.00	
Power Washing (front entrance sculpture wall & bench)	\$275.00	X 6 per occurrence	\$1,650.00	
				\$2,850.00
Library, Red Mountain				
635 N. Power Rd				
100100				
(1 Floor)				
	Unit Cost	Estimated Frequency	Unit Total	Annual Total
Inside Cleaning	\$150.00	X 3 per year	\$450.00	
Outside Cleaning	\$150.00	X 3 per year	\$450.00	
Power Washing	\$200.00	X 4 per occurrence	\$800.00	
				\$1,700.00
Mesa Arts Center				
(4 Bldgs #1, 2, 3, 4)				

		Bldg. 1 – 3 Floors, Bldg. 2 – 3 Floors, Bldg 3 – 3 Floors, Bldg. 4 – 5 Floors			
		Unit Cost	Estimated Frequency	Unit Total	Annual Total
1 E. Main St					
100101					
Inside Cleaning		\$1,750.00	X 4 per year	\$7,000.00	
Outside Cleaning		\$2,500.00	X 4 per year	\$10,000.00	
Power Washing		\$900.00	X 4 per year	\$3,600.00	
					\$20,600.00
Mesa Center for Higher Education					
245 W 2nd St					
100033					
(2 Floors)					
		Unit Cost	Estimated Frequency	Unit Total	Annual Total
Inside Cleaning		\$100.00	X 4 per year	\$400.00	
Outside Cleaning		\$100.00	X 4 per year	\$400.00	
Power Washing (All Entrances and NE Seating Area)		\$200.00	X 2 per year	\$400.00	
					\$1,200.00
Mesa Family Advocacy Center					
225 E 1st Street					
100024					
(2 Floors)					
		Unit Cost	Estimated Frequency	Unit Total	Annual Total
Inside Cleaning		\$150.00	X 4 per year	\$600.00	
Outside Cleaning		\$150.00	X 4 per year	\$600.00	
Power Washing		\$250.00	X 4 per year	\$1,000.00	
					\$2,200.00
Mesa Tennis Center at Gene Autry					
4125 E McKellips Rd					
100015					
		Unit Cost	Estimated Frequency	Unit Total	Annual Total
Inside Cleaning		\$75.00	X 3 per year	\$225.00	
Outside Cleaning		\$75.00	X 3 per year	\$225.00	
					\$450.00
Municipal Building					
55 N. Center St					
100103					
(2 Floors)					
		Unit Cost	Estimated Frequency	Unit Total	Annual Total
Inside Cleaning (Lobbies)		\$50.00	X 4 per year	\$200.00	
Outside Cleaning		\$150.00	X 4 per year	\$600.00	
Power Washing		\$100.00	X 4 per occurrence	\$400.00	
					\$1,200.00
Museum of Natural History					

53 N. MacDonald St.		(2 Floors)			
100106		Unit Cost	Estimated Frequency	Unit Total	Annual Total
Inside Cleaning (To include Dinosaur Mirrored Wall)		\$75.00	X 4 per year	\$300.00	
Outside Cleaning		\$150.00	X 4 per year	\$600.00	
Power Washing West Entrance		\$250.00	X 4 per year	\$1,000.00	
					\$1,900.00
Museum of Natural History - Annex		(1 Floor)			
114 W. Pepper Pl		Unit Cost	Estimated Frequency	Unit Total	Annual Total
100107					
Outside Cleaning		\$50.00	X 3 per year	\$150.00	
					\$150.00
Parks Maintenance East		(1 Floor)			
6945 E. Decatur		Unit Cost	Estimated Frequency	Unit Total	Annual Total
100111					
Inside Cleaning		\$100.00	X 3 per year	\$300.00	
Outside Cleaning		\$100.00	X 3 per year	\$300.00	
					\$600.00
Parks Place		(1 Floor)			
57 E Main St		Unit Cost	Estimated Frequency	Unit Total	Annual Total
100113					
Outside Cleaning		\$150.00	X 2 per year	\$300.00	
Power Washing		\$300.00	X 1 per year	\$300.00	
					\$600.00
PD Central Substation		(1 Floor)			
120 N. Robson		Unit Cost	Estimated Frequency	Unit Total	Annual Total
100121					
Inside Cleaning		\$50.00	X 2 per year	\$100.00	
Outside Cleaning		\$50.00	X 2 per year	\$100.00	
Power Washing - Entrance & Secure Sidewalk		\$100.00	X 2 per year	\$200.00	
Power Washing - Basement Employee entrances & parking spaces		\$400.00	X 2 per year	\$800.00	
					\$1,200.00
PD Dobson Substation		(1 Floor)			
2525 S. Dobson Rd					

100122			
Inside Cleaning	<u>Unit Cost</u>	<u>Estimated Frequency</u>	<u>Unit Total</u>
	\$25.00	X 2 per year	\$50.00
Outside Cleaning	\$25.00	X 2 per year	\$50.00
Power Washing (Exterior Entrance [4])	\$100.00	X 2 per year	\$200.00
			\$300.00
PD Fiesta Substation			
1010 W Grove Ave			
100268			
(1 Floor)			
Inside Cleaning	<u>Unit Cost</u>	<u>Estimated Frequency</u>	<u>Unit Total</u>
	\$150.00	X 3 per year	\$450.00
Outside Cleaning	\$250.00	X 3 per year	\$750.00
Power Wash Both Entrances	\$150.00	X 2 per year	\$300.00
			\$1,500.00
PD Forensic Building			
133 N. Morris			
100124			
(2 Floors)			
Inside Cleaning	<u>Unit Cost</u>	<u>Estimated Frequency</u>	<u>Unit Total</u>
	\$150.00	X 3 per year	\$450.00
Outside Cleaning	\$300.00	X 3 per year	\$900.00
Power Washing (Exterior Entrance)	\$125.00	X 3 per year	\$375.00
Power Washing - Van parking spaces	\$150.00	X 1 per year	\$150.00
			\$1,875.00
PD Gun Range			
2500 N. Center St			
100117			
(2 Buildings)			
Inside Cleaning	<u>Unit Cost</u>	<u>Estimated Frequency</u>	<u>Unit Total</u>
	\$25.00	X 4 per year	\$100.00
Outside Cleaning	\$25.00	X 4 per year	\$100.00
Power Washing (classroom entrance)	\$100.00	X 2 per occurrence	\$200.00
			\$400.00
PD Headquarters			
130 N. Robson			
100120			
(4 Floors)			
Inside Cleaning (Lobby)	<u>Unit Cost</u>	<u>Estimated Frequency</u>	<u>Unit Total</u>
	\$50.00	X 4 per year	\$200.00
Inside Cleaning (3 & 4 Flr)	\$100.00	X 4 per year	\$400.00
Outside Cleaning	\$250.00	X 4 per year	\$1,000.00
Power Washing - Basement receiving and sally port	\$500.00	X 1 per year	\$500.00

Power Washing - Entrance and sidewalk	\$200.00	X 2 per year	\$400.00		\$2,500.00
PD Red Mountain Substation					
4333 E. University Dr					
100125 (1 Floor)					
	<u>Unit Cost</u>	<u>Estimated Frequency</u>	<u>Unit Total</u>	<u>Annual Total</u>	
Inside Cleaning	\$75.00	X 4 per year	\$300.00		
Outside Cleaning	\$75.00	X 4 per year	\$300.00		
Power Washing (four main entrances)	\$125.00	X 2 per occurrence	\$250.00		\$850.00
PD Special Ops					
255 W Juanita					
100118 (2 Floor)					
	<u>Unit Cost</u>	<u>Estimated Frequency</u>	<u>Unit Total</u>	<u>Annual Total</u>	
Inside Cleaning	\$25.00	X 2 per year	\$50.00		
Outside Cleaning	\$50.00	X 3 per year	\$150.00		\$200.00
PD Superstition Substation					
2430 S. Ellsworth					
100127 (1 Floor)					
	<u>Unit Cost</u>	<u>Estimated Frequency</u>	<u>Unit Total</u>	<u>Annual Total</u>	
Inside Cleaning	\$75.00	X 4 per year	\$300.00		
Outside Cleaning	\$75.00	X 4 per year	\$300.00		
Power Washing	\$100.00	X 6 per occurrence	\$600.00		\$1,200.00
Plaza Building					
20 E. Main St					
100130 (8 Floors)					
	<u>Unit Cost</u>	<u>Estimated Frequency</u>	<u>Unit Total</u>	<u>Annual Total</u>	
Inside Cleaning (2 Flrs) (cleaning of pottery shelf and all the lobby glass on both floors)	\$200.00	X 4 per year	\$800.00		
Outside Cleaning (8 Flrs)	\$1,000.00	X 4 per year	\$4,000.00		
Power Washing	\$350.00	X 6 per occurrence	\$2,100.00		\$6,900.00
Public Training Facility					
3250 N. 40 th St					
100131 (5 Bldgs)					
	<u>Unit Cost</u>	<u>Estimated Frequency</u>	<u>Unit Total</u>	<u>Annual Total</u>	
Inside Cleaning (1 Floor)	\$150.00	X 4 per year	\$600.00		

Outside Cleaning	\$150.00	X 4 per year	\$600.00		\$1,200.00
Red Mountain Center					
7550 E. Adobe Rd					
(2 Floors)					
100102					
	<u>Unit Cost</u>	<u>Estimated Frequency</u>	<u>Unit Total</u>		<u>Annual Total</u>
Inside Cleaning	\$200.00	X 6 per year	\$1,200.00		
2nd Floor Gym Windows	\$200.00	X 2 per year	\$400.00		
Outside Cleaning	\$200.00	X 6 per year	\$1,200.00		
					\$2,800.00
Senior Center					
245 N. MacDonald					
100144					
	<u>Unit Cost</u>	<u>Estimated Frequency</u>	<u>Unit Total</u>		<u>Annual Total</u>
Inside Cleaning	\$50.00	X 3 per year	\$150.00		
Outside Cleaning	\$50.00	X 3 per year	\$150.00		
Power Washing	\$100.00	X 3 per occurrence	\$300.00		
					\$600.00
Senior Center Administration					
45 W. University Dr					
100145					
	<u>Unit Cost</u>	<u>Estimated Frequency</u>	<u>Unit Total</u>		<u>Annual Total</u>
Inside Cleaning	\$50.00	X 3 per year	\$150.00		
Outside Cleaning	\$50.00	X 3 per year	\$150.00		
					\$300.00
Solid Waste					
730 N. Mesa Dr					
100148					
	<u>Unit Cost</u>	<u>Estimated Frequency</u>	<u>Unit Total</u>		<u>Annual Total</u>
Inside Cleaning	\$25.00	X 3 per year	\$75.00		
Outside Cleaning	\$25.00	X 3 per year	\$75.00		
Power Wash (Entrances and SW Patio)	\$100.00	X 6 per occurrence	\$600.00		
					\$750.00
Solid Waste - Household Hazardous Material					
2412 N Center St					
100539					
	<u>Unit Cost</u>	<u>Estimated Frequency</u>	<u>Unit Total</u>		<u>Annual Total</u>
Inside Cleaning	\$100.00	X 4 per year	\$400.00		
Outside Cleaning	\$100.00	X 4 per year	\$400.00		

Power Wash	\$400.00	X 2 per year	\$800.00	
				\$1,600.00
South Center Campus				
200 S. Center St				
100150				
(3 Buildings)				
	Unit Cost	Estimated Frequency	Unit Total	Annual Total
Power Washing	\$400.00	X 4 per occurrence	\$1,600.00	
				\$1,600.00
Transportation				
300 E. 6 th St				
100155				
(2 Floors)				
	Unit Cost	Estimated Frequency	Unit Total	Annual Total
Inside Cleaning	\$75.00	X 3 per year	\$225.00	
Outside Cleaning	\$100.00	X 3 per year	\$300.00	
Power Washing - 1 south & 3 north (doorways)	\$150.00	X 2 per occurrence	\$300.00	
				\$825.00
Warehouse West/Printing/Mail				
316 E. 6 th St				
100158				
(1 Floor)				
	Unit Cost	Estimated Frequency	Unit Total	Annual Total
Inside Cleaning	\$15.00	X 2 per year	\$30.00	
Outside Cleaning	\$15.00	X 2 per year	\$30.00	
Power Wash - South walkway entrance	\$75.00	X 2 per year	\$150.00	
				\$210.00
Water Treatment Plant Brown Road				
7750 E. Brown Rd				
100161				
(1 Floor)				
	Unit Cost	Estimated Frequency	Unit Total	Annual Total
Inside Cleaning	\$75.00	X 2 per year	\$150.00	
Outside Cleaning	\$100.00	X 2 per year	\$200.00	
Power Washing (Patio around building plus ceiling)	\$400.00	X 2 per year	\$800.00	
				\$1,150.00
Water Reclamation Plant Greenfield - Admin Bldg				
4400 S Greenfield Rd				
100162				
	Unit Cost	Estimated Frequency	Unit Total	Annual Total
Inside Cleaning	\$75.00	X 2 per year	\$150.00	
Outside Cleaning	\$75.00	X 2 per year	\$150.00	

Power Wash Cleaning	\$150.00	X 2 per year	\$300.00	
				\$600.00
Water Reclamation Plant, NW				
960 N. Riverview				
(1 Floor)				
100163				
	Unit Cost	Estimated Frequency	Unit Total	Annual Total
Inside Cleaning	\$50.00	X 4 per year	\$200.00	
Outside Cleaning	\$50.00	X 4 per year	\$200.00	
Power Wash (Main Entrance, Breezeway Between Admin Bldgs)	\$150.00	X 2 per year	\$300.00	
				\$700.00
Water Treatment Plant, SE				
6312 E Baseline Rd				
100164				
	Unit Cost	Estimated Frequency	Unit Total	Annual Total
Inside Cleaning	\$50.00	X 2 per year	\$100.00	
Outside Cleaning	\$50.00	X 2 per year	\$100.00	
				\$200.00
Water Treatment Plant, Signal Butte				
10950 E. Elliot Rd.				
(1 Floor)				
100544				
	Unit Cost	Estimated Frequency	Unit Total	Annual Total
Inside Cleaning	\$200.00	X 4 per year	\$800.00	
Outside Cleaning	\$250.00	X 4 per year	\$1,000.00	
Power Wash (Main Entrance)	\$200.00	X 4 per year	\$800.00	
				\$2,600.00
GRAND TOTAL				\$99,560.00

Optional

Additional Work per hour \$ \$125.00

The City will add any applicable sales tax or use tax. Sales/Use taxes should not be included in the bid prices. Vendors who will be charging a Mesa Transaction Privilege Tax (TPT) will have a 2.00% removed from the taxable item(s) for the purpose of award evaluation (i.25).

DELIVERY: See Mesa Standard Terms and Conditions.

Vendor Name Impairal Window Cleaning Inc

Date: 1-28-2021

RFP # 2021117

EXHIBIT C
MESA STANDARD TERMS AND CONDITIONS

1. **INDEPENDENT CONTRACTOR.** It is expressly understood that the relationship of Contractor to the City will be that of an independent contractor. Contractor and all persons employed by Contractor, either directly or indirectly, are Contractor's employees, not City employees. Accordingly, Contractor and Contractor's employees are not entitled to any benefits provided to City employees including, but not limited to, health benefits, enrollment in a retirement system, paid time off or other rights afforded City employees. Contractor employees will not be regarded as City employees or agents for any purpose, including the payment of unemployment or workers' compensation. If any Contractor employees or subcontractors assert a claim for wages or other employment benefits against the City, Contractor will defend, indemnify and hold harmless the City from all such claims.
2. **SUBCONTRACTING.** Contractor may not subcontract work under this Agreement without the express written permission of the City. If Contractor has received authorization to subcontract work, it is agreed that all subcontractors performing work under the Agreement must comply with its provisions. Further, all agreements between Contractor and its subcontractors must provide that the terms and conditions of this Agreement be incorporated therein.
3. **ASSIGNMENT.** This Agreement may not be assigned, either in whole or in part, without first receiving the City's written consent. Any attempted assignment, either in whole or in part, without such consent will be null and void and in such event the City will have the right, at its option, to terminate the Agreement. No granting of consent to any assignment will relieve Contractor from any of its obligations and liabilities under the Agreement.
4. **SUCCESSORS AND ASSIGNS, BINDING EFFECT.** This Agreement will be binding upon and inure to the benefit of the parties and their respective permitted successors and assigns.
5. **NO THIRD-PARTY BENEFICIARIES.** This Agreement is intended for the exclusive benefit of the parties. Nothing set forth in this Agreement is intended to create, or will create, any benefits, rights, or responsibilities in any third parties.
6. **NON-EXCLUSIVITY.** The City, in its sole discretion, reserves the right to request the materials or services set forth herein from other sources when deemed necessary and appropriate. No exclusive rights are encompassed through this Agreement.
7. **AMENDMENTS.** There will be no oral changes to this Agreement. This Agreement can only be modified in a writing signed by both parties. No charge for extra work or material will be allowed unless approved in writing, in advance, by the City and Contractor.
8. **TIME OF THE ESSENCE.** Time is of the essence to the performance of the parties' obligations under this Agreement.
9. **COMPLIANCE WITH APPLICABLE LAWS.**
 - a. **General.** Contractor must procure all permits/licenses and pay all charges and fees necessary and incidental to the lawful conduct of business. Contractor must stay fully informed of existing and future federal, state, and local laws, ordinances, and regulations that in any manner affect the fulfillment of this Agreement and must comply with the same at its own expense. Contractor bears full responsibility for training, safety, and providing necessary equipment for all Contractor personnel to achieve compliance throughout the term of the Agreement. Upon request, Contractor will demonstrate to the City's satisfaction any programs, procedures, and other activities used to ensure compliance.
 - b. **Drug-Free Workplace.** Contractor is hereby advised that the City has adopted a policy establishing a drug-free workplace for itself and those doing business with the City to ensure the safety and health of all persons working on City contracts and projects. Contractor will require a drug-free workplace for all Contractor personnel working under this Agreement. Specifically, all Contractor personnel who are working under this Agreement must be notified

in writing by Contractor that they are prohibited from the manufacture, distribution, dispensation, possession, or unlawful use of a controlled substance in the workplace. Contractor agrees to prohibit the use of intoxicating substances by all Contractor personnel and will ensure that Contractor personnel do not use or possess illegal drugs while in the course of performing their duties.

- c. **Federal and State Immigration Laws.** Contractor agrees to comply with the Immigration Reform and Control Act of 1986 (IRCA) in performance under this Agreement and to permit the City and its agents to inspect applicable personnel records to verify such compliance as permitted by law. Contractor will ensure and keep appropriate records to demonstrate that all Contractor personnel have a legal right to live and work in the United States.
 - i. As applicable to Contractor, under the provisions of A.R.S. § 41-4401, Contractor hereby warrants to the City that Contractor and each of its subcontractors will comply with, and are contractually obligated to comply with, all federal immigration laws and regulations that relate to their employees and A.R.S. § 23-214(A) (hereinafter collectively the "Contractor Immigration Warranty").
 - ii. A breach of the Contractor Immigration Warranty will constitute a material breach of this Agreement and will subject Contractor to penalties up to and including termination of this Agreement at the sole discretion of the City.
 - iii. To ensure Contractor and its subcontractors are complying with the Contractor Immigration Warranty, the City retains the legal right to conduct random verification of the employment records of any Contractor or subcontractor employee who works on this Agreement, including the inspection of the papers of such employees. Contractor agrees to assist the City in regard to any random verification performed.
 - iv. Neither Contractor nor any subcontractor will be deemed to have materially breached the Contractor Immigration Warranty if Contractor or subcontractor establishes that it has complied with the employment verification provisions prescribed by Sections 274a and 274b of the Federal Immigration and Nationality Act and the E-Verify requirements prescribed by A.R.S. § 23-214(A).
- d. **Nondiscrimination.** Contractor understands and acknowledges that it is the policy of the City of Mesa to promote non-discrimination. As such, Contractor represents and warrants that it does not discriminate against any employee or applicant for employment or person to whom it provides services because of race, color, national origin, age, disability, religion, sex, sexual orientation, gender identity and expression, veterans' status, marital status, or genetic information, and represents and warrants that it complies with all applicable federal, state, and local laws and executive orders regarding employment. In performance under this Agreement, Contractor and Contractor's personnel will comply with applicable provisions of the following laws (as amended): Title VII of the U.S. Civil Rights Act of 1964, Section 504 of the Federal Rehabilitation Act, the Americans with Disabilities Act (42 U.S.C. § 12101 *et seq.*), and any other applicable non-discrimination laws and rules.
- e. **State Sponsors of Terrorism Prohibition.** Per A.R.S. § 35-392, Contractor must not be in violation of section 6(j) of the Federal Export Administration Act and subsequently prohibited by the State of Arizona from selling goods or services to the City.
- f. **Israel Boycott Divestments.** In accordance with the requirements of A.R.S. § 35-393.01, if the Agreement requires Contractor to acquire or dispose of services, supplies, information technology or construction with a value of \$100,000 or more, then, by entering into this Agreement, Contractor certifies that it is not currently engaged in, and agrees for the duration of the Agreement to not engage in, a boycott of goods and services from Israel.

10. **SALES/USE TAX, OTHER TAXES.**
- a. Contractor is responsible for the payment of all taxes including federal, state, and local taxes related to or arising out of Contractor's services under this Agreement including, by way of illustration but not limitation, federal and state income tax, Social Security tax, unemployment insurance taxes, and any other taxes or business license fees, as required. If any taxing authority should deem Contractor or Contractor employees an employee of the City, or should otherwise claim the City is liable for the payment of taxes that are Contractor's responsibility under this Agreement, then Contractor will indemnify the City for any tax liability, interest, and penalties imposed upon the City.
 - b. The City is exempt from paying certain federal excise taxes and will furnish an exemption certificate upon request. The City is not exempt from state and local sales/use taxes.
11. **AMOUNTS DUE THE CITY.** Contractor must be current and remain current in all obligations, whether or not related to the Agreement, due to the City during the performance of services under the Agreement. Payments to Contractor may be offset by any delinquent amounts due the City or fees and charges owed to the City.
12. **PUBLIC RECORDS.** Contractor acknowledges that the City is a public body, subject to Arizona's public records laws (A.R.S. § 39-121 *et seq.*) and any documents related to this Agreement may be subject to disclosure pursuant to state law in response to a public records request or to subpoena or other judicial process.
- a. If Contractor believes documents related to the Agreement contain trade secrets or other proprietary data, Contractor must have notified the City pursuant to Mesa Procurement Rules Section 2.1 or notified the City with a notification statement specifically identifying the trade secrets or other proprietary data that Contractor believes should remain confidential.
 - b. In the event the City determines it is legally required to disclose pursuant to law any documents or information Contractor deems confidential trade secrets or proprietary data, the City, to the extent possible, will provide Contractor with prompt written notice by certified mail, fax, email or other method that tracks delivery status of the requirement to disclose the information so Contractor may seek a protective order from a court having jurisdiction over the matter or obtain other appropriate remedies. The notice will include a time period for Contractor to seek court ordered protection or other legal remedies as deemed appropriate by Contractor. If Contractor does not obtain such court ordered protection by the expiration of said time period, the City may release the information without further notice to Contractor.
13. **AUDITS AND RECORDS.** Contractor must preserve the records related to this Agreement for six (6) years after completion of the Agreement. The City or its authorized agent reserves the right to inspect any records related to the performance of work specified herein. In addition, the City may inspect all payroll, billing or other relevant records kept by Contractor in relation to the Agreement. Contractor will permit such inspections and audits during normal business hours and upon reasonable notice by the City. The audit of records may occur at Contractor's place of business or at City offices, as determined by the City.
14. **BACKGROUND CHECK.** In accordance with the City's current background check policies, the City may conduct criminal, driver history, and all other requested background checks of Contractor personnel who would perform services under the Agreement who will have access to the City's information, data, or facilities. Any officer, employee, or agent that fails the background check must be replaced immediately for any reasonable cause not prohibited by law.
15. **SECURITY CLEARANCE AND REMOVAL OF CONTRACTOR PERSONNEL.** The City will have final authority, based on security reasons: (i) to determine when security clearance of Contractor personnel is required; (ii) to determine the nature of the security clearance, up to and including fingerprinting Contractor personnel; and (iii) to determine whether any individual or entity may provide services under this Agreement. If the City objects to any Contractor personnel for any

reasonable cause not prohibited by law, then Contractor will, upon notice from the City, remove any such individual from performance of services under this Agreement.

16. **DEFAULT.**

- a. A party will be in default of the Agreement if that party:
 - i. Is or becomes insolvent or is a party to any voluntary bankruptcy or receivership proceeding, makes an assignment for a creditor, or there is any similar action that affects Contractor's capability to perform under the Agreement;
 - ii. Is the subject of a petition for involuntary bankruptcy not removed within sixty (60) calendar days;
 - iii. Conducts business in an unethical manner as set forth in the City Procurement Rules Article 7 or in an illegal manner; or
 - iv. Fails to carry out any term, promise, or condition of the Agreement.
- b. Contractor will be in default of this Agreement if Contractor is debarred from participating in City procurements and solicitations in accordance with Article 6 of the City's Procurement Rules.
- c. **Notice and Opportunity to Cure.** In the event a party is in default then the other party will provide written notice to the defaulting party of the default. The defaulting party will have thirty (30) days from receipt of the notice to cure the default, unless the default is of a nature that it is reasonably anticipated to affect the health, safety or welfare of the public and, in such an event, the non-defaulting party may require a minimum seven (7) days to cure the default from the date of receipt of the notice; the cure period may be extended by mutual agreement of the parties, but no cure period may exceed ninety (90) days. A default notice will be deemed to be sufficient if it is reasonably calculated to provide notice of the nature and extent of such default. Failure of the non-defaulting party to provide notice of the default does not waive any rights under the Agreement. Failure of the defaulting party to cure the default will entitle the non-defaulting party to the election of remedies specific to the party as set forth in section 17 below.
- d. **Anticipatory Repudiation.** Whenever the City in good faith has reason to question Contractor's intent or ability to perform, the City may demand that Contractor give a written assurance of its intent and ability to perform. In the event demand is made and no written assurance is given within ten (10) calendar days, the City may treat this failure as an anticipatory repudiation of the Agreement entitling the City to terminate the Agreement in accordance with section 17(a) below.

17. **REMEDIES.** The remedies set forth in this Agreement are not exclusive. Election of one remedy will not preclude the use of other remedies. In the event of default:

- a. The non-defaulting party may terminate the Agreement, and the termination will be effective immediately or at such other date as specified by the terminating party.
- b. The City may purchase the services or materials required under the Agreement from the open market, complete required work itself, or have it completed at the expense of Contractor. If the cost of obtaining substitute services exceeds the contract price in the Agreement, the City may recover the excess cost by: (i) requiring immediate reimbursement by the Contractor to the City; (ii) deduction from an unpaid balance due to Contractor; (iii) collection against the proposal and performance security, if any; (iv) collection against liquidated damages (if applicable); or (v) a combination of the aforementioned remedies or other remedies as permitted by law. Costs in this Subsection (b) include any and all, fees, and expenses incurred in obtaining substitute services and expended in obtaining reimbursement including, but not limited to, administrative expenses, attorneys' fees, and costs.
- c. The non-defaulting party will have all other rights granted under this Agreement and all rights at law or in equity that may be available to it.

- d. Neither party will be liable for incidental, special, or consequential damages.
18. **CONTINUATION DURING DISPUTES.** Contractor agrees that during any dispute between the parties, Contractor will continue to perform its obligations until the dispute is settled, instructed to cease performance by the City, enjoined or prohibited by judicial action, or otherwise required or obligated to cease performance by other provisions in this Agreement.
19. **TERMINATION FOR CONVENIENCE.** The City reserves the right to terminate this Agreement, in part or in whole, for its sole convenience upon thirty (30) calendar days' written notice. Contractor acknowledges that, as with any termination permitted under this Agreement, in the event of a termination for convenience, Contractor is only entitled to payment in accordance with section 22 (Payment to Contractor Upon Termination); Contractor will not be entitled to any anticipated lost profits had the Agreement been performed to completion.
20. **TERMINATION FOR CONFLICT OF INTEREST (A.R.S. § 38-511).** Pursuant to A.R.S. § 38-511, the City may cancel this Agreement within three (3) years after its execution, without penalty or further obligation, if any person significantly involved in initiating, securing, drafting, or creating the Agreement for the City becomes an employee or agent of Contractor.
21. **TERMINATION FOR NON-APPROPRIATION AND MODIFICATION FOR BUDGETARY CONSTRAINT.** The City is a governmental agency which relies upon the appropriation of funds by its governing body to satisfy its obligations. If the City reasonably determines it does not have funds to meet its obligations under this Agreement, the City will have the right to terminate the Agreement without penalty on the last day of the fiscal period for which funds were legally available. In the event of such termination, the City agrees to provide written notice of its intent to terminate thirty (30) calendar days prior to the stated termination date.
22. **PAYMENT TO CONTRACTOR UPON TERMINATION.** Upon termination of this Agreement for any reason, Contractor will be entitled only to payments authorized under the Agreement for those services performed or materials provided in accordance with the Agreement up to the date of termination, and any authorized expenses already incurred up to such date of termination. The City will make final payment within thirty (30) calendar days after the City has both completed its appraisal of the materials and services provided and received Contractor's properly prepared final invoice.
23. **NON-WAIVER OF RIGHTS.** There will be no waiver of any provision of this Agreement unless approved in writing and signed by the waiving party. Failure or delay to exercise any rights or remedies provided herein or by law or in equity, or the acceptance of, or payment for, any services hereunder, will not release the other party of any of the warranties or other obligations of the Agreement and will not be deemed a waiver of any such rights or remedies.
24. **INDEMNIFICATION; LIABILITY.**
- a. To the fullest extent permitted by law, Contractor agrees to defend, indemnify and hold harmless the City, its elected officials, agents, representatives and employees (collectively, including the City, "City Personnel") from and against any and all liabilities, demands, claims, suits, penalties, obligations, losses, damages, causes of action, fines or judgments of any kind, including costs, attorneys', witnesses' and expert witnesses' fees, and expenses incident thereto (all of the foregoing, collectively "Claims") imposed upon or asserted against City Personnel by a third party relating to, arising out of or resulting from, in whole or in part: (i) services or materials provided under this Agreement by Contractor or its officers', agents', or employees' (collectively, including Contractor, "Contractor Personnel"); (ii) negligent acts, errors, mistakes or omissions of Contractor Personnel; or (iii) failure of Contractor Personnel to comply with or fulfill the obligations established by this Agreement. Contractor's indemnification, duty to defend and hold harmless City Personnel in this Subsection (a) will apply to all Claims against City Personnel except Claims arising solely from the negligence or intentional acts of City Personnel.
- b. The City assumes no liability for the actions of Contractor Personnel and will not indemnify or hold Contractor Personnel or any third party harmless for Claims relating to, arising out of or

resulting from, in whole or in part, this Agreement or use of Contractor Personnel-provided services or materials.

25. **WARRANTY.** Contractor warrants that the services and materials will conform to the requirements of the Agreement. Additionally, Contractor warrants that all services will be performed in a good, workman-like and professional manner. The City's acceptance of services or materials provided by Contractor will not relieve Contractor from its obligations under this warranty. If the City reasonably determines any materials or services are of a substandard or unsatisfactory manner, Contractor, at no additional charge to the City, will provide materials or redo such services until in accordance with this Agreement and to the City's reasonable satisfaction.

Unless otherwise agreed, Contractor warrants that materials will be new, unused, of most current manufacture and not discontinued, will be free of defects in materials and workmanship, will be provided in accordance with manufacturer's standard warranty for at least one (1) year unless otherwise specified, and will perform in accordance with manufacturer's published specifications.

26. **THE CITY'S RIGHT TO RECOVER AGAINST THIRD PARTIES.** Contractor will do nothing to prejudice the City's right to recover against third parties for any loss, destruction, or damage to City property and will, at the City's request and expense, furnish to the City reasonable assistance and cooperation in obtaining recovery, including assistance in the prosecution or defense of suit and the execution of instruments of assignment in favor of the City.
27. **NO GUARANTEE OF WORK.** Contractor acknowledges and agrees: (i) it is not entitled to deliver any specific amount of materials or services, or any materials or services at all, under this Agreement; and (ii) the materials or services will be requested by the City on an as needed basis, at the sole discretion of the City. Any document referencing quantities or performance frequencies represent the City's best estimate of current requirements, but will not bind the City to purchase, accept, or pay for materials or services which exceed its actual needs.
28. **OWNERSHIP.** All deliverables, services, and information provided by Contractor or the City pursuant to this Agreement (whether electronically or manually generated) including without limitation, reports, test plans, and survey results, graphics, and technical tables, originally prepared in the performance of this Agreement, are the property of the City and will not be used or released by Contractor or any other person except with prior written permission by the City.
29. **USE OF NAME.** Contractor will not use the name of the City of Mesa in any advertising or publicity without obtaining the prior written consent of the City.
30. **PROHIBITED ACTS.** Contractor acknowledges the applicability of A.R.S. § 38-504 which prohibits a person who, within the preceding twelve (12) months, is or was a public officer or employee of the City from representing another person (including Contractor) before the City on any matter for which the officer or employee was directly concerned and personally participated in during their service or employment by a substantial and material exercise of administrative discretion. Further, while employed by the City and for two (2) years thereafter, public officers or employees are prohibited from disclosing or using, without appropriate authorization, any confidential information acquired by such person in the course of his or her official duties at the City.
31. **FOB DESTINATION FREIGHT PREPAID AND ALLOWED.** All deliveries will be FOB destination freight prepaid and allowed unless otherwise agreed.
32. **RISK OF LOSS.** Contractor agrees to bear all risk of loss, injury, or destruction of Contractor's goods or equipment incidental to Contractor providing the services and materials under this Agreement and such loss, injury, or destruction will not release Contractor from any obligation hereunder.
33. **SAFEGUARDING CITY PROPERTY.** Contractor will be responsible for any damage or loss to City real or personal property when such property is the responsibility of or in the custody of **Contractor or its personnel.**

34. **WARRANTY OF RIGHTS.** Contractor warrants it has title to, or the right to allow the City to use, the materials and services being provided and that the City may use same without suit, trouble or hindrance from Contractor or third parties.
35. **PROPRIETARY RIGHTS INDEMNIFICATION.** Without limiting the warranty in section 34, Contractor will without limitation and at its expense defend the City against all claims asserted by any person that anything provided by Contractor infringes a patent, copyright, trade secret or other intellectual property right and must, without limitation, pay the costs, damages and attorneys' fees awarded against the City in any such action, or pay any settlement of such action or claim. Each party agrees to notify the other promptly of any matters to which this provision may apply and to cooperate with each other in connection with such defense or settlement. If a preliminary or final judgment is obtained against the City's use or operation of the items provided by Contractor hereunder or any part thereof by reason of any alleged infringement, Contractor will, at its expense and without limitation, either: (a) modify the item so that it becomes non-infringing; (b) procure for the City the right to continue to use the item; (c) substitute for the infringing item other item(s) having at least equivalent capability; or (d) refund to the City an amount equal to the price paid, less reasonable usage, from the time of installation acceptance through cessation of use, which amount will be calculated on a useful life not less than five (5) years, plus any additional costs the City may incur to acquire substitute supplies or services.
36. **CONTRACT ADMINISTRATION.** The contract will be administered by the applicable Purchasing Officer and/or an authorized representative from the using department (collectively "Contractor Administrators"); all questions regarding the Agreement will be referred to the Contract Administrators. If authorized by the Contract Administrators, supplements or amendments may be written to the Agreement for the addition or deletion of services. Payment will be negotiated and determined by the Contract Administrators.
37. **FORCE MAJEURE.** Failure by either party to perform its duties and obligations will be excused by unforeseeable circumstances beyond its reasonable control, including acts of nature, acts of the public enemy, riots, fire, explosion, legislation, and governmental regulation. The party whose performance is so affected will, within five (5) calendar days of the unforeseeable circumstance, notify the other party of all pertinent facts and identify the force majeure event. The party whose performance is so affected must also take all reasonable steps, promptly and diligently, to prevent such causes if it is feasible to do so or to minimize or eliminate the effect thereof. The delivery or performance date will be extended for a period equal to the time lost by reason of delay, plus such additional time as may be reasonably necessary to overcome the effect of the delay, provided however, under no circumstances will delays caused by a force majeure extend beyond one hundred-twenty (120) calendar days from the scheduled delivery or completion date of a task unless agreed upon by the parties.
38. **COOPERATIVE USE OF CONTRACT.** The City has entered into various cooperative purchasing agreements with other Arizona government agencies, including the Strategic Alliance for Volume Expenditures (SAVE) cooperative. Under the SAVE Cooperative Purchasing Agreement, any contract may be extended for use by other municipalities, school districts and government agencies in the State of Arizona with the approval of Contractor. Any such usage by other entities must be in accordance with the statutes, codes, ordinances, charter and/or procurement rules and regulations of the respective government agency.

The City currently holds or may enter into Intergovernmental Governmental Agreements (IGA) with numerous governmental entities. These agreements allow the entities, with the approval of Contractor, to purchase their requirements under the terms and conditions of this Agreement.

A contractor, subcontractor or vendor or any employee of a contractor, subcontractor or vendor who is contracted to provide services on a regular basis at an individual school shall obtain a valid fingerprint clearance card pursuant to title 41, chapter 12, article 3.1. A school district governing board shall adopt policies to exempt a person from the requirements of this subsection if the person's normal job duties are not likely to result in independent access to or unsupervised contact with pupils. A school district, its governing board members, its school council members and its employees are exempt from civil liability for the consequences of adoption and implementation of

policies and procedures pursuant to this subsection unless the school district, its governing board members, its school council members or its employees are guilty of gross negligence or intentional misconduct.

Additionally, Contractor will comply with the governing body's fingerprinting policy of each individual school district and public entity. Contractor, subcontractors, vendors and their employees will not provide services on school district properties until authorized by the school district.

Orders placed by other agencies and payment thereof will be the sole responsibility of that agency. The City is not responsible for any disputes arising out of transactions made by others.

39. **FUEL CHARGES AND PRICE INCREASES.** No fuel surcharges will be accepted. No price increases will be accepted without proper request by Contractor and response by the City's Purchasing Division.
40. **NOTICES.** All notices to be given pursuant to this Agreement must be delivered to the parties at their respective addresses. Notices may be sent via personally delivery, certified or registered mail with postage prepaid, overnight courier, or facsimile. If provided by personal delivery, receipt will be deemed effective upon delivery. If sent via certified or registered mail, receipt will be deemed effective three (3) calendar days after being deposited in the United States mail. If sent via overnight courier, or facsimile, receipt will be deemed effective two (2) calendar days after the sending thereof.
41. **GOVERNING LAW, FORUM.** This Agreement is governed by the laws of the State of Arizona. The exclusive forum selected for any proceeding or suit, in law or equity, arising from or incident to this Agreement will be Maricopa County, Arizona.
42. **INTEGRATION CLAUSE.** This Agreement, including all attachments and exhibits hereto, supersede all prior oral or written agreements, if any, between the parties and constitutes the entire agreement between the parties with respect to the work to be performed.
43. **PROVISIONS REQUIRED BY LAW.** Any provision required by law to be in this Agreement is a part of this Agreement as if fully stated herein.
44. **SEVERABILITY.** If any provision of this Agreement is declared void or unenforceable, such provision will be severed from this Agreement, which will otherwise remain in full force and effect. The parties will negotiate diligently in good faith for such amendment(s) of this Agreement as may be necessary to achieve the original intent of this Agreement, notwithstanding such invalidity or unenforceability.
45. **SURVIVING PROVISIONS.** Notwithstanding any completion, termination, or other expiration of this Agreement, all provisions which, by the terms of reasonable interpretation thereof, set forth rights and obligations that extend beyond completion, termination, or other expiration of this Agreement, will survive and remain in full force and effect. Except as specifically provided in this Agreement, completion, termination, or other expiration of this Agreement will not release any party from any liability or obligation arising prior to the date of termination.
46. **A.R.S. SECTIONS 1-501 and 1-502.** Pursuant to A.R.S §§ 1-501 and 1-502, any person who applies to the City for a local public benefit (the definition of which includes a grant, contract or loan) must demonstrate his or her lawful presence in the United States. As this Agreement is deemed a local public benefit, if Contractor is an individual (natural) person or sole proprietorship, Contractor agrees to sign and submit the necessary documentation to prove compliance with the statutes if applicable.
47. **AUTHORITY.** Each party hereby warrants and represents that it has full power and authority to enter into and perform this Agreement, and that the person signing on behalf of each is properly authorized and empowered to enter into the Agreement. Each party further acknowledges that it has read this Agreement, understands it, and agrees to be bound by it.
48. **UNIFORM ADMINISTRATIVE REQUIREMENTS.** By entering into this Agreement, the Contractor agrees to comply with all applicable provisions of Title 2, Subtitle A, Chapter II, PART 200—

UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS contained in Title 2 C.F.R. § 200 et seq.

49. **PCI DSS COMPLIANCE.** In the event any Contractor engages in payment card transactions as a part of the services provided to the City, Contractor shall comply with the Payment Card Industry Data Security Standards ("PCI DSS") and any amendments or restatements of the PCI DSS during the Term of this Agreement. Contractor accepts responsibility for the security of the City's and/or any customer's credit card data in its possession, even if all or a portion of the services to City are subcontracted to third parties.