

**ADDENDUM AGREEMENT BETWEEN ALACHUA COUNTY AND
SHI INTERNATIONAL CORP.
FOR INFORMATION TECHNOLOGY SOLUTIONS AND SERVICES NO. 14011**

This Agreement (referred as an “Addendum” or “Agreement”) is made by and between Alachua County, Florida, a political subdivision and charter county of the State of Florida, by and through its Board of County Commissioners (the “County”) and SHI International Corp., a Foreign for profit corporation authorized to do business in the State of Florida (“SHI”), who are collectively referred to as the “Parties”.

WITNESSETH:

WHEREAS, the County desires to contract with SHI to provide Information Technology Solutions and Services, as-needed and on-call for Alachua County; and

WHEREAS, SHI is party to a Cooperative Agreement through the Omnia Partners, Contract No. 2018011-02, as amended, which incorporated herein and attached hereto as **Exhibit A** (the “Omnia Agreement”); and

WHEREAS, pursuant to Section 22.3-302(13) of the Alachua County Procurement Code, the procurement of the goods and services need not be procured through a competitive procurement process when supplies or services are under contract through a cooperatives and the vendor extends the same terms and conditions of the contract to the County; and

WHEREAS, the SHI is willing and agrees to provide Information Solutions and Services to the County, and agrees to extend to the County the same pricing, terms and conditions of the Omnia Agreement; and

WHEREAS, the Parties agree to the terms and conditions of the Omnia Agreement, except as modified herein.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt of which is acknowledged, the Parties agree as follows:

1. Recitals. The recitals set forth above are correct and are incorporated into this Addendum Agreement.
2. Scope of Services. Pursuant to this Agreement, the SHI agrees to provide the County with necessary staff, services and associated for Information Technology Solutions and Services (the “Services”). These Services are thoroughly described in the Omnia Agreement, 2018011-02, a copy of which is attached hereto as Exhibit A, including as described in the Scope of Work in the exhibit to the Omnia Agreement.
3. Agreement. The Parties agree to be bound by the Terms and Conditions, the Pricing and the Contract Documents of the Omnia Agreement, attached hereto, except as modified in this Paragraph 5 of this Agreement below. In the event of conflict between the provisions in Paragraph 5 below and the terms and conditions of the Omnia Agreement, the provisions of this Addendum Agreement will prevail. Failure to physically attach in Exhibit A the Omnia Agreement or its exhibits, general terms, and appendixes, whether in part or in whole, shall not

invalidate this Addendum, but it shall be construed as if the particular document, provision or part was in fact attached.

4. Term. This Agreement is effective upon execution by both Parties (“effective date”) and continues through the term of the Omnia Agreement, as may be renewed. No amendment of this Agreement shall exceed the term of the Omnia Agreement and its renewal periods.
5. Addendum. The Parties agree to be bound by the terms and conditions of the Omnia Agreement, with respect to the County’s purchase of or request for Services or Work from the SHI during the term of this Addendum, except for as modified or added below:

- A. References. For the purposes of this Agreement, references in the Omnia Agreement to the “City of Mesa” any of its divisions, departments, agencies or employees will be read to reference to Alachua County, Florida (“County”). SHI agrees

- B. Paragraph 3 of the Omnia Agreement, *Orders*, is amended in its entirety to read as follows:

- 3.1 Orders must be placed with SHI by the County after which SHI shall provide a detailed written quote for the services and product required by the County.

- 3.3 The County may use the Internet to communicate with SHI and to place Orders as permitted under this Agreement.

- 3.4 Acceptance of the quote by the County shall be in the form of a Purchase Order issued by the County to SHI

- 3.5 No work shall be ordered by the County after the expiration or termination of the Omnia Agreement. Work ordered by the County, and commenced by SHI, prior to the expiration or termination of the Omnia Agreement may be completed in accordance with the Terms and Conditions of this agreement.

- C. Paragraph 5 of the Omnia Agreement, *Payment*, is amended to read as follows:

- 5.1 Subject to the provisions of the Agreement, the County shall pay SHI an annual amount not to exceed \$800,000.00 in accordance with the pricing contained in the Omnia Agreement in consideration of SHI's performance of the Scope of Work during the term of this Agreement.

- 5.2 As a condition precedent for any payment, SHI must submit invoices to the County requesting payment for Work properly rendered and expenses due during the preceding 30 days, unless otherwise agreed in writing by the County. SHI’s invoice must describe the Work rendered, the date performed [and time expended, if billed by hour], and the person(s) rendering such Work. SHI’s invoice shall be accompanied by documentation or data in support of expenses, as the County may require. The invoice shall additionally reflect the allocations as provided and shall state the percentage of completion as to each such allocation. Each invoice shall constitute the SHI’s representation to the County that the Work indicated have reached the level stated, have served a public purpose, have been

properly and timely performed, that the expenses included in the invoice have been reasonably incurred in accordance with this Agreement, that all obligations of SHI covered by prior invoices have been paid in full, and that the amount requested is currently due and owing. Submission of the SHI’s invoice for final payment shall further constitute the SHI’s representation to the County that, upon receipt by the SHI of the amount invoiced, all obligations of the SHI to others, including its subcontractors, will be paid in full. SHI shall submit invoices to the County at the address listed in the notice section below. The County shall not be obligated to make payment to the SHI for amounts that are the subject of a good faith dispute or a claim brought pursuant to §255.05, Florida Statutes.

5.3 The County’s performance and obligation to pay under this Agreement is contingent upon a specific annual appropriation by the Alachua County Board of County Commissioners (“Board”). The Parties hereto understand that this Agreement is not a commitment of future appropriations. Continuation of this Agreement beyond the term or the end of any County fiscal year shall be subject to both the appropriation and the availability of funds in accordance with Chapter 129, Florida Statutes; and that the failure of the Board to do so shall not constitute a breach or default of this Addendum.

G. Paragraph 7 of the Omnia Agreement, *Insurance*, is hereby replaced with the following for the purpose of this Addendum:

7. Insurance: Throughout the term of this Agreement, the SHI will procure and maintain insurance of the types and in the minimum amounts detailed in **Exhibit “B-1”** attached hereto and incorporated herein. A copy of a current Certificate of Insurance (COI) showing coverage of the type and in the amounts required is attached hereto as **Exhibit “B-2”**.

I. Paragraph 9 of the Omnia Agreement, *Notice*, is amended to read as follows:

9. Notices. Except as otherwise provided in this Agreement, any notice from either Party to the other Party must be in writing and delivered by hand delivery with receipt or sent by certified mail, return receipt requested, to the addresses below. All notices will be deemed delivered five (5) business days after mailing. Each Party may change its mailing address by giving the other Party, written notice of election to change the address.

To SHI:

SHI
PO BOX 952121
DALLAS , TX 753952121

To County:

Alachua County Information Technologies
26 NE 1st St.
Gainesville, FL 32601

cc: With a copy electronically sent to:
Alachua County Procurement, Attn:
Contracts
acpur@alachuacounty.us
Clerk of Court, Attn Finance &
Accounting
dmw@alachuaclerk.org

J. Exhibit C referenced in Paragraph 13 of the Omnia Agreement, *Mesa Standard Terms and Conditions*, is replaced in its entirety and replaced by Alachua County Standard Terms and Conditions attached to this Addendum as **Exhibit "C"**.

6. Termination. Either the County or SHI may terminate the Agreement with or without cause by providing written notice of termination to the other Party. The County Manager and his/her designee is authorized to provide notice of termination on behalf of the County. Notice may be electronically given. Upon notice of termination by the County, SHI will immediately discontinue all Services for the County currently or to be provided to the County, unless the notice from the County directs otherwise. The effective date of termination of this Addendum Agreement will be the date specified in the notice of termination or, if no date is specified in the notice, then the effective date of termination will be the date of the notice of termination. Upon termination of this Agreement, the County may obtain the Services from any other sources, firms, and individuals, and may use any method deemed in the County's best interest.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed on the respective dates under each signature: Alachua County, Florida, through its Chair of the Board of County Commissioners who is authorized to sign, and by SHI, through its duly authorized representative.

SHI INTERNATIONAL CORP.

By: ^{DocuSigned by:} Kristina Mann
EA418E789F09404...
Print: Kristina Mann
Title: Sr. Manager - Contracts
Date: 4/30/2024

IF THE SHI IS NOT A NATURAL PERSON, PLEASE PROVIDE A CERTIFICATE OF INCUMBENCY AND AUTHORITY, OR A CORPORATE RESOLUTION, LISTING THOSE AUTHORIZED TO EXECUTE CONTRACTS ON BEHALF OF YOUR ORGANIZATION. IF ARE A NATURAL PERSON, THEN YOUR SIGNATURE MUST BE NOTARIZED.

ALACHUA COUNTY, FLORIDA

By: _____
Mary C. Alford, Chair
Board of County Commissioners
Date: _____

ATTEST

Approved as to form:

J.K. "Jess" Irby, Esq., Clerk
(SEAL)

Alachua County Attorney's Office

Exhibit A – Omnia Agreement, Contract No. 2018011-02



Information Technology Solutions & Services
Executive Summary

Lead Agency: City of Mesa, AZ

Solicitation: # 2018011

RFP Issued: September 20, 2017

Pre-Proposal Date: October 3, 2017

Response Due Date: October 23, 2017

Proposals Received: 11



Awarded to:

The City of Mesa, AZ Department of Procurement issued RFP # 201811 on September 20, 2017, to establish a national cooperative contract for information technology solutions and services.

The solicitation included cooperative purchasing language in the SCOPE of WORK, # 2 "NATIONAL CONTRACT REQUIREMENTS:

NATIONAL CONTRACT REQUIREMENTS. The City, as the Principal Procurement Agency, as defined in Attachment D, has partnered with the National Intergovernmental Purchasing Alliance Company ("National IPA") to make the resultant contract (also known as the "Master Agreement" in materials distributed by National IPA) from this solicitation available to other public agencies nationally, including state and local governmental entities, public and private primary, secondary and higher education entities, non-profit entities, and agencies for the public benefit ("Public Agencies"), through National IPA's cooperative purchasing program. The City of Mesa is acting as the contracting agency for any other Public Agency that elects to utilize the resulting Master Agreement. Use of the Master Agreement by any Public Agency is preceded by their registration with National IPA as a Participating Public Agency in National IPA's cooperative purchasing program. Attachment D contains additional information on National IPA and the cooperative purchasing agreement.

Notice of the solicitation was sent to potential offerors, as well as advertised in the following:

- City of Mesa website
- National IPA website
- USA Today, nationwide
- Arizona Business Gazette, AZ
- San Bernardino Sun, CA
- Honolulu Star-Advertiser, HI
- The Advocate – New Orleans, LA
- New Jersey Herald, NJ
- Las Vegas Journal Review, LV
- Times Union, NY
- Daily Journal of Commerce, OR
- The State, SC
- Deseret News, UT
- Richmond Times, VA
- Seattle Daily Journal of Commerce, WA
- Helena Independent Record, MT

On September 20, 2017 proposals were received from the following offerors:

- CDW-G
- Cloudvara
- Connection Public Sector Solutions
- Hye Tech Networks
- Hypertech Direct
- Office Depot
- PCMG
- POP, Inc.
- SHI International
- World Wide Technology, Inc.
- Zones

The proposals were evaluated by an evaluation committee. Using the evaluation criteria established in the RFP, the committee elected to enter into negotiations with SHI International and proceeding with contract award upon successful completion of negotiations.

The City of Mesa, AZ, National IPA and SHI International Corp. successfully negotiated a contract and the City of Mesa executed the agreement with a contract effective date of March 1, 2018.

Contract includes:

A wide variety of technology solutions broken down by category including but not limited to systems, input/output devices, memory, storage devices, network equipment, software, media supplies, collaboration & IP telephony, and other related products & services.

SHI is a 100% minority owned company and a Corporate Plus member of the National Minority Supplier Development Council (NMSDC). Certified by the New York & New Jersey Minority Supplier Development Council (NY/NJ MSDC) and recognized by the 22 other regional affiliates of the NMSDC.

Term:

Initial five- year agreement from March 1, 2018 through February 28, 2023 with the option to renew for two (2) additional one-year periods through February 28, 2025

Pricing/Discount:

SHI offers a discount percentage based on SHI Advertised Price list by category. Refer to pricing document for complete details. In many cases, SHI Advertised List Price already reflects a substantial discount off Manufacturer Published List prices. Given the breadth of manufacturers and products that SHI offers, there will be many opportunities for SHI to secure additional discounts for eligible contract users.

National IPA Web Landing Pages:

www.nationalipa.org/Vendors/Pages/SHI.aspx

City of Mesa, AZ

Contract # 2018011-02

for

Information Technology Solutions and Services

with

SHI International Corp.

Effective: March 1, 2018

The following documents comprise the executed contract between the City of Meza, AZ and SHI International Corp, effective March 1, 2018:

- I. Executed Contract
- II. Mayor and Council Approval
- III. Supplier Response
- IV. Original RFP



**AGREEMENT PURSUANT TO SOLICITATION
CITY OF MESA AGREEMENT NUMBER 2018011
INFORMATION TECHNOLOGY SOLUTIONS & 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 400 Mesa, AZ 85201
Attention	Sharon Brause, CPPO, CPPB, CPCP Senior Procurement Officer
E-Mail	Sharon.Brause@MesaAZ.gov
Phone	(480) 644-2815
Fax	(480) 644-2655

AND

SHI INTERNATIONAL CORP., (“Contractor”)

Mailing Address	290 Davidson Ave Somerset, NJ 08873
Remit Address	PO Box 952121 Dallas, TX 75395-2121
Attention	Meghan Flisakowski, Public Program Manager
E-Mail	Meghan.Flisakowski@shi.com
Phone	512-517-4088
Fax	732-652-6599
Website	www.publicsector.shidirect.com/

CITY OF MESA AGREEMENT PURSUANT TO SOLICITATION

This Agreement pursuant to solicitation ("Agreement") is entered into this 27th day of February, 2018, by and between the City of Mesa, Arizona, an Arizona municipal corporation ("City"), and SHI INTERNATIONAL CORP, a New Jersey 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 2018011 ("Solicitation") for **INFORMATION TECHNOLOGY SOLUTIONS & 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/Products described in the Solicitation and Response.
- C. "Services" means the resale services provided by Contractor under this Agreement; i.e. sourcing and fulfilling the Product and/or providing deliverables identified in an Order.
- D. "Products" means collectively third-party software, computer peripherals, computer hardware, and associated IT services provided by third parties or Contractor, as the case may be.
- E. "Order" means the form of purchase order or other document used for the purpose of ordering Product and/or deliverables pursuant to this Agreement. Order shall also include a phone order or on-line order placed by the City employee to Contractor utilizing the City's corporate procurement card or the City's written or electronic form of purchase requisition.

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 **March 1, 2018** and ending on **February 28, 2023**. 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), one (1) year** periods. 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 Contractor to provide the Services/Products 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.
 - 1.3 **Delivery**. Delivery shall be made to the location(s) contained in the Scope of Work within thirty (30) days after receipt of an Order. Contractor agrees to deliver all Products to the desktop of the ordering customer be delivered F.O.B. destination, freight pre-paid and allowed to various locations throughout the City. The City of Mesa shall be responsible for extra incurred fees for expedited shipping or other special delivery requirements. In

many cases within the City, the Contractor may be asked to deliver all goods to the front counter within a given department; this is a City requirement and other participating agencies who utilize this Agreement as a cooperative contract (see Exhibit C, Mesa Standard Terms & Conditions) may have other delivery requirements.

2. **Scope of Work.** The Contractor will provide the necessary staff, Services and associated resources to provide the City with the Services, Products, 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 must 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 a Master Agreement for a requirements 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. The terms and conditions on any order form, quote, or similar document provided by Contractor to the City will not take precedence over the language set forth in this Agreement or any of the documents outlined in Section 4 below.
4. **Document Order of Precedence.** In the event of any inconsistency between the terms of the body of the Agreement, Exhibits, Solicitation, and Response, the language of the documents will control in the following order.
 - a. Amendments to the Agreement
 - b. Agreement
 - c. Exhibits
 1. Mesa Standard Terms & Conditions (Exhibit C)
 2. Pricing (Exhibit B)
 3. Scope of Work (Exhibit A)
 4. Other Exhibits not listed above
 - d. Solicitation including any addenda
 - e. Contractor's Response
5. **Payment.** 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.
6. **Pricing.** Contractor's pricing shall be in the format of a minimum percentage discount off a verifiable price index. Contractor may submit discounts for various manufacturers. At the time of purchase, Contractor may offer deeper discounts beyond the discounted price list, based on volume or other factors, as applicable. Minimum discounts will remain firm during the entirety of the Term of the Agreement, unless the Contractor requests to increase its discount percentage, and will include all charges that may be incurred in fulfilling requirement(s). In addition to decreasing prices for the balance of the Term due to a change in market conditions, a Contractor may conduct sales promotions involving price reductions for a specified lesser period. In the event a Product is discontinued, Contractor will provide a Product of the same or greater functionality, utilizing the discount structure.

It is the Contractor's responsibility to provide the City with an up-to-date price list for the duration of the Agreement.

- 6.1 **Prices.** All pricing discounts shall be firm for the Term and all extensions or renewals of the Term except where otherwise provided in this Agreement, and will include all costs of the Contractor providing the Products/Service including transportation and insurance 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 Products 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.

- 6.2 **Price Adjustment.** Any requests for reasonable price adjustments must be submitted in accordance with this section. Requests for adjustment in cost of labor and/or Products 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/Products 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 expiration date of the then-current term 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.

- 6.3 **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. 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 Subsection 6.2. There is no guarantee the City will accept a price adjustment.

- 6.4 **Invoices.** Payment will be made to Contractor following the City's receipt of a properly completed invoice. Any issues regarding billing or invoicing must be directed to the City Department/Division requesting the Service or Product 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 of Product;
- g. Description of Products or Services provided;
- h. If Products provided, the quantity delivered and pricing of each unit;

- i. Applicable taxes; and
- j. Total amount due.

6.5 **Payment of Funds.** Contractor acknowledges the City may, at its option and where available use a Procurement Card/e-Payables to make payment for orders under the Agreement; otherwise, payment will be through a traditional method of a check or Electronic Funds Transfer (EFT) as available.

6.6 **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 Products/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.

7. **Insurance.**

7.1 Contractor must obtain and maintain at its expense throughout the Term of the Agreement, at a minimum, the types and amounts of insurance set forth in this Section 7 from insurance companies authorized to do business in the State of Arizona; the insurance must cover the Products/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.

Nothing in this Section 7 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.

7.2 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.

7.3 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.

7.4 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.

7.5 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.

7.6 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 where permitted by law.

- 7.7 All insurance certificates and applicable endorsements are subject to review and approval by the City's Risk Management Division.
- 7.8 **Types and Amounts of Insurance.** Contractor must obtain and retain throughout the term of the Agreement, at a minimum, the following:
 - 7.8.1 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.
 - 7.8.2 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 Commercial 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.
 - 7.8.3 Automobile liability, bodily injury and property damage with a limit of \$1 million per occurrence including owned, hired and non-owned autos.
- 8. **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. If the City cancels a purchase order following shipment of the Products but prior to delivery, the City shall pay all freight and handling charges for shipment and return shipment of such Products to Contractor. All returns shall be made in accordance with Contractor's Return Policy found at www.shi.com/returnpolicy and this Agreement, with the terms of this Agreement controlling. 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. The City reserves the right to purchase contracted items through other sources if determined in the best interests of the City to do so.
- 9. **Notices.** All notices to be given pursuant to the Agreement will be delivered to the Contractor at the address listed on Page 1 of this Agreement. Notice will be delivered pursuant to the requirements set forth the Mesa Standard Terms and Conditions that are attached to the Agreement as **Exhibit C**.
- 10. **WARRANTY.** Contractor warrants that the Services and Products 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 Products provided by Contractor will not relieve Contractor from its obligations under this warranty. If any Products or Services are of a substandard or unsatisfactory manner as determined by the City, Contractor, at no additional charge to the City, will provide Products or redo such Services until in accordance with this Agreement and to the City's reasonable satisfaction.
- 11. **OEM PRODUCT WARRANTY.** Contractor is a value-added reseller ("**VAR**") of Products, not the Original Equipment Manufacturer ("**OEM**") or licensor, and, except as provided herein, Contractor disclaims any warranty responsibility regarding warranties provided by the OEM for the Products provided under this Agreement ("**OEM Product Warranty**"). Contractor shall forward the OEM Product Warranties to the City which are provided to Contractor from the OEM of the Product and, to the extent granted by the OEM, the City shall be the beneficiary of the OEM's Product Warranties

with respect to the Product. Contractor is not a party to any such terms of the OEM Product Warranty between the City and OEM and the City agrees to look to the OEM for satisfaction of any and all OEM Product Warranty claims related to that OEM's Product.

EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, CONTRACTOR HEREBY DISCLAIMS ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WARRANTY OF NONINFRINGEMENT, OR ANY WARRANTY RELATING TO THIRD PARTY SERVICES OR PRODUCTS. THE DISCLAIMER CONTAINED IN THIS PARAGRAPH DOES NOT AFFECT THE TERMS OF ANY OEM PRODUCT WARRANTY.

12. **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.
13. **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.
14. **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.
15. **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 / Technical Specifications
 - (B) Pricing
 - (C) Mesa Standard Terms and Conditions
16. **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.
17. **Title, Risk of Loss, Returns.** Contractor shall transfer to the City good and merchantable title to the Product, free from all liens, encumbrances and claims of others, upon delivery of the Product to and its receipt by the City, at which time title and risk of loss shall vest fully in the City, unless

notice of rejection is provided to Contractor's authorized representative within three (3) business days after such delivery. All returns of Product shall be made in accordance with this Agreement and Contractor's Return Policy found at www.shi.com/returnpolicy, with the terms of the Agreement controlling.

- 18. **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.
- 19. **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

SHI INTERNATIONAL CORP.

By: 

By: 

Edward Quedens
Printed Name

Cassie Skelton
Printed Name

Business Services Director
Title

Contracts Manager
Title

2-27-18
Date

2/27/18
Date

REVIEWED BY:
By: 

EXHIBIT A
SCOPE OF WORK

1. **MINIMUM REQUIREMENTS.** Contractor must meet the following minimum qualifications:
 - a. A full range of information technology solution Products and Services to meet varying requirements of governmental agencies.
 - b. Have a strong national presence as a computer solutions provider.
 - c. Have a distribution model capable of delivering Products, free of charge, in a timely manner on a nationwide basis.
 - d. Have a demonstrated sales presence.
 - e. Ability to provide a toll-free telephone and state of the art electronic facsimile and internet ordering and billing capabilities.
 - f. Be able to meet the minimum requirements of the cooperative purchasing program detailed herein.

2. **ORDERING.** Although the City is open to alternate ordering methods, the primary methods for customers placing orders with the Contractor is through the following:
 - a. Online
 - b. Telephone
 - c. Fax
 - d. Email

3. **SCOPE OF PRODUCTS.** Contractor will provide the ability to purchase a comprehensive, wide variety of Information Technology Solution Products including but not limited to the following categories:
 - a. **Personal Computer Systems:** National brand name desktop PCs, notebooks and laptops from Enterprise Tier and Middle Tier Contractors that are business related computers, manufactured by companies, such as, Apple, COMPAQ, Dell, Gateway, Hewlett Packard, IBM / Lenovo and Toshiba.
 - b. **Standard Business Workstation:** These will be used for typical tasks, which will include word processing, spreadsheet analysis, database management, business graphics, statistical analysis, internet, and other office automation activities. Product will include the operating system license, software media and documentation in the hardware shipment.
 - c. **High End Workstation:** These will be used by application developers using GIS, CASE or other high-level language development tools, Computer Aided Design and Drafting professional, Internet Application developers or other sophisticated application work. Product will include the operating system license, software media and documentation in the hardware shipment.
 - d. **Laptop Computer or Notebook:** These will be used by traveling or remote access users for typical office automation and business productivity use. With a port replicator or docking station, it may also be used as a standard desktop. Product will include the operating system license, software media and documentation in the hardware shipment.
 - e. **Network Equipment:** This includes equipment primarily used for communications over an IP network. This includes layer 2 and layer 3 switches, routers, area wireless access points, point-to-point wireless access, optics, media interfaces (i.e. serial, T1, T3, OC3) and fiber channel. Class of equipment should include home office, small and medium business, and enterprise. Contractors may include, but not limited to, Cisco Systems, Dell,

Juniper Networks, HP, Extreme Networks, Enterasys Networks, D-Link, Netgear, and Brocade Communications Systems.

- f. **Monitors:** These will include plug and play compatible monitors that are manufactured for the above systems and/or any other brand that may be specifically called for by the ordering entity and which meet the most current UL and OSHA requirements.
- g. **Computer and Network Products and Peripherals:** Complete availability of major manufacturers Product lines on items such as, but not limited to RAM, graphic accelerator cards, network interface cards, cables, printers, scanners, keyboards, drives, memory cards, cables, batteries, etc.
- h. **Services:** Services such as cloud computing, consulting, technical support, leasing/financing, trade-ins, repair, design, analysis, configuration, implementation, installation, training, and maintenance, etc. In addition, Services which are related to the design, use or operation of the Products being purchased such as system configurations, testing, hardware/software installation, upgrades, imaging, etc.

Note: All hardware must come fully assembled. For example, if extra memory, additional drives or peripherals are ordered, the Contractor must install them unless the Participating Agency request they not be installed. Contractor shall provide these assembly and installation services as stated in the applicable Order; any additional terms and costs that may apply will be identified in the quote.

In cases of custom configuration (e.g.: imaging, etching, kitting, build to order machines, rack and stack servers) and large roll outs, there may be an additional cost associated with assembly. Any additional costs will be noted at the time of quoting.

Installation/deployment projects typically are governed by a scope of work specific to the project which may require an additional cost. If installation is requested the Contractor will review options and provide the scope of work as well as any associated costs at the time of quoting.

- i. **Comprehensive Product Offering:** Contractor's complete catalog and Services set forth in Exhibit B shall be available. The City reserves the right to accept or reject any or all items offered.
- j. **Financing:** Options available such as lease programs and conditional sales contracts.

- 4. **LICENSES.** Participating Agencies may be required to sign a separate agreement, rider or End User Licensing Agreement ("EULA") as required by manufacturers.
- 5. **DEFECTIVE PRODUCT.** All defective Products shall be replaced and exchanged by the Contractor at no cost to the City in accordance with this Agreement and Contractor's Return Policy found at www.shi.com/returnpolicy, with the terms of this Agreement controlling. Contractor will order a replacement unit within one (1) business day of notice of damage, defect or DOA from the City. The cost of transportation, unpacking, inspection, re-packing, re-shipping or other like expenses shall be paid by the Contractor. All replacement Products must be received by the City within seven (7) days of initial notification.

National Pricing Discount

RFP #2018011

For each item listed on the National Pricing Tab, Offerors are encouraged to provide a discount off of a verifiable price list by all manufacturers proposed. For example, Group 2, item 5 is Keyboards. Offeror[s] may wish to propose more than one manufacturer of keyboards, such as Logitech, Fellowes, Kensington, TrippLite, etc. Offeror[s] should provide a separate discount for each manufacturer being proposed. Offeror[s] should add additional columns to the pricing page[s] in order to accommodate additional manufacturers' discounts. In addition to indicating your proposed discounts, you must also apply those discounts to the sample items in the City of Mesa Market Basket tab (below).

- A. Propose a national discount off list price pricing structure. These are the minimum discounts Supplier will offer to Participating Agencies.
- B. Describe the catalog or index that discounts will be taken.
- C. Describe any special manufacturer pricing available to Participating Agencies.
- D. Describe any special large order or large customer pricing or additional discounts available to Participating Agencies.
- E. Describe any products offered by supplier that are not captured in the pricing matrix below. Describe how Supplier proposes to price those items.

Item #	Product	Product / Group	Proposed Discount	Manufacturer Name	If applicable, you may add additional manufacturers/discounts			
					Proposed Discount	Manufacturer Name		
1)	Group 1 - Systems	1) Desktops	4.5%	SHI's Full Catalog of Systems	%			
		2) Notebooks	4.5%	SHI's Full Catalog of Systems	%			
		3) Tablets	4.5%	SHI's Full Catalog of Systems	%			
		4) Servers (1 Processor, 2 Processor, 4+ Processor, Blade, Tower, Unix, Handhelds, etc)	4.5%	SHI's Full Catalog of Systems	%			
2)	Group 2 - Input Devices	5) Keyboards	5.0%	SHI's Full Catalog of Input Devices	%			
		6) Mice	5.0%	SHI's Full Catalog of Input Devices	%			
		7) Imaging Scanners	4.0%	SHI's Full Catalog of Input Devices	%			
		8) POS Scanners	4.0%	SHI's Full Catalog of Input Devices	%			
		9) Pointing Devices	4.0%	SHI's Full Catalog of Input Devices	%			
		10) Bar Code Readers	4.0%	SHI's Full Catalog of Input Devices	%			
		11) Audio Input	4.0%	SHI's Full Catalog of Input Devices	%			
		12) Input Adapters	4.0%	SHI's Full Catalog of Input Devices	%			
		13) PC and Network Cameras	4.0%	SHI's Full Catalog of Input Devices	%			
		14) Input Cables	4.0%	SHI's Full Catalog of Input Devices	%			
		15) Input Accessories	4.0%	SHI's Full Catalog of Input Devices	%			
		3)	Group 3 - Output Devices	16) Displays	4.5%	SHI's Full Catalog of Output Devices	%	
				17) Printers	4.5%	SHI's Full Catalog of Output Devices	%	
				18) Inkjet Printers	4.5%	SHI's Full Catalog of Output Devices	%	
				19) Inkjet Photo Printers	4.5%	SHI's Full Catalog of Output Devices	%	
20) Laser Printers	4.5%			SHI's Full Catalog of Output Devices	%			
21) Label Printers	4.5%			SHI's Full Catalog of Output Devices	%			
22) Dot Matrix Printers	4.5%			SHI's Full Catalog of Output Devices	%			
23) Multi-Function Printers	4.5%			SHI's Full Catalog of Output Devices	%			
24) Wide Format Printers	4.5%			SHI's Full Catalog of Output Devices	%			
25) Multi-Function Inkjet Printers	4.5%			SHI's Full Catalog of Output Devices	%			
26) Wide Format Printers	4.5%			SHI's Full Catalog of Output Devices	%			
27) Fax Machine Printers	4.5%			SHI's Full Catalog of Output Devices	%			
28) Printer Accessories	4.5%			SHI's Full Catalog of Output Devices	%			
29) Projectors	4.5%			SHI's Full Catalog of Output Devices	%			
30) Projector Accessories	4.5%			SHI's Full Catalog of Output Devices	%			
31) Audio Input	4.5%			SHI's Full Catalog of Output Devices	%			
32) Video Cards	4.5%			SHI's Full Catalog of Output Devices	%			
33) Sound Cards	4.5%			SHI's Full Catalog of Output Devices	%			
34) Output Accessories	4.5%			SHI's Full Catalog of Output Devices	%			
35) Printer Consumables	4.5%			SHI's Full Catalog of Output Devices	%			
4)	Group 4 - Memory			36) Desktop	4.5%	SHI's Full Catalog of Memory	%	
				37) Flash	4.5%	SHI's Full Catalog of Memory	%	
				38) Networking	4.5%	SHI's Full Catalog of Memory	%	
				39) Notebook	4.5%	SHI's Full Catalog of Memory	%	
				40) Printer / Fax	4.5%	SHI's Full Catalog of Memory	%	
				41) Server	4.5%	SHI's Full Catalog of Memory	%	
				42) Adapters Fibre Channel	4.0%	SHI's Full Catalog of Storage Devices	%	
				43) Adapters FireWire / USB	4.0%	SHI's Full Catalog of Storage Devices	%	
		44) Adapters IDE/ATA/SATA	4.0%	SHI's Full Catalog of Storage Devices	%			
		45) Adapters RAID	4.0%	SHI's Full Catalog of Storage Devices	%			
		46) Adapters SCSI	4.0%	SHI's Full Catalog of Storage Devices	%			
		47) Bridges & Routers	4.0%	SHI's Full Catalog of Storage Devices	%			
		48) Disk Arrays	4.0%	SHI's Full Catalog of Storage Devices	%			
		49) Disk Arrays JBOD	4.0%	SHI's Full Catalog of Storage Devices	%			

Item #	Product	Product / Group	Proposed Discount	Manufacturer Name	If applicable, you may add additional manufacturer discounts			
					Proposed Discount	Manufacturer Name		
5)	Group 5 - Storage Devices	50) Drives Magneto-Optical	4.0%	SHI's Full Catalog of Storage Devices	4.0%	SHI's Full Catalog of Storage Devices		
		51) Drives Removable Disks	4.0%	SHI's Full Catalog of Storage Devices	4.0%	SHI's Full Catalog of Storage Devices		
		52) Fiber Channel Switches	4.0%	SHI's Full Catalog of Storage Devices	4.0%	SHI's Full Catalog of Storage Devices		
		53) Hard Disks - External	4.0%	SHI's Full Catalog of Storage Devices	4.0%	SHI's Full Catalog of Storage Devices		
		54) Hard Disks - Fibre Channel	4.0%	SHI's Full Catalog of Storage Devices	4.0%	SHI's Full Catalog of Storage Devices		
		55) Hard Disks - IDE/ATA/S	4.0%	SHI's Full Catalog of Storage Devices	4.0%	SHI's Full Catalog of Storage Devices		
		56) Hard Disks - Notebook	4.0%	SHI's Full Catalog of Storage Devices	4.0%	SHI's Full Catalog of Storage Devices		
		57) Hard Disks - SCSI	4.0%	SHI's Full Catalog of Storage Devices	4.0%	SHI's Full Catalog of Storage Devices		
		58) Networking Accessories	4.0%	SHI's Full Catalog of Storage Devices	4.0%	SHI's Full Catalog of Storage Devices		
		59) Optical Drives - CD-ROM	4.0%	SHI's Full Catalog of Storage Devices	4.0%	SHI's Full Catalog of Storage Devices		
		60) Optical Drives - CD-RW	4.0%	SHI's Full Catalog of Storage Devices	4.0%	SHI's Full Catalog of Storage Devices		
		61) Optical Drives - DVD-CD	4.0%	SHI's Full Catalog of Storage Devices	4.0%	SHI's Full Catalog of Storage Devices		
		62) Optical Drives - DVD-RW	4.0%	SHI's Full Catalog of Storage Devices	4.0%	SHI's Full Catalog of Storage Devices		
		63) Storage Accessories	4.0%	SHI's Full Catalog of Storage Devices	4.0%	SHI's Full Catalog of Storage Devices		
		64) Storage - NAS	4.0%	SHI's Full Catalog of Storage Devices	4.0%	SHI's Full Catalog of Storage Devices		
		65) Storage - SAN	4.0%	SHI's Full Catalog of Storage Devices	4.0%	SHI's Full Catalog of Storage Devices		
		66) Tape Autoloaders -AIT	4.0%	SHI's Full Catalog of Storage Devices	4.0%	SHI's Full Catalog of Storage Devices		
		67) Tape Autoloaders - DAT	4.0%	SHI's Full Catalog of Storage Devices	4.0%	SHI's Full Catalog of Storage Devices		
		68) Tape Autoloaders - DLT	4.0%	SHI's Full Catalog of Storage Devices	4.0%	SHI's Full Catalog of Storage Devices		
		69) Tape Autoloaders - LTO	4.0%	SHI's Full Catalog of Storage Devices	4.0%	SHI's Full Catalog of Storage Devices		
		70) Tape Drives - 4mm	4.0%	SHI's Full Catalog of Storage Devices	4.0%	SHI's Full Catalog of Storage Devices		
		71) Tape Drives - 8mm/VXA	4.0%	SHI's Full Catalog of Storage Devices	4.0%	SHI's Full Catalog of Storage Devices		
		72) Tape Drives - AIT	4.0%	SHI's Full Catalog of Storage Devices	4.0%	SHI's Full Catalog of Storage Devices		
		73) Tape Drives - DAT	4.0%	SHI's Full Catalog of Storage Devices	4.0%	SHI's Full Catalog of Storage Devices		
		74) Tape Drives - DLT	4.0%	SHI's Full Catalog of Storage Devices	4.0%	SHI's Full Catalog of Storage Devices		
		75) Tape Drives - LTO/Ultrium	4.0%	SHI's Full Catalog of Storage Devices	4.0%	SHI's Full Catalog of Storage Devices		
		76) Tape Drives SOLT	4.0%	SHI's Full Catalog of Storage Devices	4.0%	SHI's Full Catalog of Storage Devices		
		77) Tape Drives - Travan	4.0%	SHI's Full Catalog of Storage Devices	4.0%	SHI's Full Catalog of Storage Devices		
		6)	Group 6 - Network Equipment	78) 10/100 Hubs & Switches	5.0%	SHI's Full Catalog of Network Equipment	5.0%	SHI's Full Catalog of Network Equipment
				79) Bridges & Routers	5.0%	SHI's Full Catalog of Network Equipment	5.0%	SHI's Full Catalog of Network Equipment
				80) Gigabit Hubs & Switches	5.0%	SHI's Full Catalog of Network Equipment	5.0%	SHI's Full Catalog of Network Equipment
				81) Concentrators & Multiplexers	5.0%	SHI's Full Catalog of Network Equipment	5.0%	SHI's Full Catalog of Network Equipment
				82) Hardware Firewalls	5.0%	SHI's Full Catalog of Network Equipment	5.0%	SHI's Full Catalog of Network Equipment
				83) Intrusion Detection	5.0%	SHI's Full Catalog of Network Equipment	5.0%	SHI's Full Catalog of Network Equipment
84) KVM	5.0%			SHI's Full Catalog of Network Equipment	5.0%	SHI's Full Catalog of Network Equipment		
85) Modems	5.0%			SHI's Full Catalog of Network Equipment	5.0%	SHI's Full Catalog of Network Equipment		
86) Network Test Equipment	5.0%			SHI's Full Catalog of Network Equipment	5.0%	SHI's Full Catalog of Network Equipment		
87) Network Adapters	5.0%			SHI's Full Catalog of Network Equipment	5.0%	SHI's Full Catalog of Network Equipment		
88) Network Cables	5.0%			SHI's Full Catalog of Network Equipment	5.0%	SHI's Full Catalog of Network Equipment		
89) Network Accessories	5.0%			SHI's Full Catalog of Network Equipment	5.0%	SHI's Full Catalog of Network Equipment		
90) Repeaters & Transceivers	5.0%			SHI's Full Catalog of Network Equipment	5.0%	SHI's Full Catalog of Network Equipment		
91) Wireless LAN Accessories	5.0%			SHI's Full Catalog of Network Equipment	5.0%	SHI's Full Catalog of Network Equipment		
92) Token Authentication	5.0%			SHI's Full Catalog of Network Equipment	5.0%	SHI's Full Catalog of Network Equipment		
93) 10G Fiber Optic Transceivers	5.0%			SHI's Full Catalog of Network Equipment	5.0%	SHI's Full Catalog of Network Equipment		
94) 1G Fiber Optic Transceivers	5.0%			SHI's Full Catalog of Network Equipment	5.0%	SHI's Full Catalog of Network Equipment		
7)	Group 7 - Software	95) Licensing Packages (e.g. Microsoft)	4.5%	SHI's Full Catalog of Software	4.5%	SHI's Full Catalog of Software		
		96) Licensing Backup	4.5%	SHI's Full Catalog of Software	4.5%	SHI's Full Catalog of Software		
		97) Licensing Barcode/OC	4.5%	SHI's Full Catalog of Software	4.5%	SHI's Full Catalog of Software		
		98) Licensing Business Application	4.5%	SHI's Full Catalog of Software	4.5%	SHI's Full Catalog of Software		
		99) Licensing CAD/CAM	4.5%	SHI's Full Catalog of Software	4.5%	SHI's Full Catalog of Software		
		100) Licensing - Cloning	4.5%	SHI's Full Catalog of Software	4.5%	SHI's Full Catalog of Software		
		101) Licensing - Computer Services	4.5%	SHI's Full Catalog of Software	4.5%	SHI's Full Catalog of Software		
		102) Licenrnce - Database	4.5%	SHI's Full Catalog of Software	4.5%	SHI's Full Catalog of Software		
		103) Licensing - Development	4.5%	SHI's Full Catalog of Software	4.5%	SHI's Full Catalog of Software		
		104) Licensing - Entertainment	4.5%	SHI's Full Catalog of Software	4.5%	SHI's Full Catalog of Software		
		105) Licensing - Financial	4.5%	SHI's Full Catalog of Software	4.5%	SHI's Full Catalog of Software		
		106) Licensing - Flow Chart	4.5%	SHI's Full Catalog of Software	4.5%	SHI's Full Catalog of Software		
		107) Licensing - Graphic Design	4.5%	SHI's Full Catalog of Software	4.5%	SHI's Full Catalog of Software		

Item #	Product	Product / Group	Proposed Discount	Manufacturer Name	If applicable, you may add additional manufacturer discounts			
					Proposed Discount	Manufacturer Name		
7)	Group 7 - Software	108) Licensing - Handheld	4.5%	SHI's Full Catalog of Software	%			
		109) Licensing - Network OS	4.5%	SHI's Full Catalog of Software	%			
		110) Licensing - OS	4.5%	SHI's Full Catalog of Software	%			
		111) Licensing - Personal Organization	4.5%	SHI's Full Catalog of Software	%			
		112) Licensing - Presentation	4.5%	SHI's Full Catalog of Software	%			
		113) Licensing - Reference	4.5%	SHI's Full Catalog of Software	%			
		114) Licensing - Report Analysis	4.5%	SHI's Full Catalog of Software	%			
		115) Licensing - Spreadsheet	4.5%	SHI's Full Catalog of Software	%			
		116) Licensing - Utilities	4.5%	SHI's Full Catalog of Software	%			
		117) Licensing - Warranties	4.5%	SHI's Full Catalog of Software	%			
		118) Licensing - Web Development	4.5%	SHI's Full Catalog of Software	%			
		119) Licensing - Word Processing	4.5%	SHI's Full Catalog of Software	%			
		120) Software - Backup	4.5%	SHI's Full Catalog of Software	%			
		121) Software - Barcode / OCR	4.5%	SHI's Full Catalog of Software	%			
		122) Software - Business Application	4.5%	SHI's Full Catalog of Software	%			
		123) Software - CAD/CAM	4.5%	SHI's Full Catalog of Software	%			
		124) Software - Cleaning	4.5%	SHI's Full Catalog of Software	%			
		125) Software - Computer Services	4.5%	SHI's Full Catalog of Software	%			
		126) Software - Database	4.5%	SHI's Full Catalog of Software	%			
		127) Software - Development	4.5%	SHI's Full Catalog of Software	%			
		128) Software - Entertainment	4.5%	SHI's Full Catalog of Software	%			
		129) Software - Financial	4.5%	SHI's Full Catalog of Software	%			
		130) Software - Flow Chart	4.5%	SHI's Full Catalog of Software	%			
		131) Software - Graphic Design	4.5%	SHI's Full Catalog of Software	%			
		132) Software - Handheld	4.5%	SHI's Full Catalog of Software	%			
		133) Software - OS	4.5%	SHI's Full Catalog of Software	%			
		134) Software - Personal Organization	4.5%	SHI's Full Catalog of Software	%			
		135) Software - Presentation	4.5%	SHI's Full Catalog of Software	%			
		136) Software - Reference	4.5%	SHI's Full Catalog of Software	%			
		137) Software - Report Analysis	4.5%	SHI's Full Catalog of Software	%			
		138) Software - Spreadsheet	4.5%	SHI's Full Catalog of Software	%			
		139) Software - Utilities	4.5%	SHI's Full Catalog of Software	%			
		140) Software - Warranties	4.5%	SHI's Full Catalog of Software	%			
		141) Software - Web Development	4.5%	SHI's Full Catalog of Software	%			
		142) Software - Word Processing	4.5%	SHI's Full Catalog of Software	%			
		8)	Group 8 - Media Supplies	143) Media - 4mm tape	4.0%	SHI's Full Catalog of Media Supplies	%	
				144) Media - AIT tape	4.0%	SHI's Full Catalog of Media Supplies	%	
				145) Media - DAT tape	4.0%	SHI's Full Catalog of Media Supplies	%	
				146) Media - DLT tape	4.0%	SHI's Full Catalog of Media Supplies	%	
				147) Media LTO / Ultrium tape drive	4.0%	SHI's Full Catalog of Media Supplies	%	
				148) Media - Magnets - Optical	4.0%	SHI's Full Catalog of Media Supplies	%	
				149) Media - Optical	4.0%	SHI's Full Catalog of Media Supplies	%	
150) Media - SLR tape	4.0%			SHI's Full Catalog of Media Supplies	%			
151) Media - Travan tape	4.0%			SHI's Full Catalog of Media Supplies	%			
152) Media - VXA tape	4.0%			SHI's Full Catalog of Media Supplies	%			
153) Media - Zip	4.0%			SHI's Full Catalog of Media Supplies	%			
9)	Group 9 - Collaboration & IP Telephony			154) IP phones	4.0%	SHI's Full Catalog of Collaboration and IP Telephony	%	
		155) Video conferencing products	4.0%	SHI's Full Catalog of Collaboration and IP Telephony	%			
		156) Voice gateways / servers	4.0%	SHI's Full Catalog of Collaboration and IP Telephony	%			
		157) Headsets	4.0%	SHI's Full Catalog of Collaboration and IP Telephony	%			
		158) Audio conferencing products	4.0%	SHI's Full Catalog of Collaboration and IP Telephony	%			
		159) Analog phones	4.0%	SHI's Full Catalog of Collaboration and IP Telephony	%			
		160) Accessories	4.0%	SHI's Full Catalog of Collaboration and IP Telephony	%			
		161) Advanced Integration	4.0%	SHI's Full Catalog of Other	%			
		162) Asset Disposal	4.0%	SHI's Full Catalog of Other	%			

Item #	Product	Product / Group	Proposed Discount	Manufacturer Name	If applicable, you may add additional manufacturer discounts	
					Proposed Discount	Manufacturer Name
		163) Asset Management	4.0%	SHI's Full Catalog of Other		%
		164) Cables	4.0%	SHI's Full Catalog of Other		%
		165) Cables - custom	4.0%	SHI's Full Catalog of Other		%
		166) Cables - printer	4.0%	SHI's Full Catalog of Other		%
		167) Complex warranties	4.0%	SHI's Full Catalog of Other		%
		168) Desktop Accessories	4.0%	SHI's Full Catalog of Other		%
		169) Display Accessories	4.0%	SHI's Full Catalog of Other		%
		170) Electronic Services	4.0%	SHI's Full Catalog of Other		%
		171) Handheld Accessories	4.0%	SHI's Full Catalog of Other		%
		172) Imaging Accessories	4.0%	SHI's Full Catalog of Other		%
		173) Imaging - Camcorders	4.0%	SHI's Full Catalog of Other		%
		174) Imaging - Digital Cameras	4.0%	SHI's Full Catalog of Other		%
		175) Intranet Lab Service	4.0%	SHI's Full Catalog of Other		%
		176) Lab fees	4.0%	SHI's Full Catalog of Other		%
		177) Managed Services	4.0%	SHI's Full Catalog of Other		%
		178) Miscellaneous solutions	4.0%	SHI's Full Catalog of Other		%
		179) Mounting hardware for vehicles	4.0%	SHI's Full Catalog of Other		%
		180) Networking Warranties	4.0%	SHI's Full Catalog of Other		%
		181) Notebook Accessories	4.0%	SHI's Full Catalog of Other		%
		182) Notebook Batteries	4.0%	SHI's Full Catalog of Other		%
		183) PC Lab order services	4.0%	SHI's Full Catalog of Other		%
		184) POS Accessories	4.0%	SHI's Full Catalog of Other		%
		185) POS Displays	4.0%	SHI's Full Catalog of Other		%
		186) Power Accessories	4.0%	SHI's Full Catalog of Other		%
		187) Power Surge Protection	4.0%	SHI's Full Catalog of Other		%
		188) Power UPS	4.0%	SHI's Full Catalog of Other		%
		189) Server Accessories	4.0%	SHI's Full Catalog of Other		%
		190) Service Charge	4.0%	SHI's Full Catalog of Other		%
		191) System Components	4.0%	SHI's Full Catalog of Other		%
		192) Training Courses	4.0%	SHI's Full Catalog of Other		%
		193) Training Reference Manuals	4.0%	SHI's Full Catalog of Other		%
		194) Warranties - Electronic	4.0%	SHI's Full Catalog of Other		%
		195) IPAD / Tablet Stylus	4.0%	SHI's Full Catalog of Other		%
		196) Mouse / Wrist Pads	4.0%	SHI's Full Catalog of Other		%
		197) Security Locks and Hardware	4.0%	SHI's Full Catalog of Other		%
		198) Tools	4.0%	SHI's Full Catalog of Other		%
		199) Document Scanner Accessories	4.0%	SHI's Full Catalog of Other		%
		200) Flatbed Scanners	4.0%	SHI's Full Catalog of Other		%
		201) Mobile Scanners	4.0%	SHI's Full Catalog of Other		%
		202) Network Scanners	4.0%	SHI's Full Catalog of Other		%
		203) Sheetfed Scanners	4.0%	SHI's Full Catalog of Other		%
		204) Wide Format Scanners	4.0%	SHI's Full Catalog of Other		%
		205) Workgroup / Department Scanner	4.0%	SHI's Full Catalog of Other		%
		206) Build to Order Desktops	4.0%	SHI's Full Catalog of Other		%
		207) Nettop	4.0%	SHI's Full Catalog of Other		%
		208) Point of Sale	4.0%	SHI's Full Catalog of Other		%
		209) Ultra Small Form Factor	4.0%	SHI's Full Catalog of Other		%
		210) Apple / Mac Memory Upgrades	4.0%	SHI's Full Catalog of Other		%
10)	Group 10 - Other	211) Chips / SIMMs/SPPs / RDMs	4.0%	SHI's Full Catalog of Other		%
		212) Computer Cases	4.0%	SHI's Full Catalog of Other		%
		213) CPUs / Fans	4.0%	SHI's Full Catalog of Other		%
		214) Memory Accessories	4.0%	SHI's Full Catalog of Other		%
		215) Motherboards / Chassis	4.0%	SHI's Full Catalog of Other		%
		216) 1 - 2 port Serial Boards	4.0%	SHI's Full Catalog of Other		%
		217) 3+ port Serial Boards	4.0%	SHI's Full Catalog of Other		%
		218) Console Server	4.0%	SHI's Full Catalog of Other		%
		219) Device Server	4.0%	SHI's Full Catalog of Other		%
		220) Terminal Server	4.0%	SHI's Full Catalog of Other		%

Item #	Product	Product / Group	Proposed Discount	Manufacturer Name	If applicable, you may add additional manufacturers/discounts	
					Proposed Discount	Manufacturer Name
		221) Content Management	4.0%	SHI's Full Catalog of Other	%	
		222) Firewall / VPN Appliances	4.0%	SHI's Full Catalog of Other	%	
		223) Multifunction Security Appliances	4.0%	SHI's Full Catalog of Other	%	
		224) Network Camera Accessories	4.0%	SHI's Full Catalog of Other	%	
		225) Network Cameras	4.0%	SHI's Full Catalog of Other	%	
		226) Physical/Environmental Security	4.0%	SHI's Full Catalog of Other	%	
		227) Security Appliance Accessories	4.0%	SHI's Full Catalog of Other	%	
		228) Security Tokens	4.0%	SHI's Full Catalog of Other	%	
		229) Unified Threat Management	4.0%	SHI's Full Catalog of Other	%	
		230) 2-way Radios / Walkie Talkies	4.0%	SHI's Full Catalog of Other	%	
		231) Apple Notebooks	4.0%	SHI's Full Catalog of Other	%	
		232) Convertible PCs / Slate PCs / IPAD	4.0%	SHI's Full Catalog of Other	%	
		233) IPAD	4.0%	SHI's Full Catalog of Other	%	
		234) Slate Tablet Computers	4.0%	SHI's Full Catalog of Other	%	
		235) GPS / PDA	4.0%	SHI's Full Catalog of Other	%	
		236) Wireless Communication Devices	4.0%	SHI's Full Catalog of Other	%	
		237) Batteries	4.0%	SHI's Full Catalog of Other	%	
		238) Power Supplies / Adapters	4.0%	SHI's Full Catalog of Other	%	
		239) Rackmount Equipment	4.0%	SHI's Full Catalog of Other	%	
		240) Remote Power Management	4.0%	SHI's Full Catalog of Other	%	
		241) Surge Suppressors	4.0%	SHI's Full Catalog of Other	%	
		242) UPS / Battery Backup	4.0%	SHI's Full Catalog of Other	%	
		243) 14" & smaller LCD Display	4.0%	SHI's Full Catalog of Other	%	
		244) 15-19" LCD Display	4.0%	SHI's Full Catalog of Other	%	
		245) 15-19" Wide LCD Display	4.0%	SHI's Full Catalog of Other	%	
		246) 19-19" Wide LED Display	4.0%	SHI's Full Catalog of Other	%	
		247) 20-30" LCD Display	4.0%	SHI's Full Catalog of Other	%	
		248) 20-30" Wide LCD Display	4.0%	SHI's Full Catalog of Other	%	
		249) 20-30" Wide LED Display	4.0%	SHI's Full Catalog of Other	%	
		250) PCeIP and Zero Client Displays	4.0%	SHI's Full Catalog of Other	%	
		251) Arm Mounts	4.0%	SHI's Full Catalog of Other	%	
		252) Ceiling Mounts	4.0%	SHI's Full Catalog of Other	%	
		253) Combo Mounts	4.0%	SHI's Full Catalog of Other	%	
		254) Desktop Stands / Risers	4.0%	SHI's Full Catalog of Other	%	
		255) Flat Wall Mounts	4.0%	SHI's Full Catalog of Other	%	
		256) Mount Accessories	4.0%	SHI's Full Catalog of Other	%	
		257) Pole Display	4.0%	SHI's Full Catalog of Other	%	
		258) Stands / Carts / Feet	4.0%	SHI's Full Catalog of Other	%	
		259) Tilt Wall Mounts	4.0%	SHI's Full Catalog of Other	%	
		260) C-Cure Products	4.0%	SHI's Full Catalog of Other	%	
		261) Ister Products	4.0%	SHI's Full Catalog of Other	%	
		SERVICE	STANDARD HOURLY RATE	DISCOUNT FROM STANDARD RATE	SHI will work with local partners when possible to insure the City is getting the best value. Prices for Services will vary depending on the local partners. The rates below are an average.	
11)	Group 11 - Services	Design and Analysis	12500.0%	4%		
		Configuration	16500.0%	4%		
		Implementation	18500.0%	4%		
		Installation	18500.0%	4%		
		Training	3900.0%	4%		
		Maintenance & Support	3900.0%	4%		
		Additional Services Offered (please list any additional services offered and applicable discount / fees on a separate page and attach)	See #12	%		
12)	Group 12 - Additional Products/Services Not Identified	All other current and future products not specifically identified here will be offered at a 4% discount off SHI Advertised List prices. Please see description below for more information on SHI's proposed discount model for this contract.				
		Respondents please add				
		Respondents please add				
		Respondents please add				
		Respondents please add				
		Respondents please add				
		Respondents please add				

Item #	Product	Product / Group	Proposed Discount	Manufacturer Name	If applicable, you may add additional manufacturers/discounts	
					Proposed Discount	Manufacturer Name

All discounts articulated here represent the minimum discounts off SHI Advertised List Price; actual discounts may be significantly higher.

The comprehensive SHI offering for National IPA consists of all hardware, software, and services available to our customers in the public sector marketplace. The discount structure offered to National IPA is based on our Advertised Price List which can be located on www.shi.com. In many cases, SHI Advertised List Price already reflects a substantial discount off of Manufacturer Published List Price. Given the breadth of manufacturers and products that SHI offers, there will be many opportunities for SHI to secure additional discounts for eligible contract users. We work to provide your contract users with the most advantageous pricing available, above and beyond the minimum discounts offered, whenever possible.

SHI prides ourselves on being honest and transparent with our customers especially when it comes to pricing. We base our discount structure on SHI Advertised Price as this is a verifiable source. We do not inflate this Advertised Price for RFPs in order to make our discounts appear larger. Other vendors may use MSRP or Publisher List Price, which can be unreliable as a pricelist may not exist for every product, a pricelist can change from day to day, and a pricelist can be inconsistent depending on where you source the information from. When a vendor manipulates contract language in this manner or uses a loose definition of cost, it results in an increase in profit for them and higher prices for customers.

If awarded, SHI is willing to provide complete transparency over the life of the contract as it relates to our costs and what we charge National IPA customers.

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 other Party'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 other Party will have the right at its option to terminate the Agreement. No granting of consent to any assignment will relieve either Party from any of its obligations and liabilities under the Agreement. Notwithstanding the foregoing, either Party may assign this Agreement and its rights, interests, liabilities and obligations thereunder to a successor pursuant to a merger, consolidation or sale of all or substantially all its assets following sixty (60) days written notice.
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 Products 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 Product 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 and 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 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 "Contractor Immigration Warranty").
 - ii. A breach of the Contractor Immigration Warranty will constitute as 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. The City retains the legal right to inspect the papers of all Contractor personnel who provide services under this Agreement to ensure that Contractor or its subcontractors are complying with the Contractor Immigration Warranty. Contractor agrees to assist the City in regard to any such inspections.
 - iv. The City may, at its sole discretion, conduct random verification of the employment records of Contractor and any subcontractor to ensure compliance with the Contractor Immigration Warranty. Contractor agrees to assist the City in regard to any random verification performed.
 - v. 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 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, religion, sex, national origin, or disability, and represents and warrants that it complies with all applicable federal, state, and local laws and executive orders regarding employment. Contractor and Contractor's personnel will comply with applicable provisions of Title VII of the U.S. Civil Rights Act of 1964, as amended, Section 504 of the Federal Rehabilitation Act, the Americans with Disabilities Act (42 U.S.C. § 12101 et seq.), and applicable rules in performance under this Agreement.
 - 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 of services to the City.
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, 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 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 entity, subject to Arizona's public records laws (A.R.S. § 39-121 et. seq.) and that 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.
 - 12.1. If Contractor believes document related to the Agreement contains trade secrets or other proprietary data, Contractor must notify the City and include with the notification a statement that explains and supports Contractor's claim. Contractor also must specifically identify the trade secrets or other proprietary data that Contractor believes should remain confidential.
 - 12.2. 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 any and 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.** The City may conduct criminal, driver history, and all other requested background checks of Contractor personnel who would perform Services under the Agreement or who will have access to the City's information, data, or facilities in accordance with the City's current background check policies. 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 or not 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 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 may, at its option and at any time, 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; the thirty (30) day 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.
 - 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 that the demand is made and no written assurance is given within five (5) calendar days, the City may treat this failure as an anticipatory repudiation of the Agreement.
- 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 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, the City may recover the excess cost by: (i) requiring immediate reimbursement to the City; (ii) deduction from an unpaid balance due to Contractor; (iii) collection against the proposal and/or performance security, if any; (iv) collection against liquidated damages (if applicable); or (v) a combination of the aforementioned remedies or other remedies as provided by law. Costs includes 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, indirect, 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 upon thirty (30) calendar days' written notice.

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 that 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, Contractor will be entitled only to payment for those Services performed 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 Products and Services provided and received Contractor's properly prepared final invoice.

Termination of this Agreement shall not affect the obligations of the City or Contractor under any existing Order issued under this Agreement, and such Order shall continue in effect as though this Agreement has not been terminated, and was still in effect with respect to such Order.
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 the City, its officers, agents, and employees, harmless from and against any and all liabilities, demands, claims, suits, losses, damages, causes of action, fines or judgments, including costs, attorneys', witnesses', and expert witnesses' fees, and expenses incident thereto, relating to, arising out of, or resulting from: (i) misconduct by Contractor personnel under this Agreement; (ii) any negligent acts, errors, mistakes or omissions by Contractor or Contractor personnel; and (iii) Contractor or Contractor personnel's failure to comply with this Agreement.
 - b. Contractor will update the City during the course of the litigation to timely notify the City of any issues that may involve the independent negligence of the City that is not covered by this indemnification.
 - c. The City assumes no liability for actions of Contractor and will not indemnify or hold Contractor or any third party harmless for claims based on this Agreement or use of Contractor-provided supplies or Services.
 - d. IN THE EVENT OF ANY LIABILITY INCURRED BY CONTRACTOR OR ANY OF ITS AFFILIATES HEREUNDER, INCLUDING INDEMNIFICATION OF CITY BY CONTRACTOR, THE ENTIRE LIABILITY OF CONTRACTOR AND ITS AFFILIATES FOR DAMAGES FROM ANY CAUSE WHATSOEVER WILL NOT EXCEED \$5,000,000.00 OVER THE ENTIRE TERM OF THE AGREEMENT.
25. **(RESERVED)**
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, including assistance in the prosecution or defense of suit and the execution of instruments of assignment in favor of the City in obtaining recovery.

27. **NO GUARANTEE OF WORK.** Contractor acknowledges and agrees that it is not entitled to deliver any specific amount of Products or Services or any Products or Services at all under this Agreement and acknowledges and agrees that the Products 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 Products 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. Notwithstanding the foregoing, Contractor shall retain ownership rights to (1) all of its previously existing intellectual property, including any systems, derivatives, modifications and enhancements thereto, (2) confidential information of contractor, and (3) any tools or scripting applications used, developed or created by Contractor or its third-party licensors during the performance of this Agreement.
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.** Pursuant to A.R.S. § 38-504, a current or former public officer or employee within the last twelve (12) months shall not represent another organization before the City on any matter for which the officer or employee was directly concerned and personally participated in during their service or employment or over which they had a substantial or material 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 personnel 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 risks of loss, injury, or destruction of goods or equipment incidental to providing these Services 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 to City real property or damage or loss of City personal property when such property is the responsibility of or in the custody of Contractor or its employees.
34. **WARRANTY OF RIGHTS.** Contractor warrants it has title to, or the right to allow the City to use, the Products 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 foregoing, Contractor will without limitation, 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 Products or Services.

36. **CONTRACT ADMINISTRATION.** The contract will be administered by the Purchasing Administrator and/or an authorized representative from the using department. All questions regarding the contract will be referred to the administrator for resolution. Supplements may be written to the contract for the addition or deletion of Services. Payment will be negotiated and determined by the contract administrator(s).
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.** This contract is available through National IPA to agencies nationwide. The City has also 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 through National IPA or SAVE 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.

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. The City is not a party to any agreements between the Contractor and National IPA, National IPA and other agencies, the Contractor and other agencies, or any third-party contracts in any way related to this Agreement or the cooperative use of this Agreement.

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 (i) personally delivered; (ii) sent via certified or registered mail, postage prepaid; (iii) sent via overnight courier; or (iv) sent via email 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, email 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, supersedes 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 in it.
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 Arizona Revised Statutes Sections 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 the 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 as applicable.



COUNCIL MINUTES

February 5, 2018

The City Council of the City of Mesa met in a Regular Council Meeting in the Council Chambers, 57 East 1st Street, on February 5, 2018 at 5:45 p.m.

COUNCIL PRESENT	COUNCIL ABSENT	OFFICERS PRESENT
John Giles David Luna Mark Freeman Christopher Glover Francisco Heredia Kevin Thompson Jeremy Whittaker	None	Christopher Brady Dee Ann Mickelsen Jim Smith

Mayor's Welcome.

Invocation by Pastor Ben Diaz with Palabra de Vida (Word of Life).

Pledge of Allegiance was led by Councilmember Thompson.

Awards, Recognitions and Announcements.

There were no awards, recognitions or announcements.

1. Take action on all consent agenda items.

All items listed with an asterisk (*) will be considered as a group by the City Council and will be enacted with one motion. There will be no separate discussion of these items unless a Councilmember or citizen requests, in which event the item will be removed from the consent agenda and considered as a separate item. If a citizen wants an item removed from the consent agenda, a blue card must be completed and given to the City Clerk prior to the Council's vote on the consent agenda.

It was moved by Councilmember Thompson, seconded by Councilmember Glover, that the consent agenda items be approved.

Carried unanimously.

*2. Approval of minutes from previous meetings as written.

Minutes from the January 8, 11, and 22, 2018 Council meetings.

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3. Take action on the following liquor license applications:

*3-a. It Ain't Chemo

This is a one-day event to be held on Saturday, February 10, 2018 from 9:00 A.M. to 9:00 P.M. at Riverview Park, 2100 West Rio Salado Parkway. (District 1)

*3-b. AMC Superstition East 12

A multi-screen cinema is requesting a new Series 6 Bar License for American Multi-Cinema Inc., 1935 South Signal Butte Road - Andrea Dahlman Lewkowicz, agent. There is no existing license at this location. (District 6)

*3-c. ATL Wings

A restaurant that serves lunch and dinner is requesting a new Series 12 Restaurant License for Stapley Wings LLC, 1455 South Stapley Drive, Suites 22-24 - Andrea Dahlman Lewkowicz, agent. The existing license held by Mark Killian, sole proprietor, will revert to the State. (District 4)

*3-d. Elgin Distillery

This is a one-day craft distillery festival to be held on Saturday, March 3, 2018 from 9:00 A.M. to 4:00 P.M. at Sunland Village, 4601 East Dolphin Avenue. (District 2)

*3-e. Village of Elgin Winery

This is a one-day wine festival event to be held on Saturday, March 3, 2018 from 9:00 A.M. to 4:00 P.M. at Sunland Village, 4601 East Dolphin Avenue. (District 2)

4. Take action on the following off-track betting license application:

*4-a. Turf Paradise, TP Racing LLLP

New Off-Track Betting License for Turf Paradise, TP Racing LLLP to telecast at Moose & Bear, located at 118 East McKellips Road, Suite 103, TB Concepts LLC. Applicant: Vincent Acri Francia. (District 1)

5. Take action on the following contracts:

*5-a. One-Year Renewal to the Term Contract for Executive Physicals for Citywide Departments as requested by the Human Resources Department. (Citywide)

This contract provides annual physicals for the City's executive staff as a means of maintaining optimum health. There are approximately 65-70 positions eligible to participate in this program.

The Human Resources Department and Purchasing recommend authorizing the renewal contract with Banner Occupational Health Clinics, at \$88,500, based on estimated usage.

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***5-b. One-Year Renewal to the Term Contract for Deceased Animal Collection Services for the Community Services Department. (Citywide)**

This contract provides a vendor to collect and dispose of deceased animals up to 150 pounds that are reported within the City. The contractor is responsible for the proper disposal by cremation or other means in accordance with the standards and methods approved by the Maricopa County Health Department.

The Community Services Department and Purchasing recommend authorizing the renewal contract with APM/Couts Enterprises, Inc., dba Arizona Pet Mortuary, at \$54,000, based on estimated usage.

***5-c. Purchase of One Replacement Fire Apparatus, an Air Light/Rehab Unit, for the Fire and Medical Department (Sole Source). (Citywide)**

The apparatus being replaced has met established replacement criteria and will be sold by a sealed bid process or traded-in as part of the City's fire apparatus purchase agreement with Pierce Manufacturing. In addition, Fire and Medical will trade-in two units to further offset the price for the Air/Light Rehab unit.

The Fire and Medical Department and Purchasing recommend authorizing the purchase using the City's five-year purchase agreement with Pierce Manufacturing Inc., through their designated local dealer, Hughes Fire Equipment Inc., at \$502,264.75. This purchase is funded by the Capital-General Fund and authorized 2013 Public Safety Bonds.

***5-d. Three-Year Term Contract for Landscape Maintenance Services for Parks, Retention Basins and Sports Fields - Zones 1, 2, 3 and 4 for the Parks, Recreation and Community Facilities Department (PRCF). (Citywide)**

These contracts provide landscape maintenance services for sports fields, parkways, medians, parks, retention basins or grounds adjacent to City facilities. The City has divided the landscaping into geographic areas known as Zones 1, 2, 3 and 4. PRCF has done an analysis to bring the work under this contract in-house and, at this time, contracting continues to be in the best financial interest of the City.

The evaluation committee recommends awarding the contract to the highest-scored proposal from Mariposa Landscape Arizona, Inc.; Zone 1, at \$1,435,319.57 annually; Zone 2, at \$959,183.45 annually; Zone 3, at \$974,364.20 annually; and Zone 4, at \$1,221,738.22 annually; based on estimated usage.

***5-e. Three-Year Term Contract for Plumbing Services for the Parks, Recreation and Community Facilities Department. (Citywide)**

This contract will establish a list of pre-qualified plumbing contractors to perform plumbing services on various City facilities/projects on an as-needed basis.

The evaluation committee recommends awarding the contract to the four, highest-scored proposals from Mesa Energy Systems Inc.; RKS Plumbing and Mechanical Inc.; Sun Mechanical Inc.; and W.D. Manor Mechanical Contractors, Inc.; cumulatively not to exceed \$100,000 annually, based on estimated usage.

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- *5-f. Purchase of Furniture for the Main Library as requested by the Library Services Department. **(Citywide)**

This purchase will provide seating and tables for two new rooms at the Main Library, Teen Room and ThinkSpot. The Library worked with several vendors utilizing cooperative contracts specifying their needs and goals with this project.

The Library Services Department and Purchasing recommend authorizing the purchase using the Northern Arizona University cooperative contract with Atmosphere Commercial Interiors, at \$50,876.25.

- *5-g. **Five-Year Term Contract with CDW Government, LLC and SHI International Corp. for Information Technology Solutions and Services for Various Departments throughout the City. (Citywide)**

This contract will provide the City and participating agencies a full range of information technology solution products and services to meet varying requirements of governmental agencies. The scope of products and services available under these contracts include standard business and high-end workstations; laptop and notebook computers; network equipment; computer and network products and peripherals; monitors; various cloud, consulting, and technical support services; financing; various software products; and the contractors' comprehensive product offering.

Mesa, as the lead agency, has partnered with the National Intergovernmental Purchasing Alliance Company (National IPA) to lead this contract. The contract will be available to over 45,000 public agencies nationally. While no minimum volume is guaranteed to the suppliers, the estimated annual volume of IT Solutions purchased under this master agreement is approximately \$500 million per year. The City will receive rebates annually for administering and awarding this contract.

A committee representing the Police, and Information Technology Departments, City Manager's Office, Police-Information Technology, National IPA and Purchasing evaluated responses. The evaluation committee recommends awarding the contract to the highest-scored proposals from CDW Government, LLC and SHI International Corp., at \$3,100,000 annually, based on estimated usage.

- *5-h. One-Year Term Contract for Electrical and Lighting Supplies for the Materials and Supply Warehouse (for Citywide Departments). **(Citywide)**

Multiple departments use this Citywide contract for their miscellaneous electrical equipment and supplies.

The Business Services Department and Purchasing recommend authorizing the purchase using the State of Arizona cooperative contract with Border States Industries, Inc., at \$100,000, based on estimated usage.

- *5-i. Re-Award the Three-Year Term Contract for Microfilm Conversion Services for the Police Department. **(Citywide)**

This contract will provide services to convert Police Department data from microfilm to digital media. Police, Records Division use microfilm that is becoming worn and damaged. The previous vendor is unable to satisfactorily fulfill the contract requirements.

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The Police Department and Purchasing recommend re-awarding the contract to the second highest scored proposal, ICM Conversions, at \$400,000 annually, based on estimated usage.

- *5-j. Purchase of Falcon District Brand Signage as requested by the Economic Development Department. **(Citywide)**

Continuing to build awareness and to promote the Falcon Field Economic Activity Area, this purchase for the Falcon District signage includes the installation of two branded monument signs to be located on Greenfield and Higley Roads, south of the 202. Additionally, the City will install utility and transit signal box wraps and will mount branded banners promoting aerospace, technology, and manufacturing on light poles around the airport.

The Economic Development Department and Purchasing recommend authorizing the purchase using the City of Peoria cooperative contract with YESCO Phoenix, at \$146,670.49. This purchase is funded by Local Streets Sales Tax.

- *5-k. Purchase of Three Replacement Rollback Trailers for the Transportation Department. **(Citywide)**

These trailers will replace three aging equipment trailers that are at the end of their service life. The trailers will meet the needs and safety requirements for transporting the large equipment required to perform street and right-of-way maintenance.

The Transportation Department and Purchasing recommend authorizing the purchase using the National Joint Powers Alliance contract with Empire Southwest (a Mesa business), at \$176,764.77. This purchase is funded by Local Streets Sales Tax.

- *5-l. One-Year Renewal to the Term Contract for Radio-Based Endpoint Encoders (for Water Meter Reading) for the Water Resources Department. **(Citywide)**

This contract provides Itron radio-based endpoint encoders and accessories purchased directly from Itron, Inc., the manufacturer. The endpoint stores 40 days of hourly reads to ensure data integrity and offers advanced customer side leak detection and reverse flow and tamper alarms. Water Utility installs approximately 540 radio-based endpoint encoders on new and existing meters annually.

The Water Resources Department and Purchasing recommend authorizing the renewal with Itron, Inc., at \$100,000, based on estimated usage.

- *5-m. Purchase of Water Treatment Plant Shop Tools and Equipment for the New Signal Butte Water Treatment Plant as requested by the Water Resources Department. **(Citywide)**

This purchase is for tools and equipment needed for the start-up and maintenance in the various shops at the new Signal Butte Water Treatment Plant.

The Water Resources Department and Purchasing recommend awarding the contract to the lowest, responsive and responsible bidders: Copper State Bolt & Nut Co. (a Mesa business); Glendale Industrial Supply, LLC, dba UNICOA Construction and Industrial Supply; Mallory Safety & Supply LLC; and W.W. Grainger, Inc.; cumulatively not to exceed \$153,000, based on estimated usage.

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- *5-n. **One-Year Renewal to the Term Contract for Fire Hydrant Water Meters for the Water Resources Department. (Citywide)**

This contract provides 3" fire hydrant water meters to accurately measure construction water use of fire hydrants. The meters are installed by Water Utility staff to serve contractors and other customers needing to connect to City fire hydrants for temporary construction water service and dust control purposes.

The Water Resources Department and Purchasing recommend authorizing the renewal with Badger Meter Inc., dba National Meter Automation, at \$35,000, based on estimated usage.

- *5-o. **Greenfield Water Reclamation Plant (GWRP), Phase III Expansion Guaranteed Maximum Price (GMP) No. 2. (Citywide)**

The City of Mesa, Town of Gilbert, and Town of Queen Creek seek to provide an additional 14 million gallons per day annual average day flow of liquids and solids treatment capacity at the existing GWRP, complete with the required infrastructure, technology, and environmental features to ensure a reliable, efficient, and expanded plant to meet the current and future demands.

Staff recommends awarding the contract for the completion of this project to McCarthy Building Companies in the amount of \$120,302,333 and authorize a change order allowance \$6,015,117 (5%) for a total project amount of \$126,317,450. This project is funded by the Greenfield Water Reclamation Plant Joint Venture Fund, with contributions coming from its members based on usage. Mesa's portion of this GMP is \$72,229,521 and is funded by 2014 authorized Wastewater Bonds.

- *5-p. **Sewer Pipe and Manhole Rehabilitation: Mesa Drive, Millet Avenue, Horne, and 6th Avenue. (District 4)**

The existing sanitary sewer lines covered by this project were built during the 1950's and 1960's. The age of these pipes greatly increases their risk of failure and emergency repairs. This method of construction can be completed while leaving the pipe in place and without excavation. Similarly, the sewer manholes will be cleaned, repaired, and coated in place. Only the concrete adjustment rings will be removed and replaced.

Staff recommends awarding the contract for this project to the lowest, responsible bidder, B and F Contracting, Inc, in the amount of \$1,394,294.67, and authorize a change order allowance in the amount of \$139,430 (10%), for a total amount of \$1,533,724.67. Funding for this project is available from the 2014 Wastewater Bond Program.

- *5-q. **Sidewalks at Railroad Crossing on Alma School. (Districts 3 and 4)**

To continue to meet current railroad approach and clearance standards at the Alma School Road railroad crossing, additional safety improvements will need to be made. The project improvements for roadway and sidewalk approach at this location will facilitate greater public safety and needed clearances from railroad signals along with a smoother roadway crossing of the Union Pacific Railroad track. Mesa will participate in the federally-funded Railway-Highway Grade Crossing Program, and will be responsible

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for adjusting the existing concrete sidewalks around the proposed cantilevers and gates, and installing concrete medians.

This project was previously awarded by Council on July 10, 2017, however, the previously selected contractor could not comply with the federal requirements and the project was released for bid a second time.

Staff recommends awarding the contract to the lowest, responsible bidder, AJP Electric, in the amount of \$149,494, plus an additional \$14,949 (10%) as a change order allowance, for a total amount of \$164,443. Funding is available from the Local Streets Sales Tax, of which 94.3% will be reimbursed by Arizona Department of Transportation (Federal) Grant under the Railway-Highway Grade Crossing.

6. Take action on the following resolutions:

- *6-a. Approving and authorizing the City Manager to submit the Second Substantial Amendment to the Fiscal Year 2017/2018 Annual Action Plan to the U.S. Department of Housing and Urban Development related to the allocation of funding obtained under the Community Development Block Grant (CDBG) program. This Amendment will allow for reallocation of \$600,000 in CDBG funds from the Senior Center Renovation Project (247 North Macdonald) to the Eagles Park Project (828 East Broadway Road). **(District 4)** – Resolution No. 11088.
- *6-b. Approving and authorizing the City Manager to enter into a Grant Agreement with the Arizona Department of Public Safety to accept \$1,335,284 in Victims of Crime Act (VOCA) grant funds. The finding will be used for salaries and expenses for the Mesa Prosecutors Office, Victim Services Unit for a three-year period. **(Citywide)** – Resolution No. 11089.
- *6-c. Approving and authorizing the City Manager to enter into a Lease Agreement with New Cingular Wireless PCS for a cellular site on a portion of 5950 East Virginia Street, also known as Mesa Fire Station 214. **(District 5)** – Resolution No. 11090.
- *6-d. Approving and authorizing the City Manager to enter into a Development Agreement for City-Share Reimbursement with PPGN-Ray, LLLP, for the reimbursement of \$100,568 for regional street and street lighting improvements that are being required by the City in conjunction with a proposed residential development known as Crismon Road at PPGN, located at 5461 South Ellsworth Road. **(District 6)** – Resolution No. 11091.
- *6-e. Approving and authorizing the City Manager to enter into an Intergovernmental Agreement with the Maricopa County, Department of Transportation for the pavement rehabilitation of Adobe Road from Higley Road to Recker Road. The City will contribute an estimated \$54,417 for the portion of the project that is within City boundaries that will be funded from the 2013 Streets Bond Program. **(District 5)** – Resolution No. 11092.
- *6-f. Approving and authorizing the City Manager to enter into First Amendments to the Development Agreement, Ground and Air Lease, and License Agreement with 3W Management, LLC, to facilitate the development of, and job creation and retention at, the City-owned property generally located at the southwest corner of Main Street and South Pomeroy and 34 South Pomeroy, which is the development commonly known as The GRID. **(District 4)** – Resolution No. 11093.

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7. Introduction of the following ordinance and setting February 26, 2018 as the date of the public hearing on this ordinance:

- *7-a. **ZON17-00323 (District 5)** The 8800 to 8900 blocks of East Main Street (south side). Located west of Red Mountain Freeway on the south side of Main Street (16.4± acres). Rezoning from RS-43 and GC to GC-PAD; and Site Plan Review. This request will allow for the development of an RV dealership and storage facility. Jeff Welker, Welker Development Resources, applicant; Roger D. Overson, owner.

Staff Recommendation: Approval with conditions

P&Z Board Recommendation: Approval with conditions (Vote: 6-0)

8. Discuss, receive public comment, and take action on the following ordinances:

- *8-a. **ZON17-00309 (District 2)** The 5200 block of East Inverness Avenue (south side). Located east of Higley Road south of the US60 Freeway (1.9 ± acres). Rezoning from RM-3-PAD to LC; and Site Plan Review. This request will allow for the development of a commercial building. John Schoenauer, HD Management, applicant; Sevilla, LLC, owner. – Ordinance No. 5419.

Staff Recommendation: Approval with conditions

P&Z Board Recommendation: Approval with conditions (Vote: 7-0)

- *8-b. **ZON17-00283 (District 6)** The 7100 to 7300 blocks of East Ray Road (north side). Located east of Power Road on the north side of Ray Road (56.0± acres). Rezone from LI-AF to LI-AF-PAD. This request will allow for the development of an industrial subdivision. Omar Cervantes, XCL Engineering, LLC, applicant; Phx-Mesa Gateway Airport 193, LLC, owner. – Ordinance No. 5420.

Staff Recommendation: Approval with conditions

P&Z Board Recommendation: Approval with conditions (Vote: 7-0)

- *8-c. **ZON17-00432 (District 3)** The 800 and 900 blocks of West Southern Avenue (south side), the 1200 and 1300 blocks of South Extension Road (west side), and the 800 and 900 blocks of West Grove Avenue (north side). Located at the southwest corner of Southern Avenue and Extension Road (19.3 ± acres). PAD Amendment; Site Plan Modification. This request will allow the development of a new multiple-residence building in an existing multiple-residence complex. Reese Anderson, Pew and Lake, PLC, applicant; Edward B. Frankel, Trustee of the Frankel Family Trust, owner. – Ordinance No. 5421.

Staff Recommendation: Approval with conditions

P&Z Board Recommendation: Approval with conditions (Vote: 7-0)

9. Take action on the following subdivision plat:

- *9-a. "Allred Ranch" (**District 2**) The 2900 to 3100 blocks of East Southern Avenue (north side), and the 900 to 1200 blocks of South Los Alamos (west side). Located east of

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Lindsay Road on the north side of Southern Avenue. 108 RSL-4.5 PAD lots (25± acres).
KB Home Phoenix, Inc., developer; Dan Auxier, EPS Group, engineer.

Items not on the Consent Agenda

10. Items from citizens present.

There were no items from citizens present.

11. Adjournment.

Without objection, the Regular Council Meeting adjourned at 5:57 p.m.

ATTEST:




JOHN GILES, MAYOR


DEE ANN MICKELSEN, CITY CLERK

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Council Meeting of the City Council of Mesa, Arizona, held on the 5th day of February, 2018. I further certify that the meeting was duly called and held and that a quorum was present.


DEE ANN MICKELSEN, CITY CLERK

js




Contract Title: INFORMATION TECHNOLOGY SOLUTIONS & SERVICES
Contract Number: 2018011
Amendment Number: 1
Description of Change: Amendment to incorporate the below "Federal Certifications" document with the Contract.

Effective Date of Change: 8/7/2018

Acceptance: On behalf of the undersigned Contractor, I have given careful consideration to this Contract Amendment and hereby agree to the change(s) and except that as amended herein, all provisions of the Contract remain in full force and effect.

SHI INTERNATIONAL CORP.:




Signature
Cassie Skelton

Printed Name
August 10, 2018

Date

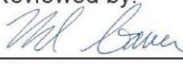
City of Mesa:



Signature
City Manager Designee

Date

Digitally signed by Edward Quedens
DN: cn=Edward Quedens, o=City of Mesa, ou=Business Services Department,
email=ed.quedens@mesaaz.gov, c=US
Location: City of Mesa
Date: 2018.09.04 07:13:49 -0700
Adobe Acrobat version: 2018.009.20050

Reviewed by:


Signature
Matt Bauer

Printed Name
9/4/2018

Date

FEDERAL CERTIFICATIONS

ADDENDUM FOR AGREEMENT FUNDED BY U.S. FEDERAL GRANT

TO WHOM IT MAY CONCERN:

Participating Agencies may elect to use federal funds to purchase under the Master Agreement. This form should be completed and returned.

The following certifications and provisions may be required and apply when a Participating Agency expends federal funds for any purchase resulting from this procurement process. Pursuant to 2 C.F.R. § 200.326, all contracts, including small purchases, awarded by the Participating Agency and the Participating Agency's subcontractors shall contain the procurement provisions of Appendix II to Part 200, as applicable.

APPENDIX II TO 2 CFR PART 200

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

Pursuant to Federal Rule (A) above, when a Participating Agency expends federal funds, the Participating Agency reserves all rights and privileges under the applicable laws and regulations with respect to this procurement in the event of breach of contract by either party.

Does offeror agree? YES CS Initials of Authorized Representative of offeror

(B) Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)

Pursuant to Federal Rule (B) above, when a Participating Agency expends federal funds, the Participating Agency reserves the right to immediately terminate any agreement in excess of \$10,000 resulting from this procurement process in the event of a breach or default of the agreement by Offeror in the event Offeror fails to: (1) meet schedules, deadlines, and/or delivery dates within the time specified in the procurement solicitation, contract, and/or a purchase order; (2) make any payments owed; or (3) otherwise perform in accordance with the contract and/or the procurement solicitation. Participating Agency also reserves the right to terminate the contract immediately, with written notice to offeror, for convenience, if Participating Agency believes, in its sole discretion that it is in the best interest of Participating Agency to do so. Offeror will be compensated for work performed and accepted and goods accepted by Participating Agency as of the termination date if the contract is terminated for convenience of Participating Agency. Any award under this procurement process is not exclusive and Participating Agency reserves the right to purchase goods and services from other offerors when it is in Participating Agency's best interest.

Does offeror agree? YES CS Initials of Authorized Representative of offeror

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 CFR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

Pursuant to Federal Rule (C) above, when a Participating Agency expends federal funds on any federally assisted construction contract, the equal opportunity clause is incorporated by reference herein.

Does offeror agree to abide by the above? YES CS Initials of Authorized Representative of offeror

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted

Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subcontractor must be

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prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

Pursuant to Federal Rule (D) above, when a Participating Agency expends federal funds during the term of an award for all contracts and subgrants for construction or repair, offeror will be in compliance with all applicable Davis-Bacon Act provisions.

Does offeror agree? YES CS Initials of Authorized Representative of offeror

(E) **Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708).** Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Pursuant to Federal Rule (E) above, when a Participating Agency expends federal funds, offeror certifies that offeror will be in compliance with all applicable provisions of the Contract Work Hours and Safety Standards Act during the term of an award for all contracts by Participating Agency resulting from this procurement process.

Does offeror agree? YES CS Initials of Authorized Representative of offeror

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

Pursuant to Federal Rule (F) above, when federal funds are expended by Participating Agency, the offeror certifies that during the term of an award for all contracts by Participating Agency resulting from this procurement process, the offeror agrees to comply with all applicable requirements as referenced in Federal Rule (F) above.

Does offeror agree? YES CS Initials of Authorized Representative of offeror

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

Pursuant to Federal Rule (G) above, when federal funds are expended by Participating Agency, the offeror certifies that during the term of an award for all contracts by Participating Agency member resulting from this procurement process, the offeror agrees to comply with all applicable requirements as referenced in Federal Rule (G) above.

Does offeror agree? YES CS Initials of Authorized Representative of offeror

(H) **Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.**

Pursuant to Federal Rule (H) above, when federal funds are expended by Participating Agency, the offeror certifies that during the term of an award for all contracts by Participating Agency resulting from this procurement process, the offeror certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency.

Does offeror agree? YES CS Initials of Authorized Representative of offeror

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

Pursuant to Federal Rule (l) above, when federal funds are expended by Participating Agency, the offeror certifies that during the term and after the awarded term of an award for all contracts by Participating Agency resulting from this procurement process, the offeror certifies that it is in compliance with all applicable provisions of the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). The undersigned further certifies that:

- (1) No Federal appropriated funds have been paid or will be paid for on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with the awarding of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all covered sub-awards exceeding \$100,000 in Federal funds at all appropriate tiers and that all subrecipients shall certify and disclose accordingly.

Does offeror agree? YES CS Initials of Authorized Representative of offeror

RECORD RETENTION REQUIREMENTS FOR CONTRACTS INVOLVING FEDERAL FUNDS

When federal funds are expended by Participating Agency for any contract resulting from this procurement process, offeror certifies that it will comply with the record retention requirements detailed in 2 CFR § 200.333. The offeror further certifies that offeror will retain all records as required by 2 CFR § 200.333 for a period of three years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

Does offeror agree? YES CS Initials of Authorized Representative of offeror

CERTIFICATION OF COMPLIANCE WITH THE ENERGY POLICY AND CONSERVATION ACT

When Participating Agency expends federal funds for any contract resulting from this procurement process, offeror certifies that it will comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.; 49 C.F.R. Part 18).

Does offeror agree? YES CS Initials of Authorized Representative of offeror

CERTIFICATION OF COMPLIANCE WITH BUY AMERICA PROVISIONS

To the extent purchases are made with Federal Highway Administration, Federal Railroad Administration, or Federal Transit Administration funds, offeror certifies that its products comply with all applicable provisions of the Buy America Act and agrees to provide such certification or applicable waiver with respect to specific products to any Participating Agency upon request. Purchases made in accordance with the Buy America Act must still follow the applicable procurement rules calling for free and open competition.

Does offeror agree? YES CS Initials of Authorized Representative of offeror

CERTIFICATION OF ACCESS TO RECORDS – 2 C.F.R. § 200.336

Offeror agrees that the Inspector General of the Agency or any of their duly authorized representatives shall have access to any books, documents, papers and records of offeror that are directly pertinent to offeror's discharge of its obligations under the Contract for the purpose of making audits, examinations, excerpts, and transcriptions. The right also includes timely and reasonable access to offeror's personnel for the purpose of interview and discussion relating to such documents.

Does offeror agree? YES CS Initials of Authorized Representative of offeror

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CERTIFICATION OF APPLICABILITY TO SUBCONTRACTORS

Offeror agrees that all contracts it awards pursuant to the Contract shall be bound by the foregoing terms and conditions.

Does offeror agree? YES CS Initials of Authorized Representative of offeror

Offeror agrees to comply with all federal, state, and local laws, rules, regulations and ordinances, as applicable. It is further acknowledged that offeror certifies compliance with all provisions, laws, acts, regulations, etc. as specifically noted above.

Offeror's Name: SHI International Corp

Address, City, State, and Zip Code: 290 Davidson Avenue, Somerset, NJ 08873

Phone Number: 800-477-6479 Fax Number: _____

Printed Name and Title of Authorized Representative: Cassie Skelton, Contracts Manager

Email Address: _____

Signature of Authorized Representative:  Date: 8/31/18

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20 E Main St Suite 400
PO Box 1466
Mesa, Arizona 85211-1466

mesaaz.gov

December 17, 2018

Ms. Meghan Flisakowski
SHI International Corp.
290 Davidson Ave
Somerset, NJ 08873
Fax: 732-652-6599
Meghan.Flisakowski@shi.com

RE: Request to Add a Subcontractor – SHI Government Solutions

Dear Ms. Meghan Flisakowski,

This letter serves as the City of Mesa's approval pursuant to Exhibit C, Section 2 of the City of Mesa Agreement Number 2018011 (Information Technology Solutions & Services) with SHI International ("Master Agreement") to allow SHI Government Solutions, Inc., a Texas corporation whose address is 1301 South MoPac Expressway, Suite 375, Austin, TX 78746, as an authorized subcontractor under the Master Agreement for the sole purpose of transacting business in the State of Texas. This approval is subject to the requirements of Exhibit C, Section 2 of the Master Agreement which requires SHI Government Solutions to comply with all terms and conditions of the Master Agreement. SHI International must ensure that SHI Government Solutions complies with both the Master Agreement and SHI International's Administrative Agreement with National Intergovernmental Purchasing Alliance ("National IPA"). As with any authorized subcontractor under the Master Agreement, SHI Government Solutions will report all sales information related to the Master Agreement to SHI International. SHI International will then, in turn, be responsible for reporting all sales inclusive of SHI Government Solutions' sales to National IPA.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew Bauer".

Matthew Bauer
Procurement Administrator

CC: Nick Grappone
Sarah Vavra
Deborah Bushnell

480.644.2301 (tel)
480.644.2655 (fax)



CONTRACT AMENDMENT

Contract Title: INFORMATION TECHNOLOGY SOLUTIONS & SERVICES

Contract Number: 2018011

Amendment Number: Three (3)

Description of Change: Amendment to allow the addition of Amazon Web Services and Information Technology/Educational Furniture as follows:

- 1. Amazon Web Services (AWS) added to category twelve (12).
 - a. Minimum discount 4%
 - b. Cloud Terms and Conditions
 - i. AWS purchases made under this contract are also subject to the terms and conditions contained in exhibit A. Exhibit A terms take precedence over any conflicting terms and conditions in the agreement, or any contract between contractor and the applicable purchasing agency.
 - ii. All non-conflicting terms and conditions remain in full force.

- 2. Information Technology/Educational Furniture added to category ten (10) (Other Products).
 - a. Minimum discount 4%

Effective Date of Change: 5/12/2020

Acceptance: On behalf of the undersigned Contractor, I have given careful consideration to this Contract Amendment and hereby agree to the change(s) and except that as amended herein, all provisions of the Contract remain in full force and effect.

SHI International Corp.

City of Mesa:

Natalie Castagno

Signature

Signature

Natalie Castagno

Printed Name

City Manager Designee

5/26/20

Date

Date

Reviewed by:

TSG

Ted Stallings, CPP
Procurement Officer II

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EXHIBIT A

SHI AWS Terms for U.S. Public Sector Customers

These terms and conditions shall apply to the AWS Service Offering described in the On Boarding form.

WHEREAS, SHI is authorized to resell and provide Support Services for Amazon Web Services' (AWS) Service Offerings to SHI customers; and

WHEREAS, Customer wishes to obtain through SHI and SHI wishes to provide to Customer access to such AWS Service Offering or Support Services;

NOW THEREFORE, in consideration of the terms and conditions contained herein, the Parties hereto agree as follows:

Article 1 - Definition of Terms

The following terms, wherever used in any documents which form part of this Agreement, shall have the meanings indicated below unless the context otherwise requires:

- A. "Content" means software (including machine images), data, text, audio, video, images or other content on the cloud infrastructure.
- B. "Customer" means the entity utilizing the Service Offering, as designated on the On Boarding form.
- C. "Service(s) Offering" means the services (including associated APIs) offered by AWS and selected by Customer.
- D. "Support Service(s)" means the services offered by SHI to manage AWS Service Offering and selected by Customer.
- E. "SHI" means SHI International Corp., having an office and place of business at 290 Davidson Avenue, Somerset, NJ 08873.
- F. "Public Sector Customer" means a Customer that is an agency, organization, or other entity that is within (or is substantially owned, funded, managed or controlled by):
 - 1. the executive, legislative, or judicial branches of any government within the U.S. (federal, state or local) and its territories; or by any other country's government at any level;
 - 2. quasi-governmental entities (such as the World Bank);
 - 3. international governing/regulatory bodies (such as EU institutions);
 - 4. publicly funded institutions (such as colleges, universities, and hospitals); or
 - 5. higher-tier prime contractors, consultants, consultants, or other entities working in support of the foregoing.

Article 2 - Contractual Relationships

- A. Nothing in this Agreement is intended to or does create any type of joint venture, creditor-debtor, escrow, partnership or any employer/employee or fiduciary or franchise relationship between Customer and SHI. Customer's and SHI's relationship to each other is that of "customer" and "independent contractor", respectively, and nothing set forth herein shall be construed as creating an agency or employee relationship between the Parties
- B. AWS is a third party cloud service provider to SHI and is an Independent Contractor to SHI. Nothing in this Agreement will in any way be construed to constitute such third party Service Offering provider to be an agent, employee or representative of SHI. Without limiting the generality of the foregoing, the third party Service Offering provider is not authorized to bind SHI to any liability or obligation.
- C. Customer may not resell AWS Service Offerings provided through this Agreement without SHI's prior written consent.

Article 3 - Term

The term of this Agreement will commence on the first of the following dates:

- A. Upon Customer's signature of the On Boarding form; or

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- B. Upon Customer's first use of any Service Offering; or,
 - C. Upon Customer's issuance of a valid purchase order for any Service Offering,
- and will remain in effect until terminated in accordance with Article 11 - Termination, herein.

Article 4 - Price, Terms of Payment and Tax

A. Price

1. Estimated Price for the Service Offerings may be calculated with the Amazon Web Service Offering Simple Monthly Calculator located at: <http://calculator.s3.amazonaws.com/calc5.html>.
2. SHI Service Offering Price will be calculated as follows, on a monthly basis:
 - SHI Service Offering Price = (Actual AWS Monthly Charge - SLA Credits - Reserved Instance Credits)
3. All amounts payable will be made without setoff or counterclaim, and without any deduction or withholding.

B. Terms of Payment

1. SHI invoices shall be paid ("paid" being defined as "issuance of payment from Customer's Accounts Payable Department") net 30 calendar days after receipt of a valid invoice at the Customer's remit to address.
2. Any invoice or portion thereof that is subject to a good faith dispute will not be paid; in such case, Customer will promptly notify SHI of any rejected invoice or portion thereof, with reasons for such rejection. The rejected costs, adjusted to the extent as mutually agreed to, shall then be re-invoiced on a separate invoice

C. Taxes

1. Customer will be responsible for the cost of any federal, state and local sales or use tax imposed or based on the sale of Service Offerings provided under this Agreement. Such taxes, if applicable, will be separately stated on SHI's invoices and reported and paid to appropriate governmental authorities by SHI.
2. At Customer's request, SHI will file any certificate or other document which may cause any such tax to be avoided or reduced including Customer's VAT identification number. SHI will cooperate with Customer in contesting any such tax or in claiming, on Customer's behalf, refunds of any such taxes paid by or on behalf of Customer.
3. If Customer is legally entitled to an exemption from any sales, use, or similar transaction tax, Customer shall provide SHI legally sufficient tax exemption certificates for each taxing jurisdiction, as the case may be.
4. If any deduction or withholding is required by law, Customer will notify and pay SHI any additional amounts necessary to ensure that the net amount that SHI receive, after any deduction and withholding, equals the amount SHI would have received if no deduction or withholding had been required. Additionally, Customer will provide SHI with documentation showing that the withheld and deducted amounts have been paid to the relevant taxing authority.

Article 5 - Confidential Information

- A. If a Party to this Agreement, its subcontractors and agents (the "Receiving Party") obtains access to Confidential Information (as defined below) of the other Party (the "Disclosing Party") in connection with the negotiation of or performance under this Agreement, the Receiving Party agrees that:
 1. The Disclosing Party shall retain ownership of the Confidential Information and that the Receiving Party shall not acquire any rights therein, except the right to use such Confidential Information to the extent provided in this Agreement.
 2. The Receiving Party is hereby granted a limited, irrevocable, non-exclusive, royalty-free, non-transferable, worldwide right and license to use the Disclosing Party's Confidential Information according to the terms of this Agreement.

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3. Except as otherwise provided in this Agreement, no Confidential Information disclosed pursuant to this Agreement shall be made available by the Receiving Party to any third party for any purpose, except to an affiliate or subcontractor, where such disclosure is necessary for the performance of this Agreement and provided, further, however, that such disclosure shall not be made without an express written agreement of such affiliate or subcontractor to substantially comply with all restrictions on the use of such Confidential Information as are imposed upon the Receiving Party pursuant to this Agreement. The Receiving Party agrees to indemnify the Disclosing Party for any violation or breach of such restrictions.
- B. "Confidential Information" shall mean: (1) information which is (a) in tangible form, clearly and conspicuously identified by the Disclosing Party or a third party as proprietary and/or confidential (by stamp, legend or otherwise) when disclosed or, (b) in intangible form, if its proprietary and/or confidential nature is first announced, and then reduced to writing ("Summary") and furnished to the Receiving Party within thirty (30) days of the initial disclosure, in which case the Confidential Information contained in such Summary shall be subject to the restrictions herein; (2) all information about or belonging to the Disclosing Party that is disclosed or otherwise becomes known to the Receiving Party in connection with this Agreement and that is not a matter of public knowledge; (3) all trade secrets and intellectual property owned or licensed by the Disclosing Party; (4) customer records, and (5) all personal information about individuals contained in the Disclosing Party's records (including, without limitation, names, addresses, social security numbers, and credit card and other financial information). The terms of this Agreement, along with the fact of this Agreement's existence, are the Confidential Information of both Parties. Each Party agrees not to use the Confidential Information received from the other during the term of this Agreement, either directly or indirectly, to solicit business from any individual, company, agency or institute, or to interfere with, impair or hinder any relationship between the Disclosing Party and any of its customers, prospective customers, suppliers, strategic partners, affiliates or investors, or in any other manner to compete against the Disclosing Party.
- C. The Receiving Party shall use at least the same degree of care to protect the Confidential Information of the Disclosing Party from unauthorized disclosure or access that the Receiving Party uses to protect its own Confidential Information, but not less than reasonable care, including measures to protect against the unauthorized use, access, destruction, loss or alteration of such records.
- D. Each Party shall endeavor to keep to a minimum the amount of Information that is furnished to the other upon which restrictions are imposed.
- E. Information of the Disclosing Party shall not be considered Confidential Information to the extent that the Receiving Party can demonstrate that such information:
 1. Was previously rightfully known by the Receiving Party free of any obligation to keep it confidential;
 2. Is or becomes publicly known through no wrongful act of the Receiving Party;
 3. Is independently developed by the Receiving Party without reference to the Confidential Information of the Disclosing Party; or
 4. Is subject to disclosure pursuant to a subpoena, judicial or governmental requirement, or order, provided that the Receiving Party has given the Disclosing Party sufficient prior notice of such subpoena, requirement, or order, to permit the Disclosing Party a reasonable opportunity to object to the subpoena, requirement, or order and to allow the Disclosing Party the opportunity to seek a protective order or other appropriate remedy. Except in connection with a failure in the discharge of responsibilities set forth in the preceding sentence, the Receiving Party shall not be liable in damages for any disclosure of Confidential Information pursuant to judicial decree or government regulation.
- F. In the event this Agreement is terminated, the Receiving Party shall cease to make use of the Confidential Information received from the Disclosing Party and, upon the Disclosing Party's written request, shall promptly destroy or return tangible Confidential Information. In the event that the Disclosing Party requests destruction, the Receiving Party shall provide written certification of the destruction within thirty (30) days of such request.
- G. The confidentiality obligations of each Party under this Agreement will survive any expiration or termination of this Agreement for a period of three years after receipt of such Confidential Information.
- H. The SHI Service Offering Privacy Statement, located at the following URL, shall apply to this Agreement:
https://www.content.shi.com/ShiCom/SHI_Cloud/legal/privacy.pdf

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- I. During or after the term of this Agreement and for two (2) years thereafter, neither Party may release any information, including news releases, publicity, promotional, marketing, or other materials, media, or activities, any name, trade name, trademark, service mark, logo, or any other designation relating to the other Party, the Service Offerings, or this Agreement, without the other Party's prior written approval.
- J. The rights, duties and obligations of the Parties with respect to all Confidential Information disclosed before the date of this Agreement in contemplation of the execution of this Agreement shall be as set forth in this Article.

Article 6 - Proprietary Rights

- A. Content. Customer or Customer's licensors own all right, title, and interest in and to Customer's Content, and SHI obtains no rights under this Agreement from Customer or Customer's licensors to Customer's Content, including any related intellectual property rights.
- B. Adequate Rights. Customer represents and warrants to SHI that: (a) Customer or Customer's licensors own all right, title, and interest in and to Customer's Content; (b) Customer has all rights in Customer's Content.

Article 7 - Warranties

- A. SHI warrants that it has the rights, approvals, and/or authorizations necessary to resell the AWS Service Offering(s).
- B. The Parties warrant that they are authorized to execute this Agreement.
- C. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, SHI HEREBY DISCLAIMS ALL OTHER WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, THE SPECIFICATIONS, FEATURES, OR CAPABILITIES OF A SERVICE OFFERING, OR OF ANY MATERIALS THEREIN.

Article 8 - Indemnity

- A. Each Party ("Indemnitor") shall, to the extent permitted by law, indemnify, defend and hold harmless the affiliates, licensors, and vendors, and each of their respective employees, officers, directors, and representatives of the other Party (individually "Indemnitee" or collectively "Indemnitees") from and against any and all third party (including employees of the Indemnitor) liabilities, actual or alleged claims, actions, losses and damages arising out of, or directly related to this Agreement, including: personal injury; death; or damage to property (tangible or intangible), infringement of intellectual property rights, to the extent caused or arising out of the negligence, willful misconduct, or violation of law of the Indemnitor or any subcontractor or affiliate of the Indemnitor. The liabilities, losses and costs covered hereunder include settlements, judgments, court costs, reasonable attorneys' fees, fines, penalties and other litigation expenses.
- B. Each Party shall provide timely written notice to the other of any claim, loss, suit, demand or lien under this Article which they become aware of, but Indemnitee's failure to promptly notify Indemnitor will only affect Indemnitor's obligations hereunder to the extent that such failure prejudices Indemnitor's ability to defend the claim.
- C. The Indemnitor shall assume exclusive control of the claim, loss, suit, demand or lien and the Indemnitee shall provide reasonable assistance in the defense of the claim, loss, suit, demand or lien, at the Indemnitor's expense. Indemnitor may: (a) use counsel of Indemnitor's own choosing (subject to Indemnitee's written consent) to defend against any claim; and (b) settle the claim as Indemnitor deems appropriate, provided that Indemnitor obtains Indemnitee's prior written consent before entering into any settlement which will impact Indemnitee's rights under this Agreement. Indemnitee may also, at its own expense, assume control of the defense and settlement of the claim at any time.
- D. If Indemnitee is obligated to respond to a third party subpoena or other compulsory legal order or process described above, Indemnitor will reimburse that Indemnitee for reasonable attorneys' fees, as well as Indemnitee's employees' and contractors' time and materials spent responding to such third party subpoena or other compulsory legal order.
- E. Customer will defend, indemnify, and hold harmless SHI, its affiliates, licensors, and vendors, and each of their respective employees, officers, directors, and representatives from and against any claims, costs, damages, fines,

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penalties, liabilities, losses, and expenses (including reasonable attorneys' fees) arising out of or relating to any third party claim concerning: (a) Customer's use of the Service Offerings; (b) breach of this Agreement or violation of applicable law by Customer; (c) or Customer's Content or the combination of Customer's Content with other applications, content or processes, including any claim involving alleged infringement or misappropriation of third-party rights by Customer's Content or by the use, development, design, production, advertising or marketing of Customer's Content.

Article 9 - Limitation Of Liability

- A. IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER OR ANY THIRD PARTY FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, OR SPECIAL DAMAGES HEREUNDER, INCLUDING, WITHOUT LIMITATION, DAMAGES DUE TO LOST PROFITS, LOSS OF ANTICIPATED USE, OR THE INABILITY TO USE TECHNOLOGY, UNDER ANY CAUSE OF ACTION OR THEORY OF LIABILITY (WHETHER BASED ON WARRANTY, BREACH OF CONTRACT, TORT, PRODUCT LIABILITY, STRICT LIABILITY OR ANY OTHER LEGAL OR EQUITABLE THEORY) AND WHETHER OR NOT THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.
- B. EXCEPT IN THE CASE OF BREACH OF EACH PARTY'S LIABILITY FOR PERSONAL INJURY/PROPERTY DAMAGE UNDER ARTICLE ENTITLED, "INDEMNIFICATION", EITHER PARTY'S TOTAL CUMULATIVE LIABILITY TO THE OTHER IN CONNECTION WITH ITS ACTUAL AND DIRECT DAMAGES UNDER THIS AGREEMENT, WHETHER BASED IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, SHALL BE LIMITED TO THE TOTAL CUMULATIVE AMOUNT OF THE PRICE ACTUALLY PAID OR PAYABLE BY CUSTOMER TO SHI UNDER THIS AGREEMENT FOR THE SIX MONTHS PREVIOUS TO THE INCIDENT WHICH GAVE CAUSE FOR SUCH LIABILITY. THE PARTIES ACKNOWLEDGE THAT SUCH AMOUNT REFLECTS THE ALLOCATION OF RISK SET FORTH IN THIS AGREEMENT AND THAT THE PARTIES WOULD NOT ENTER INTO THIS AGREEMENT WITHOUT THESE LIMITATIONS ON ITS LIABILITY.
- C. THE PARTIES AGREE AND ACKNOWLEDGE THAT THESE LIMITATIONS ON POTENTIAL LIABILITIES WERE AN ESSENTIAL ELEMENT IN SETTING CONSIDERATION UNDER AND ENTERING INTO THIS AGREEMENT.
- D. NOTHING IN THIS SECTION WILL LIMIT CUSTOMER'S OBLIGATION TO PAY SHI PURSUANT TO ARTICLE 4.A. HEREIN, ENTITLED "PRICE".

Article 10 - Force Majeure

- A. Neither SHI nor Customer shall be liable, each to the other, for any failure or delay in performing its obligations hereunder, or for any loss or damage resulting therefrom, due to: (1) acts of God or public enemy, acts of government, riots, fires, floods, strikes, lock outs, epidemics, or unusually severe weather affecting Customer, SHI or its suppliers, or (2) causes beyond their reasonable control and which are not foreseeable, or causes beyond the reasonable control of their suppliers which are not foreseeable.
- B. In the event of any such failure or delay, the date of delivery or performance shall be extended for a period equal to the time lost by reason of the delay, and Customer shall have no obligation to make any payments to SHI during the period of delay. The Party experiencing the Force Majeure condition shall be prompt in restoring normal conditions, establishing new schedules and resuming operations as soon as the event causing the failure or delay has ceased. SHI shall notify Customer promptly of any such delay and shall specify the effect on the Service Offering as soon as practical.

Article 11 - Termination

- A. Termination for Convenience
Either Party may terminate this Agreement without cause and for its own convenience, as follows:
 - 1. Customer may terminate this Agreement by
 - a. Providing SHI notice, and
 - b. Closing its account for all Service Offerings for which an account closing mechanism is provided.
 - 2. SHI may terminate this Agreement and the Service Offerings by providing Customer thirty (30) days advance notice of such termination.

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B. Termination for Cause.

1. By Either Party

Either party may terminate this Agreement for cause upon 30 days advance notice to the other Party, if:

- a. There is any material default or breach of this Agreement by the other Party, unless the defaulting Party has cured the material default or breach within the 30 day notice period. Customer's delinquency on its payment obligations shall constitute a material breach of this Agreement;
- b. Either party has ceased to operate in the ordinary course, made an assignment for the benefit of creditors or similar disposition of its assets, or becomes the subject of any bankruptcy, reorganization, liquidation, dissolution or similar proceeding; or
- c. The Parties' relationship with a third party partner who provides software or other technology used to provide the Service Offerings expires, terminates or requires a change in the way the software or other technology as part of the Services is provided.

2. By SHI

SHI may terminate this Agreement and the Service Offerings immediately upon notice to Customer, if:

- a. SHI believes, in its sole and reasonable judgment, that Customer's use of a Service Offering:
 1. Poses a threat to the security or performance of the SHI network or to any of SHI's clients, licensors or vendors;
 2. Could create a substantial economic or technical burden or material security risk for SHI;
 3. Is illegal, or that it misappropriates or infringes the property rights of a third party; or
 4. Has or will subject SHI or its affiliates, licensors, and vendors, to civil or criminal liability.
- b. Customer attempts to gain unauthorized access to computer systems (i.e., "hacking") using a Service Offering, or with assets used to provide or provision a Service Offering;
- c. Any act or omission by Customer results in a suspension described in Article 12 - Temporary Suspension, below;
- d. Termination is required to comply with the law or requests of governmental entities; or
- e. SHI, in its sole and reasonable judgment determines use of the Service Offerings by Customer or the provision of any of the Service Offerings to Customer has become impractical or unfeasible for any legal or regulatory reason.

C. Effect of Termination

Upon any termination of this Agreement:

1. All of Customer's rights under this Agreement immediately terminate;
2. Customer remains responsible for all fees and charges it has incurred through the date of termination, including fees and charges for in-process tasks completed after the date of termination; and
3. Customer will immediately return or, if instructed by SHI, destroy all AWS Content in its possession.

D. Post-Termination Assistance

Unless SHI terminates Customer's use of the Service Offerings for cause pursuant to Section B. of this Article, during the 30 days following termination:

1. None of Customer's Content will be erased as a result of the termination;
2. Customer may retrieve its Content from the Service Offering only if Customer has paid any charges for any post-termination use of the Service Offerings and all other amounts due;
3. Customer will be provided with the same post-termination data retrieval assistance that AWS generally makes available to all customers; and
4. Any additional post-termination assistance is subject to mutual agreement by the Parties.

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Article 12 - Temporary Suspension

- A. SHI may suspend Customer's right to access or use any portion or all of the Service Offerings immediately upon notice to Customer:
1. If SHI believes, in its sole and reasonable judgment, that Customer's use of or registration for the Service Offerings:
 - a. Poses a security risk to the Service Offerings or any third party;
 - b. May adversely impact the Service Offerings or the systems or Content of any other AWS customer;
 - c. May subject SHI, its affiliates, or any third party to liability; or
 - d. May be fraudulent.
 2. Upon 15 calendar days' notice to Customer of any material default or breach of this Agreement by Customer, unless Customer has cured the material default or breach within such 15 day notice period. Customer's delinquency on its payment obligations shall constitute a material breach of this Agreement.
- B. Effect of Suspension
If Customer's right to access or use any portion or all of the Service Offerings is suspended:
1. Access to the Service Offering will be unavailable in whole or in part during any suspension, and Customer may not have access to Customer's data;
 2. Fees may continue to accrue during a suspension, and SHI may charge Customer a reinstatement fee following any suspension;
 3. Customer shall remain responsible any applicable fees and charges for any Service Offerings it has incurred through the date of suspension and for which it continues to have access, as well as applicable data storage fees and charges, and fees and charges for in-process tasks completed after the date of suspension;
 4. Customer will not be entitled to any service credits under the Service Level Agreements during any period of suspension; and
 5. Customer's Content will not be erased as a result of its suspension, except as specified elsewhere in this Agreement or the AWS online provisions.
- C. SHI's right to suspend Customer's right to access or use the Service Offerings is in addition to SHI's right to terminate this Agreement as specified herein.

Article 13 - Notice

- A. Any notice or demand under the terms of this Agreement which must be made in writing shall be sent by facsimile, certified or registered mail, delivered by hand, or sent by Email with receipt confirmation addressed to the persons identified in the On Boarding form. The effective dates of such notice shall be (1) upon evidence of successful facsimile or Email transmission, or (2) five days following the date mailed for certified or registered letters and two days following the date mailed for overnight letters, or (3) when delivered, if in person.

Article 14 -Claims/Disputes/Governing Laws

- A. This Agreement, and any claims or disputes arising out of or relating thereto shall be governed by the laws of the State of Washington, excluding conflict of law principles and the Uniform Computer Information Transactions Act ("UCITA"). The Parties hereby consent to the exclusive jurisdiction and venue in the federal and state courts of the State of Washington in connection with any dispute or other matter arising out of this Agreement.
- B. Each Party shall use commercially reasonable efforts to present any claim or dispute which either Party may have against the other, arising out of this Agreement (including any Exhibit hereto) in writing to the other Party not later than thirty (30) calendar days after circumstances which gave rise to the claim or dispute have taken place or become known to the claimant, whichever is later. The claim or dispute shall contain a concise statement of the question or dispute, together with relevant facts and data to fully support the claim. In the event of any such claim

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or dispute, the Parties' Contract Representatives shall use their best efforts to negotiate a settlement. Upon the failure of such negotiations, such claim or dispute shall be negotiated between the Parties' senior officials who shall have decision making authority (but not direct responsibility for the administration of this Agreement), utilizing Commercial Arbitration Rules and Mediation Procedures (Including Procedures for Large Complex Commercial Disputes) as published at www.adr.org; provided however, that nothing therein contained shall prohibit either Party from terminating its participation in the dispute during any stage of the process.

- C. If any claim or dispute arising hereunder is not resolved either Party may, upon giving the other Party at least ten (10) calendar days prior written notice, initiate litigation to submit such claims or disputes for decision by a court of competent jurisdiction of the choice of venue stated in A., above in accordance with the laws of that jurisdiction. Either Party may, at its option and at any time during the dispute resolution process, seek injunctive relief (including, but not limited to preliminary injunctive relief).
- D. Any remedies expressly provided for in this Agreement and/or available to either Party hereunder are cumulative and non-exclusive, and may be exercised concurrently or separately. The exercise of any one remedy shall not be construed to prohibit either Party from pursuing any and all other remedies that may be available at law, in contract, or in equity. The prevailing Party in any dispute and/or legal action brought hereunder shall also be entitled to recover all reasonable out of pocket costs and expenses (including, but not limited to, reasonable court costs and attorneys' fees) incurred as a result thereof.
- E. Compliance With Laws
 - 1. The Parties, their employees and representatives, shall at all times comply with all applicable federal, state and local laws, ordinances, statutes, rules or regulations in regard to this Agreement and use of the Service Offerings.
 - 2. Each Party shall be responsible for any costs, fines, penalties, awards, damages or other liabilities incurred by the other Party resulting from any violations of this Section by the responsible Party.

Article 15 - Miscellaneous

- A. Assignment: Neither Party may assign, subcontract, or transfer this Agreement or any part thereof without the other Party's prior written consent, and any such assignment or transfer without such consent shall be null and void. However, either Party will have the right to unilaterally assign this Agreement and its rights and obligations under it, in whole or in part, to any present or future Affiliate or to any entity which acquires from it the operating assets to fulfill its obligations under this Agreement.
- B. Headings: The captions and titles to articles and paragraphs of this Agreement are only provided for convenience only and have no effect on the nature, extent, construction and meaning of this Agreement.
- C. Order of Precedence: In the event of any inconsistency between the provisions of the following documents, the inconsistency shall be resolved by giving precedence in the following order:
 - 1. Amendments to this Agreement, if any;
 - 2. Links in this Agreement;
 - 3. This Agreement; and
 - 4. Documents incorporated into this Agreement in the order in which they are listed.

This Agreement shall govern and supersede any preprinted terms and conditions stated on or attached to any Order, invoice or other document submitted by the Parties, which are null and void with respect to this Agreement.
- D. Referenced Documents: If documents are referenced, linked, or incorporated in this Agreement, they shall be read as originals. Attachments, schedules, appendices and addenda shall be considered part of the documents in which they are referenced. Such documents shall have the same force and effect as if contained in their entirety.
- E. Marks: The trademarks, logos and service marks ("Marks") displayed in association with this Agreement are the property of SHI or other third parties. Customer is not permitted to use the Marks without the prior written consent of SHI or such third party which may own the Marks. "SHI", the SHI logo, and the SHI Cloud logo are trademarks of SHI International Corp.

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- F. **Construction:** Notwithstanding the general rules of construction, both Customer and SHI acknowledge that both Parties were given an equal opportunity to negotiate the terms and conditions contained in this Agreement, and agree that the identity of the drafter of this Agreement is not relevant to any interpretation of the terms and conditions of this Agreement.
- G. **Survival:** In the event of termination or expiration of this Agreement, the following Articles shall survive:
[Article 5 - Confidential Information](#)
[Article 6 - Proprietary Rights](#)
[Article 7 - Warranties](#)
[Article 8 - Indemnity](#)
[Article 14 - Claims/Disputes/Governing Laws](#)
- H. **Severance:** Should any of these terms and conditions be declared unenforceable in law for whatever reason, all other terms and conditions shall survive and the unenforceable provision(s) will be severed from these terms and conditions and the balance of the terms and conditions shall be binding on both parties as if the severed provision(s) had never existed, unless performance thereof is rendered legally impractical and no longer fulfills the intentions of SHI under this Agreement.
- I. **Execution:** This Agreement may be executed in two or more identical counterparts, each of which shall be deemed to be an original and all of which taken together will be deemed to constitute this Agreement when a duly authorized representative of each Party has signed a counterpart. The Parties may sign and deliver this Agreement by facsimile transmission. Each Party acknowledges that the delivery hereof by facsimile will have the same force and effect as delivery of original signatures.
- J. **Entire Agreement:** This Agreement represents the entire understanding of Customer and SHI with respect to the subject matter hereof and supersedes all prior oral or written agreements, communications and understandings between the two with respect to such subject matter.
- K. The Service Offerings are provided by Amazon.com, a third party vendor not affiliated with SHI. For the latest AWS Service Offering list, refer to <https://aws.amazon.com/about-aws/whats-new/>.
- L. **Support Services:** SHI Support Services are listed at https://www.content.shi.com/SHIcom/ContentAttachment/Images/SharedResources/Solutions/Cloud/AWS_Support_and_Managed_Services-Service_Guide.pdf.
- M. **Additional Obligations**
By entering into this Agreement, Customer acknowledges that Customer's use of the AWS Service Offering is subject to the AWS Customer Agreement located at: <http://aws.amazon.com/agreement>. Where the terms read "Amazon Web Services, Inc.", "AWS," "we," "us," or "our", they shall mean "SHI", except that in paragraph 3.2, references regarding Safe Harbor participation and Privacy Policy apply to Amazon Web Services, Inc. and not SHI.

The AWS Public Sector Access Terms, a separate agreement between Customer and Amazon Web Services, Inc. shall also apply to the Service Offering. The AWS Public Sector Access Terms are currently located as follows:

(1) with respect to U.S. Public Sector Customers at the U.S. federal level, the access policy currently located at <https://s3.amazonaws.com/Reseller-Program-Legal-Documents/AWS+Access+Policy.pdf>; or (2) with respect to U.S. Public Sector Customers at the state or local level, the access policy currently located at [https://s3.amazonaws.com/Reseller-Program-Legal-Documents/AWS+Access+Policy+\(State\).pdf](https://s3.amazonaws.com/Reseller-Program-Legal-Documents/AWS+Access+Policy+(State).pdf).

Versions of the applicable Public Sector Access Policy may be updated by AWS from time to time and may be made available on any successor or related site designated by AWS.

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DocuSign Envelope ID: 0F4D4C90-412D-432E-BD10-6A8BAD169B55



CONTRACT AMENDMENT

Contract Title: Information Technology Solutions

Contract Number: 2018011

MA Number: 19000009

Amendment Number: Four (4)

Description of Change: Contract renewal. Term of contract March 1, 2023 through February 28, 2025.

Effective Date of Change: March 1, 2023

Acceptance: On behalf of the undersigned Contractor, I have given careful consideration to this Contract Amendment and hereby agree to the change(s) and except that as amended herein, all provisions of the Contract remain in full force and effect.

SHI International Corp.:

City of Mesa:

DocuSigned by:

Elisabeth Arnold
Signature

Signature

Elisabeth Arnold

Printed Name

City Manager Designee

5/17/2022

Date

Date

Reviewed by:

Ted Stallings
Ted Stallings, Procurement Officer II

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Exhibit B-1: Insurance

**TYPE "A" INSURANCE
REQUIREMENTS "ARTISAN
CONTRACTORS / SERVICE CONTACTS"**

The Contractor shall procure and maintain for the duration of this contract insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by the contractor/vendor, his agents, representatives, employees or subcontractors.

COMMERCIAL GENERAL LIABILITY

Coverage must be afforded under a per occurrence form policy for limits not less than \$1,000,000 General Aggregate, \$1,000,000 Products / Completed Operations Aggregate, \$1,000,000 Personal and Advertising Injury Liability, \$1,000,000 each Occurrence, and \$5,000 Medical Expense.

AUTOMOBILE LIABILITY

Coverage must be afforded including coverage for all Owned vehicles, Hired and Non-Owned vehicles for Bodily Injury and Property Damage of not less than \$1,000,000 combined single limit each accident.

WORKERS COMPENSATION AND EMPLOYER'S LIABILITY

Coverage to apply for all employees at STATUTORY Limits in compliance with applicable state and federal laws; if any operations are to be undertaken on or about navigable waters, coverage must be included for the USA Longshoremen & Harbor Workers Act.

Employer's Liability limits for not less than \$100,000 each accident; \$500,000 disease policy limit and \$100,000 disease each employee must be included.

BUILDER'S RISK / INSTALLATION FLOATERS (when applicable)

When this contract or agreement includes the construction of and/or the addition to a permanent structure or building; including the installation of machinery and/or equipment, the following insurance coverage must be afforded:

Coverage Form: Completed Value, All Risk in an amount equal to 100% of the value upon completion or value of equipment to be installed.

When applicable: Waiver of Occupancy Clause or Cessation of Insurance clause. Flood Insurance as available under the

National Flood Insurance Program.

CYBER LIABILITY COVERAGE (when applicable)

Vendor shall procure and maintain for the life of the contract in an amount not less than \$1,000,000 per loss for negligent retention of data as well as notification and related costs for actual or alleged breaches of data.

Technology/Professional Liability: with limits of \$1 million. Coverage is for the life of the contract and must continue for five (5) years after contract expiration. This coverage must include Cyber Liability coverage for negligent retention of data as well as notification and related costs for actual or alleged breaches of data.

EMPLOYEE FIDELITY COVERAGE (only applicable to vendors whose employees handle funds)

Employee Dishonesty coverage must be afforded for not less than \$500,000 Blanket all employees ISO Form

OTHER INSURANCE PROVISIONS

The policies are to contain, or be endorsed to contain, the following provisions:

I Commercial General Liability and Automobile Liability Coverages

a. The Alachua County Board of County Commissioners, its officials, employees and volunteers are to be covered as an Additional Insured as respects: Liability arising out of activities performed by or on behalf of the Contractor/Vendor; to include Products and/or Completed Operations of the Contractor/Vendor; Automobiles owned, leased, hired or borrowed by the Contractor.

b. The Contractor's insurance coverage shall be considered primary insurance as respects the County, its officials, employees and volunteers. Any insurance or self-insurance maintained by the County, its officials, employees or volunteers shall be excess of Contractor/Vendor's insurance and shall be non- contributory.

II All Coverages

The Contractor/Vendor shall provide a Certificate of Insurance to the County with a notice of cancellation. The certificate shall indicate if cover is provided under a "claims made" or "per occurrence" form. If any cover is provided under claims made from the certificate will show a retroactive date, which should be the same date of the contract (original if contract is renewed) or prior.

SUBCONTRACTORS

The Contractor/Vendor shall be responsible for all subcontractors working on their behalf as a condition of this agreement. All subcontractors of the Contractor/Vendor shall be subject to the same coverage requirements stated herein.

CERTIFICATE HOLDER: Alachua County Board of County Commissioners

MAIL, EMAIL or FAX CERTIFICATES

Exhibit B-2: Certificate of Insurance

Exhibit C. Alachua County Standard Terms and Conditions

A. **Indemnification.** SHI HEREBY WAIVES AND RELEASES, AND AGREES TO PROTECT, DEFEND, INDEMNIFY AND HOLD HARMLESS ALACHUA COUNTY AND ITS BOARD OF COUNTY COMMISSIONERS, OFFICERS, EMPLOYEES, VOLUNTEERS, AND ATTORNEYS (COLLECTIVELY “ALACHUA COUNTY”) FROM AND AGAINST ANY AND ALL THIRD PARTY CLAIMS, DEMANDS, PENALTIES, EXPENSES, AND CAUSES OF ACTION OF ANY AND EVERY DESCRIPTION, AND DAMAGES, INCLUDING REASONABLE ATTORNEYS’ FEES AND COSTS, BROUGHT AGAINST ALACHUA COUNTY RESULTING FROM ANY ACCIDENT, INCIDENT OR OCCURRENCE ARISING OUT OF OR IN CONNECTION WITH THE GROSS NEGLIGENCE, WILLFUL MISCONDUCT, OR VIOLATION OF LAW OF SHI OR SHI’S EMPLOYEES, OFFICERS, AGENTS, ASSIGNS OR SUBCONTRACTORS IN CONNECTION WITH THE PERFORMANCE OF THE SERVICES SET FORTH IN THIS AGREEMENT, INCLUDING ATTACHED EXHIBITS, OR FROM SHI’S ENTRY ONTO ALACHUA COUNTY’S PROPERTY AND ANY AND ALL IMPROVEMENTS THEREON. This obligation shall in no way be limited in any nature by any limitation on the amount or type of SHI’s insurance coverage. In the event the County is alleged to be liable on account of alleged gross negligence, willful misconduct, or violation of law of SHI or SHI’s employees, representatives or agents, then SHI will investigate, respond to and provide a defense for any allegations and claims, at SHI’s sole costs and expense. Furthermore, SHI will pay all costs, fees and other expenses of any defense, including but not limited to, all reasonable attorneys’ fees, court costs and expert witness fees and expenses. SHI and County will jointly cooperate with each other in the event of any litigation, including any request for documentation. This indemnification provision will survive the termination of this Agreement. Nothing contained herein shall constitute a waiver by the County of sovereign immunity or the provisions or limitation of liability of §768.28, Florida Statutes, as may be amended.

B. **Public Records.** In accordance with §119.0701, Florida Statutes, SHI, *when acting on behalf of the County*, shall, as required by Florida law:

- 1) Keep and maintain public records required by the County to perform the Services.
- 2) Upon request from the County’s custodian of public records, provide the County with a copy of the requested records or allow the records to be inspected or copied within thirty (30) days advance written notice at a cost that does not exceed the cost provided in Florida law or as otherwise provided by law.
- 3) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the term of this Agreement and following completion of the Agreement if SHI does not transfer the records to the County.
- 4) Upon completion of the Agreement, transfer, at no cost, to the County all public records in possession of SHI or keep and maintain public records required by the County to perform the Services. If SHI transfers all public records to the County upon completion of the Agreement, SHI shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If SHI keeps and maintains public records upon completion of the Agreement, SHI shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the County, upon request from the County’s custodian of public records, in a format that is compatible with the County’s information technology systems.

IF SHI HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO SHI’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE

**COUNTY'S PUBLIC RECORDS CUSTODIAN AT
publicrecordsrequest@alachuacounty.us OR (352) 264-6906 OR 12 SE 1ST
STREET, GAINESVILLE, FL 32601.**

If SHI fails to comply with this section, SHI will be deemed in default under this Agreement. The County may enforce as set forth in §119.0701, Florida Statutes. SHI who fails to provide the public records in response to a request within a reasonable time may be subject to penalties imposed under §119.10, Florida Statute, and costs of enforcement, including fees, under §119.0701 and §119.12, Florida Statutes.

SHI will take reasonable measures to protect, secure and maintain any data held by SHI in an electronic form that is or contains exempt, confidential, personal information or protected information, as defined by Florida or federal law, related to or in connection with performance of the Services. If SHI suspects or becomes aware of a security breach or unauthorized access to such data by a third party, SHI shall immediately notify the County in writing and will work, at SHI's expense, to prevent or stop the data breach.

B. Confidential Information. During the term of this Agreement, SHI may claim that some of SHI's information, including, but not limited to, software documentation, manuals, written methodologies and processes, pricing, discounts, or other considerations (hereafter collectively referred to as "Confidential Information"), is, or has been treated as confidential and proprietary by SHI in accordance with §812.081, Florida Statutes, or other law, and is exempt from disclosure under the Florida's public record laws. SHI shall clearly identify and mark Confidential Information as "Confidential Information" or "CI" and the County shall use reasonable efforts to maintain the confidentiality of the Confidential Information that is clearly identified by SHI. County will promptly notify SHI in writing if the County receives a request for disclosure of SHI's Confidential Information. SHI may assert any exemption from disclosure available under applicable law or seek a protective order against disclosure from a court of competent jurisdiction. SHI shall protect, defend, indemnify, and hold harmless Alachua County and its commissioners, officers and employees from and against any claims, actions and judgments arising out of a request for disclosure of Confidential Information or relating to violation or infringement of trademark, copyright patent, trade secret or intellectual property right; however, the foregoing obligation shall not apply to County's misuse or modification of SHI's Confidential Information in a manner not contemplated by this Agreement. SHI shall investigate, handle, respond to, and defend, at SHI's sole cost and expense, any such claim, even if any such claim is groundless, false, or fraudulent. SHI shall pay for all costs and expenses related to such claim, including, but not limited to, payment of attorneys' fees, costs and expenses. If SHI is not reasonably able to modify or otherwise secure for the County the right to continue using the good or product, SHI shall remove the product and refund the County the amounts paid in excess of a reasonable rental for past use. Upon completion of this Agreement, the provisions of this paragraph shall continue to survive. SHI releases the County from claims or damages related to disclosure by the County.

C. Auditing Rights and Information. County reserves the right to require the SHI to submit to an audit, by any auditor of the County's choosing. SHI shall provide access to all of its records, which relate directly or indirectly to this Agreement at its place of business during regular business hours. SHI shall retain all records pertaining to this Agreement and upon request make them available, with thirty (30) days advance written notice, to County for three (3) complete calendar years following expiration or termination of the Agreement. Any such audit shall only take place once during a twelve (12) month period. SHI agrees to provide such assistance as may be necessary to facilitate the review or audit by the County to ensure compliance with applicable accounting and financial standards. If an audit inspection or examination pursuant to this section discloses overpricing or overcharges of any nature by the SHI to the County, SHI shall pay to County the Overcharged Amount which is defined as the total aggregate overcharged amount together with interest thereon (such interest to be established at the rate of 12% annum). Any adjustments or payments which must be made as a result of any such audit or inspection of the SHI's invoices or records must be made. If the Overcharged Amount is equal to or greater than \$50,000.00, SHI shall pay to County the Overcharged Amount and the Audit Amount which is defined as

the total aggregate of County's reasonable audit costs incurred as a result of its audit of SHI. County may recover the Overcharged Amount and the Audit Amount, as applicable, from any amount due or owing to SHI whether under this Agreement and any other agreement between SHI and County. If such amounts owed to SHI are insufficient to cover the Overcharged Amount and Audit Amount, as applicable, then SHI hereby shall pay such remaining amounts to County. Payment is due within a reasonable amount of time, but in no event may the time exceed sixty (60) calendar days, from presentation of the County's audit findings to SHI. In no event shall the Overcharged Amount or the Audit Amount be deemed a reimbursable cost of the work or Services. This provision is hereby considered to be included within, and applicable to, any subcontractor agreement entered into by the SHI in performance of the Services under this Agreement. The access, inspection, copying and auditing rights shall survive the termination of this Agreement.

D. Laws & Regulations. SHI will comply with all federal, state, and local laws, ordinances, regulations, rules and code requirements applicable to the work required by this Agreement. SHI is presumed to be familiar with all laws, ordinances, regulations, and rules that may in any way affect the work outlined in this Agreement. If SHI is not familiar with laws, ordinances, rules and regulations, SHI remains liable for any violation and all subsequent damages, penalties, or fines.

E. Governing Law and Venue. The laws of the State of Florida shall govern this Agreement and the duties and obligations stated within this Agreement. Sole and exclusive venue for all actions arising under this Agreement shall be in a court of competent jurisdiction in and for Alachua County, Florida.

F. Amendment and Assignment. The Parties may only modify or amend this Agreement by a mutual written agreement of the Parties. Neither Party will assign or transfer any interest in this Agreement without prior written consent of the other Party. The County and SHI each bind the other and their respective successors and assigns in all respects to all of the terms, conditions, covenants, and provisions of this Agreement.

G. Third Party Beneficiaries. This Agreement does not create any relationship with, or any rights in favor of, any third party.

H. Independent Contractor. In the performance of this Agreement, SHI is acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venturer, or associate of the County. SHI is solely responsible for the means, method, technique, sequence, and procedure utilized by SHI in the full performance of the Services referenced in this Agreement.

I. E-Verify. Pursuant to F.S. sec. 448.095, Professional shall register with and use the U.S. Department of Homeland Security's E-Verify system to verify the work authorization status of all new employees of the Professional during the term of the Agreement. Professional shall require any subcontractors performing work or providing Services under this Agreement to register and use the U.S. Department of Homeland Security's E-Verify system to verify the work authorization status of all new employees of the subcontractor during the term of this Agreement, and otherwise comply with Florida law. The E-Verify system is located at <https://www.uscis.gov/E-Verify>. Failure to comply with this section is grounds for termination and the Professional (a) may not be awarded a contract with the County for at least 1 year after the date on which the contract was terminated and (b) is liable for any additional costs incurred by the County as a result of termination of this Agreement.

J. Conflict of Interest. SHI warrants that neither SHI nor any of SHI's employees have any financial or personal interest that conflicts with the execution of this Agreement. The SHI shall notify County of any conflict of interest due to any other clients, contracts, or property interests.

K. Prohibition Against Contingent Fees. As required by §287.055(6), Florida Statutes, the SHI warrants that he or she has not employed or retained any company or person, other than a bona fide employee working solely for the SHI to solicit or secure this Agreement and that he or she has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the SHI any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. If SHI breaches this provision, the County has the right to terminate this Agreement without liability, and at the County's discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.

L. Force Majeure. The Parties will exercise every reasonable effort to meet their respective duties under this Agreement but will not be liable for delays resulting from force majeure or other causes beyond their reasonable control, including, but not limited to, compliance with any government laws or regulation, acts of nature, fires, strikes, national disasters, wars, riots, transportation problems and any other cause whatsoever beyond the reasonable control of the Parties. Any such cause will reasonably extend the performance of the delayed duty to the extent of the delay so incurred and so agreed by the Parties.

M. Public Entity Crimes. A person or affiliate who has been placed on the convicted vendor list following a conviction of a public entity crime may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity in excess of the threshold amount provided in Florida Statutes, Section 287.017 for Category Two for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.

N. Collusion. By signing this Agreement, SHI declares that this Agreement is made without any previous understanding, agreement, or connections with any persons, contractors or corporations and that this Agreement is fair, and made in good faith without any outside control, collusion, or fraud.

O. Counterparts. This Agreement may be executed in any number of and by the different Parties hereto on separate counterparts, each of which when so executed shall be deemed to be an original, and such counterparts shall together constitute but one and the same instrument. Receipt via email with pdf attachment by a party or its designated legal counsel of an executed counterpart of this Amendment shall constitute valid and sufficient delivery in order to complete execution and delivery of this Amendment and bind the Parties to the terms hereof.

P. Severability and Ambiguity. It is understood and agreed by the Parties that if any of the provisions of the Agreement shall contravene or be invalid under the laws of the State of Florida, such contravention or invalidity shall not invalidate the entire Agreement, but it shall be construed as if not containing the particular provision(s) held to be invalid, and the rights and obligations of the Parties shall be construed and enforced accordingly. This Agreement shall not be construed more strictly against one Party than against the other Party, merely due to fact that it may have been prepared by one of the Parties. Each Party represents and agrees that it has had the opportunity to seek the advice of appropriate professionals, including legal counsel, in the review and execution of this Agreement.

Q. Electronic Signatures. The Parties agree that an electronic version of this Agreement shall have the same legal effect and enforceability as a paper version. The Parties further agree that this Agreement, regardless of whether in electronic or paper form, may be executed by use of electronic signatures. Electronic signatures shall have the same legal effect and enforceability as manually written signatures. Delivery of this Agreement or any other document contemplated hereby bearing a manually written or electronic signature, by electronic mail in "portable document format" (".pdf") form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, will have the same effect as physical delivery of the paper document bearing an original or electronic signature.