



NOTICE OF SOLICITATION

SOLICITATION # 2022118

Publish Date: February 9, 2022

REQUEST FOR PROPOSAL FOR: OFFENDER MONITORING SOLUTIONS

RESPONSE DUE DATE AND TIME: MARCH 14, 2022 – 3:00 P.M. LOCAL ARIZONA TIME

Notice is hereby given that sealed responses will be received by the Purchasing Division, City of Mesa until the date and time cited above. Responses received by the correct date and time will be opened publicly and read aloud by the Purchasing Division's Procurement Administrator (or designated representative).

To join the proposal opening at 4:00 P.M. local Arizona time on the due date via Microsoft Teams, please visit the following website: [Microsoft Teams Meeting Invite Link](#)

Teleconference Number: 480-535-7460; Conference ID: 795 477 380#

PRE-PROPOSAL CONFERENCE:

Date and Time: February 22, 2022 8:00am Local Arizona Time

Conference Number: Join by phone: 480-535-7460; Conference ID: 731 505 951#

Via Microsoft Teams: [Teams Meeting Link](#)

The conference provides interested parties an opportunity to discuss the City's needs and ask questions.

Please read the entire Solicitation package and submit the proposal in accordance with the instructions. This document (less this invitation and the instructions) and any required response documents, attachments, and submissions will constitute the proposal.

Proposals must be in the actual possession of the Purchasing Division Office submitted electronically, on or before the exact date and time indicated above. Late submittals shall not be considered under any circumstances.

The City anticipates that the following schedule will apply:

Event	Date
Release of RFP	February 9, 2022
Pre-Proposal Conference	February 22, 2022
Submittal of Questions Due Date	February 28, 2022 by 1:00 p.m. Arizona time
City of Mesa Response to Questions	March 1, 2022
Proposal Due Date	March 14, 2022 by 3:00 p.m. Arizona time
Interviews with shortlisted vendors (if needed)	March 28, 2022
Notice of Intent to Award	May 4, 2022
Council Approval	May 16, 2022
Contract Start Date	June 1, 2022

NOTICE OF SOLICITATION

Questions concerning this Solicitation should be submitted in writing through the City of Mesa's Purchasing Website Vendor Self Service portal at <https://vendor.mesaaz.gov/> or by email to the following Purchasing contacts or their designees:

Technical Questions:

Nicole Arnold

Procurement Officer I

Phone: 480-644-2653

Nicole.Arnold@MesaAZ.gov

General or Process Questions:

Lei Ronda Golden-Grady

Procurement Specialist

Phone: 480-644-3261

LeiRonda.Golden-Grady@MesaAZ.gov

NOTE: THE CITY OF MESA PUBLISHES ITS SOLICITATIONS, ATTACHMENTS, AND ADDENDA ONLINE AND THEY ARE AVAILABLE FOR VIEWING AND/OR DOWNLOADING AT THE FOLLOWING INTERNET ADDRESS: <https://vendor.mesaaz.gov/>

CURRENT CONTRACTS AND RELATED INFORMATION ARE AVAILABLE FOR VIEWING AND/OR DOWNLOADING AT THE FOLLOWING INTERNET ADDRESS:
<http://apps.mesaaz.gov/purchasingcontracts/Search>

All vendors wishing to conduct business with the City are required to register and maintain all information used for the notification of Solicitation opportunities and issuance of payment in the Vendor Self Service (VSS) system. To register and view additional vendor information, go to <https://vendor.mesaaz.gov/>.

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INSTRUCTIONS

1. **GENERAL:** Please read the entire Solicitation package and all attachments before submitting a Response. Responses must be in accordance with the provisions, specifications, and instructions set forth herein and will be accepted until the date and time the Response is due.
2. **VENDOR QUESTIONS:** All questions regarding the contents of this Solicitation, and Solicitation process (including requests for ADA accommodations), must be directed solely to the Procurement Officer/Supervisor and/or the Purchasing Specialist. Questions should be submitted in writing through the City of Mesa's Purchasing Website Vendor Self Service portal at <https://vendor.mesaaz.gov/> or by email. Questions received less than seven (7) calendar days before the due date and time for Responses may be answered at the discretion of the City.
3. **INSTRUCTIONS FOR PREPARING AND SUBMITTING RESPONSE:** Respondents must submit their responses electronically. Respondents shall provide their Responses in accordance with the following form and content requirements:
 - a. Responses shall be submitted through the City of Mesa's Purchasing Website at <https://vendor.mesaaz.gov> under the appropriate Solicitation opportunity. Submissions submitted elsewhere or under the wrong Solicitation will not be considered.
 - b. Responses must be signed by an authorized representative of Respondent with the authority to bind Respondent to make such commitments to the City set forth in the Response.
 - c. Responses should be specific to the Solicitation and present details on all requested information in a concise manner.

4. **RESPONSE FORMAT:**

Table of Contents. Identify contents by tab and page number.

TAB 1 - Letter of Transmittal. A brief letter of transmittal should be submitted that includes the following information:

1. The Respondent's understanding of the work to be performed.
2. A positive commitment to perform the service within the time period specified.
3. The names of key persons, representatives, project managers who will be the main contacts for the City regarding this Solicitation.

TAB 2 - Qualifications. (Abilities, Experience, and Expertise) The following information should be included:

1. A statement of Respondent's qualifications, abilities, experience, and expertise in providing the requested services.
 - a. A description of what qualifies Respondent, financial and otherwise, to provide the City with these services/materials for the required period of time, including information demonstrating Respondent, has the appropriate staffing, necessary resources, and a history of demonstrated competence.
 - b. An assessment of the Respondent's ability to meet and satisfy the needs of the City, taking into consideration the requested services, additional services, and expertise offered that exceed the requirements of the Solicitation, and the Respondent's inability to meet any of the requirements of the specifications.
 - c. References – A minimum of three (3) references, preferably from other public entities within the State of Arizona, for whom you have provided similar services. Include the name of the entity, contact person's names, phone numbers, e-mail addresses, mailing addresses, type of service provided, and dates the services were provided.
 - d. Provide available ordering methods – online ordering, order tracking, search options, order history.
 - e. Provide available payment terms.

INSTRUCTIONS

2. Provide a response to the national program.
 - a. Include a detailed response to Attachment C, Exhibit A, OMNIA Partners Response for National Cooperative contract. Responses should highlight experience, demonstrate a strong national presence, describe how offeror will educate its national sales force about the contract, describe how products and services will be distributed nationwide, include a plan for marketing the products and services nationwide, and describe how volume will be tracked and reported to OMNIA Partners.
 - b. The successful offeror will be required to sign Attachment C, Exhibit B, OMNIA Partners Administration Agreement. Offerors should have any reviews required to sign the document prior to submitting a response. Offeror's response should include any proposed exceptions to the OMNIA Partners Administration Agreement.
3. Identification of senior and technical staff of Respondent to be assigned to the City. Staff named in the Response may not be substituted without permission of the City. Include in the Response resumes and relevant experience.

TAB 3 - Program Description AND Method of Approach. Clearly define the services/materials offered and Respondent's method of approach within the Proposer Questions and Requirements (Attachment D); to include, but not limited, to the following criteria:

1. Services, Equipment, Software etc. that will be provided
2. Maintenance and Support
3. Transition Plan
4. Environmental
5. Additional Information
6. Explain the process from start to finish and how the reports will be obtained. Explain any reporting capabilities.

TAB 4 - Pricing Forms. The cost portion of the Response should include the following criteria:

1. Completed Pricing (Attachment A).
2. A list of any and all additional charges not specifically listed on the Pricing Form.
3. Provide details of and propose additional discounts for volume orders, special manufacturer's offers, minimum order quantity, free goods program, total annual spend, etc.

TAB 5 - Other Forms. The following forms should be completed and signed:

1. Vendor Information form
2. Exceptions & Confidential Information form
3. General Questionnaire form
4. Lawful Presence Affidavit
5. Respondent Certification form (Offer and Acceptance)
6. W-9 Form. All responses should include a fully completed, current W-9 form. Failure to include the W-9 will not disqualify your response, however, the W-9 must be submitted to the City before the execution of any contract pursuant to this Solicitation. (<http://www.irs.gov/pub/irs-pdf/fw9.pdf>)
7. Attachment C, Exhibit A, OMNIA Partners Response for National Cooperative contract. Response for National Cooperative contract.
8. Additional Agreements. If an Offeror requires additional agreements, a copy of the proposed agreement must be included with the proposal.

5. **RESPONSE CHECKLIST:** This checklist is provided for your convenience. It is not necessary to return a copy with your Response. Only submit the requested forms and any other requested or descriptive literature.

- Response will be sent in time to be received by City before Response due date and time.
- Pricing, math double-checked, (Attachment A)

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- Required Response Forms completed and included (Attachment B)
- OMNIA Partners documents completed and included (Attachment C, Exhibit A, OMNIA Partners Response for National Cooperative contract)
- W-9 Request for Taxpayer Identification Number and Certification form completed and included (<http://www.irs.gov/pub/irs-pdf/fw9.pdf>)
- Warranty information, if applicable

6. **ADDENDA:** Any changes to the Solicitation document will be in the form of an addendum. Addenda are posted on the City website. Contractors are cautioned to check the Purchasing Website or the Self-Service portal for addenda before submitting their Response. The City will not be held responsible if a vendor fails to receive any addenda issued. *The City shall not be responsible for any oral changes to these specifications made by any employees or officer of the City and Contractors are cautioned not to rely on any such changes.* Failure to acknowledge receipt of an addendum may result in disqualification of a Response.
7. **RESPONSE OPENING:** The City will open all Responses properly and timely submitted and will record the names and other information specified by law and rule. The Response Opening will be conducted at 4:00 P.M. local Arizona time following the final **SOLICITATION DUE DATE AND TIME** via Microsoft Teams. No responsibility will attach to the City of Mesa, its employees, or agents for the premature opening of a Response. All Responses become the property of the City and will not be returned. Results, as read at the public opening, will be posted on the City website. Responses will be available to the public in accordance with the City Procurement Rules.
8. **LATE RESPONSES:** The Respondent assumes responsibility for having the Response submitted on time. All Responses received after the Response Due date and time shall not be considered and will be unopened. The Respondent assumes the risk of any delay caused by not being able to access the system. Respondents must allow adequate time to accommodate all registration and submission requirements. It shall not be sufficient to show that Respondent attempted to submit a response before the due date and time as the Response must be received by the City. All times are Mesa, Arizona local times. Respondents agree to accept the time stamp in the website as the official time.
9. **RESPONSE FIRM TIME:** Responses shall remain firm and unaltered after opening for **180** Days unless the time is extended or amended as agreed upon by Respondent and the City. Examples of where an extension or amendment may be necessary include but are not limited to: (i) contract negotiations with selected Respondent; (ii) submission of a Best and Final Offer by Respondent; (iii) City needing additional time to review responses. The City may accept the Response, subject to successful contract negotiations, at any time during this period.
10. **LOBBYING PROHIBITION:** Any communication regarding this Solicitation for the purpose of influencing the process or the award, between any person or affiliates seeking an award from this Solicitation and the City including, but not limited to, City Council, City employees, and consultants hired to assist the City in the Solicitation, is prohibited.

This prohibition is imposed from the time of the first public notice of the Solicitation until the City cancels the Solicitation, rejects all Responses, awards a contract, or otherwise takes action which ends the Solicitation process. This section shall not prohibit public comment at any City Council meeting, study session, or City Council committee meeting.

This prohibition shall not apply to Respondent-initiated communication with the contact(s) identified in the Solicitation or City-initiated communications for the purposes of conducting the procurement including, but not limited to, vendor conferences, clarification of Responses, presentations if provided pursuant to the Solicitation, requests for Best and Final Responses (as set forth in the City Procurement Rules), contract negotiations, protest/appeal resolution, or surveying non-responsive vendors.

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Violations of this provision shall be reported to the Purchasing Administrator. Persons violating this prohibition may be subject to a warning letter or rejection of their Response depending on the nature of the violation.

11. **LAWFUL PRESENCE IN THE UNITED STATES:** Arizona Revised Statutes § 1-501 and § 1-502 require all persons who will be awarded a contract (a Public Benefit as defined in 8 USC Section 1621) must demonstrate they are lawfully present in the United States. A person under the statute is defined as a natural person and therefore excludes Limited Liability Companies, Corporations, Partnerships, or other similar types of business entities as indicated on a W-9 form.

Individuals (natural persons) or Sole Proprietorships must complete the affidavit in the “Required Response Forms” section of this Solicitation. Respondents that fail to provide a completed affidavit and fail to provide the necessary documentation may be deemed non-responsive.

12. **COMMENCEMENT OF WORK:** If a Respondent begins any billable work before the City’s final approval and execution of the contract, Respondent does so at its own risk.

13. **RESPONSIBILITY TO READ AND UNDERSTAND:** Failure to read, examine and understand the Solicitation and any of its addenda will not excuse any failure to comply with the requirements of the Solicitation or any resulting contract, nor shall such failure be a basis for claiming additional compensation. The City is not responsible for and will not pay any costs associated with the preparation and submission of a Response. Respondents are cautioned to verify their Responses before submission, as amendments to or withdrawal of Responses submitted after the time specified for the opening of Responses may not be considered. The City will not be responsible for any Respondent errors or omissions.

14. **FORM AND CONTENT OF RESPONSES:** Responses must be submitted online through the City of Mesa’s Purchasing Website Vendor Self Service portal at <https://vendor.mesaaz.gov> under the appropriate Solicitation opportunity. Physical submissions, e-mail, or fax submissions will not be accepted unless explicitly allowed by the City of Mesa Purchasing Division. Unless otherwise instructed or allowed, Responses shall be submitted on the forms provided. Responses, including modifications, must be submitted electronically, and signed by an authorized representative of the Respondent. Please line through and initial rather than erase changes. Any modifications to the Solicitation must be identified in the “Exceptions” section of the required response forms. The City does not encourage exceptions. The City is not required to grant exceptions and depending on the exception, the City may reject the Response as non-responsive. The City reserves the right at its sole discretion to negotiate exceptions with a Respondent. If the Response is not properly signed or if any changes are not initialed, it may be considered non-responsive. In the event of a disparity between the unit price and the extended price, the unit price shall prevail unless obviously in error, as determined by the City. The Response must provide all information requested and must address all points set forth in the Solicitation.

15. **SPECIFICATIONS:** Technical specifications define the minimum acceptable standard. When the specification calls for “Brand Name or Equal,” the brand name product is acceptable. The use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and are not intended to limit or restrict competition. If a Respondent wishes to provide a material or service that is not the brand name, the equivalent material or service must meet the standard of quality of the brand name product, which is determined at the City’s sole discretion. Equivalent products will be considered upon showing the other product meets stated specifications and is equivalent to the brand-name product in terms of quality, performance, and desired characteristics. Products that are substantially equivalent to those brands designated will qualify for consideration.

Minor differences that do not affect the suitability of the supply or service for the City’s needs may be accepted. Burden of proof that the product meets the minimum standards or is equal to the brand name product is on the Respondent. The City reserves the right to reject Responses that the City deems unacceptable for any reason.

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16. **MODIFICATION/WITHDRAWAL OF RESPONSE:** Written requests to modify or withdraw a Response received by the City before the scheduled opening time for Responses will be accepted and will be corrected after the Response due date and time. No oral requests will be allowed. Requests must be addressed and labeled in the same manner as the Response and marked as a MODIFICATION or WITHDRAWAL of the Response. Requests for withdrawal after the Response Due date and time will only be granted upon proof of undue hardship and may result in the forfeiture of any Response security. Any withdrawal after the Response due date and time shall be allowed solely at the City's discretion.
17. **DEBARMENT DISCLOSURE:** If the Respondent has been debarred, suspended, or otherwise lawfully precluded from participating in any public procurement activity, including being disapproved as a subcontractor with any federal, state, or local government or agency, or if any such preclusion from participation from any public procurement activity is currently pending, the Respondent shall include a letter with its Response identifying the name and address of the governmental unit, the effective date of the suspension or debarment, the duration of the suspension or debarment, and the relevant circumstances relating to the suspension or debarment. If suspension or debarment is currently pending, a detailed description of all relevant circumstances must be provided by the Respondent, including the details enumerated above. A Response from a Respondent who is currently debarred, suspended, or otherwise lawfully prohibited from any public procurement activity may be rejected. Failure of a Respondent to disclose a debarment or suspension in accordance with this Section may result in the Response being disqualified for an award of the Solicitation.
18. **RESERVATIONS:** The City reserves the right to reject any or all Responses or any part thereof; to re-issue the Solicitation; to reject non-responsive or non-responsible Responses; to reject unbalanced Responses; to reject Responses where the terms, prices, or awards are conditioned upon another event; to reject individual Responses for failure to meet any requirement; to award by item, part or portion of an item, group of items, or total; to make multiple awards; to waive minor irregularities, defects, omissions, informalities, technicalities or form errors in any Response; to conduct exclusive or concurrent negotiations of any terms, conditions, or exceptions taken by a Respondent or the terms of any agreement/document a Respondent would require the City to sign should Respondent be awarded a contract; and to reject Responses that are outside the City's budgeted amount for the materials or services that are the subject of the Solicitation. The City may seek clarification of the Response from Respondent at any time, and failure to respond is cause for rejection. Submission of a Response confers no right to an award or a subsequent contract. The City is charged by its Charter to make an award that is in the best interest of the City. All decisions on compliance, evaluation, terms, and conditions shall be made solely at the City's discretion and made to favor the City. No binding contract will exist between the Respondent and the City until the City executes a written contract or purchase order.
19. **EXCEPTIONS TO A SOLICITATION:** Changes to the Solicitation document requested by a Respondent may not be acknowledged or accepted by the City. Award or execution of a contract does not constitute acceptance of a changed term, condition, or specification in the Solicitation unless specifically acknowledged and agreed to by the City. The copy of the Solicitation, including all addenda, maintained and published by the City shall be the official Solicitation document. Any exception to the Solicitation must be set forth in the "Exceptions" portion of the Response; any exceptions not indicated in the "Exceptions" portion of the Response will be deemed rejected by the City, void and of no contractual significance. The City reserves the right to: (i) reject any or all exceptions requested by a Respondent; (ii), determine a proposal non-responsive due to the exception(s) made by Respondent; (iii) enter into negotiations with a Respondent regarding any of the Respondent's exceptions, or (iv) accept any or all of a Respondent's exceptions outright.
20. **COPYING OF RESPONSES:** The Respondent hereby grants the City permission to copy all parts of its Response including, without limitation, any documents and/or materials copyrighted by the Respondent. The City's right to copy shall be for internal use in evaluating the Response.

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21. **CONTRACTOR ETHICS:** Contractors doing business with the City shall adhere to the Procurement Ethics Standards, Article 7 of the Procurement Rules. It is the policy of the City to promote courtesy, fairness, impartiality, integrity, service, professionalism, economy, and government by law in the Procurement process. The responsibility for implementing this policy rests with each individual who participates in the Procurement process, including Respondents and Contractors. The failure of a Respondent or Contractor to meet the ethical standards may result in the disqualification of an award under the Solicitation or the termination of a contract with the City.
- To achieve the purpose of this Section, it is essential Respondents and Contractors doing business with the City observe the ethical standards prescribed herein and in the City Charter, Code Procurement Rules, and Management Policy 200. It shall be a breach of ethical standards to:
- a. Exert any effort to influence any City official, employee, or agent to breach the standards of ethical conduct.
 - b. Intentionally invoice any amount greater than provided in a contract or to invoice for materials or services not provided.
 - c. Intentionally offer or provide sub-standard materials or services or intentionally not comply with any term, condition, specification, or other requirements of a City contract.
22. **GIFTS:** The City will accept no gifts, gratuities, or advertising products from Respondents or prospective Respondents and affiliates. The City may request product samples from Respondents solely for the purpose of product evaluation.
23. **EVALUATION PROCESS:** Responses will be reviewed by an evaluation committee comprised of City employees and/or agents authorized by the City to participate in the evaluation. The evaluation committee may utilize multiple rounds of review to determine which Respondent is most advantageous for the City to award; Respondents' scores may be adjusted throughout the evaluation process/rounds. The City reserves the right to consider all information relevant to determining an award in the best interest of the City, including Respondents' performance under prior contracts. The evaluation process may include but is not limited to: a review of proposal Responses, interviews, presentations, site visits, product/service demonstrations, Best and Final Offers, requests for additional information, and requests for clarification. City staff may initiate discussions with Respondents for clarification purposes; however, a request for clarification is not an opportunity for a Respondent to change the Response. A request for clarification and/or additional information from a Respondent does not guarantee clarification and/or additional information will be requested from any other Respondents. Respondents shall not initiate discussions with any City employee, agent, or official as set forth in the Lobbying section of these instructions including, but not limited to, members of the evaluation committee.
24. **PRESENTATIONS/INTERVIEWS:** A Respondent must provide a formal presentation/interview upon request of the City. The City shall not reimburse the Respondent for the costs associated with the interview process.
25. **SHORT-LISTING:** The City, at its sole discretion, may create a shortlist of the highest scored Responses based on a preliminary evaluation of the Responses against the evaluation criteria. Only those short-listed Respondents will be invited to give presentations/interviews. Upon conclusion of any presentations/interviews, the City will finalize the scoring against the evaluation criteria.
26. **BEST AND FINAL OFFERS:** The City may request Best and Final Offers if the City deems necessary and the City will determine the scope and subject of any Best and Final request. Respondents should not expect the City will always ask for Best and Final Offers. Therefore, all Respondents must submit their best offer based on the specifications, terms, and conditions in the Solicitation.
27. **CRITERIA FOR EVALUATION AND AWARD:**

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- a. The criteria that will be evaluated and their relative weights are:

Evaluation Criteria	Points
Firm's Qualifications & Experience	40
Firm's Proposed Solution / Method of Approach	40
Firm's Proposed Pricing	20

Pricing will be evaluated based on the below equation:

$$\frac{\text{Lowest Proposal Cost}}{\text{Proposal Cost being evaluated}} \times \text{Price Points Possible} = \text{Pricing Score}$$

- b. If less than three (3) Responses to a Solicitation are deemed responsive by the City, at the City's sole discretion, the Responses may be evaluated using simple comparative analysis instead of any announced method of evaluation, subject to meeting administrative and responsibility requirements.
- c. Each Response will be evaluated based upon responsiveness and responsibility criteria. A failure to meet responsiveness or responsibility criteria will render a Respondent ineligible for the award of a contract under the Solicitation.
1. **Responsiveness.** The City will determine whether the Response complies with the instructions for submitting a Response set forth in the Solicitation (i.e. the completeness of the Response which encompasses the inclusion of all required attachments and submissions). Responsiveness will also be examined as it pertains to items set forth in this Solicitation that state a Respondent may be deemed non-responsive based upon the content of their Response. The City will reject any Responses that are submitted late. Failure to meet any requirements in the Solicitation may result in rejection of a Response as non-responsive.
 2. **Responsibility.** The City will determine whether a Respondent is one with whom the City should do business. Factors the City may evaluate to determine responsibility include, but are not limited to: an excessively high or low priced Response; past performance under any agreement with the City; references from any source including, but not limited to, those found outside the references listed in the Response and City employees, agents or officials who have experience with the Respondent; compliance with applicable laws; Respondent's record of performance and integrity (e.g. has the Respondent been delinquent or unfaithful to any contract with the City, whether the Respondent is qualified legally to contract with the City, financial stability and the perceived ability to perform completely as specified). A Respondent must at all times have financial resources sufficient, in the opinion of the City, to ensure the performance of the contract and must provide proof upon request. City staff may also use Dun & Bradstreet or any generally available industry information to evaluate the Respondent. The City reserves the right to inspect and review Respondent's facilities, equipment, and personnel and those of any identified subcontractors. The City will determine whether any failure to supply information or the quality of the information, will result in Respondent being deemed non-responsible.
28. **COST JUSTIFICATION:** In the event, only one Response to the Solicitation is received, the City may require the Respondent to submit a cost offer in sufficient detail for the City to perform a cost/price analysis to determine if the Response price is fair and reasonable.
29. **CONTRACT NEGOTIATIONS AND ACCEPTANCE:** Respondent must be prepared for the City

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to accept the Response as submitted. If Respondent fails to sign all documents necessary to successfully execute the final contract within a reasonable time as specified, or negotiations do not result in an acceptable agreement, the City may reject the Response or revoke the award and may begin negotiations with another Respondent. Final contract terms must be approved or signed by the appropriately authorized City official(s). No binding contract will exist between the Respondent and the City until the City executes a written contract or purchase order.

30. **NOTICE OF INTENT TO AWARD:** Notices of the City's intent to award a contract are posted to the Purchasing Division's website before 6:00 P.M. local Arizona time at least seven (7) calendar days before award.

It is the Respondent's responsibility to check the City of Mesa's Vendor Self Service portal at <https://vendor.mesaaz.gov/> to view Purchasing's Intent to Award notices. This may be the only notification you will receive regarding the City's Intent to Award a contract related to this Solicitation.

31. **PROTESTS AND APPEALS:** If a Respondent or any person believes there is a mistake, impropriety, or defect in the Solicitation, believes the City improperly rejected its Response or believes the selected Response should not receive the City contract based upon a fact supported issue with the Solicitation or selected Respondent or otherwise protests the award to the Respondent, the Respondent may submit a written protest. All protests and appeals are governed by the City Procurement Rules ("Procurement Rules"). The rules surrounding protests and appeals may be found in Section 6 of the Procurement Rules which are located on the Purchasing Division website at <http://mesaaz.gov/business/purchasing>. Please see the Procurement Rules for more information on the submission of a protest and corresponding appeal rights; if there exist any discrepancy in this Section and the Procurement Rules, the language of the Procurement Rules will control.

ADDRESS PROTESTS TO:

Kristy Garcia
Procurement Administrator
20 East Main Street, Suite 450
PO Box 1466
Mesa, Arizona 85211-1466
Fax: (480) 644-2655
Email: Kristy.Garcia@MesaAZ.gov

ADDRESS APPEALS TO:

Edward Quedens
Chief Procurement Officer
20 East Main Street, Suite 450
PO Box 1466
Mesa, Arizona 85211-1466
Fax: (480) 644-2687
Email: Ed.Quedens@MesaAZ.gov

32. **POLICY DOCUMENTS:** The City of Mesa Charter, Code, Procurement Rules, and Management Policy 200 govern this procurement and are incorporated as a part of this Solicitation by this reference. A copy of these documents may be found on Mesa Purchasing Division's website at www.mesaaz.gov/business/purchasing.

SCOPE OF WORK

This Scope of Work will be compiled into any resulting contract as Exhibit A.

1. **INTENT:** The intent of this solicitation is to provide Participating Public Agencies with products, services, and solutions to meet their various needs for Offender Monitoring Solutions.
2. **NATIONAL CONTRACT:** The City of Mesa, as the Principal Procurement Agency, defined in Attachment C, has partnered with OMNIA Partners, Public Sector (“OMNIA Partners”), to make the resultant contract (also known as the “Master Agreement” in materials distributed by OMNIA Partners) 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 OMNIA Partners’ 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 OMNIA Partners (a “Participating Public Agency”) and by using the Master Agreement, any such Participating Public Agency agrees that it is registered with OMNIA Partners, whether pursuant to the terms of a Master Intergovernmental Cooperative Purchasing Agreement, a form of which is attached hereto on Attachment C, or as otherwise agreed to. Attachment C contains additional information about OMNIA Partners and the cooperative purchasing program.

OMNIA Partners is the largest and most experienced purchasing organization for public and private sector procurement. Through the economies of scale created by OMNIA Partners public sector subsidiaries and affiliates, National IPA and U.S. Communities, our participants now have access to more competitively solicited and publicly awarded cooperative agreements. The lead agency contracting process continues to be the foundation on which we are founded. OMNIA Partners is proud to offer more value and resources to state and local government, higher education, K-12 education, and non-profits.

OMNIA Partners provides shared services and supply chain optimization to government, education, and the private sector. With corporate, pricing and sales commitments from the Contractor, OMNIA Partners provides marketing and administrative support for the Contractor that directly promotes the Contractor’s products and services to Participating Public Agencies through multiple channels, each designed to promote specific products and services to Public Agencies on a national basis. Participating Public Agencies benefit from pricing based on aggregate spend and the convenience of a contract that has already been advertised and publicly competed. The Contractor benefits from a contract that generally allows Participating Public Agencies to directly purchase goods and services without the Contractor’s need to respond to additional competitive solicitations. As such, the Contractor must be able to accommodate a nationwide demand for services and to fulfill obligations as a nationwide Contractor and respond to the OMNIA Partners documents (Attachment C).

The City of Mesa anticipates spending approximately \$61,000.00 over the full potential Master Agreement term for Offender Monitoring Solutions. While no minimum volume is guaranteed to the Contractor, the estimated annual volume of Offender Monitoring Solutions purchased under the Master Agreement through OMNIA Partners is approximately \$50 million. This projection is based on the current annual volumes among the City of Mesa, other Participating Public Agencies anticipated to utilize the resulting Master Agreement to be made available to them through OMNIA Partners, and volume growth into other Public Agencies through a coordinated marketing approach between the Contractor and OMNIA Partners.

3. **GENERAL INFORMATION:** Contractor(s) are to propose the broadest possible selection of Offender Monitoring Products, Services, and Solutions that are offered by the Proposing Contractor(s). The proposing Contractor(s) should have demonstrated experience in providing the Products and Services as defined in this RFP, including but not limited to the following categories:

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1. **Active, Passive and/or Hybrid Global Positioning Satellite Tracking:** The complete range of active, passive and/or hybrid global positioning satellite tracking products, services and solutions offered by the Contractor(s).
2. **Radio Frequency (RF) Tracking:** The complete range of radio frequency tracking products, services and solutions offered by the Contractor(s).
3. **Video and/or Voice Tracking/Verification/Message Reporting:** The complete range of video and/or voice tracking/verification/message reporting products, services and solutions offered by the Contractor(s).
4. **Supplemental Support Services:** Secure, on-line twenty-four (24) hour, seven (7) days a week, three-hundred sixty-five (365) days a year live operator and call center support that provides services to alleviate agency/officer workload by providing administrative assistance including automated check-ins, data entry for documenting contacts and activities, alert management, warrant and fee collection/processing.
5. **Smartphone Application:** A secure smartphone application and supervision tool offered by the Contractor(s), utilized as an alternative or in conjunction with electronic monitoring devices, which provides offender GPS location information, biometrically verifies offender identity, and provides offender tools to increase positive outcomes.
6. **Data Analytics Software:** A secure data analytics software package offered by the Contractor(s), which utilizes electronic monitoring data to analyze client behavior and calculate potential risks.
7. **Online Monitoring Software:** The secure online monitoring software available from the Contractor(s) that officers will utilize to manage agency, officer, and offender data, view status, complete monitoring tasks in real-time, and that is accessible twenty-four (24) hour, seven (7) days a week from any web-based computer or mobile device with internet access.
8. **Related Products, Services and Solutions:** Additional related products, services, or solutions available from the Contractor(s), such as but not limited to: drug and alcohol testing, day reporting center for adult and juvenile offenders, field service electronic monitoring program, victim alert device, etc.

The Contractor(s) shall provide the required equipment and services for the categories for which it receives award. Contractor(s) should indicate where their systems meet or do not meet the above requirements for each category on a document that is on the Contractor(s) letterhead.

Although this section reflects the needs and requirements of the City, OMNIA Partners Participating Agencies may have different requirements. The awarded contractor will have the ability to offer their comprehensive Offender Monitoring Solutions nationally. The offender monitoring solution may include products and services associated with offender monitoring or any other related services which OMNIA Partners participants may elect to use. OMNIA Partners participants will sign a supplemental or usage agreement with the awarded vendor substantially based on the terms and conditions of the City contract. Participants may elect to negotiate certain terms to conform to their purchasing and contracting requirements.

4. **GENERAL SCOPE:** The following items concern the general scope and requirements for items that are part of the request for proposal:
 1. **Monitoring Services Provided by Contractor(s):**

The Contractor(s) shall provide a central monitoring service center located in the U.S. The monitoring service center shall have the capability of conducting surveillance activities on an around-the-clock basis, without interruption. The surveillance activities shall minimally include the following: continuously monitoring the presence or absence of a program participant detecting early leaves or late returns; detecting attempts to tamper or actual tampering with the home monitoring equipment; attempts to duplicate the RF transmission of the home monitoring units; disruption of AC power; receiver shut downs; continuous busy signals; attempts to use recorded speech; spurious RF transmission; no telephone answer; and low receiver and/or transmission battery function. The monitoring service shall

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be capable of monitoring multiple curfews scheduled at the same time. In this regard, the curfew monitoring function shall have unlimited flexibility for the establishing of curfew scheduled and monitoring.

If required by the City's designee, the Contractor(s) monitoring service center shall be responsible for receiving program participant enrollment information from the City. If required, the contractor(s) shall be responsible for enrolling program participants and for changing curfew schedules based upon notification by the City via e-mail or fax (as determined by City) using the contractor(s) toll-free telephone number to the central monitoring service center or via remote terminal through dedicated line or internet access. If requested, the Contractor(s) shall be responsible for removing program participants from the monitoring system upon a notification from City. The date of removal and removal reason will be established by the City. The Contractor(s) shall utilize enrollment and client status change forms developed in conjunction with City.

If required, the monitoring service center shall respond to all reports of monitoring violations by telephoning (as determined by City) the program participant. The purpose of this telephone call is to determine the nature of the reported event and to confirm that the program participant is at his or her approved residence. The Contractor(s) shall explain the procedure to be used to confirm the participant's presence, or lack thereof, in these situations.

In addition, the following specifications must be adhered to:

- a. The Contractor(s) place of business and monitoring center services facilities used for this program must be located within the United States of America. The Contractor(s) primary monitoring center shall be capable of uninterrupted operation twenty-four (24) hours a day, three-hundred and sixty-five (365) days a year. This shall include all systems, hardware and software, communications and building support services such as electrical power.
- b. The Contractor(s) monitoring center shall be monitored twenty-four (24) hours a day, seven (7) days a week, including holidays to ensure that any interruption in service is detected and resolved.
- c. Each monitoring center shall have ventilation and temperature control adequate to meet hardware specifications for the operating environment and to ensure proper functions of the monitoring center hardware.
- d. The Contractor(s) shall perform complete support of all interface hardware and software equipment (within the monitoring center) necessary to ensure provision of the service for the duration of the contract.
- e. The Contractor(s) shall maintain professional highly trained and qualified staff to monitor and operate the monitoring center equipment.
- f. The Contractor(s) shall provide the City a toll-free contact number, accessible and staffed twenty-four (24) hours a day, seven (7) days a week for the purpose of reporting problems that might be experienced.
- g. In the event any component of the Contractor(s) service becomes inoperable, the Contractor(s) must immediately notify the Contract Manager or designee by telephone and email no later than thirty (30) minutes after discovery of service failure.
- h. When requested, the Contractor(s) monitoring center shall provide an initial response to pre-determined alarm notifications to troubleshoot and resolve the notifications per established protocols as agreed to by both the City and the Contractor(s) by offender program type.
- i. When requested, the Contractor(s) monitoring system shall be responsible for alerting the City's designated officervia text, message, email, central database,

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and/or phone. The means or mode of contact shall be at the City's discretion. These services shall be provided twenty-four (24) hours per day, seven (7) days per week.

- j. As required by the City's designee, the Contractor(s) shall provide a toll-free telephone number to be supplied to the City's supervised offenders which shall be utilized to contact the monitoring center for alarm notification resolution.
- k. The Contractor(s) shall provide immediate notification via telephone, cellular telephone, text message, and/or email twenty-four (24) hours a day, seven (7) days a week to designated City staff when an alarm notification is generated. The contractor(s) monitoring service shall include the capability to administer a phone call by a live staff person in the monitoring center in response to designated priority alarm notifications.
- l. The Contractor(s) shall be able to receive a verifiable confirmation via a telephone call from the monitoring center to the designated City staff to confirm that all immediate alarm notifications were received/acknowledged by City staff. The Contractor(s) shall be responsible to maintain a call tree to be utilized when contacting City staff to report alarm notifications pursuant to established protocols.
- m. The monitoring center shall have redundant inbound and outbound communication services, provided by distinct carriers and/or methods, such that the failure of the primary service or method shall not adversely affect the secondary (backup) service or method.
- n. The Contractor(s) shall have the ability to write files to a server at the Contractor(s) site and shall allow the City to retrieve the files daily through a secure File Transfer Protocol (FTP) or other secure transmission method. The files will need to include the following information.

- i. File 1 – Alarm Fire

- 1. The Key file the Contractor(s) uses to distinguish each alarm.
 - 2. The type of alarm as defined by the City.
 - 3. The Identification number of the offender.
 - 4. Date and time of the alarm.
 - 5. Length of the alarm (until resolution).

- File 2 – Comment File

- 1. The key field the Contractor(s) uses to distinguish each alarm.
 - 2. Comments relating to the alarm.
 - 3. Date and time of updates to the comments.

- File 3 – Alarm Cleared

- 1. The key field that the Contractor(s) uses to distinguish each alarm.
 - 2. Date and time the alarm was cleared.

- File 4 – Points Reviewed

- 1. The ID number of the offender.
 - 2. The USERID of the officer reviewing the points.
 - 3. Date the points were reviewed.
 - 4. Dates of the points reviewed by the officer.

- 2. Equipment to be provided by the Contractor(s):

Contractor shall furnish all equipment required to perform services outlined herein and to make the proposed system fully operational, which shall include but is not limited to: transmitters, base stations, receivers, tracking devices, recorders, bracelets, telephones and landline cords, batteries, power cords, clips, straps, tools, reference materials, specialty cleaning supplies, car chargers, ethernet cables, beacons, etc.

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- a) In the case of equipment rental programs, all equipment provided by the Contractor(s) shall remain the property of the Contractor(s) and shall be in good repair, remanufactured and within specifications of new equipment. All equipment supplied shall be the latest design and model unless specifically requested by the City.
- b) For those offenders whom monitoring is requested and reside in areas that have technical and/or geographical limitations, the Contractor(s) shall provide either alternate technology or installation of a phone line at the residence at no extra charge to the City or the offender. If there is an identified limitation to the equipment functioning in a specific area, Contractor(s) shall provide equipment that will allow the same function at the same price as equipment originally requested.
- c) The equipment provided shall be of a technology currently in use by the manufacturer, Contractor(s), or both and shall be identified by brand and model number in the Contractor(s) proposal.
- d) The Contractor(s) shall only provide equipment that has been properly registered and certified under the Federal Communication Commission Rules and Regulations, as applicable. The Contractor(s) shall submit the applicable FCCID numbers for all proposed equipment.
- e) The equipment provided shall not be available as an open market item if this could compromise the security of the system.
- f) Replacement equipment initially provided by the Contractor(s) shall be new, or if not new, refurbished to perform in a like-new manner and shall be maintained by the Contractor(s) in "like new" condition. Repairs and/or replacements shall be provided within the timeframe specified in this RFP.
- g) In the case of a rental program, the Contractor(s) is responsible, at no additional cost to the City except as provided in the RFP and resulting contract, for the maintenance, repair or replacement of all equipment or software provided under the contract. The Contractor(s) is responsible for all costs which includes shipping materials and delivering equipment to, from, or between any City offices located within Arizona.
- h) In the case of a rental program, in the event that any of the equipment or software provided under the contract fails to function properly, is lost, stolen or damaged, the Contractor(s), at no additional cost to the City, shall deliver a replacement component(s) to the designated City office within forty-eight (48) to seventy-two (72) hours of notification by City, if requested by the City. The City will notify the Contractor(s) when a piece of equipment is lost, stolen or damaged. This determination is at the sole discretion of the City. The City and its client departments will make reasonable efforts to deter the theft, loss or damage to the Contractor(s) equipment. The City is not responsible for the cost of lost, stolen or damaged equipment.
- i) Upon request from the City, when the City activates equipment that has been in shelf stock, the Contractor(s) shall deliver to the designated district office a replacement component(s) within twenty-four (24) hours of notification by the City.
- j) The Contractor(s) shall provide, at no additional cost to the City, all necessary tools as needed per officer or district office to install, adjust, and remove the Contractor(s) provided equipment. City will notify the Contractor(s) on the number needed.
- k) All equipment proposed and provided shall equal or exceed the latest industry standards unless specifically requested by the City. During the life of the contract, and with the prior approval of City, the Contractor(s) shall upgrade equipment as significant improvements become available. These upgrades shall be provided at no extra charge/additional costs to City.
- l) At no additional charge and upon request by the City, the Contractor(s) shall furnish

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for each system in operation three (3) spare units for every ten (10) units, with a minimum of five (5) units for shelf stock, per location.

- m) The equipment provided shall be Federal Communication's Commission (FCC) currently registered and approved.
- n) The contractor(s) shall provide written instructions and all necessary equipment for a trained person to initialize, reset and remove the participant's transmitter as needed.

3. Accessories:

All accessories, including replacement batteries, straps, waist packs, carrying bags, clips, beacons, and other related supplies necessary for proper operation shall be provided by the Contractor(s) at no additional cost to the City, throughout the term of the contract. Install and deactivation tools/equipment shall be provided to the City at no additional cost throughout the term of the contract.

4. Proposer Representative:

The Contractor(s) shall provide the City a minimum of one (1) single account representative who will serve as a liaison for all aspects of contract performance. All aspects shall include but not be limited to, reporting, equipment inventory, training, contract transition and the install program. The representative shall be familiar with the City's policies, goals, and services. The representative shall be knowledgeable in the area of Community Corrections, i.e. parole, probation, pretrial, in-home detention, work release, etc. The representative shall be proficient in and have a working knowledge of all functional areas and services. The City would prefer a team approach, consisting of an account representative, inventory management representative and a training representative. The City shall not provide any office space or storage space.

5. Offender Monitoring System Operation:

- a) The monitoring equipment shall function reliably despite the nearby operation of household electrical equipment or the existence of nearby strong, but not uncommon, electrical fields generated by such sources as power transmission lines, power transformers and commercial radio towers. If a device is worn by the offender, or if a receiver is installed in the offender's home, it shall function reliably in any building and offer a continuous signal and shall work with any type of phone line.
- b) The removal of strap by a deliberate action, accidental action, or any action that otherwise compromises the integrity of the strap shall immediately generate an alarm that is immediately transmitted to the Contractor(s) Monitoring Center. The strap shall have a dual tamper capability. The transmitter shall notify the receiver of any tampering.
- c) The System shall escalate the violation notifications to designated supervisory personnel as specified by the City.
- d) Equipment shall initiate the sending and receiving of signals through standard telephone lines across the City at no cost to the City or offender. Contractor(s) shall ensure that the system allows communication only with authorized receiver/transmitter devices.

6. Central Computer Monitoring System:

The Contractor(s) central monitoring service center shall include a central computer system, compatible software and all the needed equipment that is capable of complete supervision of the electronic monitoring program with complete redundancy as defined below. This includes receiving and initiating communications to/from the participant's home and to communicate with both the participant and his home monitoring equipment. The

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system redundancy shall meet the following requirements:

- a) The central computer system with all associated equipment and services shall be located in a secure, environmentally controlled access facility and provide twenty-four (24) hours a day, seven (7) days a week monitoring.
 - b) The central computer system shall have the ability to perform monitoring with an unlimited number of different curfew periods per day and on a customized schedule for each participant.
 - c) The central computer system shall be capable of retaining personal information for each participant. The Contractor(s) shall also provide a means to enter, modify or delete any of this information by the system operators as requested by designated City officials or staff.
 - d) The computer system shall be able to process changes, report printing and other functions without disrupting the monitoring process. It shall have an interconnect capability for all equipment for remote printing to the City central communications unit as required.
 - e) The contractor(s) shall provide an uninterruptable power supply (UPS) for an instantaneous backup power source to prevent the loss of information and data in event of short-term commercial power losses.
 - f) The contractor(s) shall provide for an automatic backup of data on magnetic media for any commercial power loss. This backup procedure shall also be performed at least once a day to prevent data loss due to a system failure and be retained for at least one (1) year.
 - g) The contractor(s) shall provide a complete identical backup computer system redundancy in the event of a system malfunction, which cannot be corrected within a reasonable period of time. Specify complete addresses of both primary and redundant systems.
 - h) The contractor(s) shall have the ability to provide access to the central computer system by remote PC computer terminals. Access by the City shall be made by the Contractor(S) toll-free telephone lines and/or optional alternate communications service.
 - i) The contractor(s) shall provide a redundancy for its telephone carrier and be capable of immediately switching to an alternate in the event that the primary service is interrupted.
7. Central Computer Monitoring System Software:
The central computer at the Contractor(s) central monitoring service center shall include a compatible software program with the capability to report on the entire electronic monitoring program. The software program shall be user friendly. The electronic monitoring software shall also be accessible via remote terminal at the City through dedicated line or internet access.
8. Reporting:
- a. The Contractor(s) system shall provide standardized reports for all functional areas covered by the Contractor(s) contract. In addition, report parameters are subject to change by the City during contract performance, and other reports shall be required as requested by City.
 - b. When "real-time" information is not available, or data-analysis and review is needed by the Contractor(s), the monitoring service center shall provide the designated personnel with daily reports about all monitored activities. This report, summarizing all participants' adherence to established protocol, will be faxed or accessible via remoteterminal at the designated City Area Offices through dedicated line or internet access (as determined by City) by four (4) a.m. every day.
 - c. The monitoring service center shall have available daily reports of cases added

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- and removed during the preceding business day.
- d. The monitoring service center shall have available an alert device and arrangement to notify the City of offender's unauthorized absences/late arrivals plus equipment malfunctions immediately from the initial occurrence, through dedicated line or internet access (as determined by City), to the City.
 - e. Alerts for tampers, zone violations or curfew violations shall be transmitted in "real time" to the designated staff by different means (as determined by City). The method of notification will be determined by the City for each participant, caseload, or agency. Participants shall also be notified of alerts, at the discretion of the designated staff.
 - f. If requested, in response to reports of monitoring violations by program participants, the contractor(s) shall prepare a written assessment based upon information received through the contractor(s) confirmation procedure and provide it immediately to the City.
 - g. The contractor(s) management information system shall be capable of generating standard reports. The contractor(s) shall be required to provide custom reports and statistical analysis. Standard reports include number of clients, number of incidents (equipment reports, violations, equipment malfunctions, etc.), client histories, curfew schedule, and assigned City staff. Examples of custom reports that shall be required are number of days a client is monitored, etc. Contractor(s) shall include examples of all reports they are capable of generating as part of their proposed package. City shall be notified twenty-four (24) hours in advance of any anticipated interruption in service.
9. Inventory Management:
- a. The system shall have the capability of tracking units and equipment that have been returned to the Contractor(s) due to malfunction and provide reports concerning problems found.
 - b. The Contractor(s) system shall provide a report of accurate inventory of all equipment and accessories charged to the City. The inventory database shall include item name, serial number, offender name (or "shelf stock" if not in use) and total items in inventory. This system shall have the capability to track inventory by Department.
 - c. The Contractor(s) shall provide a dedicated representative to perform the following:
 - i. Update the inventory database on initial installation of monitoring equipment.
 - ii. Update the inventory database for shelf stock at the time of initial installation of monitoring equipment.
 - iii. The Contractor(s) shall reconcile inventory by department on a monthly basis no later than the seventh (7th) of each month. The City reserves the right to change the number of reconciliations per year and requirement date.
 - d. The Contractor(s) shall maintain the equipment and spares in good condition and arrange for the repair or replacement of the equipment within two (2) business days.
10. Maintenance and Support:
- a. The Contractor(s) shall utilize a dedicated support team to provide maintenance and support on a twenty-four (24) hours a day, seven (7) days a week basis.
 - b. The Contractor(s) shall provide a toll-free number for maintenance and support.
 - c. In the event any component of the Contractor(s) service becomes inoperable, the Contractor(s) shall immediately notify the City Contract Manager or designee by telephone, but no later than thirty (30) minutes after the discovery of the service failure.

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- d. Contractor(s) proposal shall contain all tiers offered and shall identify the response time by tier (identify response by telephone or email.) The Contractor(s) shall adhere to the response times contained in its accepted proposal.
- e. The Contractor(s) shall fully describe its proposed twenty-four (24) hours a day, seven (7) days a week maintenance and support for this contract. The Contractor(s) shall clearly identify the City's role in all aspects of maintenance and support.

11. Contract Transition:

Contractor(s) shall provide a dedicated person who will be responsible for making the transition from the system under the current contract to the new system as defined in the implementation plan. This transition shall include:

- a. Coordination with the existing Contractor(s) on the date and time of the change over to the new system.
- b. Initial data entry or migration of identification and curfew information for all offenders being monitored at the time of the transition.
- c. Contractor(s) shall provide resume(s) for the personnel proposed for the contract transition with their proposal.
- d. Contractor(s) shall provide a transition plan for all field equipment with their proposal.
- e. Contractor(s) are required to demonstrate that their consultant(s) or employee(s) shall have the skills necessary to meet the objectives of this project by listing skills, industry certifications, general educational background, and knowledge set based on prior experience.

12. Project Management for Transition:

The Contractor(s) shall align their project management approach with the project's inherent complexity so the desired results can be achieved. The Contractor(s) shall provide project management in accordance with its accepted proposal. Project management controls shall be proposed that are consistent with minimizing the project's risks and inefficiencies which would negatively impact the RFP's objectives. Management of scope, time, and risk are critical to effectively achieving the expected outcomes of cost, schedule, deliverables, and quality. Both City and the Contractor(s) shall be responsible for working in a cooperative manner to meet the targeted timelines defined in the implementation plan. City and the Contractor(s) shall mutually agree upon any changes to the schedule. City reserves the right to conduct any test/inspection that shall deem advisable to ensure installation/services, as appropriate, conform to specifications. Any tasks which are the primary responsibility of City shall be clearly defined and identified.

The City shall approve the selection and/or replacement of the Contractor(s) Project Manager. The Contractor(s) shall provide their Project Manager's resume for the City to review, including the qualifications of the proposed Project Manager, and explain why this is a good match. The Contractor(s) proposed Project Manager shall have a minimum five (5) years of experience in a Project Manager role in implementing similar projects. A Project Management Professional (PMP), as defined by the Project Management Institute or equivalent organization, is preferred. City is responsible for assigning the City Project Manager.

13. Litigation – Related Testimony:

- a. If requested as a part of litigation, the Contractor(s) shall be required to provide expert testimony regarding its monitoring equipment and system specifications, as well as the accuracy and reliability of the reports/results. The Contractor(s) shall make available qualified personnel to provide expert testimony as requested or subpoenaed.

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- b. The Contractor(s) shall ensure that its personnel responds timely and/or appears as stipulated in the request and/or subpoenas.
- c. The Contractor(s) shall supply, in format and number requested by the City, a record of offender movements during specified time frames for investigative or judicial purposes. The format shall include, but not be limited to, USB drive, screen shots, supporting narrative, etc.
- d. All costs for Litigation Related Testimony shall be included in the prices offered; however, reimbursement can be sought through individual jurisdictions when available.

14. Advertising/Promotions:

The Contractor(s) shall not issue news releases, advertisements or news articles, or any other information of any kind related to its contract with the City, including but not limited to statistical data, offender information or programs, without prior written approval from the City.

15. Provision of Database and Contract End:

If requested by the City, upon the expiration date of the contract resulting from this RFP (or termination by any other method), the Contractor(s) shall provide the most up-to-date copy of the system's database, including all historical data, the data dictionary, file layouts, code tables, code values, data relationships, keys, and indices, etc., in a format to be determined by the Contract Manager. In addition, the Contractor(s) shall provide a read-only licenses for the City's use for a period of seven (7) years. If any data stored is in a proprietary format, Contractor(s) shall provide a means for translating it to a standard in the public domain.

5. **PRODUCT SPECIFICATIONS:**

1. Active, Passive and/or Hybrid Global Positioning Satellite Tracking (GPS) Category:

- a. Device shall be waterproof to at least fifteen (15) feet, durable, shock-resistant, washable and shall comply with FCC regulations.
- b. The unit shall have tamper detection utilizing electronic and/or fiber optic mechanisms. Once the unit detects a strap tamper violation, it shall send a unique tamper signal to the central host system to alert staff of a violation.
- c. Device straps should be replaceable in the field and require minimal training for City staff.
- d. The unit shall include motion detection.
- e. City staff shall be able to communicate with the offender through a minimum of one (1) way communication. The contractor's software shall provide City staff the ability to send messages on command.
- f. The unit shall provide a feature for the offender to acknowledge the one (1) way communication.
- g. The unit shall be configurable to collect location data in Active, Hybrid, and Passive modes without making any adjustments to the unit hardware.
- h. The unit shall be capable of being attached to the offender so that efforts to tamper with or remove the transmitter are obvious to visual inspection.
- i. The transmitter shall emit a signal at a frequency which is not commercially interruptible at least once every thirty (30) seconds.
- j. The unit shall have batteries which are easily charged by offender or shall plug into standard residential power sources. Charging system shall be lightweight and accommodate 110V power supplies. Charging system shall include indication whether the GPS tracking unit is charging or has a full charge. Charging system shall allow for a secure connection to the bracelet without undue risk to the offender.

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- k. The unit shall not unduly restrict the offender's day to day activities.
 - l. At a minimum, the unit shall detect, record, and alert City staff for the following events: low battery, battery charging, lost GPS coverage, zone violation, curfew violation, communication loss, and equipment tamper.
 - m. Transmitter straps shall be adjustable to fit any size offender. Straps of multiple sizes are encouraged.
2. Radio Frequency/RF Category:
- a. Transmitter: The Contractor(s) shall propose a transmitter, which shall be comfortably worn on the ankle or wrist of the participant and shall meet the following requirements:
 - i. The device shall be small, lightweight, and not pose a health hazard nor unduly restrict the activities of the participant; and of a size to be worn under normal slacks.
 - ii. The device shall be capable of being securely attached to the participant's ankle or wrist and report any and all efforts to tamper with or remove the device.
 - iii. Transmitter straps shall be adjustable to fit any size offender. Straps of multiple sizes are encouraged.
 - iv. The device shall be shock resistant, water and moisture proof up to at least fifteen (15) feet, and function reliably under normal atmosphere and human environment conditions. Device shall also conform to all FCC regulations.
 - v. The device shall contain a radio transmitter whose coded radio signal shall be unique to the individual to whom it is attached so as to enable positive confirmation of the presence/absence of the participant within an adjustable range of a minimum of fifty (50) feet of the receiver.
 - vi. The transmitter shall emit a coded radio signal at least once every minute on a continuous basis during the operating life of the battery.
 - vii. The transmitter shall be battery powered and designed for a minimum continuous operating battery life of a minimum of approximately six (6) months.
 - b. Receiver: The Contractor(s) shall propose a receiver to be located in the participant's home (conforming to FCC standards and regulations), which shall continuously monitor the participant's transmitter and meets the following requirements:
 - i. The receiver shall be powered by 110-volt A.C. power with internal auto-recharging battery capable of supplying back up power for a period of more than twenty-four (24) hours. The electrical wire connecting to A.C. power shall be UL approved, and of sufficient length to adequately connect to the household AC power.
 - ii. The receiver shall be capable of full communications to the Contractor(s) central computer system by connection to the participant's telephone company wall outlet using a standard RJ-11-C modular telephone connector.
 - iii. The unit shall be directly connected to the offender's home phone line, or through an optional Cellular Receiver to report events and alerts to the Contractor(s) central monitoring computer.
 - iv. The participant's receiver shall accept and process radio signals only from the unique signal of that same participant's transmitter.
 - v. The receiver shall detect attempts to simulate or duplicate the participant's transmitter radio signal by a foreign device and immediately report detection of such an occurrence to the central computer.
 - vi. The receiver shall contain an internal clock and sufficient memory to

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store a time stamp of all events and activities, that happen per day, that shall occur for at least the next five (5) days, in the event the communications link with the central computer system is disrupted. The receiver shall be capable of operating without AC power for a minimum of twenty-four (24) hours and events can be stored for up to a minimum of 10 (ten) days.

- vii. The receiver shall detect, and store with time stamp the following events, at a minimum, and promptly communicate them to the central computer.
 - a. Arrival of transmitter within the range of the receiver;
 - b. Departure of transmitter out of range of the receiver after a preset programmable time interval;
 - c. Tampering and/or removal of the transmitter from the participant;
 - d. An attempt to simulate or duplicate the radio signal by a device other than participant's own transmitter;
 - e. Loss and/or restoration of the home's commercial power;
 - f. Loss and/or restoration of the communication service (the disconnection event shall be sent as soon as the communications service is restored);
 - g. Low battery condition of transmitter and/or receiver;
 - h. Tampering of receiver;
 - i. Motion detection cellular devices.
- viii. The receiver shall be capable of seizing a telephone line when not in use. It shall not seize a line in use, but instead, shall deliver a courtesy signal as a yield warning to any person using the line. It shall then seize the line after the person hangs up.
- ix. The receiver shall not pose a health or safety hazard to the participant or other family members and shall function reliably under normal household environmental and atmospheric conditions.
- x. Electrical surge protectors shall be built-in or provided for connecting power and communication lines.
- xi. The receiver shall be capable of being installed and made operational by an officer or offender following the written instructions provided by the Contractor(s)/officer.

3. Video and/or Voice Tracking/Verification and Message Reporting System Category:

a. Base Requirements:

- i. The system shall work by comparing an offender's voice during a verification call to a "voiceprint," or digitized representation of the offender's voice obtained during enrollment.
- ii. The system shall allow total voice enrollment, including voiceprint, in less than five (5) minutes.
- iii. The system shall have the ability to identify the offender's presence at prescribed locations.
- iv. City staff shall be able to listen to recordings of voice verification calls over the Internet.
- v. The system shall have the ability to place outbound calls and receive inbound calls.
- vi. Call schedules and alert notification options shall be customizable on a case-by-case basis.
- vii. The system shall have the ability to individually set the number of acceptable failures before an alert is generated.
- viii. The system shall have such hardware and software security features as necessary to be tamper resistant.

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- ix. If the system requires the City to manage outbound calling schedules, it shall allow access only by authorized personnel with remote access via the Internet and/or via toll-free dial-in.
 - x. If the system makes outbound calls to offender locations, the system shall be able to set the range of minutes between retry calls (after busy signal or no answer) and the maximum number of attempts to verify within a verification call.
 - xi. The system shall be able to allow City staff to view and print the summary and analytical reports as needed to alert supervising Officers and/or City staff.
 - xii. The system shall be able to record and print the name of the offender and the date and time of the violation.
 - xiii. The system shall demonstrate a high degree of accuracy. The method of validation and percentage of accuracy shall be explained and quantified.
- b. Message/Day Reporting System: The Contractor(s) system shall meet the following requirements:
- i. Shall have call in for questions/responses.
 - ii. Shall have call in format flexibility to include multiple question format based on City needs.
 - iii. Shall have the ability to call in from predetermined/designated locations.
 - iv. Shall have the ability to notify City personnel of any change or violation through email, pager, or text messaging.
 - v. Shall allow instant audible voice verification replay sessions via the internet.
4. Alcohol Monitoring: For all equipment types, the Contractor(s) system shall meet the following requirements:
- a. Shall identify the offender's presence at certain prescribed locations.
 - b. Handheld devices shall work by comparing an offender's voice to a voiceprint, digitized representation of the offender's voice and/or facial recognition.
 - c. Shall allow placement of outbound calls and/or receiving of inbound calls.
 - d. Shall have call schedules and alert notification options that are variable by offender case.
 - e. Shall individually set the number of acceptable failures before an alert is generated.
 - f. Shall allow alert notifications through email or text messaging.
 - g. Shall have such hardware and software security features as necessary to be tamper resistant.
 - h. Shall allow online access to offender compliance history.
 - i. Shall individually set the range of minutes between retry calls after busy signal or a no answer and the maximum number of attempts to verify within a verification call.
 - j. Shall allow an officer or other designee to view and print summary reports as needed.
 - k. Shall allow recording and printing the name of offenders and date and time of violation.
 - l. Shall demonstrate high degree of accuracy. Method of validation and percentage of accuracy shall be explained and quantified as part of the technical proposal.
 - m. The unit shall measure Breath Alcohol Content (BrAC) by using a detection technology.
 - n. The unit shall measure BrAC by collecting deep lung samples.
 - o. As the concentration of alcohol in a deep lung sample is directly proportionate to alcohol concentration in the blood, the unit shall be capable of measuring Blood Alcohol Content (BAC) from 0.010 at a minimum.

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- p. The unit shall have a battery-operated backup.
 - q. The battery shall power the unit for a minimum of twelve (12) hours and retain an ability to continue prescheduled tests.
 - r. The unit shall use a secure process that prevents enrollment except by authorized individuals.
 - s. The unit will be capable of storing messages in a nonvolatile memory in the event of phone loss.
 - t. The unit will be able to continue to administer breath tests in the absence of phone service.
 - u. The Contractor(s) central monitoring computer system will be capable of determining whether the offender took the test and then generate alerts based on the test results.
 - v. The unit shall measure the presence of alcohol only. The Device shall not respond to natural gas or acetone.
 - w. The unit will use verification to correctly identify the offender.
 - x. The unit will allow tests to be administered in a variety of methods:
 - i. Random, computer generated as specified by the City. Allowing for an unlimited number of test periods and tests.
 - ii. At City designated locations or in the offender's home by authorized City staff. After the test, within thirty (30) seconds the BrAC level should be displayed on the City operated hand held device.
 - iii. "On-demand" by the City.
 - y. The unit will utilize mechanisms that detect attempts by the offender to defeat the unit by supplying a breath sample other than their own. The "erroneous" sample might be from a mechanical apparatus or accomplice.
 - z. The unit will have tamper technology that is accurate and non-intrusive.
 - aa. The Contractor(s) shall have monitoring software that is accessible through the internet and shall provide a description of its capabilities.
5. Transdermal Specific Requirements:
- a. The unit will include tamper detection features including phone, case, and power alerts to ensure accuracy of the data generated by the unit.
 - b. The unit will not require offenders to push buttons, or otherwise interact with the unit, in order for the testing process to begin or results of the test to be reported.
 - c. The System shall provide twenty-four (24) hour monitoring of alcohol concentration through the skin.
 - d. The unit shall be attached to the detainee's ankle using secure straps and alarms that detect any attempt to tamper with the device.
 - e. External power and phone cords for the unit shall be field replaceable.
 - f. The unit will be compatible with the Contractor(S) Radio Frequency monitoring solution. The unit will also have the capability to be used as a stand-alone solution.
 - g. The transmitter shall automatically measure and record the offender's transdermal alcohol level on a regular basis, regardless of the offender's location.
 - h. The transmitter shall take an alcohol sample a minimum of once every thirty (30) minutes or as determined by the City.
 - i. The unit shall connect to the telephone network with a standard RJ11-C jack or through cellular communication. A telephone cord and modular plug shall be provided with the unit at no additional cost to the City. The unit shall be directly connected to the offender's home phone line, or through an optional Cellular Receiver, to report events and alerts to the Contractor(s) central monitoring computer.
 - j. The transmitter shall comply with FCC regulations and be highly durable, shock-resistant, and water resistant to allow for activities such as bathing.
 - k. When a low-battery event occurs, the system shall generate a low-battery alert that

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gives City staff at least five (5) days to replace the battery before it becomes exhausted.

- l. The transmitter straps and battery shall be replaceable in the field and require minimal training for City staff.
- m. The transmitter shall be able to distinguish between ingested alcohol and environmental alcohol.
- n. The transmitter should have multiple tamper detection technologies such as water submersion, skin conductivity, temperature, proximity to the leg, infrared debris buildup detection, motion detection and strap tamper detection.
- o. At a minimum, the transmitter shall detect, record, and alert City staff for the following: low battery, unit shall be returned for recalibration, alcohol event, equipment tamper, and curfew violation (if paired with an optional receiver).
- p. The transmitter shall be able to pair to a receiver to report monitoring data to the Contractor(s) central monitoring computer system.
- q. The transmitter shall emit a signal to the receiver at least once every thirty (30) seconds continually, during the operating life of the transmitter's battery.
- r. RF signals from the transmitter to the receiver should have a range of up to one-hundred and fifty (150) feet.
- s. RF signals from the transmitter to the receiver should be on a noncommercial frequency.
- t. Contractor(s) shall allow the unit to be paired with Radio Frequency (RF) as determined needed by the City. The RF service shall be available in land line and cell variants.

6. Supplemental Support Services:

The agency requires administrative, technical, and data management services. Based out of the offeror's twenty-four (24) hours a day, seven (7) days a week monitoring center, the agency requires bi-lingual services aimed at helping officers keep clients accountable. The goal of these services is to relieve officers of clerical and administrative tasks to allow agency personnel to maximize time spent with clients.

All data that is generated, modified, or updated through these supplemental support services must be accessible via phone, email, or tablet.

- a. Automated Check-In:
 - i. The Contractor(s) must provide an automated self-reporting solution that requires clients to call into an Interactive Voice Response (IVR) system.
 - ii. Clients must be able to call the system as required to provide daily, weekly, or monthly check-ins.
 - iii. The system must be able to verify information for each caller through a series of questions (e.g. "have you had any changes in employment?").
 - iv. If there are changes or exceptions to the expected responses, the client must be routed to a live member of the offeror's monitoring center. Contractor(s) staff must update information in the system in real time.
 - v. The system must provide automated notifications and reminders to clients.
 - vi. The system must have the capability for officers and clients to leave and receive messages from one another.
 - vii. The system must provide real-time officer notifications for any noncompliant activity.
 - viii. The agency must be able to customize the questions asked by the IVR system.
- b. Documenting Officer Contact with Clients:

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- i. The Contractor(s) must provide data entry service for officers to record case notes while in the field.
 - ii. The Contractor(s) must provide highly trained staff to transcribe officer notes based on interactions with clients. These services must be provided on a twenty-four (24) hours a day, seven (7) days a week basis.
 - iii. All documentation of case notes must be date and time stamped within the software. These notes should be easily reviewed by authorized staff.
 - c. Alert Management Activities:
 - i. The Contractor(s) monitoring center must accept client calls to verify that clients are adhering to agency-mandated schedules.
 - ii. Clients will call the Contractor(s) monitoring center to verify, schedule, or amend appointments for job interviews, work, school, or doctor visits.
 - iii. The system must enable officers to approve or deny requests by phone or via offeror software.
 - iv. The Contractor(s) monitoring center must conduct initial outbound calls on all EM alerts, placed by persons physically present in the monitoring center. This must occur prior to dispatching alert information to the officer.
 - v. These initial calls should troubleshoot equipment issues or to locate a missing monitored individual.
 - vi. If unsuccessful, the alert must be escalated to the supervising officer for additional action in real time.
 - d. Processing Warrants:
 - i. The Contractor(s) must provide warrant processing services to expand the agency's after-hour coverage.
 - ii. When a client misses a scheduled check-in or is considered absconded, the Contractor must accept calls from officers to process a warrant for the client's arrest.
 - iii. The Contractor must process fingerprint and name matches in the National Crime Information Center (NCIC) database.
 - e. Fee Processing:
 - i. The Contractor(s) must provide fee management services that include client fee collection and processing, for both court-ordered or supervision fees, either electronically or manually.
 - ii. The system must have the ability to configure fee reminders for each individual through an automated notification system.
 - iii. The system must utilize a notification system that alerts clients when payments are due or late.
 - iv. Clients should have the option to pay fees via remittance envelopes or credit card through the offeror's twenty-four (24) hour monitoring center.
7. Smartphone Application:

The Contractor(s) must provide a client-facing smartphone application that provides supervision tools for agency personnel and client tools for accessing community resources.

 - a. Application Features:
 - i. The mobile application must be highly secure and use password protection and other security features.
 - ii. The application must provide a mobile reporting platform to help increase client accountability while in the community.
 - iii. The mobile application must be customizable based on agency preferences and client risks and needs.
 - iv. The data generated, collected, and reported via the mobile application must be accessible within the Contractor(s) electronic monitoring

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- software.
- v. The mobile application must be available in both English and Spanish.
- b. Supervision Tools:
 - i. Check-In:
 - a. The mobile application must biometrically verify client identity and location through fixed or randomly scheduled check-ins.
 - b. The mobile application should offer multiple options for biometrically identifying clients, including facial and voice biometric technology.
 - c. Agency personnel must be able to confirm that clients are compliant with location and curfew through the mobile application.
 - d. The mobile application must collect a GPS point during client check-in to confirm the location of the client.
 - e. The mobile application must be able to process the GPS point collected during a client check-in against the address of a required location at a specific time.
 - ii. Self-Report:
 - a. The mobile application must provide a means for clients to report significant life events (such as address changes, employment updates, program violations, arrests, and contact with law enforcement).
 - b. The mobile application must complete a biometric check-in, complete with GPS point collection, upon completion of the self-report activity.
 - c. The mobile application must allow agencies to create their own questions to be asked to a client.
 - iii. Calendar:
 - a. The application must allow officers to create calendar events of upcoming appointments, such as court dates, officer meetings, and counseling sessions.
 - b. The mobile application must automatically send the client reminders of scheduled events.
 - c. The calendar and appointment reminder features must be flexible and easily customized by the officer.
 - d. The mobile application must provide officers with the option to link biometric check-ins to calendar events to verify attendance at required activities.
 - e. The mobile application must provide officers with the option to require that a client acknowledges an upcoming appointment on their calendar.
 - iv. Messaging:
 - a. The application must contain a messaging feature that allows two (2) way communication between officers and clients.
 - b. All messages must contain a date and time stamp associated with each communication. The content of the messages and associated time and date stamp must be easily retrieved and reviewed within the Contractor(s) electronic monitoring software.
 - c. All messages must contain delivery and read receipt information.
 - v. Documentation:
 - a. The mobile application must allow clients to upload documents,

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such as employment and court information, into the Contractor(s) electronic monitoring software. These documents must be captured as photographs that can be easily reviewed by agency staff.

- vi. Client Tools:
 - a. The mobile application should list agency-approved service providers for housing, medical, employment, and other essential services.
 - b. Listed resources within the application should contain contact information of service providers.
 - c. Clients must be able to directly call service providers from within the mobile application.
 - d. The mobile application must include access to a Contractor(s) dedicated twenty-four (24) hours a day, seven (7) days a week, three-hundred and sixty-five (365) days a year call center.
 - e. Clients must be able to retrieve and review conditions of supervision at any time from within the mobile application.
- 8. Data Analytics Software:
 - a. Contractor(s) must provide advanced data analytics software that is fully integrated with proposed electronic monitoring software. This analytical analysis feature should be designed to evaluate trends in client behavior and calculate potential risk.
 - b. The Contractor(s) must provide analysis tools that promote officer work efficiency by providing agency supervisors and leadership with performance metrics. The analysis should provide key metrics correlated with officer productivity based on alert actions.
 - i. Analyzing Alert Actions:
 - a. The agency requires analysis that supports supervisors with monitoring officer efficiencies in managing and responding to alerts.
 - b. The Contractor(s) software must provide consolidated alert closure information, including: the number of alerts by officer within a specific period; categories of alerts and associated resolution times; and average time of alert resolution.
 - c. The Contractor(s) software must provide a graphical display that details outliers of alert trends.
 - d. The Contractor(s) software must be capable of providing consolidated alert closure information that includes: the number of alerts closed by type; the average alert closure time; and an analysis of the five (5) most frequently generated alerts.
 - c. The Contractor(s) must provide analysis tools that support officer efficiencies in managing electronic monitoring data and large caseloads. The software should analyze historical and recent data to provide officers with information about client risk patterns, identify high-risk clients, and prioritize alert management.
 - d. The software should display the results of client data analysis in a visual format. This visual representation should enable officers to manage higher risk clients at-a-glance.
 - e. The software should display a list of clients by officer caseload that are ranked by priority of risk level.
 - i. Comparing and Analyzing Alerts:
 - a. The software should display monitored clients for a specific officer and be able to categorize alert information based

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- on established time periods.
 - b. The software should easily identify clients that generate a high number of alerts.
 - ii. Analyzing Frequently Visited Locations:
 - a. The Contractor(s) software should provide information on the areas and time frames that clients frequently visit or “stop.” This information is critical to determining potential hot spots of undesired activity.
 - b. The Contractor(s) software should automatically aggregate data to provide trends in offender behavior and determine high risk locations.
 - iii. Analyzing Areas of Interest:
 - a. The Contractor(s) software should provide the ability for officers to search for clients that were in proximity of a specific address at a certain time. This feature is critical to assisting officers with determining which clients were in close proximity to a crime scene, victim, or exclusion zone.
 - b. The Contractor(s) software should display all monitored clients that were in a certain area at a predetermined time on a map.
 - iv. Creating Zones Based on Risk Data:
 - a. The Contractor(s) software should contain addresses of locations that are considered high-risk. This information should be updated at least quarterly.
 - b. The Contractor(s) software should leverage these known risk locations to increase efficiency with exclusion zone creation.
 - v. Identifying Absconder Behavior:
 - a. The Contractor(s) software must generate a historical report that details areas where clients frequently stop for a specified timeframe. The Contractor(s) software must analyze this historical information to identify where the client frequently visits—enabling officers to prioritize enforcement activities when clients have absconded.
 - b. The analysis should detail the locations of family, friends, employers, and other locations and the amount of time spent at each location.
- 9. **Online Monitoring Software:**

Software should be provided as one interface from which to manage an entire caseload, and support all products within this RFP, to include all variations of radio frequency, GPS, and alcohol monitoring equipment. Software should be available twenty-four (24) hours a day, seven (7) days a week, three-hundred and sixty-five (365) days a year from any web-enabled computer, smartphone, or tablet. Software, and the associated server/hardware system should be geographically redundant, and both the primary and backup servers located within the United States of America.

 - a. Accessibility:
 - i. Contractor(s) should provide software that can be accessed twenty-four (24) hours a day, seven (7) days a week, three-hundred and sixty-five (365) days a year from any device.
 - ii. Contractor(s) should not use third-party software or make plug-ins required.
 - iii. Contractor(s) should be required to have software web interface on one (1) platform, be user friendly and easy to use.

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- b. Reporting:
 - i. Contractor(s) should be able to enroll and inactivate clients from software in an efficient manner, with ease.
 - ii. Agency should require software that can view and process alerts, view, enter and modify data including zones, schedules, and client demographics, enter violation procedures, customize violation notifications, and pair alerts.
 - iii. Agency should require software that is capable of assigning multiple equipment and application types to a single individual.
 - iv. Agency should, at a minimum, require software to have functionality to create Standard and custom reports, have the ability to export to Word, Excel or PDF, and schedule one (1) time or recurring reports.
 - v. Contractor(s) software should automatically dispatch a notification of a violation to one (1) or more designated personnel. Notifications shall be sent via phone, fax, email, page, text message, as designated by the agency with options for immediate, business hours, after hours or agency recognized holidays, next day, or next business day notification.
 - vi. The software shall differentiate GPS points when a violation has occurred.
 - vii. Agency should require that software allow officers with GPS caseloads to create circular, rectangular, and polygon shaped zones, that can be easily modified as necessary.
 - viii. Agency should require that the software allow officers to find a GPS client's location in near real time.
 - ix. Contractor(s) software should have the capability to actively, in near real time, pursue a GPS client as necessary by the Agency.
 - x. Contractor(s) software should have the capability to modify a device's setup and configurations by individual client, officer caseload, and for the entire agency.
 - xi. Contractor(s) software should be able to have the ability to send messages on command.
- c. Advanced Mapping Capabilities:
 - i. Agency should require that software allows officers with GPS caseloads to have access to sophisticated mapping technologies that are integrated with the software.
 - ii. Contractor(s) should be required to use Google Maps™ mapping service to build zones and review client information from software.
 - iii. Contractor(s) software should utilize Google Maps in order to be viewed in 2-D or 3-D and provide road, aerial, and bird's eye views of GPS points.
- d. Agency Level Access:
 - i. Contractor(s) should incorporate several features that support agency level efficiency.
 - ii. Contractor(s) software should be required to incorporate inventory management and allow agency to view inventory data across multiple sub agencies and easily transfer equipment between them.
 - iii. Contractor(s) software should allow agencies to create zones and permissions at the agency level, rather than building them individually for each client.

6. **DELIVERY:** All items must be delivered to the following address:

City of Mesa Court
250 E 1st Avenue

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Mesa, AZ 85210

7. **TERM:** This solicitation is for awarding a purchasing contract to cover an initial five (5) year term. An estimated initial term of June 1, 2022, through May 31, 2027, not including any extensions or renewals subject to the terms of the Agreement. If the commencement of performance is delayed because the City does not execute the Agreement at this start date, the City may adjust the start date, end date, and any milestones to reflect the delayed execution.
8. **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 before the expiration of the then-current term.
9. **EXTENSIONS:** Upon the expiration of the Term of the Agreement, including any renewals permitted herein, at the City's sole discretion the Agreement may be extended for a maximum of six (6) months to allow for the City's procurement processes in the selection of a vendor to provide the services/materials under this Agreement. The City intends to notify the Contractor in writing of its desire to extend the Agreement at least thirty (30) calendar days before the expiration of the Term. Any extension will be a continuation of the same terms and conditions as in effect immediately before the expiration of the then-current term.
10. **PRICING:**
 - a. **Prices.** All pricing shall be firm for the Term and all extensions or renewals of the Term except where otherwise provided in this Agreement and include all costs of the Contractor providing the materials/service including transportation, insurance, and warranty costs. No fuel surcharges will be accepted unless allowed in this Agreement. The City shall not be invoiced at prices higher than those stated in the Agreement.

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

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

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

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

- c. **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 6, pricing may be adjusted for amounts other than inflation that represent actual costs to the Contractor based on the mutual agreement of the parties. The Contractor may submit a

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request for a price adjustment along with appropriate supporting documentation demonstrating the cost to the Contractor. Renewal prices shall be firm for the term of the renewal period and may be adjusted thereafter as outlined in the previous section. There is no guarantee the City will accept a price adjustment.

11. **TYPES AND AMOUNTS OF INSURANCE:** Insurance requirements are detailed in the Agreement document. Contractor must obtain and retain throughout the term of the Agreement, at a minimum, the following:
- a. 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.
 - b. 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 Products and Contractual Liability. For General Liability insurance, the City of Mesa, their agents, officials, volunteers, officers, elected officials, or employees shall be named as additional insured, as evidenced by providing an additional insured endorsement.
 - c. Automobile liability, bodily injury, and property damage with a limit of \$1 million per occurrence including owned, hired, and non-owned autos.
 - d. Professional Liability (Errors and Omissions Liability), the Contractor shall maintain at all times during the term of this contract, a minimum amount of \$1 million per occurrence Professional Liability insurance.

Before the execution of the Contract, the Contractor shall provide the City with a Certificate of Insurance (using appropriate ACORD certificate) SIGNED by the Issuer, applicable endorsements, and the City reserves the right to request additional copies of any or all of the above policies, endorsements, or notices relating thereto.

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

"Waiver of Subrogation". The policies required by this agreement (or contract) shall contain a waiver of transfer rights of recovery (subrogation) against the City, its agents, representatives, directors, elected officials, officers, employees, and volunteers for any claims arising out of the work of Contractor."

All insurance certificates and applicable endorsements are subject to review and approval by the City's Risk Manager.

ATTACHMENT A PRICING

Respondents must respond to the pricing items below. Responses shall be submitted through the City of Mesa's Purchasing Website at <https://vendor.mesaaz.gov/> under the appropriate Solicitation opportunity. Submissions submitted elsewhere or under the wrong Solicitation will not be considered.

Each Respondent awarded an item under this solicitation may offer their complete product and service offering for offender monitoring equipment items, accessories, and services. Pricing for complete product offering will be determined by a percentage discount off the offeror's retail price list. The pricing percentage discount offered must be entered in the offeror's response. The City reserves the right to accept or reject any or all balance of line items offered.

PRICING: All prices quoted shall be firm and fixed for the specified contract period and shall be all inclusive of labor, materials, transportation, general and administrative overhead, training, maintenance, and profit.

SPECIAL OFFERS/PROMOTIONS: In addition to decreasing prices for the balance of the Contract term due to a change in market conditions, Contractor(s) may conduct sales promotions involving price reductions for a specified lesser period. Contractor(s) may offer Participating Agencies competitive pricing which is lower than the not-to-exceed price set forth herein at any time during the contract term and such lower pricing shall not be applied as a global price reduction under the contract.

PRICING ITEMS:

A.1 Definitions:

- a. **Active, Passive and/or Hybrid Global Positioning Satellite Tracking:** The complete range of active, passive and/or hybrid global positioning satellite tracking products, services and solutions offered by Respondent. Include all service reporting levels offered.
- b. **Radio Frequency (RF) Tracking:** The complete range of radio frequency tracking products, services and solutions offered by Respondent.
- c. **Video and/or Voice Tracking/Verification/Message Reporting:** The complete range of video and/or voice tracking/verification/message reporting products, services and solutions offered by Respondent.
- d. **Alcohol Monitoring:** The complete range of alcohol monitoring products, services and solutions offered by Respondent, including continuous alcohol monitoring, continuous alcohol monitoring/radio frequency (RF) tracking and mobile breath alcohol monitoring.
- e. **Supplemental Support Services:** Secure, on-line 24/7/365 live operator and call center support that provides services to alleviate agency/officer workload by providing administrative assistance including automated check-ins, data entry for documenting contacts and activities, alert management, warrant and fee processing.
- f. **Smartphone Application:** A secure smartphone application and supervision tool offered by Respondent, utilized as an alternative or in conjunction with electronic monitoring devices, which provides offender GPS location information, biometrically verifies offender identity, and provides offender tools to increase positive outcomes.
- g. **Data Analytics Software:** A secure data analytics software package offered by the Respondent, which utilizes electronic monitoring data to analyze client behavior and calculate potential risks.
- h. **Online Monitoring Software:** The secure online monitoring software available from the Respondent, that officers will utilize to manage agency, officer, and offender data, view status, complete monitoring tasks in real-time, and is accessible 24x7 from any web-based computer or mobile device with internet access.

ATTACHMENT A PRICING

- i. **Related Products, Services and Solutions:** Additional related products, services, or solutions available from the Respondent, such as but not limited to, day reporting center for adult and juvenile offenders, field service electronic monitoring program, victim alert device, etc.

A.2 Considerations During Vendor Pricing:

This section shall include a description of the proposed costs and prices. All pricing information shall be limited solely to this section of your proposal. This section should address all requirements set forth in Section D as well as any other items pertinent to your proposal pricing such as additional discounts for increased quantities, etc. The requirements have been developed to allow the City to uniformly evaluate prices submitted for the work. Accordingly, you should follow these instructions carefully and provide all data requested in the formats specified herein and in any referenced attachments.

Any omissions in this proposal shall be identified by each Contractor and incorporated into their proposal including any omissions for software, hardware, support etc. which is necessary to the success of the project and must be identified as a separate line item with pricing and included as part of this proposal. The City will not increase the contract or any purchase order (either dollar amount or time) for items not included in the submitted proposal documents. The City reserves the right to purchase part or the entire proposal.

All items not itemized in the pricing below which are instrumental to completing the project will be at the cost of the Contractor to supply at no additional charge to the City.

Pricing shall be in the format described below. Alternative approaches for the pricing of the requested products and services may be provided; however, such alternate approaches shall be described separately and must be in addition to the format below. Do not include cost or price figures anywhere except in the Cost Proposal.

All pricing shall be in usage day format, in the following order:

1. **Active, Passive and/or Hybrid Global Positioning Satellite Tracking:** The complete range of active, passive and/or hybrid global positioning satellite tracking products, services and solutions offered by the Contractor. Include all service reporting levels offered.
2. **Radio Frequency (RF) Tracking:** The complete range of radio frequency tracking products, services and solutions offered by the Contractor.
3. **Video and/or Voice Tracking/Verification/Message Reporting:** The complete range of video and/or voice tracking/verification/message reporting products, services and solutions offered by the Contractor.
4. **Alcohol Monitoring:** The complete range of alcohol monitoring products, services and solutions offered by the Contractor, including continuous alcohol monitoring, continuous alcohol monitoring/radio frequency (RF) tracking and mobile breath alcohol monitoring.
5. **Supplemental Support Services:** Secure, on-line twenty-four seven (24/7) three hundred and sixty-five (365) days a year live operator and call center support that provides services to alleviate agency/officer workload by providing administrative assistance including automated check-ins, data entry for documenting contacts and activities, alert management, warrant and fee processing.
6. **Smartphone Application:** A secure smartphone application and supervision tool offered by the Contractor, utilized as an alternative or in conjunction with electronic monitoring devices, which provides offender GPS location information, biometrically verifies offender identity, and provides offender tools to increase positive outcomes.
7. **Data Analytics Software:** A secure data analytics software package offered by the Contractor, which utilizes electronic monitoring data to analyze client behavior and calculate potential risks.
8. **Online Monitoring Software:** The secure online monitoring software available from the Contractor, that officers will utilize to manage agency, officer, and offender data, view status,

ATTACHMENT A PRICING

complete monitoring tasks in real-time, and is accessible twenty-four seven (24/7) from any web-based computer or mobile device with internet access.

9. **Related Products, Services and Solutions:** Additional related products, services, or solutions available from the Contractor, such as but not limited to, day reporting center for adult and juvenile offenders, field service electronic monitoring program, victim alert device, etc.

The above order will be the format used for items 1, 2, and 3 listed below and used for considerations during vendor pricing:

1. INSERT ALL PRICING STRUCTURES AND SERVICE LEVELS OFFERED FOR CONSIDERATION.

This pricing structure is to assume all entry and installation is conducted by City personnel. Include all pricing options and service plans to be considered in the evaluation of the RFP. Pricing should be Usage Day cost for equipment and all incidentals and accessories required to provide service for that piece of equipment.

2. COST PROPOSAL FOR ALL THE ABOVE CATEGORIES INCLUDING MONITORING AND INSTALLATION/DEACTIVATION.

This pricing structure is to assume all entry and installation is conducted by Contractor personnel. Include all pricing options and service plans to be considered in the evaluation of the RFP. Pricing should be Usage Day cost for equipment and all incidentals and accessories required to provide service for that piece of equipment.

3. TIERED NATIONAL PRICING.

Contractor is to propose pricing using your applicable (quantity) thresholds for all items in 1 and 2 above. Pricing should be structured in as flexible a manner as possible to allow for the different configurations of many public agencies with diverse needs. Arizona pricing shall correspond with the discount structure proposed nationally. **Failure to have pricing correspond may be cause for rejection of your offer.**

ATTACHMENT B
REQUIRED RESPONSE FORMS



Solicitation Required
Response Forms.docx

(Double Click Icon to Open)

ATTACHMENT C
OMNIA DOCUMENT REQUIREMENTS



OMNIA
Requirements Attac
[\(Double click to open\)](#)

ATTACHMENT D
PROPOSER QUESTIONS AND REQUIREMENTS



Proposer Questions
Attachment D.pdf

(Double Click to Open)

ATTACHMENT E

CLOUD SECURITY REQUIREMENTS

1. Purpose

The purpose of this policy is to provide security guidelines for cloud computing services and applications to mitigate associated risks. This focuses on:

- Managing access
- Protecting data:
 - In transit over private and public networks
 - In process
 - At rest
- Complying with all applicable local, state, and federal laws and other contractual obligations

2. Scope

This policy applies to all City of Mesa employees, contractors, consultants, temporary employees, and other third-party workers who have access to, interact with, and provide IT services for the City of Mesa.

Cloud computing refers to implementations of Software as a Service (SaaS), Platform as a Service (PaaS), Infrastructure as a Service (IaaS), Function as a Service (FaaS), and any other IT services that are delivered by third-party vendors or service providers outside of the City enterprise computing environment.

3. Policy

The goal of this policy is to:

- Ensure proper service provider selection for smooth integration of cloud services with existing infrastructure, software, security policies, and standards
- Establish security and access control standards to safeguard information that exists in a cloud environment.
-
- Ensure that proposed cloud service matches the data classification requirements set forth by the data owner. For example, if the cloud service handles CJIS data then the cloud service would need to encrypt data at rest and in transit, as well as need to be approved by the Arizona Department of Public Safety.

To meet these objectives, policies are needed that will base service provider selection on criteria that ensure security, integration using best practices, and interoperability. In addition, policies must address information as it exists in three states: data in transit, data in process, and data at rest.

3.1 Service Provider Selection

The service provider's security standards must meet or exceed those required by the City of Mesa. The characteristics of the service provider's deployment model will determine the required system protection in the context of logical and physical boundaries, trust boundaries, and data flow.

The service provider's offerings must comply with the integration, interoperability, and portability objectives required by Mesa for the desired computing framework. For example, standardized APIs must be supported for interoperability, ease of data migration, and seamless security functions.

Performance standards must meet requirements for availability, computing speeds, provisioning, and access.

3.2 Data Protection:

ATTACHMENT E

CLOUD SECURITY REQUIREMENTS

Data in Transit

Data in transit, between the cloud computing service provider and the City of Mesa network, must be secure. Modern, industry-accepted encryption standards must be used to protect data in transit.

Data in Process

Processing of data must use techniques to prevent data leakage, protect data in memory, and prevent unauthorized manipulation.

Data at Rest

Techniques must be implemented to prevent data tampering, unauthorized access, copying, altering, or deleting from the original while data are stored at rest in the cloud computing environment.

3.3 Cloud Access:

- Identity management and access control functions must be supported to enable authorized users and protect against unauthorized access, disclosure, modification, and monitoring.
- Service Providers must also prevent unauthorized access to the cloud computing infrastructure.
- Configurations must be of the secure-by-default model.
- Trust boundaries must be defined among cloud providers and end users to ensure that the responsibilities to implement security controls are clearly identified.
- To ensure the confidentiality, integrity, and availability of Mesa information, the following minimum data security standards shall be observed:
 - Vendor-supplied defaults for system passwords and other security parameters shall be changed.
 - All systems shall be protected against malware and anti-virus software shall be updated regularly.
 - All systems will be updated with patches/fixes in a timely fashion.
 - Technical safeguards, including encryption, shall be used for protected or confidential information
 - City of Mesa ITD security standards must be referenced for compliance

3.4 Cloud Auditor

Cloud computing vendor contracts shall include language allowing for a Cloud Auditor. This will allow for an independent assessment of cloud services, information system operations, performance, and security of the cloud implementation. The verification of security controls, correct implementation, confidentiality of data, and overall desired outcomes must be performed depending on the nature of the cloud services received and classification of data transmitted to those cloud services.

4. Enforcement

Any employee found to have violated this policy may be subject to disciplinary action, up to and including termination of employment per Management Policy 326. Contractors, consultants, temporary employees or any 3rd party found abusing this policy may be subject to termination of their contract/agreement and possibly further legal action, depending on the nature and scope of the infraction. Exceptions to the above policy may be requested. All exceptions must be approved by the CISO.

5. Data Classification

ATTACHMENT E **CLOUD SECURITY REQUIREMENTS**

Data classification for information that is communicated to, processed by, or stored in a cloud computing environment can vary based on the application and nature of the data. Protected or confidential data shall be classified as “**Confidential Use Only.**”

6. Data Security

Additional data security measures may be implemented by ITD – Security to strengthen the CoM security posture.

7. Revision History

5/2/18 – Updates to include additional feedback

4/17/18 – Updates to include some of Jason Bennett’s feedback

4/10/18 – Original draft created by David Pensyl

EXHIBIT 1
DRAFT AGREEMENT



AGREEMENT PURSUANT TO SOLICITATION

**CITY OF MESA AGREEMENT NUMBER 2022118
OFFENDER MONITORING SOLUTIONS**

CITY OF MESA, Arizona (“City”)

Department Name	City of Mesa – Purchasing Division
Mailing Address	P.O. Box 1466 Mesa, AZ 85211-1466
Delivery Address	20 East Main St, Suite 450 Mesa, AZ 85201
Attention	Nicole Arnold Procurement Officer I
E-Mail	Nicole.Arnold@MesaAZ.gov
Phone	(480) 644-2653

With a copy to: City of Mesa – Municipal Courts Department
Attn: Name, Title
P.O. Box 1466
Mesa, AZ 85211-1466
EndUserEmail@MesaAZ.gov

AND

COMPANY NAME, (“Contractor”)

Mailing Address	
Remit to Address	
Attention	
E-Mail	
Phone	
Fax	

EXHIBIT 1
DRAFT AGREEMENT

CITY OF MESA AGREEMENT PURSUANT TO SOLICITATION

This Agreement pursuant to Solicitation ("Agreement") is entered into this ___ day of _____, 2022, by and between the City of Mesa, Arizona, an Arizona municipal corporation ("City"), and CompanyName, a(n) State corporation/company/natural person ("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 **2022118** ("Solicitation") for **OFFENDER MONITORING SOLUTIONS**, to which Contractor provided a response ("Response"); and
- B. The City Selected Contractor's Response as being in the best interest of the City and wishes to engage Contractor in providing the services/materials described in the Solicitation and Response.

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

TERMS & CONDITIONS

- 1. **Term**. This Agreement is for a term beginning on **TBD** and ending on **TBD**. The use of the word "Term" in the Agreement includes the aforementioned period as well as any applicable extensions or renewals in accordance with this Section 1.
 - 1.1 **Renewals**. On the mutual written agreement of the Parties, the Term may be renewed up to a maximum of two (2) years. Any renewal(s) will be a continuation of the same terms and conditions as in effect immediately before the expiration of the then-current term.
 - 1.2 **Extension for Procurement Processes**. Upon the expiration of the Term of this Agreement, including any renewals permitted herein, at the City's sole discretion this Agreement may be extended on a month-to-month basis for a maximum of six (6) months to allow for the City's procurement processes in the selection of a vendor to provide the services/materials provided under this Agreement. The City will notify the Contractor in writing of its intent to extend the Agreement at least thirty (30) calendar days before 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 before 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 four (4) days after receipt of an order.
- 2. **Scope of Work**. The Contractor will provide the necessary staff, services, and associated resources to provide the City with the services, materials, and obligations attached to this Agreement as **Exhibit A** ("Scope of Work") Contractor will be responsible for all costs and expenses incurred by Contractor that are incident to the performance of the Scope of Work unless otherwise stated in **Exhibit A**. Contractor will supply all equipment and instrumentalities necessary to perform the Scope of Work. If set forth in **Exhibit A**, the City will provide Contractor's personnel with adequate workspace and such other related facilities as may be required by Contractor to carry out the Scope of Work.

The Agreement is based on the Solicitation and Response which are hereby incorporated by reference into the Agreement as if written out and included herein. In addition to the requirements specifically set forth in the Scope of Work, the Parties acknowledge and agree that the Contractor shall perform in accordance with all terms, conditions, specifications, and other requirements set forth within the Solicitation and Response unless modified herein.

EXHIBIT 1
DRAFT AGREEMENT

3. **Orders.** Orders are placed with the Contractor by either a: (i) Purchase Order when for a one-time purchase; (ii) Notice to Proceed, or (iii) Delivery Order off of a Master Agreement for Requirement Contract where multiple as-needed orders will be placed with the Contractor. The City may use the Internet to communicate with Contractor and to place orders as permitted under this Agreement
4. **Document Order of Precedence.** In the event of any inconsistency between the terms of the body of the Agreement, the Exhibits, the Solicitation, and Response, the language of the documents will control in the following order.
 - a. Agreement
 - b. Exhibits
 1. Mesa Standard Terms & Conditions
 2. Scope of Work
 3. Other Exhibits not listed above
 - c. Solicitation including any addenda
 - d. Contractor Response

5. **Payment.**

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

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

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

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

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

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

EXHIBIT 1
DRAFT AGREEMENT

- 5.4 **Renewal and Extension Pricing.** Any extension of the Agreement will be at the same pricing as the initial Term. If the Agreement is renewed in accordance with Section 1, pricing may be adjusted for amounts other than inflation that represent actual costs to the Contractor based on the mutual agreement of the parties. The Contractor may submit a request for a price adjustment along with appropriate supporting documentation demonstrating the cost to the Contractor. Renewal prices shall be firm for the term of the renewal period and may be adjusted thereafter as outlined in the previous section. There is no guarantee the City will accept a price adjustment.
- 5.5 **Invoices.** Payment will be made to Contractor following the City's receipt of a properly completed invoice. No terms set forth in any invoice, purchase order, or similar document issued by Contractor will be deemed accepted by the City; the terms of the contractual relationship between the Parties are as set forth in this Agreement. Any issues regarding billing or invoicing must be directed to the City Department/Division requesting the service or material from the Contractor. A properly completed invoice should contain, at a minimum, all of the following:
- a. Contractor name, address, and contact information;
 - b. City billing information;
 - c. City contract number as listed on the first page of the Agreement;
 - d. Invoice number and date;
 - e. Payment terms;
 - f. Date of service or delivery;
 - g. Description of materials or services provided;
 - h. If materials provided, the quantity delivered and pricing of each unit;
 - i. Applicable Taxes;
 - j. If applicable, mileage or travel costs; and
 - k. Total amount due.
- 5.6 **Payment of Funds.** Contractor acknowledges the City may, at its option and where available use a Credit Card/Procurement Card to make payment for orders under the Agreement with no additional charge/fee. Otherwise, payment will be through a traditional method of a check.
- 5.7 **Disallowed Costs, Overpayment.** If at any time the City determines that a cost for which payment was made to Contractor is a disallowed cost, such as an overpayment or a charge for materials/service not in accordance with the Agreement, the City will notify Contractor in writing of the disallowance; such notice will state the means of correction which may be, but is not limited to, adjustment of any future claim/invoice submitted by Contractor in the amount of the disallowance, or to require repayment of the disallowed amount by Contractor. Contractor will be provided with the opportunity to respond to the notice.

6. **Insurance.**

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

EXHIBIT 1
DRAFT AGREEMENT

- 6.2 Nothing in this Section 6 limits Contractor's responsibility to the City. The insurance requirements herein are minimum requirements for the Agreement and in no way limit any indemnity promise(s) contained in the Agreement.
- 6.3 The City does not warrant the minimum limits contained herein are sufficient to protect Contractor and subcontractor(s) from liabilities that might arise out of performance under the Agreement by Contractor, its agents, representatives, employees, or subcontractor(s). Contractor is encouraged to purchase additional insurance as Contractor determines may be necessary.
- 6.4 Each insurance policy required under the Agreement must be in effect at or before the execution of the Agreement and remain in effect for the term of the Agreement.
- 6.5 Before the execution of the Agreement, Contractor will provide the City with a Certificate of Insurance (using an appropriate "ACORD" or equivalent certificate) signed by the issuer with applicable endorsements. The City reserves the right to request additional copies of any or all of the policies, endorsements, or notices relating thereto required under the Agreement.
- 6.6 When the City requires a Certificate of Insurance to be furnished, Contractor's insurance is primary of all other sources available. When the City is a certificate holder and/or an additional insured, Contractor agrees no policy will expire, be canceled, or be materially changed to affect the coverage available without advance written notice to the City.
- 6.7 The policies required by the Agreement must contain a waiver of transfer rights of recovery (waiver of subrogation) against the City, its agents, representatives, officials, volunteers, officers, elected officials, and employees for any claims arising out of the work of Contractor.
- 6.8 All insurance certificates and applicable endorsements are subject to review and approval by the City's Risk Management Division.
- 6.9 **Types and Amounts of Insurance.** Contractor must obtain and retain throughout the term of the Agreement, at a minimum, the following:
- 6.9.1 Worker's compensation insurance in accordance with the provisions of Arizona law. If Contractor operates with no employees, Contractor must provide the City with written proof Contractor has no employees. If employees are hired during the course of this Agreement, Contractor must procure worker's compensations in accordance with Arizona law.
 - 6.9.2 The Contractor shall maintain at all times during the term of this contract, a minimum amount of \$1 million per occurrence/\$2 million aggregate Commercial General Liability insurance, including Products and Contractual Liability. For General Liability insurance, the City of Mesa, their agents, officials, volunteers, officers, elected officials, or employees shall be named as additional insured, as evidenced by providing an additional insured endorsement.
 - 6.9.3 Automobile liability, bodily injury, and property damage with a limit of \$1 million per occurrence including owned, hired, and non-owned autos.
 - 6.9.4 Professional Liability (Errors and Omissions Liability), the Contractor shall maintain at all times during the term of this contract, a minimum amount of \$1 million per occurrence Professional Liability insurance.

EXHIBIT 1
DRAFT AGREEMENT

7. **Requirements Contract.** Contractor acknowledges and agrees the Agreement is a requirements contract; the Agreement does not guarantee any purchases will be made (minimum or maximum). Orders will only be placed when the City identifies a need and issues a purchase order or a written notice to proceed. The City reserves the right to cancel purchase orders or a notice to proceed within a reasonable period of time of issuance; any such cancellation will be in writing. Should a purchase order or notice to proceed be canceled, the City agrees to reimburse Contractor for any actual and documented costs incurred by Contractor. The City will not reimburse Contractor for any avoidable costs incurred after the receipt of cancellation including, but not limited to, lost profits, shipment of product, or performance of services.
8. **Notices.** All notices to be given pursuant to the Agreement will be delivered to the Contractor as listed on Page 1 of this Agreement. Notice will be delivered pursuant to the requirements set forth in the Mesa Standard Terms and Conditions that is attached to the Agreement as **Exhibit C**.
9. **Representations of Contractor.** To the best of Contractor's knowledge, Contractor agrees that:
- a. Contractor has no obligations, legal or otherwise, inconsistent with the terms of the Agreement or with Contractor's undertaking of the relationship with the City;
 - b. Performance of the services called for by the Agreement do not and will not violate any applicable law, rule, regulation, or any proprietary or other right of any third party;
 - c. Contractor will not use in the performance of Contractor's responsibilities under the Agreement any proprietary information or trade secret of a former employer of its employees (other than City, if applicable); and
 - d. Contractor has not entered into and will not enter into any agreement, whether oral or written, in conflict with the Agreement.
10. **Mesa Standard Terms and Conditions.** **Exhibit C** to the Agreement is the Mesa Standard Terms and Conditions as modified by the Parties, which are incorporated by reference into the Agreement as though fully set forth herein. In the event of any inconsistency between the terms of the Agreement and the Mesa Standard Terms and Conditions, the language of the Agreement will control. The Parties or a Party are referred to as a "party" or "parties" in the Mesa Standard Terms and Conditions. The Term is referred to as the "term" in the Mesa Standard Terms and Conditions.
11. **Counterparts and Facsimile or Electronic Signatures.** This Agreement may be executed in two (2) or more counterparts, each of which will be deemed an original and all of which, taken together, will constitute one agreement. A facsimile or other electronically delivered signature to the Agreement will be deemed an original and binding upon the Party against whom enforcement is sought.
12. **Incorporation of Recitals and Exhibits.** All Recitals and Exhibits to the Agreement are hereby incorporated by reference into the Agreement as if written out and included herein. In the event of any inconsistency between the terms of the body of the Agreement and the Exhibits, the language of the Agreement will control.

Exhibits to this Agreement are the following:

- (A) Scope of Work
- (B) Pricing
- (C) Mesa Standard Terms and Conditions

EXHIBIT 1
DRAFT AGREEMENT

13. **Attorneys' Fees.** The prevailing Party in any litigation arising out of the Agreement will be entitled to the recovery of its reasonable attorney's fees, court costs, and other litigation-related costs and fees from the other Party.
14. **Additional Acts.** The Parties agree to execute promptly such other documents and to perform such other acts as may be reasonably necessary to carry out the purpose and intent of the Agreement.
15. **Headings.** The headings of the Agreement are for reference only and will not limit or define the meaning of any provision of the Agreement.

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EXHIBIT 1
DRAFT 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

CONTRACTOR NAME

By: _____

By: _____

Printed Name

Printed Name

Title

Title

Date

Date

REVIEWED BY:

By: _____

Nicole Arnold
Procurement Officer I

DRAFT

EXHIBIT 1
DRAFT AGREEMENT

EXHIBIT A
SCOPE OF WORK

The Scope of Work and Vendor Response will be added here when Agreement is finalized.

DRAFT

EXHIBIT 1
DRAFT AGREEMENT

EXHIBIT B
PRICING

Attachment A Pricing will be added here when Agreement is finalized.

DRAFT

DRAFT AGREEMENT
EXHIBIT 1

EXHIBIT C
MESA STANDARD TERMS AND CONDITIONS

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

DRAFT AGREEMENT
EXHIBIT 1

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

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

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

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

16. **DEFAULT.**

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

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

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

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

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

25. **WARRANTY.** Contractor warrants that the services and materials will conform to the requirements of the Agreement. Additionally, Contractor warrants that all services will be performed in a good, workmanlike and professional manner. The City's acceptance of services or materials provided by Contractor will not relieve Contractor from its obligations under this warranty. If the City reasonably determines any materials or services are of a substandard or unsatisfactory manner, Contractor, at no additional charge to the City, will provide materials or redo such services until in accordance with this Agreement and to the City's reasonable satisfaction.
- Unless otherwise agreed, Contractor warrants that materials will be new, unused, of most current manufacture and not discontinued, will be free of defects in materials and workmanship, will be provided in accordance with manufacturer's standard warranty for at least one (1) year unless otherwise specified, and will perform in accordance with manufacturer's published specifications.
26. **THE CITY'S RIGHT TO RECOVER AGAINST THIRD PARTIES.** Contractor will do nothing to prejudice the City's right to recover against third parties for any loss, destruction, or damage to City property and will, at the City's request and expense, furnish to the City reasonable assistance and cooperation in obtaining recovery, including assistance in the prosecution or defense of suit and the execution of instruments of assignment in favor of the City.
27. **NO GUARANTEE OF WORK.** Contractor acknowledges and agrees: (i) it is not entitled to deliver any specific amount of materials or services, or any materials or services at all, under this Agreement; and (ii) the materials or services will be requested by the City on an as needed basis, at the sole discretion of the City. Any document referencing quantities or performance frequencies represents the City's best estimate of current requirements, but will not bind the City to purchase, accept, or pay for materials or services which exceed its actual needs.
28. **OWNERSHIP.** All deliverables, services, and information provided by Contractor or the City pursuant to this Agreement (whether electronically or manually generated) including without limitation, reports, test plans, and survey results, graphics, and technical tables, originally prepared in the performance of this Agreement, are the property of the City and will not be used or released by Contractor or any other person except with prior written permission by the City.
29. **USE OF NAME.** Contractor will not use the name of the City of Mesa in any advertising or publicity without obtaining the prior written consent of the City.
30. **PROHIBITED ACTS.** Contractor acknowledges the applicability of A.R.S. § 38-504 which prohibits a person who, within the preceding twelve (12) months, is or was a public officer or employee of the City from representing another person (including Contractor) before the City on any matter for which the officer or employee was directly concerned and personally participated in during their service or employment by a substantial and material exercise of administrative discretion. Further, while employed by the City and for two (2) years thereafter, public officers or employees are prohibited from disclosing or using, without appropriate authorization, any confidential information acquired by such person in the course of his or her official duties at the City.
31. **FOB DESTINATION FREIGHT PREPAID AND ALLOWED.** All deliveries will be FOB destination freight prepaid and allowed unless otherwise agreed.
32. **RISK OF LOSS.** Contractor agrees to bear all risk of loss, injury, or destruction of Contractor's goods or equipment incidental to Contractor providing the services and materials under this Agreement, and such loss, injury, or destruction will not release Contractor from any obligation hereunder.
33. **SAFEGUARDING CITY PROPERTY.** Contractor will be responsible for any damage or loss to City's real or personal property when such property is the responsibility of or in the custody of Contractor or its personnel.

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

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

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

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with pupils. A school district, its governing board members, its school council members, and its employees are exempt from civil liability for the consequences of adoption and implementation of policies and procedures pursuant to this subsection unless the school district, its governing board members, its school council members, or its employees are guilty of gross negligence or intentional misconduct.

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

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

39. **FUEL CHARGES AND PRICE INCREASES.** No fuel surcharges will be accepted. No price increases will be accepted without proper request by Contractor and response by the City's Purchasing Division.
40. **NOTICES.** All notices to be given pursuant to this Agreement must be delivered to the parties at their respective addresses. Notices may be sent via personally delivery, certified or registered mail with postage prepaid, overnight courier, or facsimile. If provided by personal delivery, the receipt will be deemed effective upon delivery. If sent via certified or registered mail, the receipt will be deemed effective three (3) calendar days after being deposited in the United States mail. If sent via overnight courier, or facsimile, the 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 herein.
44. **SEVERABILITY.** If any provision of this Agreement is declared void or unenforceable, such provision will be severed from this Agreement, which will otherwise remain in full force and effect. The parties will negotiate diligently in good faith for such amendment(s) of this Agreement as may be necessary to achieve the original intent of this Agreement, notwithstanding such invalidity or unenforceability.
45. **SURVIVING PROVISIONS.** Notwithstanding any completion, termination, or other expiration of this Agreement, all provisions which, by the terms of reasonable interpretation thereof, set forth rights and obligations that extend beyond completion, termination, or other expiration of this Agreement, will survive and remain in full force and effect. Except as specifically provided in this Agreement, completion, termination, or other expiration of this Agreement will not release any party from any liability or obligation arising before the date of termination.
46. **A.R.S. SECTIONS 1-501 and 1-502.** Pursuant to A.R.S §§ 1-501 and 1-502, any person who applies to the City for a local public benefit (the definition of which includes a grant, contract, or loan) must demonstrate his or her lawful presence in the United States. As this Agreement is deemed a local public benefit, if Contractor is an individual (natural) person or sole proprietorship, Contractor agrees to sign and submit the necessary documentation to prove compliance with the statutes if applicable.
47. **AUTHORITY.** Each party hereby warrants and represents that it has full power and authority to enter into and perform this Agreement and that the person signing on behalf of each is properly authorized and empowered to enter into the Agreement. Each party further acknowledges that it has read this Agreement, understands it, and agrees to be bound by it.

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48. **UNIFORM ADMINISTRATIVE REQUIREMENTS.** By entering into this Agreement, the Contractor agrees to comply with all applicable provisions of Title 2, Subtitle A, Chapter II, PART 200— UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS contained in Title 2 C.F.R. § 200 et seq.
49. **PCI DSS COMPLIANCE.** In the event any Contractor engages in payment card transactions as a part of the services provided to the City, Contractor shall comply with the Payment Card Industry Data Security Standards (“PCI DSS”) and any amendments or restatements of the PCI DSS during the Term of this Agreement. Contractor accepts responsibility for the security of the City’s and/or any customer’s credit card data in its possession, even if all or a portion of the services to the City are subcontracted to third parties.