18-2361

CITY OF CHANDLER SERVICES AGREEMENT
WATER WASTEWATER EQUIPMENT REPAIR AND MAINTENANCE
AGREEMENT NO.: WA5-936-3480

THIS AGREEMENT is made and entered into this 12 day of June, 2015, by and between the City of Chandler, a municipal corporation of the State of Arizona, hereinafter referred to as "CITY", and Hennesy Mechanical Sales, L.L.C., hereinafter referred to as "CONTRACTOR".

WHEREAS, CONTRACTOR represents that CONTRACTOR has the expertise and is qualified to perform the services described in the Agreement.

NOW THEREFORE, in consideration of the mutual promises and obligations set forth herein, the parties hereto agree as follows:

1. CONTRACT ADMINISTRATOR:

1.1. Contract Administrator. CONTRACTOR shall act under the authority and approval of the Cost Center Superintendent/ designee (Contract Administrator), to provide the services required by this Agreement.

1.2. Key Staff. This Contract has been awarded to CONTRACTOR based partially on the key personnel proposed to perform the services required herein. CONTRACTOR shall not change nor substitute any of these key staff for work on this Contract without prior written approval by CITY.

1.3. Subcontractors. During the performance of the Agreement, CONTRACTOR may engage such additional SUBCONTRACTORS as may be required for the timely completion of this Agreement. In the event of subcontracting, the sole responsibility for fulfillment of all terms and conditions of this Agreement rests with CONTRACTOR.

1.4. Subcontracts. CONTRACTOR shall not enter into any Subcontract under this Contract for the performance of this Contract without the advance written approval of CITY. The subcontract shall incorporate by reference the terms and conditions of this Contract.

2. SCOPE OF WORK: CONTRACTOR shall Water and Wastewater Equipment Repair and maintenance all as more specifically set forth in the Scope of Work, labeled Exhibit B, attached hereto and made a part hereof by reference and as set forth in the Specifications and details included therein.

2.1. Non-Discrimination. The CONTRACTOR shall comply with State Executive Order No. 99-4 and all other applicable City, State and Federal laws, rules and regulations, including the Americans with Disabilities Act.

2.2. Licenses. CONTRACTOR shall maintain in current status all Federal, State and local licenses and permits required for the operation of the business conducted by the CONTRACTOR as applicable to this contract.

2.3. Advertising, Publishing and Promotion of Contract. The CONTRACTOR shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the CITY.

2.4. Compliance with Applicable Laws. CONTRACTOR shall comply with all applicable Federal, state and local laws, and with all applicable licenses and permit requirements.

CC 6-11-15

2.4.1 Pursuant to the provisions of A.R.S. § 41-4401, the Contractor hereby warrants to the City that the Contractor and each of its subcontractors ("Subcontractors") will comply with all Federal Immigration laws and regulations that relate to the immigration status of their employees and the requirement to use E-Verify set forth in A.R.S. §23-214(A) (hereinafter "Contractor Immigration Warranty").

2.4.2 A breach of the Contractor Immigration Warranty (Exhibit A) shall constitute a material breach of this Contract that is subject to penalties up to and including termination of the contract.

2.4.3 The City retains the legal right to inspect the papers of any Contractor or Subcontractor employee who works on this Contract to ensure that the Contractor or Subcontractor is complying with the Contractor Immigration Warranty. The Contractor agrees to assist the City in the conduct of any such inspections.

2.4.4 The City may, at its sole discretion, conduct random verifications of the employment records of the Contractor and any Subcontractors to ensure compliance with Contractors Immigration Warranty. The Contractor agrees to assist the City in performing any such random verification.

2.4.5 The provisions of this Article must be included in any contract the Contractor enters into with any and all of its subcontractors who provide services under this Contract or any subcontract. "Services" are defined as furnishing labor, time or effort in the State of Arizona by a contractor or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.

2.4.6 In accordance with A.R.S. §35-393.06, the Contractor hereby certifies that the Offeror does not have scrutinized business operations in Iran.

2.4.7 In accordance with A.R.S. §35-391.06, the Contractor hereby certifies that the Offeror does not have scrutinized business operations in Sudan.

2.5. Warranties.

2.6. One-Year Warranty. CONTRACTOR must provide a one-year warranty on all work performed pursuant to this Contract.

3. ACCEPTANCE AND DOCUMENTATION: Each task shall be reviewed and approved by the Contract Administrator to determine acceptable completion.

3.1. Records. The CONTRACTOR shall retain and shall contractually require each SUBCONTRACTOR to retain all data and other "records" relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract.

3.2. Audit. At any time during the term of this Contract and five (5) years thereafter, the CONTRACTOR'S or any SUBCONTRACTOR'S books and records shall be subject to audit by the City to the extent that the books and records relate to the performance of the Contract or Subcontract. Upon request, the CONTRACTOR shall produce a legible copy of any or all such records.

3.3. New/Current Products. All equipment, materials, parts and other components incorporated in the work or services performed pursuant to this Contract shall be new, or the latest model and of the most suitable grade for the purpose intended. All work shall be performed in a skilled and workmanlike manner.

3.4. Property of CITY. Any materials, including reports, computer programs and other deliverables, created under this Contract are the sole property of CITY. CONTRACTOR is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. CONTRACTOR shall not use or release these materials without the prior written consent of CITY.

4. PRICE:

4.1. CONTRACTOR will charge hourly rates listed in Exhibit C for time spent performing services cope of work at the relevant work location. CONTRACTOR will charge partial hours spent performing services rounded up to the closest 5-minute increment of the hourly rate (1/12 of one hour rate) and shall detail time spent performing services and type of employee providing it in each monthly invoice. Parts or equipment used to perform services shall be itemized on monthly invoice and supported with CONTRACTOR'S invoice showing amount it paid. Any work on Saturdays, Sundays or holidays will require advance approval from Contract Administrator.

4.2. **Taxes.** CONTRACTOR shall be solely legally responsible for any and all tax obligations, which may result out of CONTRACTOR'S performance of this Contract. CITY shall have no legal obligation to pay any amounts for taxes, of any type, incurred by CONTRACTOR. City agrees that Contractor may bill the City for applicable privilege license taxes which are paid for by Contractor and that the City will reimburse Contractor for privilege license taxes actually paid by Contractor. If Contractor obtains any refund of privilege license taxes paid, City will be entitled to a refund of such amounts.

4.3. **Payment.** A separate invoice shall be issued for each shipment of material or service performed, and no payment will be issued prior to receipt of material and/or completion of specified services and receipt of a correct invoice.

4.4. **IRS W9 Form.** In order to receive payment CONTRACTOR shall have a current I.R.S. W9 Form on file with CITY, unless not required by law.

4.5. **Price Adjustment.** CITY may approve a fully documented request for a price increase only after the Contract has been in effect for two years. The requested increase shall be based upon a cost increase to CONTRACTOR that was clearly unpredictable at the time of the offer and is directly correlated to the price of the product concerned. CITY shall determine whether the requested price increase or an alternate option, is in the best interest of CITY. If a price increase is agreed upon a written Contract Amendment shall be approved and executed by the Parties.

4.6. **Acceptance by City.** CITY reserves the right to accept or reject the request for a price increase. If CITY approves the price increase, the price shall remain firm for the renewal term for which it was requested. If a price increase is agreed upon a written Contract Amendment must be approved and executed by the Parties.

4.7. **Price Reduction.** CONTRACTOR shall offer CITY a price reduction for its services concurrent with a published price reduction made to other customers.

5. TERM:

5.1. The term of the Contract is two year(s), commencing on July 1, 2015 and terminating on June 30, 2017 unless sooner terminated in accordance with the provisions herein. The contract may be extended two additional terms of two years each with mutual agreement of the City and The Contractor.

6 **USE OF THIS CONTRACT:** The Contract is for the sole convenience of the City of Chandler. CITY reserves the rights to obtain like services from another source to secure significant cost savings or when timely completion cannot be met by CONTRACTOR.

6.1. **Cooperative Use of Contract.** In addition to the City of Chandler and with approval of the CONTRACTOR, this Contract may be extended for use by other municipalities, school districts and government agencies of the State. A current listing of eligible entities may be found at www.maricopa.gov/materials and then click on 'Contracts', 'S.A.V.E.' listing and 'ICPA'. Any such

usage by other entities must be in accordance with the ordinance, charter and/or procurement rules and regulations of the respective political entity.

If required to provide services on a school district property at least five (5) times during a month, CONTRACTOR shall submit a full set of fingerprints to the school district in accordance with A.R.S. 15-512 of each person or employee who may provide such service. The District shall conduct a fingerprint check in accordance with A.R.S. 41-1750 and Public Law 92-544 of all CONTRACTORS, sub-CONTRACTORS or vendors and their employees for which fingerprints are submitted to the District. Additionally, the CONTRACTOR shall comply with the governing body fingerprinting policies of each individual school district/public entity. CONTRACTOR, sub-contractors, vendors and their employees shall not provide services on school district properties until authorized by the District.

Orders placed by other agencies and payment thereof will be the sole responsibility of that agency. The CITY shall not be responsible for any disputes arising out of transactions made by other agencies who utilize this Agreement.

6.2. **Emergency Purchases:** CITY reserves the rights to purchase from other sources those items, which are required on an emergency basis and cannot be supplied immediately by the CONTRACTOR.

7. CITY'S CONTRACTUAL REMEDIES:

7.1. **Right to Assurance.** If the City in good faith has reason to believe that the CONTRACTOR does not intend to, or is unable to perform or continue performing under this Contract, the Contract Administrator may demand in writing that the CONTRACTOR give a written assurance of intent to perform. Failure by the CONTRACTOR to provide written assurance within the number of Days specified in the demand may, at the City's option, be the basis for terminating the Contract in addition to any other rights and remedies provided by law or this Contract.

7.2. **Stop Work Order.** The City may, at any time, by written order to the CONTRACTOR, require the CONTRACTOR to stop all or any part, of the work called for by this Contract for period(s) of days indicated by the City after the order is delivered to the CONTRACTOR. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the CONTRACTOR shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.

7.3. If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the CONTRACTOR shall resume work. The Contract Administrator shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.

7.4. **Non-exclusive Remedies.** The rights and the remedies of the City under this Contract are not exclusive.

7.5. **Nonconforming Tender.** Services and materials supplied under this Contract shall fully comply with Contract requirements and specifications. Services or materials that do not fully comply constitute a breach of contract.

7.6. **Right of Offset.** The City shall be entitled to offset against any sums due CONTRACTOR, any expenses or costs incurred by the City, or damages assessed by the City concerning the CONTRACTOR'S non-conforming performance or failure to perform the Contract, including expenses to complete the work and other costs and damages incurred by CITY.

8. TERMINATION:

8.1 Termination for Convenience: CITY reserves the right to terminate this Agreement or any part thereof for its sole convenience with thirty (30) days written notice. In the event of such termination, CONTRACTOR shall immediately stop all work hereunder, and shall immediately cause any of its suppliers and subCONTRACTORs to cease such work. As compensation in full for services performed to the date of such termination, the CONTRACTOR shall receive a fee for the percentage of services actually performed. This fee shall be in the amount to be mutually agreed upon by the CONTRACTOR and CITY, based on the agreed Scope of Work. If there is no mutual agreement, the Management Services Director shall determine the percentage of work performed under each task detailed in the Scope of Work and the CONTRACTOR'S compensation shall be based upon such determination and CONTRACTOR'S fee schedule included herein.

8.2 Termination for Cause: City may terminate this Agreement for Cause upon the occurrence of any one or more of the following events:

1) If CONTRACTOR fails to perform pursuant to the terms of this Agreement
2) If CONTRACTOR is adjudged a bankrupt or insolvent;
3) If CONTRACTOR makes a general assignment for the benefit of creditors;
4) If a trustee or receiver is appointed for CONTRACTOR or for any of CONTRACTOR'S property;
5) If CONTRACTOR files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or similar laws;
6) If CONTRACTOR disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction;
7) Where Agreement has been so terminated by CITY, the termination shall not affect any rights of CITY against CONTRACTOR then existing or which may thereafter accrue.

8.3. Cancellation for Conflict of Interest. Pursuant to A.R.S. § 38-511, CITY may cancel this Contract after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the City is or becomes at any time while this Contract or an extension of this Contract is in effect, an employee of or a consultant to any other party to this Contract. The cancellation shall be effective when the CONTRACTOR receives written notice of the cancellation unless the notice specifies a later time.

8.4. Gratuities. CITY may, by written notice, terminate this Contract, in whole or in part, if CITY determines that employment or a Gratuity was offered or made by CONTRACTOR or a representative of CONTRACTOR to any officer or employee of CITY for the purpose of influencing the outcome of the procurement or securing this Contract, an amendment to this Contract, or favorable treatment concerning this Contract, including the making of any determination or decision about contract performance. The CITY, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by CONTRACTOR.

8.5. Suspension or Debarment. CITY may, by written notice to the CONTRACTOR, immediately terminate this Contract if CITY determines that CONTRACTOR has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a SUBCONTRACTOR of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the CONTRACTOR is not currently suspended or debarred. If CONTRACTOR becomes suspended or debarred, CONTRACTOR shall immediately notify CITY.

8.6. Continuation of Performance through Termination. The CONTRACTOR shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

8.7. **No Waiver.** Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

8.8. **Availability of Funds for the next Fiscal Year.** Funds may not presently be available under this agreement beyond the current fiscal year. No legal liability on the part of the CITY for services may arise under this agreement beyond the current fiscal year until funds are made available for performance of this agreement. The CITY may reduce services or terminate this agreement without further recourse, obligation, or penalty in the event that insufficient funds are appropriated. The City Manager shall have the sole and unfettered discretion in determining the availability of funds.

9. **FORCE MAJEURE:** Neither party shall be responsible for delays or failures in performance resulting from acts beyond their control. Such acts shall include, but not be limited to, acts of God, riots, acts of war, epidemics, governmental regulations imposed after the fact, fire, communication line failures, power failures, or earthquakes.

10. **DISPUTE RESOLUTION:**

10.1. **Arizona Law.** This Agreement shall be governed and interpreted according to the laws of the State of Arizona.

10.2. **Jurisdiction and Venue.** The parties agree that this Agreement is made in and shall be performed in Maricopa County. Any lawsuits between the Parties arising out of this Agreement shall be brought and concluded in the courts of Maricopa County in the State of Arizona, which shall have exclusive jurisdiction over such lawsuits.

10.3. **Fees and Costs.** Except as otherwise agreed by the parties, the prevailing party in any adjudicated dispute relating to this Agreement is entitled to an award of reasonable attorney's fees, expert witness fees and costs including, as applicable, arbitrator fees; provided, however, that no award of attorney's fees shall exceed ten percent (10%) of the damages awarded the prevailing party unless the non-prevailing party has been determined to have acted in bad faith or in a frivolous manner during the adjudication.

11. **INDEMNIFICATION:** To the fullest extent permitted by law, CONTRACTOR, its successors, assigns and guarantors, shall defend, indemnify and hold harmless City and any of its elected or appointed officials, officers, directors, commissioners, board members, agents or employees from and against any and all allegations, demands, claims, proceedings, suits, actions, damages, including, without limitation, property damage, environmental damages, personal injury and wrongful death claims, losses, expenses (including claim adjusting and handling expenses), penalties and fines (including, but not limited to, attorney fees, court costs, and the cost of appellate proceedings), judgments or obligations, which may be imposed upon or incurred by or asserted against the City by reason of this Agreement or the services performed or permissions granted under it, or related to, arising from or out of, or resulting from any negligent or intentional actions, acts, errors, mistakes or omissions caused in whole or part by CONTRACTOR, or any of its subcontractors, or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, relating to the discharge of any duties or the exercise of any rights or privileges arising from or incidental to this Agreement, including but not limited to, any injury or damages claimed by any of CONTRACTOR's and subcontractor's employees.

The amount and type of insurance coverage requirements set forth in the Agreement will in no way be construed as limiting the scope of indemnity in this paragraph.

12. INSURANCE:

1. General.

A. At the same time as execution of this Agreement, the CONTRACTOR shall furnish the City of Chandler a certificate of insurance on a standard insurance industry ACORD form. The ACORD form must be issued by an insurance company authorized to transact business in the State of Arizona possessing a current A.M. Best, Inc. rating of A-7, or better and legally authorized to do business in the State of Arizona with policies and forms satisfactory to CITY. Provided, however, the A.M. Best rating requirement shall not be deemed to apply to required Workers' Compensation coverage.

B. The CONTRACTOR and any of its subcontractors, subconsultants or sublicensees shall procure and maintain, until all of their obligations have been discharged, including any warranty periods under this Agreement are satisfied, the insurances set forth below.

C. The insurance requirements set forth below are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement.

D. The City in no way warrants that the minimum insurance limits contained in this Agreement are sufficient to protect CONTRACTOR from liabilities that might arise out of the performance of the Agreement services under this Agreement by CONTRACTOR, its agents, representatives, employees, subcontractors, sublicensees or subconsultants and the CONTRACTOR is free to purchase any additional insurance as may be determined necessary.

E. Failure to demand evidence of full compliance with the insurance requirements in this Agreement or failure to identify any insurance deficiency will not relieve the CONTRACTOR from, nor will it be considered a waiver of its obligation to maintain the required insurance at all times during the performance of this Agreement.

F. Use of SubContractors: If any work is subcontracted in any way, the CONTRACTOR shall execute a written agreement with Subcontractor containing the same Indemnification Clause and Insurance Requirements as the City requires of the CONTRACTOR in this Agreement. The CONTRACTOR is responsible for executing the Agreement with the Subcontractor and obtaining Certificates of Insurance and verifying the insurance requirements.

2. Minimum Scope and Limits of Insurance. The CONTRACTOR shall provide coverage with limits of liability not less than those stated below.

A. *Commercial General Liability-Occurrence Form.* CONTRACTOR must maintain "occurrence" form Commercial General Liability insurance with a limit of not less than $2,000,000 for each occurrence, $4,000,000 aggregate. Said insurance must also include coverage for products and completed operations, independent contractors, personal injury and advertising injury. If any Excess insurance is utilized to fulfill the requirements of this paragraph, the Excess insurance must be "follow form" equal or broader in coverage scope than underlying insurance.

B. *Automobile Liability-Any Auto or Owned, Hired and Non-Owned Vehicles*
Vehicle Liability: CONTRACTOR must maintain Business/Automobile Liability insurance with a limit of $1,000,000 each accident on CONTRACTOR owned, hired, and non-owned vehicles assigned to or used in the performance of the CONTRACTOR's work or services under this Agreement. If any Excess or Umbrella insurance is utilized to fulfill the requirements of this paragraph, the Excess or Umbrella insurance must be "follow form" equal or broader in coverage scope than underlying insurance.

C. *Workers Compensation and Employers Liability Insurance*: CONTRACTOR must maintain Workers Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of CONTRACTOR employees engaged in the performance of work or services under this Agreement and must also maintain Employers' Liability insurance of not less than $1,000,000 for each accident and $1,000,000 disease for each employee.

D. ***Installation Floater***

Coverage equal to the initial Contract Amount including labor and expenses, policy shall include the following provisions:

a. *The CITY, CONTRACTOR, subcontractor and any others with an insurable interest in the work shall be Insureds on the policy.*
b. *Coverage shall be written on a Covered Cause of Loss-Special Form, replacement cost basis and shall include coverage for flood and earth movement as well as coverage for losses that may occur during equipment testing.*
c. *Policy shall be maintained until whichever of the following shall first occur:*
   i. *final payment has been made; or,*
   ii. *until no person or entity, other than the CITY has an insurable interest in the property required to be covered.*
d. *Policy shall be endorsed such that the insurance shall not be canceled or lapse because of any partial use or occupancy by the CITY.*
e. *The Installation Floater must provide coverage from the time the equipment/material becomes the responsibility of the CONTRACTOR and shall continue without interruption during the installation, including any time during which the equipment/material is being transported to the installation site, or awaiting installation, whether on or off site.*
f. *CONTRACTOR is responsible for the payment of all deductibles under the Installation Floater policy* waives all rights of recovery and subrogation against the City under the CONTRACTOR-provided Installation Floater coverage.

3. Additional Policy Provisions Required.

A. *Self-Insured Retentions Or Deductibles.* Any self-insured retentions and deductibles must be declared and approved by the City. If not approved, the City may require that the insurer reduce or eliminate any deductible or self-insured retentions with respect to the City, its officers, officials, agents, employees, and volunteers.

B. *City as Additional Insured.* The policies are to contain, or be endorsed to contain, the following provisions:

1. The Commercial General Liability, Installation Floater, and Automobile Liability policies are to contain, or be endorsed to contain, the following provisions: The City, its officers, officials, agents, and employees are additional insureds with respect to liability arising out of activities performed by, or on behalf of, the CONTRACTOR including the City's general supervision of the CONTRACTOR; Products and Completed operations of the CONTRACTOR; and automobiles owned, leased, hired, or borrowed by the CONTRACTOR.

2. The CONTRACTOR's insurance must contain broad form contractual liability coverage and must not exclude liability arising out of explosion, collapse, or underground property damage hazards ("XCU") coverage.

3. The City, its officers, officials, agents, and employees must be additional insureds to the full limits of liability purchased by the CONTRACTOR even if those limits of liability are in excess of those required by this Agreement.

4. The CONTRACTOR's insurance coverage must be primary insurance with respect to the City, its officers, officials, agents, and employees. Any insurance or self-insurance maintained by the City, its officers, officials, agents, and employees shall be in excess of the coverage provided by the CONTRACTOR and must not contribute to it.

5. The CONTRACTOR's insurance must apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

6. Coverage provided by the CONTRACTOR must not be limited to the liability assumed under the indemnification provisions of this Agreement.

7. The policies must contain a severability of interest clause and waiver of subrogation against the City, its officers, officials, agents, and employees, for losses arising from Work performed by the CONTRACTOR for the City.

8. The CONTRACTOR, its successors and or assigns, are required to maintain Commercial General Liability insurance as specified in this Agreement for a minimum period of 3 years following completion and acceptance of the Work. The CONTRACTOR must submit a Certificate of Insurance evidencing Commercial General Liability insurance during this 3 year period containing all the Agreement insurance requirements, including naming the City of Chandler, its agents, representatives, officers, directors, officials and employees as Additional Insured as required.

9. If a Certificate of Insurance is submitted as verification of coverage, the City will reasonably rely upon the Certificate of Insurance as evidence of coverage but this acceptance and reliance will not waive or alter in any way the insurance requirements or obligations of this Agreement. If any of the required policies expire during the life of this Agreement, the CONTRACTOR must forward renewal or replacement Certificates to the City within 10 days after the renewal date containing all the necessary insurance provisions.

13. NOTICES: All notices or demands required to be given pursuant to the terms of this Agreement shall be given to the other party in writing, delivered by hand or registered or certified mail, at the addresses set forth below, or to such other address as the parties may substitute by written notice given in the manner prescribed in this paragraph.

In the case of the CITY

Contract Administrator:	Procurement Officer
Contact:	Mike Mandt
Mailing Address:	PO Box 4008
Physical Address:	175 S Arizona Avenue
City, State, Zip	Chandler, AZ 85244-4008
Phone:	480-782-2406

In the case of the CONTRACTOR

Firm Name:	Hennesy Mechanical Sales, LLC.
Contact:	Jeff Pals
Address:	201 S 26th Street
City, State, Zip	Phoenix, AZ 85034
Phone:	602-996-3044
	jeff@hennesymech.com

Notices shall be deemed received on date delivered, if delivered by hand, and on the delivery date indicated on receipt if delivered by certified or registered mail.

14. CONFLICT OF INTEREST:

14.1. No Kickback. CONTRACTOR warrants that no person has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee; and that no member of the City Council or any employee of the CITY has any interest, financially or otherwise, in the firm unless this interest has been declared pursuant to the provisions of A.R.S. Section 38-501. Any such interests were disclosed in CONTRACTOR'S proposal to the CITY.

14.2. Kickback Termination. CITY may cancel any contract or agreement, without penalty or obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the agreement on behalf of the CITY is, at any time while the Agreement or any extension of the Agreement is in effect, an employee of any other party to the Agreement in any capacity or a CONTRACTOR to any other party to the Agreement with respect to the subject matter of the Agreement. The cancellation shall be effective when written notice from CITY is received by all other parties, unless the notice specifies a later time (A.R.S. §38-511).

14.3 No Conflict: CONTRACTOR stipulates that its officers and employees do not now have a conflict of interest and it further agrees for itself, its officers and its employees that it will not contract for or accept employment for the performance of any work or services with any individual business, corporation or government unit that would create a conflict of interest in the performance of its obligations pursuant to this project.

15. GENERAL TERMS:

15.1. Ownership. All deliverables and/or other products of the Contract (including but not limited to all software documentation, reports, records, summaries and other matter and materials prepared or developed by CONTRACTOR in performance of the Contract) shall be the sole, absolute and exclusive property of CITY, free from any claim or retention of right on the part of CONTRACTOR, its agents, sub-contractors, officers or employees.

15.2. Entire Agreement. This Agreement, including all Exhibits attached hereto, constitutes the entire understanding of the parties and supersedes all previous representations, written or oral, with respect to the services specified herein. This Agreement may not be modified or amended except by a written document, signed by authorized representatives or each party.

15.3. Arizona Law. This Agreement shall be governed and interpreted according to the laws of the State of Arizona.

15.4. Assignment: Services covered by this Agreement shall not be assigned in whole or in part without the prior written consent of the CITY.

15.5. Amendments. The Contract may be modified only through a written Contract Amendment executed by authorized persons for both parties. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the City in writing or made unilaterally by the CONTRACTOR are violations of the Contract. Any such changes, including unauthorized written Contract Amendments shall be void and without effect, and the CONTRACTOR shall not be entitled to any claim under this Contract based on such changes.

15.6. Independent CONTRACTOR. The CONTRACTOR under this Contract is an independent CONTRACTOR. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.

15.7. No Parole Evidence. This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.

15.8. 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 has been properly authorized and empowered to enter this Agreement. Each party further acknowledges that it has read this Agreement, understands it, and agrees to be bound by it.

IN WITNESS WHEREOF, the parties have hereunto subscribed their names to this 12 day of June, 2015.

FOR THE CITY OF CHANDLER

Jay Tibshraeny
Mayor

APPROVED AS TO FORM:

Cynthia Haglin for
City Attorney

ATTEST:

Marla Paddock
City Clerk

FOR THE CONTRACTOR

By: _____
Signature

ATTEST: If Corporation

_____
Secretary

SEAL

CITY OF CHANDLER CORPORATE SEAL ARIZONA

EXHIBIT A

Contractor Immigration Warranty
To Be Completed by Contractor Prior to Execution of Contract

A.R.S. § 41-4401 requires as a condition of your contract verification of compliance by the contractor and subcontractors with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of its employees.

By completing and signing this form the contractor shall attest that it and all subcontractors performing work under the cited contract meet all conditions contained herein.

Contract Number:		
Name (as listed in the contract):		
Street Name and Number:		
City:	**State:**	**Zip Code:**

I hereby attest that:

1. The contractor complies with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of those employees performing work under this contract;

2. All subcontractors performing work under this contract comply with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of their employees.

Signature of Contractor (Employer) or Authorized Designee:

_____

Printed Name: E. P. Hennesy JR.

Title: PRESIDENT

Date (month/day/year): 5/18/15

Exhibit B
Scope of Work

1. SCOPE
The purpose of this contract is to provide equipment repair for various City departments, which currently include Water Production, Wastewater Treatment, Wastewater Collection, Reverse Osmosis, Solid Waste and Streets. The contract is separated into six categories as indicated below.

1.1 Water Treatment and Booster Facilities Pump and Process Equipment Sales and Maintenance.
This work will take place at the City's Pecos Water Treatment Facility and reservoir / booster stations at various locations throughout the City. This category will include work on all types of pumps, valves and process equipment common to water treatment and booster station facilities.

1.2 Wastewater Treatment and Lift Station Pump and Process Equipment Sales and Maintenance.
This work will take place at the City's Airport Water Reclamation Facility, Lone Butte Wastewater Facility, Ocotillo Water Reclamation Facility, Lift Stations and Wastewater Facilities at various locations throughout the City. This category will Include work on all types of pumps, valves and process equipment common to wastewater treatment and lift station facilities.

1.3 Potable Well, Aquifer Storage and Recovery Well (ASR), Monitor Well, and Leachate recovery well pump and Equipment Sales and Maintenance.
This work will take place at various well locations throughout the City. This category will Include work on both Line shaft and Submersible type well pump systems, well maintenance, rehabilitation and repair, as well as work on all types of pumps, valves and process equipment common to potable, ASR and monitor well and leachate recovery facilities. **(Not included in this agreement)**

1.4 Chandler Reverse Osmosis Plant Pumps and Process Equipment Sales and Maintenance.
This work will take place at the City's Reverse Osmosis Facility. This category will Include work on all types of pumps, valves and process equipment common to Industrial reverse osmosis water treatment facilities.

1.5 Other City Facilities
This work will take place at the City's other facilities such as City owned buildings, parks, pools, and street storm water facilities. This category will include work on all types of pumps, motors and equipment common to these facilities.

1.6 OEM Parts and Service
This work will take place at any of the city Facilities. This category is for work to be performed by the authorized manufacturer's representative for the OEM products listed in Section 4 of the price page.

2. RESPONSE TIME

2.1. Water Treatment and Booster Facilities Pump and Process Equipment Sales and Maintenance.
CONTRACTOR shall commence work within 5-calendar days of notification from CITY for all non-emergency calls.

CONTRACTOR shall commence work within 4 days of notification from CITY for all emergency calls.

CONTRACTOR shall commence work on warranty repairs within the same time frame specified for non-emergency and emergency calls.

2.2. Wastewater Treatment and Lift Station Pump and Process Equipment Sales and Maintenance. CONTRACTOR shall commence work within 5 days of notification from CITY for all non-emergency calls.

CONTRACTOR shall commence work within 24 hours of notification from CITY for all emergency calls.

CONTRACTOR shall commence work on warranty repairs within the same time frame specified for non-emergency and emergency calls.

2.3. Potable Well, Aquifer Storage and Recovery Well (ASR), Monitor Well, and Leachate recovery well pump and Equipment Sales and Maintenance.

CONTRACTOR shall commence work within 10 days of notification from CITY for all non-emergency calls.

CONTRACTOR shall commence work within 24 hours of notification from CITY for all emergency calls.

CONTRACTOR shall commence work on warranty repairs within the same time frame specified for non-emergency and emergency calls.

2.4. Chandler Reverse Osmosis Plant Pumps and Process Equipment Sales and Maintenance.

CONTRACTOR shall commence work within 5-calendar days of notification from CITY for all non-emergency calls.

CONTRACTOR shall commence work within 4 days of notification from CITY for all emergency calls.

CONTRACTOR shall commence work on warranty repairs within the same time frame specified for non-emergency and emergency calls.

2.5. Other City Facilities
CONTRACTOR shall commence work within 5-calendar days of notification from CITY for all non-emergency calls.

CONTRACTOR shall commence work within 4 days of notification from CITY for all emergency calls.

CONTRACTOR shall commence work on warranty repairs within the same time frame specified for non-emergency and emergency calls.

2.6. OEM Parts and Service
CONTRACTOR shall commence work within 5-calendar days of notification from CITY for all non-emergency calls.

CONTRACTOR shall commence work within 4 days of notification from CITY for all emergency calls.

CONTRACTOR shall commence work on warranty repairs within the same time frame specified for non-emergency and emergency calls.

3. WORK ESTIMATES AND COMPLETION TIME

Prior to CONTRACTOR performing any repair work, CONTRACTOR will be required to provide CITY a written report including condition of equipment, recommended repairs and cost of repairs. CONTRACTOR will be allowed to remove and disassemble the equipment prior to providing CITY written estimate. The written estimate will be required 72 hours after equipment has been removed.

CONTRACTOR will be required to repair and reinstall equipment within 10 working days from approval of the work. This requirement will be adjusted if parts delivery exceeds 10 days.

4. REPLACEMENT PARTS

CITY may purchase replacement pumps, motors, and other related equipment from CONTRACTOR. The price to be paid to CONTRACTOR by CITY will be billed at the invoice price multiplied by the factor listed on Exhibit C. The factor listed will be CONTRACTOR's compensation for handling. CONTRACTOR shall include invoices for any parts for which he is seeking reimbursement. All replacement parts supplied must meet all manufacturers' specifications.

CONTRACTOR may be required to provide pricing of repair parts for specific jobs prior to CITY authorizing purchase of the parts from CONTRACTOR. CITY reserves the right to purchase pumps, motors, and other related equipment directly from the manufacturer or from other vendors if it is in CITY's best interest.

5. SUPERVISION BY THE CONTRACTOR

CONTRACTOR will supervise and direct all work. CONTRACTOR shall be solely responsible for the means, methods, techniques, sequences and procedures performed. CONTRACTOR will employ and maintain on the work a qualified supervisor or superintendent, which shall be designated in writing by CONTRACTOR as CONTRACTOR's representative at the site. The supervisor shall have full authority to act on behalf of CONTRACTOR and all communications given to the supervisor shall be as binding as of given to CONTRACTOR. The supervisor shall be present on the site at all times as required to perform adequate supervision and coordination of the work.

6. INSPECTION

CITY Staff may monitor the work site and report to the Contract Administrator as to the progress of the Work, the manner in which it is being performed, and if material furnished and work performed by CONTRACTOR fails to fulfill the requirements of the Contract. CITY Staff may direct the attention of CONTRACTOR to such failure or infringement but such inspection shall not relieve CONTRACTOR from any obligation to furnish acceptable materials or to provide completed work that complies with the Contract.

In the case of any dispute arising between CITY staff and the CONTRACTOR as to material furnished or the manner of performing work, CITY Staff shall have the authority to reject materials or suspend the work until the question and issue can be resolved

7. VIBRATION ANALYSIS

Repairs performed under this contract will be subject to vibration analysis and must comply with manufacturers' specifications.

8. SAFETY PROCEDURES

CONTRACTOR will be responsible for coordinating their activities with CITY. Prior to the start of work, CONTRACTOR and CITY will perform a Pre-job briefing to discuss and plan for dealing with relevant safety issues such as lockout tag-out and confined space exposures. CONTRACTOR will be responsible to properly lockout tag- out electrical hazards and ensure there is a plan to deal with other work related hazards.

9. DISINFECTION
CONTRACTOR will be responsible for disinfection of all potable water equipment with NSF approved products prior to and during installation in accordance with Maricopa County Health Code, Chapter V, Water Supply R9-8-266.

10. CLEANUP
CONTRACTOR shall remove all debris and other materials from the work site after the completion of work.

11. PROTECTION OF FINISHED OR PARTIALLY FINISHED WORK
CONTRACTOR shall properly secure the work site and protect all finished or partially finished work.

12. DISPOSAL OF WASTE
CONTRACTOR will be responsible for disposal of all waste products including but not limited to oil baled from a well, debris, etc. at a legal off-site location. ANY DISPOSAL OF WASTE PRODUCTS OR UNUSED MATERIALS SHALL CONFORM TO APPLICABLE FEDERAL, STATE, AND LOCAL REGULATIONS. Copies of disposal documentation shall be provided to CITY upon request.

13. WRITTEN COMPLETION REPORTS
CONTRACTOR shall submit a written completion report to CITY within 30 days of completion of work, which details work completed. The report for pump repair shall include depth of setting, bowl size and make, tube and shaft size and make, depth of well water level and other pertinent information. **The report shall include a daily log that accounts for all hours and materials billed to the job.** CITY will not make payment prior to receiving this report.

Exhibit C

Work Categories		Included in agreement
1. Water Treatment and Booster Facilities Pump and Process Equipment Sales and Maintenance.		Yes
2. Wastewater Facilities and Lift Station Pump and Process Equipment Sales and Maintenance.		Yes
3. Potable Well, Injection Well, Aquifer Storage and Recovery Well (ASR), Monitor Well, and Leachate recovery well pump and Equipment Sales and Maintenance.		No
4. Chandler Reverse Osmosis Plant Pumps and Process Equipment Sales and Maintenance.		Yes
5. Other City Facilities		Yes
6. OEM parts and service provider		Yes
Labor	UM	
Laborer - Field	$/Hour	$ 26.00
Laborer - Shop	$/Hour	$ 26.00
Machinist - Field	$/Hour	$ 65.00
Machinist - Shop	$/Hour	$ 43.50
Mechanic - Field	$/Hour	$ 43.50
Mechanic - Shop	$/Hour	$ 43.50
Welder - Field	$/Hour	$ 43.50
Welder - Shop	$/Hour	$ 43.50
Operator - Field	$/Hour	$ 43.50
Supervisor - Field	$/Hour	$ 43.50
Technician - Field	$/Hour	$ 43.50
Multiplier for Overtime, Weekend and Holiday Work	Multiplier	$ 1.50
Multiplier for Confined Space work	Multiplier	133%
One time Set Up charge for confined space (price per job including equipment and labor for set up of confined Space)	Each	$ 418.00
Equipment		

Type 1 equipment	UM	
Pickup Truck	$/Hour	$ 53.40
Crane Truck	$/Hour	$ 65.00
Pump Service Truck	$/Hour	$ 65.00
Tractor Trailer & Driver	$/Hour	$ 50.00
Portable Welding Machine	$/Hour	$ 38.00
Concrete Pump	$/Hour	
Type 2 equipment	NA	
Non OEM Parts and Equipment	%	
Parts Mark-up for items with an invoiced cost of less than $9,999 / ea	%	25%
Parts Mark-up for items with an invoiced cost of greater than $10,000 / ea	%	20%
Subcontractor Mark-Up	%	25%
Rental Equipment Mark-Up	%	25%
OEM Parts and Equipment		
-	% Discount From List	% Discount From List
Pumps:		
Fairbanks Morse Pumps		Cost + 30%
Wemco		Cost + 30%
Motors:		
U.S.		Cost + 30%
Chemical Metering Pumps:		
Moyno		Cost + 30%
Mixers:		
Philadelphia Mixers		Cost + 30%
Water Filters:		
Tekleen		Cost + 30%