



CITY of CALABASAS

**PROFESSIONAL SERVICES AGREEMENT**

**CONTRACT SUMMARY**

<b>Name of Contractor:</b>	<b>Mesa Energy Systems Inc. (dba EMCOR Services, Mesa Energy)</b>
<b>City Department in charge of Contract:</b>	<b>Department of Public Works</b>
<b>Contact Person for City Department:</b>	<b>Jose Luis Hernandez, Public Works Superintendent</b>
<b>Period of Performance for Contract:</b>	<b>October 1, 2022 – September 30, 2023</b>
<b>Not to Exceed Amount of Contract:</b>	Sixty Thousand Dollars (\$60,000.00)
<b>Scope of Work for Contract:</b>	<b>HVAC Emergency Repair and Replacement Parts Services for the Calabasas Civic Center (City Hall &amp; Library), Calabasas Senior Center, Creekside and DeAnza Park Buildings.</b>

**Insurance Requirements for Contract:**

yes  no - Is General Liability insurance required in this contract?

*Comprehensive General Liability Insurance with coverage limits of not less than One Million Dollars (\$1,000,000) including products and operations hazard, contractual insurance, broad form property damage, independent consultants, personal injury, underground hazard, and explosion and collapse hazard where applicable.*

yes  no - Is Auto insurance required in this contract?

*Automobile Liability Insurance for vehicles used in connection with the performance of this Agreement with minimum limits of Two Million Dollars (\$2,000,000) combined.*

yes  no - Is Professional insurance required in this contract?

**\*\*\* California requires Worker's Compensation insurance\*\*\***

Initials: (City)

(Contractor)

**PROFESSIONAL SERVICES AGREEMENT**  
**Providing for Payment of Prevailing Wages**  
City of Calabasas/ Mesa Energy Systems Inc. dba EMCOR Services, Mesa Energy

**1. IDENTIFICATION**

THIS PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is entered into by and between the City of Calabasas, a California municipal corporation (“City”), and Mesa Energy Systems Inc. dba EMCOR Services, Mesa Energy a California , Corporation (“Consultant”).

**2. RECITALS**

- 2.1 City has determined that it requires the following professional services from a consultant: HVAC Emergency Repair and Replacement Parts Services for the Calabasas Civic Center (City Hall & Library), Calabasas Senior Center, Creekside and DeAnza Park Buildings.
- 2.2 Consultant represents that it is fully qualified to perform such professional services by virtue of its experience and the training, education and expertise of its principals and employees. Consultant further represents that it is willing to accept responsibility for performing such services in accordance with the terms and conditions set forth in this Agreement.

**NOW, THEREFORE,** for and in consideration of the mutual covenants and conditions herein contained, City and Consultant agree as follows:

**3. DEFINITIONS**

- 3.1 “Scope of Services”: Such professional services as are set forth in Consultant’s proposal to City attached hereto as Exhibit A and incorporated herein by this reference.
- 3.2 “Approved Fee Schedule”: Such compensation rates as are set forth in attached hereto and included within Exhibit A and incorporated herein by this reference.
- 3.3 “Commencement Date”: October 1, 2022.
- 3.4 “Expiration Date”: September 30, 2023.

**4. TERM**



The term of this Agreement shall commence at 12:00 a.m. on the Commencement Date and shall expire at 11:59 p.m. on the Expiration Date unless extended by written agreement of

Initials: (City)   *EA*   (Contractor)   *Hg*

the parties or terminated earlier in accordance with Section 17 ("Termination") below.

**5. CONSULTANT'S SERVICES**

- 5.1 Consultant shall perform the services identified in the Scope of Services. City shall have the right to request, in writing, changes in the Scope of Services. Any such changes mutually agreed upon by the parties, and any corresponding increase or decrease in compensation, shall be incorporated by written amendment to this Agreement. In no event shall the total compensation and costs payable to Consultant under this Agreement exceed the sum of Sixty Thousand Dollars (\$60,000.00) unless specifically approved in advance and in writing by City.
- 5.2 Consultant shall perform all work to the highest professional standards of Consultant's profession and in a manner reasonably satisfactory to City. Consultant shall comply with all applicable federal, state and local laws and regulations, including the conflict of interest provisions of Government Code Section 1090 and the Political Reform Act (Government Code Section 81000 *et seq.*).
- 5.3 During the term of this Agreement, Consultant shall not perform any work for another person or entity for whom Consultant was not working at the Commencement Date if both (i) such work would require Consultant to abstain from a decision under this Agreement pursuant to a conflict of interest statute and (ii) City has not consented in writing to Consultant's performance of such work.
- 5.4 Consultant represents that it has, or will secure at its own expense, all personnel required to perform the services identified in the Scope of Services. All such services shall be performed by Consultant or under its supervision, and all personnel engaged in the work shall be qualified to perform such services. Paul Gummesson, Account Manager shall be Consultant's project administrator and shall have direct responsibility for management of Consultant's performance under this Agreement. No change shall be made in Consultant's project administrator without City's prior written consent.
- 5.5 To the extent that the Scope of Services involves trenches deeper than 4', Contractor shall promptly, and before the following conditions are disturbed, notify the City, in writing, of any:
- (1) Material that the contractor believes may be material that is hazardous waste, as defined in § 25117 of the Health and Safety Code, which is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law.
  - (2) Subsurface or latent physical conditions at the site differing from

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those indicated by information about the site made available to bidders prior to the deadline for submitting bids.

(3) Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the contract.

City shall promptly investigate the conditions, and if it finds that the conditions do materially so differ, or involve hazardous waste, and cause a decrease or increase in the contractor's cost of, or the time required for, performance of any part of the work, the City shall issue a change order under the procedures described in the contract.

## **6. COMPENSATION**

- 6.1 City agrees to compensate Consultant for the services provided under this Agreement, and Consultant agrees to accept in full satisfaction for such services, payment in accordance with the Approved Fee Schedule.
- 6.2 Consultant shall submit to City an invoice, on a monthly basis or less frequently, for the services performed pursuant to this Agreement. Each invoice shall itemize the services rendered during the billing period and the amount due. Within thirty calendar days of receipt of each invoice, City shall pay all undisputed amounts included on the invoice. City shall not withhold applicable taxes or other authorized deductions from payments made to Consultant.
- 6.3 Payments for any services requested by City and not included in the Scope of Services shall be made to Consultant by City on a time-and-materials basis using Consultant's standard fee schedule. Consultant shall be entitled to increase the fees in this fee schedule at such time as it increases its fees for its clients generally; provided, however, in no event shall Consultant be entitled to increase fees for services rendered before the thirtieth day after Consultant notifies City in writing of an increase in that fee schedule. Fees for such additional services shall be paid within sixty days of the date Consultant issues an invoice to City for such services.
- 6.4 This Agreement is further subject to the provisions of Article 1.7 (commencing at Section 20104.50) of Division 2, Part 3 of the Public Contract Code regarding prompt payment of contractors by local governments. Article 1.7 mandates certain procedures for the payment of undisputed and properly submitted payment requests within 30 days after receipt, for the review of payment requests, for notice to the contractor of improper payment requests, and provides for the payment of interest on progress payment requests which are not timely made in accordance with this Article. This Agreement hereby incorporates the provisions of Article 1.7 as though fully set forth herein.

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(Contractor)



6.5 To the extent applicable, at any time during the term of the Agreement, the Consultant may at its own expense, substitute securities equivalent to the amount withheld as retention (or the retained percentage) in accordance with Public Contract Code section 22300. At the request and expense of the consultant, securities equivalent to the amount withheld shall be deposited with the public agency, or with a state or federally chartered bank in this state as the escrow agent, who shall then pay those moneys to the Consultant. Upon satisfactory completion of the contract, the securities shall be returned to the Consultant.

**7. OWNERSHIP OF WRITTEN PRODUCTS**

All reports, documents or other written material ("written products" herein) developed by Consultant in the performance of this Agreement shall be and remain the property of City without restriction or limitation upon its use or dissemination by City. Consultant may take and retain copies of such written products as desired, but no such written products shall be the subject of a copyright application by Consultant.

**8. RELATIONSHIP OF PARTIES**

Consultant is, and shall at all times remain as to City, a wholly independent contractor. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise to act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees, except as set forth in this Agreement. Consultant shall not represent that it is, or that any of its agents or employees are, in any manner employees of City.

**9. CONFIDENTIALITY**

All data, documents, discussion, or other information developed or received by Consultant or provided for performance of this Agreement are deemed confidential and shall not be disclosed by Consultant without prior written consent by City. City shall grant such consent if disclosure is legally required. Upon request, all City data shall be returned to City upon the termination or expiration of this Agreement.

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**10. INDEMNIFICATION**

- 10.1 The parties agree that City, its officers, agents, employees and volunteers should, to the fullest extent permitted by law, be protected from any and all loss, injury, damage, claim, lawsuit, cost, expense, attorneys' fees, litigation costs, or any other cost arising out of or in any way related to the performance of this Agreement. Accordingly, the provisions of this indemnity provision are intended by the parties to be interpreted and construed to provide the City with the fullest protection possible under the law. Consultant acknowledges that City would not enter into this Agreement in the absence of Consultant's commitment to indemnify and protect City as set forth herein.
- 10.2 To the fullest extent permitted by law, Consultant shall indemnify, hold harmless and defend City, its officers, agents, employees and volunteers from and against any and all claims and losses, costs or expenses for any damage due to death or injury to any person and injury to any property resulting from any alleged intentional, reckless, negligent, or otherwise wrongful acts, errors or omissions of Consultant or any of its officers, employees, servants, agents, or subcontractors in the performance of this Agreement. Such costs and expenses shall include reasonable attorneys' fees due to counsel of City's choice.
- 10.3 City shall have the right to offset against the amount of any compensation due Consultant under this Agreement any amount due City from Consultant as a result of Consultant's failure to pay City promptly any indemnification arising under this Section 10 and related to Consultant's failure to either (i) pay taxes on amounts received pursuant to this Agreement or (ii) comply with applicable workers' compensation laws.
- 10.4 The obligations of Consultant under this Section 10 will not be limited by the provisions of any workers' compensation act or similar act. Consultant expressly waives its statutory immunity under such statutes or laws as to City, its officers, agents, employees and volunteers.
- 10.5 Consultant agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this Section 10 from each and every subcontractor or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. In the event Consultant fails to obtain such indemnity obligations from others as required herein, Consultant agrees to be fully responsible and indemnify, hold harmless and defend City, its officers, agents, employees and volunteers from and against any and all claims and losses, costs or expenses for any damage due to death or injury to any person and injury to any property resulting from any alleged intentional, reckless, negligent, or otherwise wrongful acts, errors or omissions of Consultant's subcontractors or any other person or entity involved by, for, with or on behalf of

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Consultant in the performance of this Agreement. Such costs and expenses shall include reasonable attorneys' fees incurred by counsel of City's choice.

- 10.6 City does not, and shall not, waive any rights that it may possess against Consultant because of the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement. This hold harmless and indemnification provision shall apply regardless of whether or not any insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost or expense.

**11. INSURANCE**

- 11.1 During the term of this Agreement, Consultant shall carry, maintain, and keep in full force and effect insurance against claims for death or injuries to persons or damages to property that may arise from or in connection with Consultant's performance of this Agreement. Such insurance shall be of the types and in the amounts as set forth below:

11.1.1 Comprehensive General Liability Insurance with coverage limits of not less than One Million Dollars (\$1,000,000) including products and operations hazard, contractual insurance, broad form property damage, independent consultants, personal injury, underground hazard, and explosion and collapse hazard where applicable.

11.1.2 Automobile Liability Insurance for vehicles used in connection with the performance of this Agreement with minimum of Two Million Dollars (\$2,000,000) combined.

11.1.3 Worker's Compensation insurance as required by the laws of the State of California, including but not limited to California Labor Code § 1860 and 1861 as follows:

Contractor shall take out and maintain, during the life of this contract, Worker's Compensation Insurance for all of Contractor's employees employed at the site of improvement; and, if any work is sublet, Contractor shall require the subcontractor similarly to provide Worker's Compensation Insurance for all of the latter's employees, unless such employees are covered by the protection afforded by Contractor. Contractor and any of Contractor's subcontractors shall be required to provide City with a written statement acknowledging its obligation to secure payment of Worker's Compensation Insurance as required by Labor Code § 1861; to wit: 'I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in

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(Contractor)



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(dba EMCOR Services, Mesa Energy)

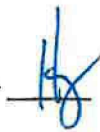
accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.' If any class of employees engaged in work under this contract at the site of the Project is not protected under any Worker's Compensation law, Contractor shall provide and shall cause each subcontractor to provide adequate insurance for the protection of employees not otherwise protected. Contractor shall indemnify and hold harmless City for any damage resulting from failure of either Contractor or any subcontractor to take out or maintain such insurance.

- 11.2 Consultant shall require each of its subcontractors to maintain insurance coverage that meets all of the requirements of this Agreement.
- 11.3 The policy or policies required by this Agreement shall be issued by an insurer admitted in the State of California and with a rating of at least A:VII in the latest edition of Best's Insurance Guide.
- 11.4 Consultant agrees that if it does not keep the aforesaid insurance in full force and effect, City may either (i) immediately terminate this Agreement; or (ii) take out the necessary insurance and pay, at Consultant's expense, the premium thereon.
- 11.5 At all times during the term of this Agreement, Consultant shall maintain on file with City's Risk Manager a certificate or certificates of insurance showing that the aforesaid policies are in effect in the required amounts and naming the City and its officers, employees, agents and volunteers as additional insureds. Consultant shall, prior to commencement of work under this Agreement, file with City's Risk Manager such certificate(s).
- 11.6 Consultant shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Such proof will be furnished at least two weeks prior to the expiration of the coverages.
- 11.7 The General Liability Policy of insurance required by this Agreement shall contain an endorsement naming City and its officers, employees, agents and volunteers as additional insureds. The General Liability Policy required under this Agreement shall contain an endorsement providing that the policies cannot be canceled or reduced except on thirty days' prior written notice to City. Consultant agrees to require its insurer to modify the certificates of insurance to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, and to delete the word "endeavor" with regard to any notice provisions. If this contract provides service to a Homeowners Association, that Homeowners Association must be listed as an additional insured in addition to the City.

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(Contractor)





- 11.8 The insurance provided by Consultant shall be primary to any coverage available to City. Any insurance or self-insurance maintained by City and/or its officers, employees, agents or volunteers, shall be in excess of Consultant's insurance and shall not contribute with it.
- 11.9 All insurance coverage provided pursuant to this Agreement shall not prohibit Consultant, and Consultant's employees, agents or subcontractors, from waiving the right of subrogation prior to a loss. Consultant hereby waives all rights of subrogation against the City.
- 11.10 Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of City, Consultant shall either reduce or eliminate the deductibles or self-insured retentions with respect to City, or Consultant shall procure a bond or other security acceptable to the City guaranteeing payment of losses and expenses.
- 11.11 Procurement of insurance by Consultant shall not be construed as a limitation of Consultant's liability or as full performance of Consultant's duties to indemnify, hold harmless and defend under Section 10 of this Agreement.

**12. MUTUAL COOPERATION**

- 12.1 City shall provide Consultant with all pertinent data, documents and other requested information as is reasonably available for the proper performance of Consultant's services under this Agreement.
- 12.2 In the event any claim or action is brought against City relating to Consultant's performance in connection with this Agreement, Consultant shall render any reasonable assistance that City may require.

**13. RECORDS AND INSPECTIONS**

Consultant shall maintain full and accurate records with respect to all matters covered under this Agreement for a period of three years after the expiration or termination of this Agreement. City shall have the right to access and examine such records, without charge, during normal business hours. City shall further have the right to audit such records, to make transcripts therefrom and to inspect all program data, documents, proceedings, and activities with respect to this Agreement.

**14. PERMITS AND APPROVALS**

Consultant shall obtain, at its sole cost and expense, all permits and regulatory approvals necessary in the performance of this Agreement. This includes, but shall not be limited to, encroachment permits and building and safety permits and inspections.

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**15. NOTICES**

Any notices, bills, invoices, or reports required by this Agreement shall be deemed received on: (i) the day of delivery if delivered by hand, facsimile or overnight courier service during the addressee's regular business hours; or (ii) on the third business day following deposit in the United States mail if delivered by mail, postage prepaid, to the addresses listed below (or to such other addresses as the parties may, from time to time, designate in writing).

If to City:

City of Calabasas  
100 Civic Center Way  
Calabasas, CA 91302  
Attn: Jose Luis Hernandez  
Public Works Superintendent  
Telephone: (818) 224-1600  
Facsimile: (818) 225-7338  
With courtesy copy to:

If to Consultant:

Mesa Energy Systems Inc.  
(dba EMCOR Services, Mesa Energy)  
2 Cromwell  
Irvine, CA 92618  
Attn: Paul Gummeson, Account Manager  
Telephone: (949) 460-0460  
Email:

Matthew T. Summers  
Colantuono, Highsmith & Whatley, PC  
City Attorney  
790 E. Colorado Blvd., Suite 850  
Pasadena, CA 91101  
Telephone: (213) 542-5700  
Facsimile: (213) 542-5710

**16. SURVIVING COVENANTS**

The parties agree that the covenants contained in Section 9, Section 10, Paragraph 12.2 and Section 13 of this Agreement shall survive the expiration or termination of this Agreement.

**17. TERMINATION**

17.1. City shall have the right to terminate this Agreement for any reason on five calendar days' written notice to Consultant. Consultant shall have the right to terminate this Agreement for any reason on sixty calendar days' written notice to City. Consultant agrees to cease all work under this Agreement on or before the effective date of any notice of termination. All City data, documents, objects, materials or other tangible things shall be returned to City upon the termination or expiration of this Agreement.

17.2. If City terminates this Agreement due to no fault or failure of performance by Consultant, then Consultant shall be paid based on the work satisfactorily performed at the time of termination. In no event shall Consultant be entitled to

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receive more than the amount that would be paid to Consultant for the full performance of the services required by this Agreement.

**18. GENERAL PROVISIONS**

- 18.1 Consultant shall not delegate, transfer, subcontract or assign its duties or rights hereunder, either in whole or in part, without City's prior written consent, and any attempt to do so shall be void and of no effect. City shall not be obligated or liable under this Agreement to any party other than Consultant.
- 18.2 In the performance of this Agreement, Consultant shall not discriminate against any employee, subcontractor, or applicant for employment because of race, color, creed, religion, sex, marital status, sexual orientation, national origin, ancestry, age, physical or mental disability, medical condition or any other unlawful basis.
- 18.3 The captions appearing at the commencement of the sections hereof, and in any paragraph thereof, are descriptive only and for convenience in reference to this Agreement. Should there be any conflict between such heading, and the section or paragraph thereof at the head of which it appears, the section or paragraph thereof, as the case may be, and not such heading, shall control and govern in the construction of this Agreement. Masculine or feminine pronouns shall be substituted for the neuter form and vice versa, and the plural shall be substituted for the singular form and vice versa, in any place or places herein in which the context requires such substitution(s).
- 18.4 The waiver by City or Consultant of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or of any subsequent breach of the same or any other term, covenant or condition herein contained. No term, covenant or condition of this Agreement shall be deemed to have been waived by City or Consultant unless in writing.
- 18.5 Consultant shall not be liable for any failure to perform if Consultant presents acceptable evidence, in City's sole judgment that such failure was due to causes beyond the control and without the fault or negligence of Consultant.

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(dba EMCOR Services, Mesa Energy)

- 18.6 Each right, power and remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise shall be cumulative and shall be in addition to every other right, power, or remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise. The exercise, the commencement of the exercise, or the forbearance of the exercise by any party of any one or more of such rights, powers or remedies shall not preclude the simultaneous or later exercise by such party of any of all of such other rights, powers or remedies. In the event legal action shall be necessary to enforce any term, covenant or condition herein contained, the party prevailing in such action, whether reduced to judgment or not, shall be entitled to its reasonable and actual court costs, including accountants' fees, if any, and attorneys' fees expended in such action. The venue for any litigation shall be Los Angeles County, California.
- 18.7 If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, then such term or provision shall be amended to, and solely to, the extent necessary to cure such invalidity or unenforceability, and shall be enforceable in its amended form. In such event, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.
- 18.8 This Agreement shall be governed and construed in accordance with the laws of the State of California.
- 18.9 All documents referenced as exhibits in this Agreement are hereby incorporated into this Agreement. In the event of any material discrepancy between the express provisions of this Agreement and the provisions of any document incorporated herein by reference, the provisions of this Agreement shall prevail. This instrument contains the entire Agreement between City and Consultant with respect to the transactions contemplated herein. No other prior oral or written agreements are binding upon the parties. Amendments hereto or deviations herefrom shall be effective and binding only if made in writing and executed by City and Consultant.

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(Contractor)



- 18.10 This Agreement is further subject to the provisions of Article 1.5 (commencing at Section 20104) of Division 2, Part 3 of the Public Contract Code regarding the resolution of public works claims of less than \$375,000. Article 1.5 mandates certain procedures for the filing of claims and supporting documentation by the contractor, for the response to such claims by the contracting public agency, for a mandatory meet and confer conference upon the request of the contractor, for mandatory nonbinding mediation in the event litigation is commenced, and for mandatory judicial arbitration upon the failure to resolve the dispute through mediation. This Agreement hereby incorporates the provisions of Article 1.5 as though fully set forth herein.
- 18.11 This Agreement is further subject to the provisions of California Public Contracts Code § 6109 which prohibits the Consultant from performing work on this project with a subcontractor who is ineligible to perform work on the project pursuant to §§ 1777.1 or 1777.7 of the Labor Code.

**19. PREVAILING WAGES**

19.1 To the extent that the estimated amount of this Agreement exceeds \$1,000, this Agreement is subject to prevailing wage law, including, but not limited to, the following:

19.1.1 The Consultant shall pay the prevailing wage rates for all work performed under the Agreement. When any craft or classification is omitted from the general prevailing wage determinations, the Consultant shall pay the wage rate of the craft or classification most closely related to the omitted classification. The Consultant shall forfeit as a penalty to City \$50.00 or any greater penalty provided in the Labor Code for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rates for any work done under the Agreement employed in the execution of the work by Consultant or by any subcontractor of Consultant in violation of the provisions of the Labor Code. In addition, the difference between such prevailing wage rates and the amount paid to each worker for each calendar day, or portion thereof, for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the Consultant.

19.1.2 Consultant shall comply with the provisions of Labor Code Section 1777.5 concerning the employment of apprentices on public works projects, and further agrees that Consultant is responsible for compliance with Section 1777.5 by all of its subcontractors.

19.1.3 Pursuant to Labor Code § 1776, Consultant and any subcontractor shall keep accurate payroll records, showing the name, address,

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City of Calabasas// Mesa Energy Systems Inc.  
(dba EMCOR Services, Mesa Energy)

social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by Consultant in connection with this Agreement. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following: (1) The information contained in the payroll record is true and correct; and (2) The employer has complied with the requirements of Labor Code §§ 1811, and 1815 for any work performed by his or her employees on the public works project. The payroll records enumerated under subdivision (a) shall be certified and shall be available for inspection at all reasonable hours as required by Labor Code § 1776.

19.1.4 Notwithstanding anything to the contrary, Consultant shall defend, indemnify, and hold harmless the City, and its officers, employees, agents, and volunteers free and harmless from any claim or liability arising out of failure or alleged failure of Consultant to comply with such prevailing wage laws.”

19.2 To the extent that the estimated amount of this Agreement exceeds \$1,000, this Agreement is further subject to 8-hour work day and wage and hour penalty law, including, but not limited to, Labor Code Sections 1810 and 1813, as well as California nondiscrimination laws, as follows:

19.2.1 Consultant shall strictly adhere to the provisions of the Labor Code regarding the 8-hour day and the 40-hour week, overtime, Saturday, Sunday and holiday work and nondiscrimination on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex or sexual orientation, except as provided in Section 12940 of the Government Code. Pursuant to the provisions of the Labor Code, eight hours’ labor shall constitute a legal day’s work. Work performed by Consultant’s employees in excess of eight hours per day, and 40 hours during any one week, must include compensation for all hours worked in excess of eight hours per day, or 40 hours during any one week, at not less than one and one-half times the basic rate of pay. Consultant shall forfeit as a penalty to City \$25.00 or any greater penalty set forth in the Labor Code for each worker employed in the execution of the work by Consultant or by any Subcontractor of Consultant, for each calendar day during which such worker is required or permitted to the work more than eight hours in one calendar day or more than 40 hours in any one calendar week in violation of the provisions of the Labor Code.

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(Contractor)



**TO EFFECTUATE THIS AGREEMENT**, the parties have caused their duly authorized representatives to execute this Agreement on the dates set forth below.

**"City"**  
**City of Calabasas**

**"Consultant"**  
**Mesa Energy Systems Inc., (dba EMCOR Services, Mesa Energy**

By:   
Henry Stearns, Branch Manager

Date: 10-13-22

By:   
Kindon Meik, City Manager

Date: 1/9/2023


By:   
Steve Hunt, CFO

Date: 12/12/22

By:   
Robert Yalda, P.E., T.E., Public Work Director

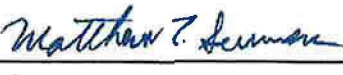
Date: 12/13/2022

Attest:

By:   
Maricela Hernandez, MMC, CPMC  
City Clerk

Date: 1/9/2023

Approved as to form:

By:   
Matthew T. Summers  
Colantuono, Highsmith & Whatley, PC  
City Attorney

Date: 1/9/2023

**EXHIBIT A**  
**SCOPE OF WORK & FEE SCHEDULE**



**From:** Paul Gummesson <[PaulGummesson@emcor.net](mailto:PaulGummesson@emcor.net)>  
**Sent:** Monday, November 28, 2022 2:06 PM  
**To:** Jose L. Hernandez <[jhernandez@cityofcalabasas.com](mailto:jhernandez@cityofcalabasas.com)>  
**Cc:** Anna Ford <[aford@cityofcalabasas.com](mailto:aford@cityofcalabasas.com)>  
**Subject:** RE: Contract costs

Hi Luis, Anna,

I had a great Turkey day! I hope your Thanksgiving was great as well!  
Our current 2022 street rate without a contract is \$185 per hour, with a contract it is \$170 per hour plus applicable fees (Truck charge etc.), the rates change annually. If an emergency call is made after normal business hours, the rate is increased/multiplied by X 1.5.

Let me know if you need additional info!

*Thank You,  
Best*

**Paul Gummesson**  
*Account Manager*  
EMCOR Services Mesa Energy  
861 Lawrence Drive  
Thousand Oaks, CA 91320  
Cell: (805) 660-3995  
[paulgummesson@emcor.net](mailto:paulgummesson@emcor.net)



**From:** Jose L. Hernandez <[jhernandez@cityofcalabasas.com](mailto:jhernandez@cityofcalabasas.com)>  
**Sent:** Monday, November 28, 2022 11:55 AM  
**To:** Paul Gummesson <[PaulGummesson@emcor.net](mailto:PaulGummesson@emcor.net)>  
**Cc:** Anna Ford <[aford@cityofcalabasas.com](mailto:aford@cityofcalabasas.com)>  
**Subject:** Contract costs

**This Message Is From an External Sender**

This message originated outside your organization.

Hi Paul. Hope you had a great Thanksgiving.

We are working on changing the contract up a little to include some future work and also emergency work.

Do you have "on call" or emergency rates that we can add into our contract?

I am CC'ing Anna Ford on here. Our contracts expert. My apologies for taking so long with this. We got held up with some other work. The sooner we get the info the sooner we can get the contract out to you.

Thanks Paul!

**LUIS HERNANDEZ**  
**PUBLIC WORKS SUPERINTENDENT**  
**CITY OF CALABASAS**  
**100 CIVIC CENTER WAY**  
**CALABASAS, CA 91302-3172**  
**PHONE 818-224-1600**  
**FAX 818-225-7338**  
[CITY OF CALABASAS](#)

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**NON-COLLUSION AFFIDAVIT**

State of California )  
 ) ss.  
County of Los Angeles)

Henry Stearns, being first duly sworn, deposes and says that he or she is Grand of Enco Services the party making the foregoing bid, that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and, further, that the bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid."

[Signature]  
Signature of Bidder

2 Cromwell, Irvine CA 92618  
Business Address

Place of Residence

Subscribed and sworn to before me this 13<sup>th</sup> day of Dec., 2022

Notary Public in and for the County  
of orange  
State of California,

My Commission Expires 9/13, 2025



**WORKERS' COMPENSATION INSURANCE**  
**CERTIFICATE**

The Contractor shall execute the following form as required by the California Labor Code, Sections 1860 and 1861:

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

DATE: 12-13-22

(Contractor) Emercor Services Most Energy

By:

(Signature) HSPO

(Title) Branch Manager

Attest:

By:

(Signature) Stephen Hunt

(Title) CFU

**Waiver of Bid Requirement**

(City of Calabasas and Mesa Energy Systems Inc. (dba EMCOR Services, Mesa Energy))

In accordance with the Calabasas Municipal Code, Section 3.40.090 – Sole-source purchasing, **Mesa Energy Systems Inc. (dba EMCOR Services, Mesa Energy)** has been identified by the undersigned as the only provider for the purchasing of a particular item or service, and can hereby be awarded the contract without competition.

On Call After Hours, Weekend and Evenings Emergency repair and replacement of parts/equipment for the Calabasas Civic Center, City Hall & Library, Senior Center and the Community Services Department’s Creekside and Juan Bautista DeAnza Park Buildings.

\* No response nor availability from other HVAC Contractors contacted by City staff via telephone and email communications”



“City”  
City of Calabasas

By:   
Robert Yalda, P.E., T.E., Public Works Director

By:   
Kindon Meik, City Manager

Date: 12/14/2022

Date: 1/9/2023

## Anna Ford

---

**From:** Jose L. Hernandez  
**Sent:** Wednesday, December 14, 2022 10:20 AM  
**To:** Anna Ford  
**Subject:** RE: Emcor

I lost my complete list. I'm sure I'll find it after I send this.

These are the ones I have record of calling. There a few missing I can find if that important. Most were non-responsive claiming covid reasons.

LA Appliance and HVAC (previously repaired unit at Creekside) No response. Then called later and was not able to work on specialized system at SC.

ALL A/C and Heating / no return call

Guiliza HVAC / No reply

S&G heating and air. Not able to work on Daikun unit

Stuart Rose nobody available due to covid shortage. Called later, don't work on Daikun unit at moment due to no tech

Nexgen / never called me back

Aladin / didn't call back till Monday no Daikun service

**LUIS HERNANDEZ**  
**PUBLIC WORKS SUPERINTENDENT**  
**CITY OF CALABASAS**  
**100 CIVIC CENTER WAY**  
**CALABASAS, CA 91302-3172**  
**PHONE 818-224-1600**  
**FAX 818-225-7338**  
[CITY OF CALABASAS](#)

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**From:** Anna Ford <aford@cityofcalabasas.com>  
**Sent:** Tuesday, December 13, 2022 3:27 PM  
**To:** Jose L. Hernandez <jhernandez@cityofcalabasas.com>  
**Subject:** Emcor

I have the signed psa and w-9 ready for submittal for Kindon's signature... I am waiting on the insurance certificate from them. I anticipate receiving it within the next few days. I placed a Bid Waiver document on your desk. If you

don't have the emails or messages regarding the HVAC contactors not able to provide their services, we may want to go with the bid waiver document. Please initial by Robert's signature line and I will ask Robert to sign it.

Anna ☺

*Anna Ford*

Executive Assistant II to  
Robert Yalda, P.E., T.E.  
Public Works Director



(818) 224-1671 – Direct  
(818) 225-7338 – Facsimile  
[www.cityofcalabasas.com](http://www.cityofcalabasas.com)

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# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
12/14/2022

**THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.**

**IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).**

<b>PRODUCER</b> ***MARSH USA INC 1166 AVENUE OF THE AMERICAS NEW YORK, NY 10036 Phone: 866-966-4664 Emcor.Certrequest@marsh.com / Fax: 203-229-6787 CN102796740-EMC-SER-22-23	<b>CONTACT NAME:</b> <b>PHONE (A/C No. Ext):</b>		<b>FAX (A/C No.):</b>
	<b>E-MAIL ADDRESS:</b>		
<b>INSURED</b> MESA ENERGY SYSTEMS, INC. DBA EMCOR SERVICES MESA ENERGY 2 CROMWELL IRVINE, CA 92618-2011	<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>
	<b>INSURER A :</b> Continental Casualty Company		20443
	<b>INSURER B :</b> American Casualty Company of Reading, PA		20427
	<b>INSURER C :</b> Transportation Insurance Co		20494
	<b>INSURER D :</b> Continental Insurance Company		35289
	<b>INSURER E :</b> <b>INSURER F :</b>		

**COVERAGES**      **CERTIFICATE NUMBER:** NYC-011526955-01      **REVISION NUMBER:** 1

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS		
A	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:			GL 7034187267	10/01/2022	10/01/2023	EACH OCCURRENCE	\$ 5,000,000	
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 1,000,000	
							MED EXP (Any one person)	\$ 25,000	
							PERSONAL & ADV INJURY	\$ 5,000,000	
							GENERAL AGGREGATE	\$ 10,000,000	
							PRODUCTS - COMP/OP AGG	\$ 14,000,000	
								\$	
A	<input checked="" type="checkbox"/> <b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			BUA 7034187298	10/01/2022	10/01/2023	COMBINED SINGLE LIMIT (Ea accident)	\$ 5,000,000	
							BODILY INJURY (Per person)	\$	
							BODILY INJURY (Per accident)	\$	
							PROPERTY DAMAGE (Per accident)	\$	
							Auto Physical Damage	\$ Included	
	<input type="checkbox"/> <b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <input type="checkbox"/> <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE	\$	
							AGGREGATE	\$	
								\$	
B	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> <input type="checkbox"/> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	WC 7 34187110 (AOS)	10/01/2022	10/01/2023	<input checked="" type="checkbox"/> PER STATUTE	<input type="checkbox"/> OTHER	
D				WC 7 34181601 (CA)	10/01/2022	10/01/2023	E.L. EACH ACCIDENT		\$ 1,000,000
C				WC 7 34187558 (AZ, OR, WI)	10/01/2022	10/01/2023	E.L. DISEASE - EA EMPLOYEE		\$ 1,000,000
							E.L. DISEASE - POLICY LIMIT		\$ 1,000,000

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)**  
ADDITIONAL INSURED UNDER ALL POLICIES (EXCEPT WORKERS COMPENSATION & EMPLOYERS LIABILITY) WHERE REQUIRED BY CONTRACT: CITY OF CALABASAS

### CERTIFICATE HOLDER

CITY OF CALABASAS  
PUBLIC WORKS DEPARTMENT  
100 CIVIC CENTER WAY  
CALABASAS, CA 91302

### CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE  
of Marsh USA Inc.

*Marsh USA Inc.*

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**ADDITIONAL REMARKS SCHEDULE**

<b>AGENCY</b> ***MARSH USA INC		<b>NAMED INSURED</b> MESA ENERGY SYSTEMS, INC. DBA EMCOR SERVICES MESA ENERGY 2 CROMWELL IRVINE, CA 92618-2011	
<b>POLICY NUMBER</b>		<b>EFFECTIVE DATE:</b>	
<b>CARRIER</b>	<b>NAIC CODE</b>		

**ADDITIONAL REMARKS**

**THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,**  
**FORM NUMBER: 25 FORM TITLE: Certificate of Liability Insurance**

AUTO PHYSICAL DAMAGE COMP / COLL DEDUCTIBLE \$500

FOR WORKER'S COMPENSATION, AUTO LIABILITY, GENERAL LIABILITY AND UMBRELLA LIABILITY:

IN THE EVENT OF CANCELLATION OR MATERIAL CHANGE THAT REDUCES OR RESTRICTS THE INSURANCE AFFORDED BY THIS COVERAGE PART (OTHER THAN THE REDUCTION OF AGGREGATE LIMITS THROUGH PAYMENT OF CLAIMS AS APPLICABLE), INSURER AGREES TO MAIL PRIOR WRITTEN NOTICE OF CANCELLATION OR MATERIAL CHANGE TO: CERTIFICATE HOLDER  
 SCHEDULE

1. NUMBER OF DAYS ADVANCE NOTICE: FOR ANY STATUTORILY PERMITTED REASON OTHER THAN NON-PAYMENT OF PREMIUM, THE NUMBER OF DAYS REQUIRED FOR NOTICE OF CANCELLATION AS PROVIDED IN PARAGRAPH 2 OF EITHER THE CANCELLATION COMMON POLICY CONDITIONS OR AS AMENDED BY THE APPLICABLE STATE CANCELLATION ENDORSEMENT IS INCREASED TO THE LESSER OF 60 DAYS OR THE NUMBER OF DAYS REQUIRED IN A WRITTEN CONTRACT.

FOR NON-PAYMENT OF PREMIUM, THE GREATER OF (1) THE NUMBER OF DAYS REQUIRED BY STATE LAW OR (2) THE NUMBER OF DAYS REQUIRED BY WRITTEN CONTRACT.

2. NAME:

NOTICE WILL BE MAILED TO: CERTIFICATE HOLDER

POLICY NUMBER: GL 7034187267  
NAMED INSURED: EMCOR Group, Inc.  
POLICY TERM: 10-01-2022 to 10-01-2023

COMMERCIAL GENERAL LIABILITY  
CG 20 37 07 04

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS**

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE PART**

### **SCHEDULE**

<b>Name Of Additional Insured Person(s) Or Organization(s):</b>	<b>Location And Description Of Completed Operations</b>
<b>PERSONS OR ORGANIZATIONS FOR WHOM YOU ARE REQUIRED BY CONTRACT TO ADD AS AN ADDITIONAL INSURED FOR COMPLETED OPERATIONS COVERAGE BUT ONLY IF THE PERSON OR ORGANIZATION DOES NOT QUALIFY AS AN ADDITIONAL INSURED FOR COMPLETED OPERATIONS ON ANOTHER ADDITIONAL INSURED ENDORSEMENT ATTACHED TO AND FORMING A PART OF THIS POLICY.</b>	<b>AS PER THE WRITTEN CONTRACT OR WRITTEN AGREEMENT, PROVIDED THE LOCATION IS WITHIN THE "COVERAGE TERRITORY" OF THIS COVERAGE PART.</b>
<b>Information required to complete this Schedule, if not shown above, will be shown in the Declarations.</b>	

**Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

POLICY NUMBER: GL 7034187267  
NAMED INSURED: EMCOR Group, Inc.  
POLICY TERM: 10-01-2022 to 10-01-2023

CG 20 10 10 93

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**ADDITIONAL INSURED – OWNERS, LESSEES  
OR CONTRACTORS (FORM B)**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

**SCHEDULE**

**Name of Person or Organization:**

ALL PERSONS OR ORGANIZATIONS FOR WHOM YOU ARE REQUIRED BY CONTRACT TO ADD AS AN ADDITIONAL INSURED BUT ONLY IF THE PERSON OR ORGANIZATION DOES NOT QUALIFY AS AN ADDITIONAL INSURED WITH RESPECT TO WORK PERFORMED BY OR FOR YOU PURSUANT TO THAT CONTRACT OR ANOTHER ADDITIONAL INSURED ENDORSEMENT ATTACHED TO AND FORMING A PART OF THIS POLICY.

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of your ongoing operations performed for that insured.