

Notice of Request for Qualifications (RFQ)

SOLICITATION NUMBER: 2018-009-RFQ

SERVICE: Airport Master Planning Services

SOQ DUE DATE & TIME: December 4, 2017 by 2:00 pm (Arizona) time

MAILING ADDRESS: Phoenix-Mesa Gateway Airport Authority
Attn: Marian Whilden, Procurement Coordinator
5835 S. Sossaman Road
Mesa, AZ 85212

The Phoenix-Mesa Gateway Airport Authority (PMGAA) requests Statements of Qualifications (SOQ) from qualified consultants or teams to provide professional airport planning services for the development of an Airport Master Plan for the Phoenix-Mesa Gateway Airport (Gateway Airport) in Mesa, Arizona. This solicitation may be downloaded from our website at www.gatewayairport.com under the Business|Procurement|Public Notices section. All submissions and Offeror conduct must comply with applicable PMGAA policies, rules and procedures. PMGAA may cancel this solicitation at any time for any legally permissible reason.

The PMGAA will accept Statements of Qualifications for the specified service until the time and date cited above. Statements of Qualifications must be submitted in a sealed envelope with the solicitation number and the consultant's name and address clearly indicated on the envelope. Submittals received on or before the correct time and date will be time stamped by a staff member and publicly recorded. Late submittals will not be considered. Additional instructions for preparing your SOQ are provided in the solicitation package. Requests for additional information or clarification of requirements must be in writing and submitted to:

Contact: Marian Whilden, Procurement Coordinator
Telephone: (480) 988-7646
Email: mwhilden@gatewayairport.com

A pre-proposal meeting is scheduled for November 9, 2017 at 10:00 am (Arizona) time. The meeting will be held at the Airport Administration Building located at 5835 S. Sossaman Road, Mesa, AZ. Attendance is not mandatory but consultants are encouraged to attend this meeting. Any questions outside of the pre-proposal meeting will require a written inquiry by the consultant and a written response from the PMGAA to all consultants.

Deadline for submitting questions to PMGAA is November 16, 2017 by 5:00 pm (Arizona) time. Responses to questions received will be issued in an addendum to the Request for Qualifications and posted at www.gatewayairport.com in the Procurement section of the website. Consultants are responsible for checking the PMGAA website at www.gatewayairport.com for any addendums that may be created for this solicitation.

Direct contact with Airport Authority Board of Directors and/or Airport Authority representatives or staff other than as specified in this solicitation, on any subject related to this solicitation is expressly prohibited except with the prior knowledge and written permission of the procurement coordinator listed above. Unauthorized contact of any Airport Authority Board of Directors, and/or Airport Authority staff or representatives may be cause for rejection of qualifications.

Issue Date: October 26, 2017

Request for Qualifications

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Notice of Intent

Solicitation Number 2018-009-RFQ, Airport Master Planning Services

Please fax or email this page upon receipt of solicitation package

Fax: (480) 988-2315

Email: mwhilden@gatewayairport.com

This notice is to be completed by any Offeror who intends to submit a response to the Phoenix-Mesa Gateway Airport Authority (PMGAA) for the above titled solicitation. The submittal of this form in no way obligates an Offeror to provide any services or materials to the PMGAA.

Offeror Responsibilities:

- Offerors are responsible for checking the PMGAA website at www.gatewayairport.com under the Business|Procurement|Public Notices section for any addendums that may be created for this solicitation.
- Offerors shall submit responses in accordance with requirements stated in the solicitation.
- Offerors may not submit responses to a solicitation via email or fax.

For any clarifications, please contact Marian Whilden, Procurement Coordinator, at (480) 988-7646 or e-mail: mwhilden@gatewayairport.com.

Date: _____

Name: _____

Company: _____

Telephone: _____

Email: _____

Yes, I intend to respond to this solicitation

If you are unable to respond on this item, kindly indicate your reason for “No Response” below and fax back.

No, I do not intend to respond to this solicitation for the following reason(s):

How did you hear about this solicitation? (Please circle or write in)

Arizona Business Gazette

East Valley Tribune

PMGAA Web Site

Direct email

Industry Association: _____

Other: _____

Section One - Offeror Information and Instructions

A. GENERAL INFORMATION ON SOLICITATION PROCESS

1. **Availability of Solicitation.** The solicitation package is available via the Internet at www.gatewayairport.com under the Business | Procurement | Public Notices tab.
2. **Addendums.** If the PMGAA deems it necessary to amend the solicitation, an Addendum will be prepared in writing and posted to the PMGAA website. Offerors are responsible for obtaining all addendums via the PMGAA website at www.gatewayairport.com under the Business | Procurement | Public Notices section or by other means. Any Addendums issued by the PMGAA are to be included in the response, and will become a part of the contract. Offeror shall acknowledge receipt of an amendment by signing and returning the document by the specified due time and date.
3. **Familiarization with Requirements.** It is the Offeror's responsibility to examine the entire solicitation package and seek clarification of any requirement that may not be clear and to check all responses for accuracy before submitting a response. Negligence in preparing a submittal confers no right of withdrawal after due date and time. All submissions must comply with applicable PMGAA rules, regulations and policies.
4. **Cost of Submittal Preparation.** PMGAA shall not reimburse the cost of, nor pay any expenses related thereto, developing, presenting or providing any response to this solicitation.
5. **Inquiries.**
 - a. **Contact Person.** Any inquiry related to a solicitation, including any requests for or inquiries regarding standards referenced in the solicitation should be directed to the staff member listed on the cover page of the solicitation. The Offeror shall not contact or direct inquiries concerning this solicitation to any other PMGAA employee unless the solicitation specifically identifies additional person(s) as a contact.
 - b. **Submission of Inquiries.** All inquiries shall be submitted in writing and/or electronic mail and shall refer to the appropriate solicitation number, page and paragraph. PMGAA shall consider the relevancy of the inquiry but is not required to respond in writing.
 - c. **Timeliness.** Any inquiry or exception to the solicitation shall be submitted as soon as possible and should be submitted at least ten (10) days before the solicitation due date and time for review and determination by PMGAA. Failure to do so may result in the inquiry not being considered for an Addendum.
 - d. **Verbal Responses.** Oral interpretations or clarifications will be without legal effect. An Offeror shall not rely on verbal responses to inquiries. A verbal reply to an inquiry does not constitute a modification of the solicitation.
6. **Public Record.** All submittals in response to this solicitation shall become the property of PMGAA, shall not be returned to Offeror and shall become a matter of public record available for review subsequent to the contract award.
7. **Solicitation Results.** Results are not provided in response to telephone inquiries. A tabulation of responses received will remain on file at PMGAA, and a Notice of Intent to Award shall be posted to the web site.
8. **Protest of Solicitation or Specifications (Before Bid Opening).**
 - a. Any interested person aggrieved in connection with the solicitation of a contract shall protest irregularities in the IFB, RFP, or RFQ within three business days from the date the protester knew or should have known of the basis for the protest and, in any case, at least five business days before opening bids or proposals.

- b. All protests must be made in writing to the Purchasing Director. Each protest must state the specific factual and legal grounds on which the protest is based. The protester must also include with the protest all pertinent documents and all supporting evidence. PMGAA need not accept any protest that fails to comply with the requirements of this section. The protester's failure to timely protest specifications or other solicitation terms and conditions constitutes a waiver of the protest.
 - c. If a timely protest before bid opening is made, PMGAA may proceed with the solicitation or with the award of the contract unless the Purchasing Director determines in writing that the protest should be sustained or that an addendum addressing the protest should be issued.
- 9. Protest of Award Recommendation.**
- a. A protest made after the deadline for bids or proposals, including challenges to the evaluation committee, must be submitted in writing to the Purchasing Director.
 - b. A protest must be received by the Purchasing Director within five business days following public posting of PMGAA's award recommendation. The formal protest must contain the following information.
 - i. PMGAA's solicitation identification number and title.
 - ii. Name and address of the protester, the title or position of the person submitting the protest, and a statement that the protest has been authorized by the protester and the protest is made in good faith.
 - iii. A statement of all facts alleged and all rules, regulations, statutes, or constitutional provisions that entitles the protester to relief.
 - iv. All other information, documents, materials, legal authority, and evidence in support of the protest.
 - v. A statement indicating the precise relief sought by the protester.
 - c. The Purchasing Director will make a written decision on the protest within ten business days after it is received.
 - d. The Protester may appeal the Purchasing Director's decision to the Executive Director. Any appeal must be filed with the Executive Director within three business days after the protester receives the Purchasing Director's decision.
 - e. The Executive Director may hear the appeal or appoint an independent hearing officer to do so. If a hearing officer is appointed, the hearing officer shall conduct an informal hearing on the appeal within 10 business days from receipt of the appeal. The hearing officer shall promptly prepare an informal decision and recommendation on the appeal for the Executive Director's consideration. The hearing officer shall promptly serve the recommendation on the protester.
 - f. Upon receipt of the hearing officer's recommendation, or if no hearing officer is appointed, the Executive Director shall decide any protest for a solicitation valued at less than \$50,000. For solicitations valued less than \$50,000 or sustained protests, the Executive Director's decision is final. For solicitations valued over \$50,000 and the Executive Director is recommending denial of the protest, the Executive Director shall make a recommendation to the Board, and the Board shall make the final decision regarding award of the contract.
 - g. Notice of the Board's final decision must be furnished to the protesting party, in writing, by the Purchasing Director.
- 10. Special Conditions.** Wherever special conditions are written into the Special Conditions and Specifications (Section Two), which are in conflict with conditions stated in these Instructions to Offerors, the conditions stated in Special Provisions and Specifications, shall take precedence.
- 11. Title VI Solicitation Notice.** PMGAA, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all Offerors that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business

enterprises will be afforded full and fair opportunity to submit a response to this solicitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

12. **Disadvantaged Business Enterprise (DBE).** It is the policy of PMGAA to practice nondiscrimination based on race, color, sex or national origin in the award or performance of this contract. The PMGAA encourages participation by all firms qualifying under this solicitation regardless of business size or ownership.

B. SOQ PREPARATION AND SUBMITTAL

1. SOQ Preparation.

- a. Forms. All SOQ's shall include the required forms provided in this solicitation. It is permissible to copy these forms if required.
- b. No Facsimile or Electronic Mail Responses. SOQ's may not be submitted in facsimile or electronically and will not be considered.
- c. Confidential Information. Requests for nondisclosure of data such as trade secrets and other proprietary data must be made known to the Procurement Coordinator in writing. PMGAA shall review all requests for confidentiality and provide a written determination.

2. SOQ Submittal.

- a. Submission Package. One (1) original and the specified number of copies of the submittal (see Section Two) should be contained in each submission package. Each submittal package/envelope should be firmly sealed and clearly marked on the outside with the solicitation number, "Statement of Qualification" and the name and address of the Offeror.
- b. Late Submittals. Late submittals will be rejected and returned to the Offeror.
- c. No Modifications. Modifications are not permitted after SOQ's have been opened except as otherwise provided under applicable law.
- d. Withdrawal of SOQ. SOQ submittals may be withdrawn at any time prior to the specified due date and time. An Offeror (or authorized representative) may withdraw the response by notifying the designated contact for this solicitation in writing on company letterhead. Facsimiles, telegraphic or mailgram withdrawals shall not be considered.

3. SOQ Evaluation.

- a. Conformance to RFQ. Each SOQ received will be checked for the presence or absence of required information in conformance with the submission requirements of this RFQ and to ensure that the submittal is fully responsive to the specifications listed.
- b. Disqualification. An Offeror who is currently debarred, suspended or otherwise lawfully prohibited from any public procurement activity will have its response rejected.
- c. Clarifications. PMGAA reserves the right to obtain Offeror clarifications where necessary to arrive at full and complete understanding of Offeror's response. Clarification means a communication with an Offeror for the sole purpose of eliminating ambiguities in the SOQ and does not give Offeror an opportunity to revise or modify its submittal.
- d. Response Rejection. Submission of additional terms, conditions and/or agreements with the SOQ response may result in rejection.

4. Award of Contract.

- a. Rights of PMGAA. The PMGAA reserves the right to award to whichever Offeror(s) deemed most advantageous to the PMGAA. The PMGAA may reject any or all submittals, waive any minor informality in submittals received, reject any alternate submittals and reserves the right to reject the

submittal(s) of any Offeror who has previously failed to perform competently in any contract with the PMGAA.

- b. Selection. The contract shall be awarded using the criteria outlined in Section Two.

- c. Notification. Prior to contract award, the selected successful Offeror(s) will be notified of their apparent selection for contract award, and (a) contract(s) will be drawn which will include by reference this solicitation and any other contractual language as may be required by the PMGAA or by law.

Section Two – Special Instructions and Specifications

A. PROJECT DESCRIPTION

In an effort to facilitate the planning of future airport improvements at the Phoenix-Mesa Gateway Airport, the Airport is developing a new Master Plan. This Master Plan is intended to provide the framework to guide future airport development to meet aviation demands. The Phoenix-Mesa Gateway Airport Authority is seeking a qualified consulting firm or team to provide professional airport planning services for the development of an Airport Master Plan (Project) for the Phoenix-Mesa Gateway Airport.

Phoenix-Mesa Gateway Airport is a growing small-hub Part 139 airport comprised of a unique fleet mix with over 273,000 annual operations completed in fiscal year 2017. More than 1.3 million passengers per year are served by Allegiant Airlines and West Jet offering service to over 45 cities across the United States and Canada. Previously known as Williams Air Force Base, the airport sits on over 3,000 acres with 1,000± acres yet to be developed. The airport is located in the City of Mesa, in the rapidly growing southeast valley of the Phoenix metropolitan area. The airport hosts more than 40 companies, and contributes approximately \$1.3 billion annually to the Arizona economy.

The Project will be funded by a Federal Aviation Administration (FAA) grant under the Airport Improvement Program (AIP). The Project shall be conducted in accordance with all applicable FAA Advisory Circulars (AC) and other applicable federal, state, and local requirements including but not limited to AC 150/5070-6B (Airport Master Plans), AC 150/5300-13 (Airport Design), AC 150/5300-16 (Aeronautical Surveying), AC 150/5300-17 (Airport Imagery), and AC 150/5300-18 (Geographic Information System (GIS) Standards).

B. SCOPE OF WORK

PMGAA intends to complete a high-quality, cost-effective Master Plan in 12-18 months. Where appropriate, information and data gathered as part of other previously completed airport studies shall be utilized and will be made available during the final scoping and negotiations. Some of those studies and date include:

1. Airport Master Plans (2008, 1999 & 1993)
2. Northeast Area Development Plan Environmental Assessment (2017)
3. Airport Land Use Compatibility Plan Update (2017)
4. Air Traffic Control Tower Siting Study (2016)
5. Phoenix Regional Air Cargo Planning Study (2014)
6. Gateway 2030 Executive Summary (2012)
7. FAR Part 150 Noise Compatibility Study (2000)

The anticipated services for the Master Plan would include those typically performed during an airport master planning process, as outlined in FAA Advisory Circular 150/5070-6B (Airport Master Plans). Where possible, information and data gathered in previously completed airport and local/regional studies shall be utilized in order to reduce the scope of work and time required to complete the Project.

The scope of work will include, but not be limited to, the following:

1. Public Involvement Program. Since the long-range development of the Phoenix-Mesa Gateway Airport will have an impact on the surrounding community, opportunities for public involvement throughout the process will be part of this Project. Master Plan Advisory Committees with broad representation will likely be formed to provide Master Plan input, facilitated by PMGAA staff in coordination with the Master Plan consultant. Typical input will be determined at appropriate intervals/milestones as determined in the process. The PMGAA also anticipates conducting public outreach workshops periodically to communicate progress and gather feedback from a broader audience. Finally, the consultant will utilize innovation, digital tools, in addition to the gatewayairport.com website, during the Master Plan study. The PMGAA encourages teams to submit creative ideas and solutions in order to garner effective public participation.
2. Inventory of existing conditions:
 - a. Airport Facilities (airside and landside)
 - b. Aviation Activity
 - c. Environmental Issues
 - d. Land Use, Zoning, and Other Local & Regional Planning Studies

- e. Roads and Ground Traffic
 - f. FAR Part 77 Obstructions
 - g. Utilities
 - h. Sustainability Initiatives
 - i. Market area and socio-economic factors/demographics
3. Aviation Forecasts. Update forecasts for:
 - a. General Aviation Activity
 - b. Air Carrier Activity
 - c. Cargo Activity
 - d. Military Activity
 4. Facility Requirements. Assess the ability of the existing airport, both airside and landside, to support the forecasted demand. Identify the demand levels that will trigger the need for facility additions or improvements and estimate the extent of new facilities that may be required to meet that demand including but not limited to building infrastructure, airfield infrastructure, utilities and land assets.
 5. Alternatives Development and Evaluation. Identify options to meet projected facility requirements and alternative configurations for each major component. Assess the expected performance of each alternative against a wide range of evaluation criteria, including its operational, environmental, and financial impacts. Based on this assessment provide recommended development alternatives and triggers for their implementation. Some alternatives will focus on enhancing/maximizing revenue producing opportunities. Alternatives will address short (5 year), medium (10 year) and long range (20 year) facility requirements.
 6. Environmental Considerations. Determine the environmental requirements needed to move forward with each project in the recommended development program.
 7. Airport Layout Plan. Provide full electronic and hardcopy Airport Layout Plans (ALP) to include an Exhibit A depicting the phased development plan in the near-term, medium-term and long-term development of the Phoenix-Mesa Gateway Airport and associated e-GIS file updates. Both the ALP and Exhibit A will be completed to FAA Standard Operating Procedure (SOP) requirements.
 8. Facilities Implementation Plan. Provide a description and justification of the recommended improvements, estimated implementation triggers and costs to be used in the development of a capital improvement plan.
 9. Financial Feasibility Analysis. Identify the financial plan for the capital improvement plan and the means by which the PMGAA can fund the projects recommended in the Master Plan. Demonstrate the financial feasibility of each project or program element.
 10. Sustainability. The sustainability component of the Master Plan should focus on the environmental aspects of capital improvement projects, including their financing, design, construction, and operations, from an all-inclusive approach. Sustainability recommendations should guide, not constrain, decision-making.
 11. A Benefit Cost Analysis (BCA) for the Northeast Area. Development Plan related projects could be negotiated and completed in addition to this Scope of Work. If a BCA is added to the scope of work under this solicitation, a separate contract will be negotiated between PMGAA and Consultant. Such contract may or may not be Federally funded and subject to certain Federal Provisions.

C. DBE INFORMATION AND REQUIREMENTS

Phoenix-Mesa Gateway Airport Authority's Disadvantaged Business Enterprise (DBE) Program Goal is 11.5%

It is the policy of the PMGAA to ensure that DBE certified companies, as defined in 49 CFR Part 26, have an equal opportunity to receive and participate in DOT assisted contracts. It is our policy:

- To ensure nondiscrimination in the award and administration of USDOT-assisted contracts;
- To create a level playing field on which DBEs can compete fairly for USDOT-assisted contracts;

- To ensure only firms that fully meet the eligibility standards as set forth in 49 CFR Part 26 are permitted to participate as DBEs;
- To help remove barriers to participation of DBEs and SBEs in USDOT-assisted contracts;

The PMGAA shall award contracts without regard to race, color, sex, or national origin. The PMGAA shall not, nor shall it require its Consultants to, award contracts or subcontracts to or to make purchases of materials or equipment from DBEs who are not qualified.

The Arizona Department of Transportation UCP DBE directory is provided as a service to those who are in search of Certified DBE consultants/contractors. It is to be used as a guide for selecting certified DBEs. Information in the directory should be verified with the ADOT's Uniform Certification Program. The directory can be found at:

<https://utracs.azdot.gov>

Obligation. Offerors are required to meet the DBE program proposal requirements detailed in this Section and, by the submittal of a SOQ and/or subsequent acceptance of a contract, agree to provide opportunities for the fair and full utilization of DBE's by complying with the RFQ submittal and post-award requirements of this Section. Nothing in this Clause shall be construed to require the utilization of DBE firms that are not qualified or available to perform work. Failure to comply with the requirements of this Clause constitutes a breach of Contract. Such breach may lead to the termination or cancellation of the Contract.

Upon selection of Offeror by PMGAA for award recommendation, Offeror will be required to submit the following at the time of their submission of proposed fees:

1. All listed DBE forms in the attached Sample Professional Services Agreement (List of DBE Subconsultants and Scope of Work, Identification Statement from all DBEs and Letter of Intent from all DBEs that Offeror will utilize on this project).
2. If selected Offeror fails to identify DBE participation that is equal to, or greater than, the DBE program goal of **11.5%**, then selected Offeror shall, as a requirement, petition for grant relief from the portion of the goal that has not been met. Such petition must state the specific portion of the goal for which relief is requested.

The petition for relief shall be submitted in a separate sealed envelope. The submittal shall include all reasonable good faith efforts made by the selected Offeror towards fulfilling the DBE requirement. The petition and good faith efforts must be executed in affidavit format and be duly signed by an authorized representative of the selected Offeror. Mere pro-forma efforts will not be regarded as satisfying the requirements of good faith.

Failure of the selected Offeror to provide sufficient evidence to show the good faith efforts made to obtain DBE participation shall result in the PMGAA determining that the selected Offeror was non-responsive to the DBE requirements and the PMGAA may terminate negotiations with selected Offeror and enter negotiations with the next highest ranked Offeror until an agreement is reached or an impasse is declared. The actions taken to meet the good faith requirements must be substantiated by written documentation and proof. A declaration that good faith efforts were made will not be sufficient to meet the burden of proof required. The PMGAA Procurement department's decision as to whether or not good faith efforts have been made is final and conclusive.

Factors, as set forth in 49 CFR Part 26 Appendix A – *Guidance Concerning Good Faith Efforts*, are illustrative of matters which the Procurement department will consider in judging whether the contractor made good faith efforts.

Determination of Responsiveness to DBE Requirements. Any Offeror wishing to remain in competition for contract award shall provide all required DBE validating information, as listed in Section D7 (page 11) of this RFQ, at the time of SOQ submittal. Failure to submit the DBE program documentation, in completed form, will result in a determination by the PMGAA that the Offeror is non-responsive to the SOQ requirements. For purposes of this requirement, other

documentation that may, on its face, provide the same information contained on the required forms, shall not be sufficient to meet this requirement. The submittal of the required documentation is a matter of responsiveness.

D. SUBMITTAL REQUIREMENTS

Firms interested in responding to this solicitation should submit Statements of Qualifications (SOQ) which includes a one-page cover letter plus a maximum length of fifteen (15) pages to address the SOQ criteria as specified and in the order listed in this Section II.

In responding to this RFQ, Offerors shall organize their SOQ submission in such a way as to follow the general evaluation criteria listed below. Information included within the SOQ may be used to evaluate your firm as part of any criteria regardless of where that information is found within the SOQ. Information obtained from the SOQ and from any other relevant source may be used in the evaluation and selection process.

1. **Cover Letter (one page):**
 - a. Identify the full legal company name and organization type, mailing address, telephone number, and email address for the person (preferably the designated or proposed project manager) who will serve as the firm's primary contact person for their SOQ;
 - b. Provide a brief introduction of the company as it relates to the requested services;
 - c. Describe the general and specific capabilities and experience of the Offeror that the Offeror believes will benefit PMGAA and the Project.
2. **Project Team Organization:**
 - a. Introduction of Offeror and its Team/Partners, to include individual company capabilities and size;
 - b. A narrative description of the role assigned to each partner identified in the proposal;
 - c. An organizational chart.
3. **Firm/Team Project Experience:**
 - a. Offeror is to provide a narrative description of a minimum of three (3) previous projects the Offeror has completed in the past five (5) years to demonstrate the Offeror's capability and qualifications to successfully complete the anticipated work on time and within budget. The submitted project(s) should be similar in scope, size and complexity to the anticipated Project. Identify experience with FAA AC 150/5070-6B, 150/5300-13A, 150/5300-16A, 150/5300-17C, and 150/5300-18B. For each project submitted the Offeror is required to submit a Client Reference List (Attachment C) which is to be included in the Submittal.
 - b. Discuss your firm's and team's experience in working with FAA Phoenix ADO Staff and FAA AIP projects, including advisory circulars/standards/policies.
4. **General Project Management Approach and Understanding of Project:**
 - a. Describe your proposed management organization and how this organizational structure will facilitate managing the Project in an effective and efficient manner. A chart shall graphically depict the organization in the Offeror's view on its staffing of the functions of project management. The organization chart shall depict the relationship of all key position roles. Names of proposed candidates for each function on the chart shall be provided. The organization shall constitute an integrated team comprised of experienced professionals in each specialized area.
 - b. Describe the Offeror's proposed method of achieving an integrated team and how this team will interface with PMGAA staff.
 - c. Describe the Offeror's proposed method to:
 - i. Effect timely communication through its organization and the PMGAA,
 - ii. Identify and resolve issues during the Project duration, and
 - iii. Make critical decisions.
 - d. In regard to methods to facilitate decision-making, this would include where appropriate, Offeror's plan to delegate authority for decision making within its proposed organization.
5. **Knowledge and Understanding of Local Environment and Pertinent Laws:**
 - a. Describe the Offeror's knowledge and understanding of the local environment and its impact on the airport. The City of Mesa and the surrounding region is currently experiencing tremendous growth which has effected operations and passenger counts at the airport. Each Offeror should be familiar with the local environment in order to determine future impacts to the airport.

- b. Describe your firm's experience in working with the community and what outreach efforts you utilize
- c. Describe your key personnel's experience and knowledge regarding applicable city and state laws as they relate to this Project.

6. Offeror's Key Personnel:

- a. Principal-in-Charge. The Principal-In-Charge is the principal or the Offeror's Managing Partner with overall responsibility for the Offeror's commitment to the project. Identify and provide a description of the capabilities, qualifications, experience, certifications, professional affiliations, education and training, and any other relevant information related to the Principal-In-Charge.
- b. Project Manager. The Project Manager is the professional responsible for overseeing and coordinating the efforts of the Offeror's team on a day- to-day basis for the Project. The Project Manager shall have management experience specific to projects of similar size. The Project Manager shall report to the Principal-In-Charge and act on behalf of the Offeror's team as the liaison to other team members, the PMGAA and its Designated Representatives, and project stakeholders. Identify and provide a description of the proposed Project Manager, his or her capabilities, qualifications, experience, current work load, certifications, professional affiliations, education and training. Provide examples in which the Project Manager has demonstrated experience in issue resolution. Provide examples where the Project Manager has provided leadership in a similar project team environment, demonstrated the ability to reach consensus and resolve issues, and other relevant information relating to the Project Manager. The PMGAA believes that in order for the designated Project Manager to function successfully in this role for the duration of a Project, they must be able to readily respond for in- person meetings in Mesa, Arizona during the Project. The Project Manager will be specifically named and designated for the complete term of the Agreement, and any change in the Project Manager will require the PMGAA's prior written approval.
- c. Team Members. The Offeror shall provide a resume for each proposed key team member which includes any certifications, licenses and/or relevant training (maximum of 2 pages for each member).
- d. Specialized Subconsultants. The Offeror shall identify any outside specialized consultants it intends to use as subconsultants / for the delivery of project work, or major portion thereof. The Offeror shall submit information on the subconsultants which shall include:
 - i. List of specialized consultants and definition of the work the subconsultant will perform.
 - ii. The specialized subconsultant's resume and company history, address and details of experience with a similar type of project during the past five (5) years.

7. DBE Participation, Small & Local Business Inclusion:

- a. Complete the DBE Identification Statement (Attachment D).
- b. Identify all DBE (ADOT-UCP certified) sub-consultants and describe their role on the project team (Attachment E).

8. Completed Master Plan and Airport Layout Plan:

Any Offeror selected for an interview shall be required to bring a copy of the most recent Master Plan and Airport Layout Plan completed for an airport similar in size to the Phoenix-Mesa Gateway Airport. Both should be projects completed by the person designated as PMGAA's Project Manager by Offeror.

9. Appendices

- a. Attachment A, Authorization for Release of Performance Information and Waiver form, shall be completed, signed and included in the SOQ.
- b. Attachment B, Certificate of Insurability form, shall be completed, signed and included in the SOQ. Within ten days of execution of a contract with the Airport Authority, the successful Offeror shall furnish proof of insurance in the amounts listed in the forms of Agreement.
- c. Attachment C, Offeror's Reference form, shall be completed and included in the SOQ.
- d. Attachment D, Offeror's DBE Identification form, shall be completed, signed and included in the SOQ.
- e. Attachment E, Proposed DBE Participation form, shall be completed, signed and included in the SOQ.
- f. Attachment F, Agreement Review Statement, form shall be completed, signed and included in the SOQ.
- g. Attachment G, Federal Provisions Certification
- h. Resumes for proposed team
- i. Any Addenda issued by PMGAA

E. SUBMITTAL INSTRUCTIONS

1. This SOQ may not exceed fifteen (15) single-sided pages (maximum 8½” x 11”) with a minimum of 11 pt. type. Submissions exceeding the page limit will be considered non-responsive and will be returned to the responder without further evaluation. Responders must submit one (1) original and five (5) copies of their Statements of Qualifications for a total of six (6) in addition to one (1) electronic copy of the complete proposal and all attachments.
2. The following information is not included in the page limit:
 - a. Cover letter on company letterhead, maximum of 1 page
 - b. Resumes, maximum of 2 pages each for key team members, 1 pages for all others
 - c. Attachment A, Authorization for Release of Performance Information and Waiver
 - d. Attachment B, Certificate of Insurability
 - e. Attachment C, Offeror’s References
 - f. Attachment D, Offeror’s DBE Identification Statement
 - g. Attachment E, Proposed DBE Participation
 - h. Attachment F, Agreement Review Statement
 - i. Attachment G, Federal Provisions Certification
 - j. Any Addenda issued by PMGAA
3. Do not include a table of contents or tab dividers. Submittals should be bound by plastic or metal three ring binder only. Pages having photos, charts, and/or graphs that provide additional evaluation information will be counted towards the maximum number of pages.
4. Failure to include all information requested shall cause such incomplete statement of qualifications to be rejected and not be evaluated or considered in the selection process.
5. SOQs must be submitted in a sealed envelope with the solicitation number and the responder’s name and address clearly indicated on the envelope. Statements of Qualification must be submitted to Marian Whilden, Airport Administration Office at 5835 S. Sossaman Road, Mesa, Arizona 85212 on or before December 4, 2017 by 2:00 pm (Arizona) time. **LATE STATEMENTS OF QUALIFICATIONS WILL NOT BE ACCEPTED.**

F. EVALUATION CRITERIA

Points	Category
10	Overview of Firm/Team
40	Firm and Project Experience
20	Project Management Approach and Understanding of Project
10	Knowledge and Understanding of Local Environment and Pertinent Laws
10	Team Structure and Capability
10	Misc
100	Total Score

G. SELECTION PROCESS

1. The Airport Authority will appoint an evaluation panel to evaluate each Offeror’s qualifications. Using the criteria and weighting listed herein, and in order of preference, the selection committee will rank the Offerors.
2. The Airport Authority may contact and interview references provided by each Offeror.

3. The evaluation panel may then make a selection solely based on their collective evaluations of the Offerors' SOQs and references.
4. The evaluation panel may conduct interviews regarding the project with the short-listed top-ranked Offerors.
5. The Airport Authority intends to enter into negotiations with the highest ranked Offeror to finalize a Professional Services Agreement for the project. If an agreement cannot be successfully negotiated with the highest ranked Offeror, then negotiations may be terminated with that Offeror and the Airport Authority may enter negotiations with the next highest ranked Offeror until an agreement is reached or an impasse is declared.
6. A notification will be posted on the Airport web site following a selection and/or interview list determination.
7. Offerors are evaluated on any combination of the following elements: 1) Statements of Qualifications (SOQs) submitted in response to this RFQ; 2) reference verification; 3) interview performance (if conducted); and 4) any information from any source about the Offeror, whether included in the SOQ or not.
8. PMGAA may cancel this solicitation at any time for any reason or no reason, so long as such is legally permissible.
9. The following tentative schedule has been established for this solicitation:

RFQ Closing Date/SOQ Due	December 4, 2017
Notification to Firms (for possible interviews and/or non-selection)	December 18, 2017
Interviews (optional)	January 9, 2018
Notification to Firms (of final firm selection)	January 9, 2018
Contract Negotiation Period	January 9 – January 30, 2018
Contract Award Recommendation to PMGAA Board of Directors	February 20, 2018

ATTACHMENT A

AUTHORIZATION FOR RELEASE OF PERFORMANCE INFORMATION AND WAIVER

The purpose of this disclosure is to provide references to the Phoenix-Mesa Gateway Airport Authority. I hereby consent that as an Offeror to Phoenix-Mesa Gateway Airport Authority Solicitation 2018-009-RFQ, Airport Master Planning Services, for Phoenix-Mesa Gateway Airport, I authorize those companies and government entities listed in my RFQ submittal and any other government entity for whom this company has performed Master Planning Services to disclose and release to the Phoenix-Mesa Gateway Airport Authority, or their representatives, information, records and opinions concerning this company's past performance.

_____ (Company) hereby waives any claim it may have against the Phoenix-Mesa Gateway Airport Authority or any company or entity providing information to the Phoenix-Mesa Gateway Airport Authority by reason of any information being disclosed or opinions provided regarding the actions or performance of this company.

This authorization for disclosure of information is effective for one (1) year.

This consent or copy of this authorization shall be as valid and effective as the original.

Signature of Offeror

Date

ATTACHMENT B

CERTIFICATE OF INSURABILITY

I hereby certify that as an Offeror to Phoenix-Mesa Gateway Airport Authority Solicitation 2018-006-RFQ for Phoenix-Mesa Gateway Airport, I am fully aware of Insurance Requirements contained in the sample Professional Services Agreement (Attachment H) and by the submission of this RFQ submittal, I hereby assure the Phoenix-Mesa Gateway Airport Authority that I am able to produce the insurance coverage required should I be selected to be awarded the Professional Services Agreement.

Should I be awarded the Professional Services Agreement by the Phoenix-Mesa Gateway Airport Authority, and then become unable to produce the insurance coverage specified within ten working days, I am fully aware and understand that the Phoenix-Mesa Gateway Airport Authority may not consider me for this and future projects.

Signature of Offeror

Date

ATTACHMENT C

OFFEROR'S REFERENCES

Offerors should provide a list of clients as references per Section 2D, number 3a, using the following format:

1. Client: Name
 Address
 City, State, Zip
 Phone
 Fax

Project: Any Applicable Project
Contact Person Mr. John Doe, Title
& Title: (423) 555-5555
 Email address

Date(s) of Project: Month Day, YYYY to Month Day, YYYY

Description/Summary of Services:

Cost/Amount of Contract:

Firm's Role: Responsible for etc.

Completion Status:

2. (Next Client)

ATTACHMENT D

OFFEROR'S DBE IDENTIFICATION

PMGAA is required to obtain the following information from each Offeror at time of SOQ submittal, creating an obligation for the Offeror to provide such information.

Firm Name: _____

Firm Address: _____

At time of SOQ submittal, Offeror is OR is not a certified DBE

DBE is defined as a small business concern that has successfully completed a DBE certification process and been granted DBE status by the Arizona Unified Certification Program or by a U.S. Department of Transportation (USDOT) recognized agency who certifies DBE applicants pursuant to the criteria contained in 49 CFR Part 26.

Age of Firm: Less than 1 year
 1 – 3 years
 4 – 7 years
 8 – 10 years
 More than 10 years

Annual Gross Receipts: Less than \$500,000.00
 \$500,000.00 - \$1,000,000.00
 \$1,000,001.00 - \$2,000,000.00
 \$2,000,001.00 - \$5,000,000.00
 Greater than \$5,000,000.00

I DECLARE UNDER PENALTY OF PERJURY IN THE SECOND DEGREE, AND ANY OTHER APPLICABLE STATE OF FEDERAL LAWS, THE STATEMENTS MADE ON THIS DOCUMENT ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

SIGNED AND DATED this _____ day of _____, 201_

Authorized Signature

Print Name and Title

ATTACHMENT E

PROPOSED DBE PARTICIPATION
(TO BE COMPLETED BY THE PRIME CONSULTANT)

NAME OF OFFEROR _____

PROJECT DESCRIPTION: Airport Master Planning Services

PROJECT NUMBER: CIP 929 / 842

DBE FIRM NAME	PRINCIPAL CONTACT	ADDRESS/PHONE	SCOPE OF WORK

**THE UNDERSIGNED HEREIN AFFIRMS THAT THE OFFEROR WILL ENTER INTO A FORMAL AGREEMENT WITH THE DBE CONSULTANTS/CONTRACTORS/SUPPLIERS LISTED HEREIN
CONDITIONED UPON THE EXECUTION OF A CONTRACT WITH THE PHOENIX-MESA GATEWAY AIRPORT AUTHORITY.**

Signed By _____ Title _____ Date _____

ATTACHMENT F

AGREEMENT REVIEW STATEMENT

As an Offeror to Phoenix-Mesa Gateway Airport Authority Solicitation 2018-009-RFQ, Airport Master Planning Services, I hereby certify that I have reviewed the PMGAA standard form Professional Services Agreement (Attachment H) and have listed any objections to them below. The response shall clearly identify if the attached Professional Services Agreement is acceptable in all respects including insurance, and document ownership and retention requirements. If the Agreement is not acceptable, the response shall identify the unacceptable clauses and shall provide suggested alternate language. General or vague statements or invitations to discuss further are not adequate answers.

I am aware any objections to the standard form Professional Services Agreement will be considered and included in the Airport Authority's evaluation of my firm's qualifications. I am also aware, if I fail to list any objections to the Airport Authority's standard Professional Services Agreement, I will not be allowed to raise any objections later if selected as the most qualified Offeror.

Signature of Offeror

Date

Specific Objections:

ATTACHMENT G

FEDERAL PROVISIONS CERTIFICATION

1. **Civil Rights – General**

The Consultant agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the Consultant and sub-tier consultants from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

2. **Debarment and Suspension**

A. Certification of Offeror Regarding Debarment:

By submitting a SOQ/proposal under this solicitation, the Offeror certifies that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

B. Certification of Lower Tier Consultants Regarding Debarment:

The successful Offeror, by administering each lower tier subcontract that exceeds \$25,000 as a “covered transaction”, must verify each lower tier participant of a “covered transaction” under the project is not presently debarred or otherwise disqualified from participation in this federally assisted project. The successful Offeror will accomplish this by:

- i. Checking the System for Award Management at website: <http://www.sam.gov>
- ii. Collecting a certification statement similar to the Certificate Regarding Debarment and Suspension (Offeror), above.
- iii. Inserting a clause or condition in the covered transaction with the lower tier contract

If the FAA later determines that a lower tier participant failed to disclose to a higher tier participant that it was excluded or disqualified at the time it entered the covered transaction, the FAA may pursue any available remedies, including suspension and debarment of the non-compliant participant.

3. **Federal Fair Labor Standards Act (Federal Minimum Wage)**

All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers.

The Consultant has full responsibility to monitor compliance to the referenced statute or regulation. The Consultant must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division

4. **Lobbying and Influencing Federal Employers**

The Offeror certifies by signing and submitting this SOQ or proposal, to the best of his or her knowledge and belief, that:

A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Bidder or Offeror, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with

the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

C. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

5. Occupational Safety and Health Act of 1970

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. Consultant must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The Consultant retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Consultant must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

6. Trade Restriction Certification

By submission of an offer, the Offeror certifies that with respect to this solicitation and any resultant contract, the Offeror:

A. is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (U.S.T.R.);

B. has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country included on the list of countries that discriminate against U.S. firms as published by the U.S.T.R.; and

C. has not entered into any subcontract for any product to be used on the Federal on the project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the U.S.T.R.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

The Offeror/Consultant must provide immediate written notice to the Owner if the Offeror/Consultant learns that its certification or that of a subconsultants was erroneous when submitted or has become erroneous by reason of changed circumstances. The Consultant must require subconsultants provide immediate written notice to the Consultant if at any time it learns that its certification was erroneous by reason of changed circumstances.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to an Offeror or subconsultant:

- i. who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the U.S.T.R. or
- ii. whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such U.S.T.R. list or
- iii. who incorporates in the public works project any product of a foreign country on such U.S.T.R. list;

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

The Offeror agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in all lower tier subcontracts. The Consultant may rely on the certification of a prospective subconsultant that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by U.S.T.R, unless the Offeror has knowledge that the certification is erroneous.

This certification is a material representation of fact upon which reliance was placed when making an award. If it is later determined that the Consultant or subconsultant knowingly rendered an erroneous certification, the Federal Aviation Administration may direct through the Owner cancellation of the contract or subcontract for default at no cost to the Owner or the FAA.

7. Offeror's Statement on Previous Contracts Subject to EEO Clause

The Offeror shall complete the following statement by checking the appropriate boxes:

The Offeror has ___ has not ___ participated in a previous contract subject to the equal opportunity clause prescribed by Executive Order 11246, as amended, of September 24, 1965.

The Offeror has ___has not ___ submitted all compliance reports in connection with any such contract due under the applicable filing requirements; and that presentations indicating submission of required compliance reports signed by proposed subcontractors will be obtained prior to award of subcontracts.

If the Offeror has participated in a previous contract subject to the equal opportunity clause and has not submitted compliance reports due under application filing requirements, the Offeror shall submit a compliance report on Standard Form 100, "Employee Information Report EEO-1" prior to award of contract.

By submission of a Statement of Qualifications, Offeror hereby certifies that it meets all Federal Provisions provided in this Attachment G. Further, Offeror certifies that, if selected by PMGAA under this solicitation, that Offeror will comply with all Federal Provisions provided in this Attachment G and those listed in the sample Professional Services Agreement (Attachment H).

Signature of Offeror

Title

Date

ATTACHMENT H

SAMPLE PROFESSIONAL SERVICES AGREEMENT



PHOENIX-MESA GATEWAY AIRPORT AUTHORITY

AND

[CONSULTANT]

FOR

AIRPORT MASTER PLANNING SERVICES

CONTRACT NUMBER C-2018009

The Phoenix-Mesa Gateway Airport is owned and operated by the Phoenix-Mesa Gateway Airport Authority (PMGAA), a joint powers airport authority authorized by the State of Arizona and consisting of the City of Mesa, City of Phoenix, City of Apache Junction, Town of Gilbert, Town of Queen Creek and the Gila River Indian Community.

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Phoenix-Mesa Gateway Airport Authority, a joint powers airport authority authorized by the State of Arizona (“PMGAA”) desires performance of the services more fully described in this **Contract Number C-2018009** (“Contract”) and the attached exhibits. **[Consultant]**, a(n) **<state>** **<type of company>** (“Consultant”), with its principal offices located at **[address]**, desires to perform these services.

Recitals

- A. PMGAA requires the services as described in this Contract, including any and all exhibits and amendments, and Consultant is willing to provide these and other services under this Contract; and
- B. PMGAA desires to contract with Consultant to provide services as noted herein.

Now therefore, in consideration of the recitals and the mutual covenants set forth below, PMGAA and Consultant agree as follows.

SECTION I – CONSULTANT SERVICES

The services to be performed by Consultant are specified in this Contract. PMGAA will not pay Consultant for any services that have not been authorized under the Contract.

The anticipated services to be provided by Consultant under this Contract shall generally include, but not be limited to, the following: airport master planning services, as more specifically described in Consultant’s detailed scope of work attached as **EXHIBIT B**, “Scope of Services & Fee Schedule.”

PMGAA’s authorized representative shall be the PMGAA Engineering and Facilities Director, or his/her duly authorized representative, and that he/she shall be the sole contact for administering this Contract.

All services provided by Consultant under this Contract must be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances in Arizona. Consultant makes no other warranty, expressed or implied.

SECTION II – PMGAA RESPONSIBILITIES

PMGAA shall furnish Consultant, at no cost to Consultant, the following information or services for this Contract:

- A. Access to copies of readily available studies, maps, records, as-built drawings, benchmarks or other data pertinent to work assignments affiliated with this Contract. This does not, however, relieve Consultant of the responsibility of searching records for additional information, for requesting specific information or for verification of that information provided. PMGAA does not warrant the accuracy or comprehensiveness of any information or documents provided to Consultant.
- B. In PMGAA’s discretion and upon Consultant’s reasonable request, access to staff for consultation with Consultant during the performance of this contract in order to identify the problems, needs, and other functional aspects of the work.
- C. Prompt review of and feedback on Consultant’s deliverables. PMGAA will advise Consultant concerning progress of PMGAA’s review of the work, as needed.

SECTION III - PERIOD OF SERVICE

Consultant shall complete all work in accordance with the provisions of this Contract as amended.

All work initiated under this Contract must be completed on or before the expiration date of the Contract as amended.

The term of this Contract commences on the date of award and ends on **[date]** (“Term”), unless terminated, canceled or extended as provided in this Contract. PMGAA reserves the right, at its sole option, to extend the Term for such additional time as may be warranted and/or appropriate. If PMGAA exercises such right, all terms, conditions and provisions of the original Contract shall remain the same and apply during the extended period with the possible exception of price. All prices stated in the original Contract shall apply unless a percent of increase or decrease is agreed to by PMGAA.

Consultant shall commence its services within seven (7) days of the written authorization by PMGAA. Consultant shall perform its services in a diligent manner and in accordance with this Contract.

SECTION IV – KEY PERSONNEL

The Consultant and its Sub-Consultant's, as listed below, shall provide all services to be performed under this Contract. If additional Sub-Consultants are required by Consultant to perform any services listed under this contract, Consultant shall notify PMGAA prior to authorizing work by said Sub-Consultants. PMGAA may, at its sole discretion, accept or reject proposed Sub-Consultants.

Sub-Consultants:

[insert name]
[insert name]
[insert name]

SECTION V - PAYMENTS TO THE CONSULTANT

Consultant will be paid for work performed under this Contract plus any adjustments that have been approved in writing by PMGAA in accordance with the Phoenix-Mesa Gateway Airport Authority Procurement Policy. Payments will be made for the actual hours worked, services performed and/or other costs incurred or provided for in accordance with **EXHIBIT C**, "Compensation."

All services to be rendered by Consultant are subject to the terms of **EXHIBIT C**, "Compensation" attached hereto.

PMGAA does not guarantee any minimum fee during the Term of this Contract, and Consultant, in executing this Contract, shall not anticipate or require any minimum fee.

SECTION VI - ALTERATION IN SCOPE OF SERVICES

For any alteration in the Scope of Services that would materially increase or decrease the Contract fee, the parties shall negotiate an amendment to the Contract to be executed by PMGAA and Consultant. No work shall commence on any amendment or change until the amendment has been approved by PMGAA and Consultant has been notified to proceed by PMGAA. No claim for extra work done or materials furnished by Consultant will be allowed by PMGAA, except as provided herein, nor shall Consultant do any work or furnish any materials not covered by this Contract unless the work is first authorized in writing by PMGAA and the change complies with PMGAA's Procurement Policy. Any work or materials furnished by Consultant without advance, written authorization will be at Consultant's own risk, cost, and expense. Without written authorization, Consultant shall make no claim for compensation for such work or materials furnished.

SECTION VII - WORK ASSIGNMENT COMPLETION

If, during the Term of this Contract, situations arise which prevent work completion within the allotted time, PMGAA may grant an appropriate time extension.

SECTION VIII - OWNERSHIP OF DOCUMENTS

Any documents, including all electronic copies thereof, prepared under or as a result of this Contract, shall be the property of PMGAA. To the extent necessary to effectuate such ownership, Consultant hereby assigns all right, title and interests to such documents to PMGAA. Consultant shall execute any separate agreements or documents, if any, which may be necessary to implement the terms of this Section.

All of Consultant's documents prepared under this Contract, including electronic files, are instruments of service. All of these documents become the property of PMGAA upon completion of the services and payment in full to Consultant. PMGAA may reuse or modify the documents, as it deems necessary, without Consultant's prior written authorization. PMGAA shall indemnify and hold harmless Consultant, its officers, directors, employees and subconsultants (collectively, the "Consultant") against any and all damages, liabilities or costs arising from PMGAA's modification of documents produced by Consultant under this Contract unless Consultant authorizes the modification in writing.

SECTION IX - COMPLIANCE WITH LAWS

Consultant shall comply with all federal, state and local laws, local ordinances and regulations throughout the Term.

Consultant's signature on this Contract certifies compliance with the provisions of the I-9 requirements of the *Immigration Reform and Control Act of 1986* for all personnel that Consultant and any subconsultants employ to complete any work assignment.

PMGAA shall administer this Contract in accordance with PMGAA's Procurement Policy.

SECTION X - GENERAL CONSIDERATIONS

- A. The failure of either party to enforce any of the provisions of this Contract or require performance of the other party of any of the provisions hereof shall not be construed to be a waiver of the provisions, nor shall it affect the validity of this Contract or the right of either party to enforce each and every provision.
- B. The fact that PMGAA has accepted or approved Consultant's work shall in no way relieve Consultant of responsibility for the work under this Contract.
- C. This Contract shall be governed by the laws of the state of Arizona, both as to interpretation and performance. Any action at law, suit in equity, or judicial proceeding for the enforcement of this Contract, or any provision thereof, shall be instituted only in the courts of the state of Arizona.
- D. All exhibits to this Contract and any amendments to the Contract are incorporated into it.

SECTION XI - NO KICK-BACK CERTIFICATION

Consultant warrants that no person has been employed or retained to solicit or secure this Contract upon any agreement or understanding for a commission, percentage, brokerage, or contingent fee and that no member of the PMGAA Board of Directors or any employee of PMGAA has any interest, financially or otherwise, in Consultant's firm.

For breach or violation of this warranty, PMGAA may annul this Contract without liability.

SECTION XII – SUSPENSION OF SERVICES

Consultant shall, within five (5) business days upon receiving written notice from PMGAA, suspend, delay, or interrupt all or a part of the Scope of Services. Consultant shall resume the Scope of Services within five (5) business days of receiving written notice from PMGAA.

SECTION XIII – TIMES OF PAYMENTS

Consultant shall submit monthly invoices for any unbilled portion of the services completed. PMGAA shall review, certify, and approve or reject each invoice in whole or in part. PMGAA shall pay each approved invoice within 30 calendar days of the date that PMGAA approves the invoice.

SECTION XIV – TIMELY REVIEW

PMGAA will review Consultant's studies, reports, proposals, and other related documents and render any decisions required by Consultant in a timely manner. Notwithstanding these reviews, Consultant remains solely responsible for all of its deliverables and services under this Contract. By PMGAA's reviews, PMGAA does not assume any liability for or retained control over Consultant's work or Consultant's responsibility for the safety of its employees.

SECTION XV – MEDIATION; ARBITRATION

All disputes between PMGAA and Consultant arising out of or relating to this Contract must first be submitted to nonbinding mediation unless the parties mutually agree otherwise in writing. In the event that the dispute(s) are not settled via nonbinding mediation, the parties shall proceed to and employ binding arbitration, as set forth in **EXHIBIT K**, "PMGAA Standard Terms and Conditions", attached hereto and incorporated herein by reference.

PMGAA and Consultant shall include a similar mediation/arbitration provision in all agreements with other contractors and consultants retained for the Project and shall require all other independent contractors and consultants to include a similar mediation provision in all agreements with subcontractors, subconsultants, suppliers or fabricators retained by them.

SECTION XVI - LIABILITY OF CONSULTANT

To the fullest extent permitted by law, Consultant shall defend, save, indemnify, and hold harmless PMGAA, its member governments, departments, officers, employees, and agents from and against damages arising out of any act, error, or omission of Consultant relating to its services under this Contract.

SECTION XVII - LAWS AND REGULATIONS

All federal, state, and local laws and regulations that relate to Consultant's services apply to Consultant's performance of this Contract throughout. These laws and regulations are deemed included in this Contract the same as though written out in full, especially the current applicable Federal Aviation Administration (FAA) rules and regulations associated with airport projects; pertinent Airport engineering standards; and local rules, regulations, and industry standards.

SECTION XVIII – ARCHAEOLOGICAL RESOURCE PROTECTION

While performing services under this Contract, Consultant may encounter a known or unknown archaeological site located at the Airport. If Consultant encounters what it believes to be an archaeological site, Consultant shall immediately notify PMGAA of the site's location and take all reasonable precautions to protect and preserve the site until PMGAA otherwise directs.

SECTION XIX – INSURANCE REQUIREMENTS FOR PROFESSIONAL SERVICES CONTRACTS

- A. Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.
- B. Minimum Scope and Limits of Insurance. Coverage shall be at least as broad as:
 - i. Professional Liability (Errors and Omissions): Insurance appropriate to the Consultant's profession, with limit no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.
 - ii. Workers' Compensation: Statutory Limits as required by the state of Arizona, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
- C. If the Consultant maintains higher limits than the minimums shown above, the PMGAA requires and shall be entitled to coverage for the higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the PMGAA.
- D. Additional insurance provisions.

The insurance policies shall provide, or be endorsed to include:

- i. Notice of Cancellation: Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the PMGAA.
- ii. Waiver of Subrogation: Consultant waives any right to subrogation. Consultant shall obtain an endorsement necessary to affect this waiver of subrogation from the insurer for all lines of coverage required by this Contract.
- iii. Primary Coverage: For all claims related to this Contract, all of Consultant's insurance policies will be primary and non-contributory. Any insurance or self-insurance maintained by PMGAA, its officers, officials, employees, or volunteers will be in excess of Consultant's insurance and will not contribute with it.
- iv. Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by the PMGAA. The PMGAA may require the Consultant to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

- v. Acceptability of Insurers: Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A, VII, unless otherwise acceptable to the PMGAA.
- vi. Claims Made Policies: No Claims Made policies (other than Professional Liability) will be accepted. For policies that provide claims-made coverage:
 - a) The Retroactive Date must be shown, and must be before the date of the contract or the beginning of contract work.
 - b) Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
 - c) If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Consultant must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work.
- vii. Verification of Coverage: Consultant shall furnish the PMGAA with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the PMGAA before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide the required insurance. The PMGAA reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.
- viii. Subcontractors: Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Consultant shall ensure that PMGAA is an additional insured on insurance required from subcontractors.
- ix. Special Risks or Circumstances: PMGAA reserves the right to modify these requirements, including limits, based on the nature of the risk, scope of services, prior experience, insurer, coverage, or other special circumstances.

SECTION XX – DISADVANTAGED BUSINESS ENTERPRISE

Consultant or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. Consultant shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by Consultant to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as PMGAA deems appropriate, which may include, but is not limited to: (1) withholding monthly progress payments; (2) assessing sanctions; (3) liquidated damages; and/or (4) disqualifying the consultant/contractor from future bidding as non-responsible.

A. Definitions:

Disadvantaged Business Enterprise (DBE) means a small business concern that has successfully completed a DBE certification process and been granted DBE status by the Arizona Unified Certification Program or by a U.S. Department of Transportation (USDOT) recognized agency who certifies DBE applicants pursuant to the criteria contained in 49 CFR Part 26.

Small Business Concern means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto. A small business concern shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual(s) that has annual average gross receipts in excess of the cap established by federal regulation. The Secretary shall adjust this figure from time to time for inflation.

Socially and Economically Disadvantaged Individuals means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are women, Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, or Asian-Indian Americans. Membership in one of the above-mentioned groups does not qualify the firm to be considered a DBE for purposes of this contract. Only firms that have completed a DBE certification process and been granted DBE status shall be considered socially and economically disadvantaged individuals for purposes of this contract.

DBE Joint Venture is an association between two or more persons, partnerships, corporations, or any combination thereof, formed to carry on a single business activity. One participant in the joint venture arrangement must hold DBE status from a recognized certifying entity. The joint venture is limited in scope and duration to this contract, and resources, assets and labor of the participants must be combined in an effort to accrue profit.

Sole Proprietorship is a DBE for purposes of this contract, if it is 100 percent owned, operated, and controlled by a socially and economically disadvantaged individual.

Corporation is a DBE, for purposes of this contract, if the ownership, operation, and control of the business is conditioned upon the control of its shares of stock or other equitable securities, at least 51 percent of which (of all shares) is legally and equitably owned by socially and economically disadvantaged individuals.

Partnership is a DBE, for purposes of this contract, if one or more socially and economically disadvantaged individuals own more than 51 percent of the assets or interest in the partnership's property.

Purchaser for purposes of this contract, means the Phoenix-Mesa Gateway Airport Authority.

Contract is a written agreement obligating the seller or business enterprise to furnish goods or services as proposed and the Purchaser or Buyer to pay for such goods or services.

Subcontract is any contract at any tier below the prime contract, including purchase orders.

Supplier is a business enterprise that manufactures the goods or materials it sells.

Wholesaler, Distributor, Broker, or Jobber is a business enterprise that does not manufacture the goods or materials it sells, or does not perform the essential work of the contract.

B. Utilization:

Phoenix-Mesa Gateway Airport Authority's DBE Program Goal is **11.5%**

The Consultant shall utilize the specific DBE's listed herein on **EXHIBIT D**, to perform the work and supply the materials for which each is listed unless the Consultant obtains PMGAA's written consent as provided in this Contract and that, unless PMGAA consent is provided under this Contract, the Consultant shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

Degrees of DBE Percentage Attainment:

In determining whether the Consultant has met this requirement, rounding up of DBE subcontract amounts shall not be allowed.

Subcontracts with DBE Firms: DBE participation on the contract will be calculated based on that portion (dollar value) of the contract that DBEs actually perform with their own forces. This includes the cost of supplies and materials obtained by the DBE for the work on the contract, except when supplies and/or equipment is purchased or leased from Consultant or its affiliate. Special emphasis and care should be taken to ensure that the following types of participation are handled properly.

Fees & Commissions: DBE firms that supply a bona fide service for a fee or commission may be counted only to the extent of the fees or commissions charged by the DBE. This includes, but is not limited to, providing professional, technical, consultant, or managerial services, and bonds or insurance specifically

required for the performance of a contract. The fees must be reasonable and not excessive as compared with fees customarily allowed for similar services.

Trucking & Hauling: The amount of a trucking/hauling subcontract that may be counted towards the DBE utilization requirement may be limited. A DBE must itself own and operate at least one fully licensed, insured, and operational truck that will be used on the contract. The DBE subcontractor may lease trucks from another DBE firm and receive full credit for the services of those leased vehicles. Non-DBE trucks may also be leased to perform work on the contract, but non-DBE leased trucks can be counted fully only up to the value of transportation services provided by all DBE-owned trucks on the contract. Any additional non-DBE leased trucks may only be credited for the fees or commissions the DBE subcontractor retains over and above the cost of the lease arrangement.

DBE Prime Consultant: A DBE prime consultant will be credited with DBE participation for that portion of the contract that they themselves perform, in addition to any portion of the contract that is subcontracted and performed by an eligible DBE subcontractor.

DBE/Non-DBE Joint Ventures: A DBE/non-DBE joint venture, functioning as the Consultant or as a subconsultant on a Phoenix-Mesa Gateway Airport Authority project, will be credited with DBE participation on the basis of the percentage of profit accruing to the DBE firm.

Lower Tier Non-DBE Participation: Subcontract dollars paid by DBE primes and/or qualifying joint ventures to non-DBE subcontractors/subconsultants will not be considered when determining the percentage of DBE participation on this contract. Amounts subcontracted to a non-DBE by a DBE subcontractor/subconsultant (2nd tier or lower) may not be counted.

DBE Suppliers: Purchases from DBE suppliers may be counted towards the goals as follows:

Manufacturers: Amounts paid to a DBE supplier that manufactures or substantially alters the material or product it supplies will be credited at 100% of the expenditure when determining the percentage of DBE participation.

Regular Dealer: Purchases from a DBE firm that is an established, regular business that engages, as its principal business, in the purchase, sale, or lease of the products being supplied may be credited towards the DBE goal at sixty percent (60%) of the sale price when determining the percentage of DBE participation.

Packers, Brokers, Manufacturers' Representatives: Purchases from a DBE firm who arranges or expedites transactions not as regular dealers, may not be counted in full when determining DBE participation. Only the fees or commissions charged in the procurement of the materials or supplies, or fees or transportation charges for the delivery of the materials or supplies may be credited towards achievement of the DBE goal.

C. Required Forms:

List of DBE Consultants and Scope of Work. Consultant shall complete, sign, date and submit to PMGAA the list of certified DBE Subconsultants that Consultant will utilize for completing work under this Contract, **EXHIBIT D**. Consultant shall notify PMGAA of any changes, including additions or deletions, to the list of DBE subconsultants prior to making such change. PMGAA shall, at its sole discretion, accept or reject the proposed changes.

Where a final contract amount cannot readily be determined for utilization of a DBE (trucking, hauling, security officers, etc.), the minimum dollar amount agreed upon between the Consultant and DBE subconsultant that can be counted towards meeting the DBE goal should be reflected on **EXHIBIT D**. PMGAA will not release the Consultant from the obligation to meet the DBE requirements of the Contract based on a failure to utilize DBEs in these areas of work to the extent reflected on **EXHIBIT D**. Intentionally inflating the amount of such work in order to meet the DBE goal will be viewed as a lack of good faith on behalf of the Consultant.

It is the responsibility of Consultant to ensure that the scope of work to be performed by the DBE is consistent with the area in which the firm has been granted DBE certification. DBE scopes of work listed on the form that fall outside the trade or performance area in which the DBE has been granted certification

shall not be counted in determining if Consultant has met the DBE goal requirements. If there are questions, the Offeror should contact the Phoenix-Mesa Gateway Airport Authority, Procurement Department, for verification. PMGAA reserves the right to validate information on the form with the DBE subcontractor/subconsultant and/or other certifying entities or licensing agents as part of the verification process.

Identification Statement for Disadvantaged Business Enterprises (where applicable). If a DBE listed on **EXHIBIT D** is not certified with the Arizona Unified Certification Program (UCP) a completed **EXHIBIT H**, Identification Statement for DBE, is required. The form must be signed by a duly authorized representative of the DBE firm and must contain the name of the agency that has granted DBE status to the firm. DBE firms must hold a valid and current DBE certification granted by a USDOT-recognized certification entity. DBE subcontractors/subconsultants/suppliers not certified by the Arizona Unified Certification Program (UCP) shall be required to provide written proof of their DBE status prior to the Phoenix-Mesa Gateway Airport Authority's determination. Such proof shall be in the form of documentation supplied by the certifying entity.

Letter of Intent to Perform as a Subconsultant/Subcontractor/Supplier. Consultant shall obtain from each DBE a signed letter of intent (**EXHIBIT I**) prior to PMGAA executing this Contract.

Consultant's Statement of DBE Utilization. If Consultant utilized a DBE for any work Consultant is submitting an invoice for payment, then Consultant must include a completed and signed **EXHIBIT E** and attach it to each invoice for payment.

Certification of Payment to DBE Firms. Upon payment by Consultant to any DBE, Consultant shall complete, sign, have DBE firm sign, and submit to PMGAA the "Certification of Payment to DBE Firms", **EXHIBIT F**.

Certification of Payment of DBE to Lower Tier. If Consultant utilizes a subconsultant/subcontractor that is a DBE and that subconsultant/subcontractor utilizes a non-DBE subconsultant/subcontractor for any portion of work, the DBE subconsultant/subcontractor shall complete, sign, and submit to PMGAA a "Certification of Payment of DBE to Lower Tier", **EXHIBIT G**, upon payment to the non-DBE subcontractor.

D. Approved DBE Program:

The Phoenix-Mesa Gateway Airport Authority's Disadvantaged Business Enterprise Program, dated August 1, 2017 and approved by the FAA, all its terms and conditions is hereby incorporated into and made part of this Contract by reference.

The approved DBE Program can be found at: <http://www.gatewayairport.com/Procurements.aspx>

OFFER AND ACCEPTANCE

IN WITNESS WHEREOF, the parties herein have executed this Contract.

(Firm Name)	Address
Principal (Signature)	City State Zip
Printed Name	Phone
Federal Tax Identification Number	Fax

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY, a joint powers airport authority authorized by the State of Arizona

ACCEPTED AND APPROVED:

J. Brian O'Neil, A.A.E. Executive Director/CEO	Date
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ATTEST:

Name/Clerk of the Board	Date
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EXHIBIT A - CERTIFICATE OF PERFORMANCE AND PAYMENT OF ALL CLAIMS

The requirement to submit a *Certificate of Performance and Payment of all Claims* as part of this agreement is hereby waived.

EXHIBIT B - SCOPE OF SERVICES & FEE SCHEDULE

The services to be performed by Consultant and the completion of related efforts are specified in the following Scope of Services & Fee Proposal agreed to by the parties.

SCOPE OF SERVICES

[Enter finalized scope]

FEE SCHEDULE

[Enter agreed upon fees]

EXHIBIT C - COMPENSATION

All compensation for services rendered by Consultant shall be based upon criteria established below. All services must be billed through the Consultant.

1. Fees to be Specified in Contract

Any and all services to be performed under this Contract require approval. All compensation for services shall be identified in writing. The Contract shall describe the scope of services to be performed (by tasks and subtasks, where appropriate), the amount of time required for performance, the fees associated with that performance, and any applicable special provisions. Consultant's compensation for services included in this Contract is totaled and set forth in **EXHIBIT B**, Scope of Services & Fee Schedule.

2. Method of Payment

Subject to the terms of this Contract, PMGAA shall pay Consultant the appropriate not to exceed amount for services rendered as described in the Contract only after Consultant has certified in writing that it has performed the services and PMGAA has certified and approved each payment application.

For services rendered in accordance with the Contract, Consultant shall submit to PMGAA an invoice or payment application depicting tasks performed, hours spent, utilized and expenses incurred for services performed. Invoices or payment applications must be based on the actual hours required and expenses incurred for the services completed during the billing period. Consultant's invoices or payment applications must specify that Consultant has performed the services, and PMGAA must certify and approve each invoice or application as a condition to payment.

3. Consultant Responsibilities for Compensation

Consultant shall prepare monthly invoices and progress reports in accordance with terms specified in the Contract, which clearly indicate the progress to date and the amount of compensation due by virtue of that progress. All invoices for payment shall be for work completed unless otherwise agreed to by PMGAA. Invoices for payment for services subject to funding by the FAA and/or ADOT shall include the documentation requirements of the FAA and/or ADOT, which are outlined in the *Airport Improvement Program (AIP) Handbook* dated June 28, 2005, Chapter 13, Section 1.

4. PMGAA Responsibilities for Compensation

PMGAA agrees to pay Consultant's invoices/requisitions for payment within 30 calendar days after the invoice is approved. PMGAA may withhold payment on any invoice if it believes that Consultant has not performed the work in a satisfactory manner. If PMGAA withholds payment to Consultant, PMGAA shall promptly notify Consultant and explain the reasons for the decision to withhold payment.

5. Billing Address

All invoices submitted to PMGAA for payment shall be submitted to:

Phoenix-Mesa Gateway Airport Authority
Attn: Engineering and Facilities Director
5835 S. Sossaman Road
Mesa, Arizona 85212

EXHIBIT D – LIST OF DBE SUBCONSULTANTS AND SCOPE OF WORK

Project Description: Airport Master Planning Services

Project No.: CIP 929 / 842

The following are certified DBE's, as of the date of this contract, with the indicated agency and are prepared to perform the scope(s) of work on the above referenced project:

COMPLETE THIS PORTION IF SCOPE OF WORK IS PAID BY UNIT PRICE OR HOURLY RATE					
Name & Address of DBE Firm	Description of Scope of Work	Certifying Agency	Unit/Hour Estimate	Unit/Hourly Price	Total Minimum Contract Amount
					\$

COMPLETE THIS PORTION IF SCOPE OF WORK IS NOT PAID BY UNIT PRICE OR HOURLY RATE			
Name & Address of DBE Firm	Description of Scope of Work	Certifying Agency	Total Minimum Contract Amount
			\$
			\$
			\$

**THE UNDERSIGNED HEREIN AFFIRMS THAT THE CONSULTANT WILL ENTER INTO A FORMAL AGREEMENT WITH THE DBE CONSULTANTS/CONTRACTORS/SUPPLIERS LISTED ABOVE
CONDITIONED UPON THE EXECUTION OF A CONTRACT WITH THE PHOENIX-MESA GATEWAY AIRPORT AUTHORITY.**

Signed: _____ Title: _____ Date: _____

EXHIBIT E – CONSULTANT’S STATEMENT OF DBE UTILIZATION

SHEET ____ OF ____

(1) PAY REQUEST NO. _____

(2) REPORT PERIOD FROM _____ TO _____

(3) PROJECT NAME Airport Master Planning Services

(4) PROJECT NO. CIP 929 / 842

(5) CONTRACT NO. C-2018009

(6) PROGRAM GOAL 11.5 %

(7) PROPOSED DBE UTILIZATION _____ %

(8) DBE NAME REPRESENTATIVE NAME & TELEPHONE NUMBER	(9) CLASS OF WORK	(10) CONTRACT AMOUNT	(11) CONTRACT ADJUSTMENTS	(12) REVISED CONTRACT AMOUNT	(13) AMOUNT EARNED THIS PERIOD	(14) AMOUNT EARNED TO DATE	(15) AMOUNT RETAINED THIS PERIOD	(16) AMOUNT RETAINED TO DATE	(17) % OF CONTRACT COMPLETE TO DATE
(18) DBE TOTALS									

(19) CONSULTANT _____

(20) AUTHORIZED SIGNATURE _____

(21) DATE _____

(22) PERCENTAGE OF TOTAL CONTRACT COMPLETED TO DATE _____ %

EXHIBIT F – CERTIFICATION OF PAYMENT TO DBE FIRMS

(To Be Completed by Prime Consultant and DBE Subconsultant)

PRIME CONSULTANT AFFIDAVIT:

The undersigned, having contracted as the prime Consultant on Project # CIP 929 / 842, hereby certifies that full payment has been made to the DBE subconsultant/subcontractor cited below. The total value of all payments made to the DBE firm for materials and/or work performed on this project contract is as follows:

DBE Subconsultant: _____ **Total Amount Paid: \$** _____

This certification is made under Federal and State laws concerning false statement. Supporting documentation for this payment is subject to audit and should be retained for a minimum of three (3) years from the project acceptance date. In the event the DBE was not paid in accordance with affidavits submitted by the prime consultant, all documentation supporting the Prime Consultant's position should be submitted.

I DECLARE UNDER PENALTY OF PERJURY IN THE SECOND DEGREE, AND ANY OTHER APPLICABLE STATE OR FEDERAL LAW, THE STATEMENTS MADE ON THIS DOCUMENT ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

By: _____
Authorized Agent for Prime Consultant (Print Name and Title)

Date: _____

DBE SUBCONSULTANT/SUBCONTRACTOR AFFIDAVIT:

The undersigned DBE subconsultant/subcontractor/supplier/manufacture hereby certifies that a contract was entered into with the above named Prime Consultant to perform work or provide materials on the project cited in this document. I further certify that the total amount of payments received as provided herein by the Prime Consultant is accurate and unchallenged.

I DECLARE UNDER PENALTY OF PERJURY IN THE SECOND DEGREE, AND ANY OTHER APPLICABLE STATE OF FEDERAL LAWS, THE STATEMENTS MADE ON THIS DOCUMENT ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

By: _____
Authorized Agent for DBE Subconsultant (Print Name and Title)

Date: _____

FOR ADDITIONAL INFORMATION ON THE COMPLETION OF THIS FORM, PLEASE CONTACT THE PHOENIX-MESA GATEWAY AIRPORT AUTHORITY GRANTS OFFICE AT (480) 988-7652.

EXHIBIT G – CERTIFICATION OF PAYMENT OF DBE TO LOWER TIER

(To Be Completed by the DBE Subconsultant)

Project No.: CIP 929 / 842

DBE Firm: _____ **AZ UTRACS Registration No.:** _____

Select: Consultant Trucker Broker (Fees/Commission) Supplier (60% DBE Credit) Manufacturer

The undersigned is prepared to perform the following scope(s) of work on the above referenced project.

UNIT PRICE OR HOURLY RATE BID					
Start Date	End Date	Description / Scope of Work	Unit/Hourly Quantity	Unit/Hourly Price	Total Minimum Contract Amount

TOTAL \$ _____

The undersigned has sublet \$ _____ of work bid to a non-DBE firm for the time frame listed above.

OR

The undersigned has sublet \$ _____ of work bid to another certified DBE firm for the time frame listed above.

I, _____ confirm that _____
(Authorized DBE firm officer, print name) (Name of DBE firm)

For the time period represented above, the DBE firm has performed the scope(s) as described above for \$ _____
(Total DBE Credit Dollar Value)

(Authorized DBE firm officer, signature)

(Title)

(Date)

**EXHIBIT H – IDENTIFICATION STATEMENT FOR DISADVANTAGED
BUSINESS ENTERPRISES**

(To Be Completed By Any DBE Who Is Not Certified By The Arizona Unified Certification Program)

The undersigned herein affirms that the firm submitting this statement has qualified as a Disadvantaged Business Enterprise and holds a current DBE certification from a U.S. Department of Transportation (USDOT) recognized certifying agency as follows:

DBE CERTIFYING AGENCY: _____ PHONE # _____
EXPIRATION DATE OF CURRENT DBE CERTIFICATION: _____, 201_

DBE BUSINESS NAME: _____
DBE PRINCIPAL BUSINESS ADDRESS: _____
CITY: _____ STATE: _____ ZIP: _____
PHONE #:(____) _____
DBE QUALIFYING OWNER: _____ TITLE _____

LICENSES HELD BY DBE FIRM: _____
ISSUED BY: _____
SERVICES/WORK/PRODUCTS PROVIDED: _____

SIGNED AND DATED this _____ day of _____, 201_

Authorized Signature

Print Name and Title

**EXHIBIT I – LETTER OF INTENT TO PERFORM AS A SUBCONSULTANT /
SUBCONTRACTOR / SUPPLIER**

(To Be Completed By The DBE Subconsultant/Subcontractor/Supplier)

PROJECT DESCRIPTION:
Airport Master Planning Services

PROJECT NUMBER:
CIP929 / 842

TO: _____ (Insert name of prime Consultant)

1. The undersigned is certified as a DBE as of the date of this proposal with the following agency:

___ City of Phoenix ___ City of Tucson ___ AZ Department of Transportation

___ Other (please provide agency name and complete Attachment C)

2. The undersigned is prepared to perform the following scope(s) of work on the above referenced project:

Description

On the _____ day of _____, 201_, by signature below, the undersigned agrees to enter into a formal agreement/subcontract for the work cited herein should the prime Consultant receive award of this contract from the Phoenix-Mesa Gateway Airport Authority.

(Print DBE Firm Name)

(Phone Number)

(Authorized Signature)

(Print Name and Title)

EXHIBIT J – SPECIAL PROVISIONS

1. Project Security

As some or all portions of work possible during the Term of this Contract may be located inside the secured area of the Airport, adherence to and familiarity with federal security regulations is essential. For these projects, Consultant shall be responsible for fulfilling the security requirements described herein.

- a. Secured Area Access – All Consultant personnel who require unescorted access to the secured area of the Airport, prior to the issuance of an Airport Identification badge, must successfully complete the Security Badge Application and Security Badge Authorization forms.
- b. Employee Security Badges – If deemed necessary by PMGAA, Consultant, Consultant’s employees and/or subconsultant’s personnel performing work functions in accordance with this Contract shall obtain and properly display an Airport security badge. Consultant shall submit a Security Badge Application form to the PMGAA security office for each employee requiring unescorted access, along with the current fee for each badge. Badge fees are identified on the current *Airport Rates and Charges Schedule* listing available via the Airport website at www.gatewayairport.com.
 - i. All fees must be paid to PMGAA by cash or check.
 - ii. Airport Security Badge Application forms and instructions are available via the Airport website at www.gatewayairport.com.
 - iii. An authorized representative of Consultant must also obtain and submit a Security Media Authorization form, which is to be submitted to the PMGAA badging office. The Security Media Authorization form and instructions are available via the Airport website at www.gatewayairport.com.
 - iv. A training class on aviation security must be successfully completed before individuals are issued a badge. Fees for the security badge include attendance for the necessary training classes. Attendance at the security classes and issuance of the security badge may take two hours per person.
 - v. Additional information, including a “Frequently Asked Questions” is available via the Airport website at www.gatewayairport.com or by contacting the PMGAA Badging Office at (480) 988-7522. The Badging Office is located at 5803 S. Sossaman Road, Mesa AZ 85212.
 - vi. Consultant shall immediately notify the PMGAA Badging Office of any Consultant personnel whose employment status has changed.
 - vii. Consultant shall retrieve all security badges and keys and return them to the PMGAA Badging Office. A fee, as indicated on the most current *Airport Rates and Charges Schedule*, will be charged for each badge that is damaged, lost or not returned.
 - viii. The PMGAA Badging Office will require a completed Security Badge Application from each Consultant employee so certified by Consultant as requiring such before a Security Badge is issued.
 - ix. Under certain circumstances and out of control of PMGAA, security measures may change on short notice. No deviations from any security measure shall be allowed at any time.
 - x. At all times, aircraft shall have the right-of-way over all vehicle traffic.
- c. Fines – Due to both the safety and security precautions necessary at the Airport, any failure of the Consultant to adhere to prescribed Airport requirements/regulations has consequences that may jeopardize the health, welfare and lives of Airport customers and employees, as well as the Consultant’s own employees. Therefore, if Consultant is found to be in non-compliance with any security, airfield badging/licensing and airfield safety requirement, a Notice of Violations (NOV) may be issued. A current listing of fines is available by contacting the PMGAA Badging Office.

2. Standard Terms & Conditions

PMGAA’s Standard Terms & Conditions (in **EXHIBIT K** attached) include clauses that pertain to both construction and professional services. For such, the term “contractor” is to be considered same as “consultant.” If a clause implies construction service, then it is waived for a professional services contract. PMGAA reserves the right to make that determination if there is a conflict. Wherever Standard Terms & Conditions are in conflict with conditions stated in this Special Provisions Section, the conditions stated in this Section shall take precedence.

3. Federal and State Guidelines and Regulations

All work performed under this Contract must satisfy FAA and applicable agency standards, and be accomplished in accordance with applicable federal, state and local guidelines and regulations, including FAA Advisory Circulars, NEPA and Arizona environmental statutes.

Consultant shall perform the services as described in approved Contract in accordance with the applicable requirements imposed by PMGAA, ADOT, FAA and any other applicable sponsoring agencies. Consultant and its subconsultants/subcontractors, if any, shall comply with any and all applicable laws, regulations, executive orders, policies, guidelines, and any other requirements for FAA Airport Improvement Program (AIP) projects. Consultant shall provide PMGAA all information, reports, documents, and/or certifications requested by PMGAA for the satisfaction of any grant requirements for the reimbursement of services, including, without limitation, identifying the specific services provided by Consultant and the billing period(s) during which services were or are to be provided. Nothing herein shall be construed as making the FAA or ADOT a party to this Contract.

4. Right to Contract With Other Firms

PMGAA shall have the right to contract with other firms and/or persons and/or to self-perform additional services, which may be the subject of this Contract. Consultant shall conduct its operations and perform any services authorized under the Contract so as not to interfere with or hinder the progress of completion of the work being performed by PMGAA and/or other firms and/or persons. Consultants working on the same project shall cooperate with each other in the performance, scheduling, and, if applicable, the integration of their respective services.

5. Independent Contractor/Consultant Status

At all relevant times, Consultant is - and shall remain - an independent contractor/consultant with regard to performance of its services. PMGAA retains no control over Consultant, the performance of its work or services, or the safety of its employees. Consultant is not authorized to enter into any contract or commitment, authorize any payment, or accept any document, services, goods or materials for, in the name of, or on behalf of PMGAA.

EXHIBIT K – PMGAA STANDARD TERMS AND CONDITIONS

1. Certification

By signature of this Contract, Consultant certifies:

- a. The award of this Contract did not involve collusion or other anti-competitive practices.
- b. It shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, or A.R.S. Section 31-1461, et. seq.
- c. It has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Contract; and Consultant hereby certifies that the individual signing this Contract is an authorized agent for Consultant and has the authority to bind the Consultant to the Contract.

2. Records

Internal control over all financial transactions related to this Contract shall be in accordance with sound fiscal policies. PMGAA may, at reasonable times and places, audit the books and records of Consultant or any and all of Consultant's subconsultants or subcontractors. The audit shall be limited to this Contract and its scope of services.

3. Arbitration

At PMGAA's sole option, disputes between the parties may be resolved through arbitration as provided in A.R.S. Section 12-1501, *et seq.* Consultant shall continue to render the services required by this Contract without interruption, notwithstanding either party has filed suit against the other or PMGAA has expressly agreed to arbitration and either party has demanded arbitration.

4. Independent Contractor

At all times, each party acts in its individual capacity and not as agent, employee, partner, joint venturer, or associate of the other party. An employee or agent of one party may not be deemed or construed to be the employee or agent of the other party for any purpose whatsoever. Neither Consultant nor any of its employees are entitled to compensation from PMGAA in the form of salaries, paid vacation, or sick days.

PMGAA will not provide any insurance to Consultant, including *Workers' Compensation* coverage. PMGAA will not withhold FICA, taxes, or any similar deductions from PMGAA's payments under this Contract.

5. Affirmative Action

Consultant shall abide by all the federal and state of Arizona provisions for equal opportunity in the work place.

6. Human Relations

Consultant shall abide by all the federal and state of Arizona provisions against discrimination of disadvantaged business enterprises in applicable PMGAA contracts.

7. Non-Exclusive Contract

This Contract is for the sole convenience of PMGAA. PMGAA reserves the right in its discretion to obtain the same or similar goods or services from any other source.

8. Patent Infringement

The procuring agency should advise Consultant of any impending patent suit and provide all information available. Consultant shall defend any suit or proceeding brought against the procurement agency based on a claim that any equipment, or any part thereof, furnished under this contract constitutes an infringement of any patent, and the Contract shall pay all damages and costs awarded therein, excluding incidental and consequential damages, against the procuring agency. In case the equipment, or any part thereof, is in such suit held to constitute infringement and use of the equipment or part is enjoined, Consultant shall, at its own expense and at its option, either procure for the procuring agency the right to continue using the equipment or part, or replace same with non-infringing equipment, or modify it so it becomes non-infringing.

9. Americans with Disabilities Act

Consultant shall comply with all applicable provisions of the *Americans with Disabilities Act* (Public Law 101-336, 42 U.S.C. 12101-12213) and applicable federal regulations under the *Act*.

10. Confidentiality of Records

Consultant shall establish and maintain procedures and controls that are acceptable to PMGAA for the purpose of assuring that no information contained in its records or obtained from PMGAA or from others in carrying out its functions under the Contract shall be used by or disclosed by it, its agents, officers, or employees, except as required to efficiently perform duties under this Contract. Persons requesting such information should be referred to

PMGAA. Consultant also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Consultant as needed for the performance of duties under the Contract, unless otherwise agreed to in writing by PMGAA.

11. Shipment under Reservation Prohibited

Consultant is not authorized to ship materials under reservation and no tender of a bill of lading shall operate as a tender of the materials. Non-compliance shall conform to the cancellation clause set forth within this Contract.

12. Gratuities

PMGAA may, by written notice to the Consultant, cancel this Contract if it is found that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by Consultant or any agent or representative of Consultant, to any officer or employee of PMGAA involved in the amending, or the making of any determinations with respect to the performing of such Contract. If this Contract is canceled by PMGAA under this provision, PMGAA shall, in addition to any other rights and remedies, repay to the Consultant the amount of the gratuity.

13. Applicable Law

This Contract shall be governed by, and PMGAA and Consultant shall have, all remedies afforded each by the *Uniform Commercial Code*, as adopted in the state of Arizona, except as otherwise provided in this Contract or in laws pertaining specifically to PMGAA. This Contract shall be governed by the laws of the state of Arizona, and suits pertaining to this Contract shall be brought only in federal or state courts in the state of Arizona.

14. Contract

This Contract is based on and the result of a negotiated Scope of Services and Fee Proposal submitted by Consultant. The Contract contains the entire agreement between PMGAA and Consultant. No prior oral or written agreements, contracts, proposals, negotiations, purchase orders, or master agreements (in any form) are enforceable between the parties.

15. Legal Remedies

All claims and controversies shall be subject to the PMGAA Procurement Code.

16. Contract Amendments

This Contract shall be modified only by a written amendment signed by the PMGAA Executive Director or his/her designee, and persons duly authorized to enter into contracts on behalf of Consultant.

17. Provisions Required by Law

Each and every provision of law and any clause required by law to be in the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the Contract shall forthwith be physically amended to make such insertion or correction.

18. Severability

The provisions of this Contract are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the Contract, which may remain in effect without the valid provision, or application.

19. Protection of Government Property

Consultant shall use reasonable care to avoid damaging all PMGAA property, including buildings, equipment, and vegetation (such as trees, shrubs, and grass). If Consultant damages PMGAA's property in any way, Consultant shall immediately repair or replace the damage at no cost to PMGAA, as directed by the PMGAA Executive Director. If Consultant fails or refuses to repair or replace the damage, then PMGAA may terminate the Contract, and PMGAA shall deduct the repair or replacement cost from money due Consultant under the Contract.

20. Interpretation – Parol Evidence

This Contract is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms thereof. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in this Contract. Acceptance or acquiescence in a course of performance rendered under this Contract shall not be relevant to determine the meaning of this Contract even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to object.

21. Assignment – Delegation

No right or interest in this Contract shall be assigned by Consultant without prior written permission of PMGAA, and no delegation of any duty of Consultant shall be made without prior written permission of PMGAA's Executive Director or his/her designee. PMGAA shall not unreasonably withhold approval and shall notify Consultant of PMGAA's position within fifteen (15) business days of receipt of written notice by Consultant.

22. Subcontracts

Consultant may not enter into a subcontract with any other party to furnish any of the material/service specified herein without PMGAA's advance written approval. All subcontracts shall comply with federal and state laws and regulations applicable to the services covered by the subcontract and shall include all the terms and conditions set forth herein, which shall apply with equal force to the subcontract, as if the subcontractor were the Consultant referred to herein. Consultant is responsible for Contract performance whether or not subcontractors are used. PMGAA shall not unreasonably withhold approval and shall notify Consultant of PMGAA's position within fifteen (15) business days of receipt of written notice by Consultant.

23. Rights and Remedies

No provision in this Contract shall be construed, expressly or by implication, to waive either party's existing or future claim, right, or remedy available by law for breach of contract. The failure of either party to insist on strict performance of any Contract term or condition; to exercise or delay exercising any right or remedy provided in the Contract or by law; or to accept materials, services, or Consultant's services under this Contract or imposed by law, shall not be deemed a waiver of any right of either party to insist upon strict performance of the Contract.

24. Warranties

Consultant warrants that all materials and services delivered under this Contract shall conform to the specifications thereof. Mere receipt of shipment of the material or service specified and any inspection incidental thereto by PMGAA, shall not alter or affect the obligations of Consultant or the rights of PMGAA under the foregoing warranties. Additional warranty requirements may be set forth in this Contract.

25. Indemnification

To the fullest extent permitted by law, Consultant shall defend, save, indemnify, and hold harmless PMGAA, its agents, representatives, officers, directors, officials, and employees (collectively the "Indemnitees"), for, from and against all claims, damages, losses and expenses, including but not limited to attorney fees, court costs, expert

witness fees, and the cost of appellate proceedings, relating to, arising out of, or alleged to have resulted from the Consultant's acts, errors, omissions, or mistakes relating to Consultant's services under this Contract.

26. Overcharges by Antitrust Violations

PMGAA maintains that, in actual practice, overcharges resulting from antitrust violations are borne by the purchaser. Therefore, to the extent permitted by law, Consultant hereby assigns to PMGAA any and all claims for such overcharges as to the materials or services used to fulfill the Contract.

27. Right to Assurance

Whenever one party to this Contract in good faith has reason to question the other party's intent to perform, the former party may demand that the other party give a written assurance of this intent to perform. If a demand is made and no written assurance is given within five (5) business days, the demanding party may treat this failure as an anticipatory repudiation with this Contract.

28. Advertising

Consultant shall not advertise or publish information concerning this Contract without prior written consent of PMGAA.

29. Right to Inspect

PMGAA may, at reasonable times, and at PMGAA's expense, inspect the place of a Consultant's or subcontractor's business, which is related to the performance of this Contract or related subcontract.

30. Force Majeure

- a. Neither party is liable to the other, and neither party may be deemed in default under this Contract, if and to the extent that such party's performance of this Contract is prevented by reason of Force Majeure. The term "Force Majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Force Majeure does not include late performance by a subcontractor unless the delay arises out of a specific Force Majeure in accordance with this Force Majeure term and condition.
- b. If either party is delayed at any time in the progress of the work by Force Majeure, the delayed party shall notify the other party in writing, as soon as practical, of the delay and shall specify the causes of delay in the notice. The notice must be hand-delivered or mailed certified-return receipt and must specifically refer to this section. The delayed party shall cause the delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The date of completion will be extended by Contract modification or amendment for the period of time that the completion date is necessarily delayed. This time extension is the Consultant's exclusive remedy for delay.

31. Inspection

All material or service is subject to final inspection and acceptance by PMGAA. Material or service failing to conform to the specifications of this Contract will be held at Consultant's risk and may be returned to Consultant. If so returned, all costs are the responsibility of Consultant. Noncompliance shall conform to the cancellation clause set forth in this Contract.

32. Exclusive Possession

All services, information, computer program elements, reports, and other deliverables, which may be created under this Contract, are the sole property of PMGAA and shall not be used or released by Consultant or any other person except with prior written permission by PMGAA.

33. Title and Risk of Loss

The title and risk of loss of materials or services shall not pass to PMGAA until PMGAA actually receives the material or service at the Airport, unless otherwise provided within this Contract.

34. No Replacement of Defective Tender

Every tender of materials must fully conform to all provisions of this Contract. If Consultant tenders a material or service that does not fully conform, PMGAA may terminate this Contract.

35. Default in One Installment to Constitute Total Breach

Consultant shall deliver conforming materials and services in each installment or lot of this Contract. Consultant may not substitute nonconforming materials or services. Delivery of nonconforming materials or a default of any nature, at the option of PMGAA, will constitute breach of the Contract as a whole.

36. Liens

All materials, services, and other deliverables supplied to PMGAA under this Contract must be free of all liens and other encumbrances. Upon request of PMGAA, Consultant shall provide a formal release of all liens.

37. Licenses

Consultant shall maintain in current status all federal, state, and local licenses and permits required for the operation of the business conducted by Consultant as applicable to this Contract.

38. Cost Of Proposal Preparation

PMGAA shall not reimburse the cost of developing, presenting, or providing any response to this solicitation. Bids/proposals submitted for consideration should be prepared simply and economically providing adequate information in a straightforward and concise manner.

39. Public Record

All proposals submitted in response to this request shall become the property of PMGAA and shall become a matter of public record available for review subsequent to the award notification.

40. Subsequent Employment

PMGAA may cancel this Contract without penalty or further obligation in accordance with A.R.S. Section 38-511 if any person significantly involved in initiating, negotiating, securing, drafting, or creating the contract, on behalf of PMGAA is or becomes, at any time while the Contract or any extension of the contract is in effect, an employee of, or a contractor to any other party to this Contract with respect to the subject matter of the Contract. Such cancellation shall be effective when the parties to this Contract receive written notice from PMGAA, unless the notice specifies a later time.

41. Clean Up

Consultant shall at all times keep Contract performance areas, including storage areas used by the Consultant, free from accumulation of waste material or rubbish and, prior to completion of the work, remove any rubbish from the premises and all tools, scaffolding, equipment and materials not property of PMGAA. Upon completion of any repair, Consultant shall leave the work and premises in clean, neat, and workmanlike condition.

42. Patents

Consultant shall defend, indemnify, and hold harmless PMGAA, its officers and employees from all liabilities, claims, damages, costs, or expenses, including, but not limited to attorneys' fees, for any alleged infringement of any person's patent rights or copyrights in consequence of the use by PMGAA, its officers, employees, agents, and other duly authorized representatives of tangible or intellectual property supplied to PMGAA by Consultant under this Contract.

43. Availability of Project Funding

This Contract's approval and continuation is conditioned on the availability of funds appropriated by PMGAA for this purpose. If funds are not available or appropriated for the Contract's requirements, PMGAA may terminate the Contract. Possible sources of funding for this Contract include FAA and ADOT, and this Contract is contingent on the availability of those funds to PMGAA.

44. Records and Audit Rights

Consultant's and all of its approved subcontractors' books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Contract, including the papers of all Consultant and subcontractor employees that work on the Contract (all the foregoing collectively referred to as "Records"), must be open to inspection and subject to audit and/or reproduction during normal working hours by PMGAA. PMGAA is entitled to evaluate and verify all invoices, payments or claims based on Consultant's and its subcontractor's actual costs (including direct and indirect costs and overhead allocations) incurred or units expended directly in the performance of work under this Contract. For any audit under this Section, Consultant and its subcontractors hereby waive the right to keep such Records confidential. PMGAA is entitled to access to these Records from the effective date of this Contract for the duration of the work and until five years after the date of final payment by PMGAA to Consultant under the Contract. During normal working hours, PMGAA is entitled to access to all necessary Consultant and subcontractor facilities and shall be provided adequate and appropriate workspace, in order to conduct audits under this Section. PMGAA shall give Consultant or subcontractors reasonable advance notice of intended audits. Consultant shall require its subcontractors to comply with the provisions of this Section by including its requirements in all subcontracts related to this Contract.

45. E-Verify Requirements

To the extent applicable under A.R.S. § 41-4401, Offeror and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees, and compliance with the E-Verify requirements under A.R.S. §23-214(A). Offeror's or its subcontractors' failure to comply with such warranty shall be deemed a material breach of this Contract and may result in the termination of this Contract by PMGAA.

EXHIBIT L – FEDERAL PROVISIONS

1. Access to Records and Reports

Consultant must maintain an acceptable cost accounting system. Consultant further agrees to provide PMGAA, the FAA and the Comptroller General of the United States, or any of their duly authorized representatives, access to any books, documents, papers, and records of Consultant which are directly pertinent to this specific Contract for the purpose of making audit, examination, excerpts and transcriptions. Consultant agrees to maintain all books, records and reports required under this Contract for a period of not less than three (3) years after final payment is made and all pending matters are closed.

2. Civil Rights Act of 1964, Title VI – General

The contractor/consultant agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color or national origin, sex, age or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

3. Civil Rights Act of 1964, Title VI – Assurances

During the performance of this Contract, the contractor/consultant, for itself, its assignees and successors in interest agrees as follows:

- a. Compliance with Regulations – Compliance with Regulations: The contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts And Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
- b. Nondiscrimination – The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
- c. Solicitations for Subcontracts, including Procurements of Materials and Equipment – In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.
- d. Information and Reports – The contractor will provide all information and reports required by the Acts, the Regulations and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by PMGAA or the FAA to be pertinent to ascertain compliance with such Nondiscrimination Acts And Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to PMGAA or the FAA as appropriate, and will set forth what efforts it has made to obtain the information.
- e. Sanctions for Noncompliance – In the event of a contractor's noncompliance with the Nondiscrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the FAA may determine to be appropriate, including, but not limited to:
 - i) Withholding of payments to the contractor under the contract until the contractor complies, and/or;
 - ii) Cancellation, termination, or suspension of the Contract, in whole or in part.
- f. Incorporation of Provisions – The contractor will include the provisions of paragraphs one through six of this **EXHIBIT L** in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as PMGAA or the FAA may direct as a means of

enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request PMGAA to enter into any litigation to protect the interests of PMGAA. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

4. Civil Rights – Title VI List of Pertinent Nondiscrimination Acts and Authorities

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The FAA’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).

5. Disadvantaged Business Enterprises (DBE)

The requirements of 49 CFR Part 26 apply to this contract.

- a. Contract Assurance (§26.13) – Consultant and/or subcontractor(s) shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. Consultant shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts.

Failure by Consultant to carry out these requirements is a material breach of this Contract, which may result in the termination thereof or such other remedy, as the recipient deems appropriate.

- b. Prompt Payment (§26.29) – Consultant agrees to pay each subcontractor under this Contract for satisfactory performance of its contract obligations no later than seven (7) days from the receipt of each payment Consultant receives from PMGAA. Consultant agrees further to return retainage payments to each subcontractor within seven (7) days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of PMGAA. This clause applies to both DBE and non-DBE subcontractors.

6. Energy Conservation Requirements

Consultant and Subconsultant agree to comply with mandatory standards and policies relating to energy efficiency as contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201 *et seq*)

7. Federal Fair Labor Standards Act

This contract and all subcontracts that result from this contract incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers.

The Consultant has full responsibility to monitor compliance to the referenced statute or regulation. The Consultant must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

8. Occupational Safety and Health Act of 1970

This contract and all subcontracts that result from this contract incorporate by reference the provisions of 29 CFR part 1910 with the same force and effect as if given in full text. Consultant must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The Consultant retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20CFR Part 1910). Consultant must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

9. Termination for Convenience

PMGAA may, by written notice to the Consultant, terminate this Agreement for its convenience and without cause or default on the part of Consultant. Upon receipt of the notice of termination, except as explicitly directed by PMGAA, the Consultant must immediately discontinue all services affected.

Upon termination of the Agreement, the Consultant must deliver to PMGAA all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

Owner agrees to make just and equitable compensation to the Consultant for satisfactory work completed up through the date the Consultant receives the termination notice. Compensation will not include anticipated profit on non-performed services.

Owner further agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

10. Termination for Default

Either party may terminate this Agreement for cause if the other party fails to fulfil its obligations that are

Essential to the completion of the work per the terms and conditions of the Agreement. The party initiating the termination action must allow the breaching party an opportunity to dispute or cure the breach.

The terminating party must provide the breaching party [7] days advance written notice of its intent to terminate the Agreement. The notice must specify the nature and extent of the breach, the conditions necessary to cure the breach, and the effective date of the termination action. The rights and remedies in this clause are in addition to any other rights and remedies provided by law or under this agreement.

- a. Termination by Owner: PMGAA may terminate this Agreement in whole or in part, for the failure of the Consultant to:
 - i. Perform the services within the time specified in this contract or by Owner approved extension;
 - ii. Make adequate progress so as to endanger satisfactory performance of the Project;
 - iii. Fulfill the obligations of the Agreement that are essential to the completion of the Project.

Upon receipt of the notice of termination, the Consultant must immediately discontinue all services affected unless the notice directs otherwise. Upon termination of the Agreement, the Consultant must deliver to PMGAA all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

Owner agrees to make just and equitable compensation to the Consultant for satisfactory work completed up through the date the Consultant receives the termination notice. Compensation will not include anticipated profit on non-performed services.

Owner further agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

If, after finalization of the termination action, PMGAA determines the Consultant was not in default of the Agreement, the rights and obligations of the parties shall be the same as if PMGAA issued the termination for the convenience of PMGAA.

- b. Termination by Consultant: The Consultant may terminate this Agreement in whole or in part, if the Owner:
 - i. Defaults on its obligations under this Agreement;
 - ii. Fails to make payment to the Consultant in accordance with the terms of this Agreement;
 - iii. Suspends the Project for more than [180] days due to reasons beyond the control of the Consultant.

Upon receipt of a notice of termination from the Consultant, Owner agrees to cooperate with Consultant for the purpose of terminating the agreement or portion thereof, by mutual consent. If Owner and Consultant cannot reach mutual agreement on the termination settlement, the Consultant may, without prejudice to any rights and remedies it may have, proceed with terminating all or parts of this Agreement based upon PMGAA's breach of the contract.

In the event of termination due to Owner breach, the Engineer is entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all justified reimbursable expenses incurred by the Consultant through the effective date of termination action. Owner agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

11. Trade Restriction Clause

By submission of an offer, the Offeror/Contractor/Consultant certifies that with respect to this solicitation and any resultant contract, the Offeror/Contractor/Consultant -

- a. is not owned or controlled by one or more citizens of a foreign country included in the list of

- countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (U.S.T.R.);
- b. has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country included on the list of countries that discriminate against U.S. firms as published by the U.S.T.R.; and
 - c. has not entered into any subcontract for any product to be used on the Federal on the project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the U.S.T.R.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

The Offeror/Contractor/Consultant must provide immediate written notice to PMGAA if the Offeror/Contractor/Consultant learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The Consultant must require subcontractors provide immediate written notice to the Consultant if at any time it learns that its certification was erroneous by reason of changed circumstances.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to an Offeror or subcontractor:

- a. who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the U.S.T.R. or
- b. whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such U.S.T.R. list or
- c. who incorporates in the public works project any product of a foreign country on such U.S.T.R. list;

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a contractor/consultant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

The Offeror/Contractor/Consultant agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in in all lower tier subcontracts. The contractor/consultant may rely on the certification of a prospective subcontractor that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by U.S.T.R., unless the Offeror/Contractor/Consultant has knowledge that the certification is erroneous.

This certification is a material representation of fact upon which reliance was placed when making an award. If it is later determined that the Contractor/Consultant or subcontractor/subconsultant knowingly rendered an erroneous certification, the Federal Aviation Administration may direct through PMGAA cancellation of the contract or subcontract for default at no cost to PMGAA or the FAA.

12. Veteran's Preference

In the employment of labor (excluding executive, administrative, and supervisory positions), the consultant and all sub-tier consultants must give preference to covered veterans as defined within Title 49 United States Code Section 47112. Covered veterans include Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns (as defined by 15 U.S.C. 632) owned and controlled by disabled veterans. This preference only applies when there are covered veterans readily available and qualified to perform the work to which the employment relates.

13. Debarment and Suspension

a. Certification of Consultant. Consultant, by accepting this Contract, certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

b. Certification of Lower Tier Subconsultants

Consultant, by administering each lower tier subcontract that is equal to or exceeds \$25,000 as a “covered transaction”, must verify each lower tier participant of a “covered transaction” under the project is not presently debarred or otherwise disqualified from participation in this federally assisted project. The consultant will accomplish this by:

1. Checking the System for Award Management website at: <http://www.sam.gov>
2. Collecting a certification statement similar to the Certificate Regarding Debarment and Suspension above
3. Inserting a clause or condition in the covered transaction with the lower tier contract

If the FAA later determines that a lower tier participant failed to disclose to a higher tier participant that it was excluded or disqualified at the time it entered the covered transaction, the FAA may pursue any available remedies, including suspension and debarment of the non-compliant participant.

14. Breach of Contract Terms

Any violation or breach of terms of this Contract on the part of Consultant or its subconsultants or subcontractors may result in suspension or termination of this Contract, or such other action that may be necessary to enforce the rights of the parties with respect thereto. The duties and obligations imposed by the Contract and the rights and remedies available thereunder shall be in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

PMGAA will provide Consultant written notice that describes the nature of the breach and corrective actions the Consultant must undertake in order to avoid termination of the Contract. PMGAA reserves the right to withhold payment to the Consultant until such time the Consultant corrects the breach or PMGAA elects to terminate the Contract. PMGAA’s notice will identify a specific date by which the Consultant must correct the breach. PMGAA may proceed with termination of the Contract if the Consultant fails to correct the breach by the deadline indicated in PMGAA’s notice.

15. Distracted Driving

In accordance with Executive Order 13513, “Federal Leadership on Reducing Text Messaging While Driving” (10/1/2009) and DOT Order 3902.10 “Text Messaging While Driving” (12/30/2009), the FAA encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or sub-grant.

In support of this initiative, PMGAA encourages the Consultant to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. The Consultant must include the substance of this clause in all sub-tier contracts exceeding \$3,500 and involve driving a motor vehicle in performance of work activities associated with the project.

16. Lobbying and Influencing Federal Employees

Consultant certifies by signing and accepting this contract, to the best of his or her knowledge and belief that:

- a. No federal appropriated funds shall be paid, by or on behalf of Consultant, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant and the amendment or modification of any federal grant.

- b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal grant, the Consultant shall complete and submit Standard Form-LLL, "Disclosure of Lobby Activities," in accordance with its instructions.
- c. Consultant, by submission of an offer and/or execution of a contract, certifies that the language above will be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

17. Clean Air and Water Pollution Control

Consultant agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clear Air Act (42 U.S.C. § 740-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C § 1251-1387). Consultant agrees to report any violation to PMGAA immediately upon discovery. PMGAA assumes responsibility for notifying the Environmental Protection Agency (EPA) and the FAA.

Consultant must include this requirement in all subcontracts that exceed \$150,000.

18. Rights to Inventions

Contracts or agreements that include the performance of experimental, developmental, or research work must provide for the rights of the Federal Government and PMGAA in any resulting invention as established by 37 CFR part 401, Rights to Inventions Made by Non-profit Organizations and Small Business Firms under Government Grants, Contracts, and Cooperative Agreements. This contract incorporates by reference the patent and inventions rights as specified within in the 37 CFR §401.14. Consultant must include this requirement in all sub-tier contracts involving experimental, developmental or research work.

19. Contract Workhours and Safety Standards Act Requirements

a. Overtime Requirements.

No Consultant or subconsultant contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic, including watchmen and guards, in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

b. Violation; Liability for Unpaid Wages; Liquidated Damages.

In the event of any violation of the clause set forth in paragraph (1) of this clause, the Consultant and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Consultant and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this clause, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this clause.

c. Withholding for Unpaid Wages and Liquidated Damages.

The Federal Aviation Administration (FAA) or PMGAA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Consultant or subcontractor under any such contract or any other Federal contract with the same prime Consultant, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Consultant, such sums as may be determined to be necessary to satisfy any liabilities of such Consultant or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 2 of this clause.

d. Subcontractors.

The Consultant or subconsultant shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The prime Consultant shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this clause.

20. Equal Employment Opportunity (E.E.O)

During the performance of this contract, Consultant agrees as follows:

- a. The Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identify or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- b. The Consultant will, in all solicitations or advertisements for employees placed by or on behalf of the Consultant, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
- c. The Consultant will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Consultant's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- d. The Consultant will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- e. The Consultant will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- f. In the event of the Consultant's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Consultant may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- g. The Consultant will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Consultant will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however,* That in the event a Consultant becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

21. Prohibition of Segregated Facilities

- a. The Consultant agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Consultant agrees that a breach of this clause is a violation of the Equal Opportunity clause in this contract.
- b. “Segregated facilities,” as used in this clause, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.
- c. The Consultant shall include this clause in every subcontract and purchase order that is subject to the Equal Opportunity clause of this contract.