

## Notice of Request for Qualifications (RFQ)

SOLICITATION NUMBER: 2020-007-RFQ

SERVICE: On Call Engineering Services

DUE DATE & TIME: October 17, 2019 by 11:00 am (Arizona) time

MAILING/DELIVERY 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 Offerors to provide On-Call Airport Engineering consulting services for the Phoenix-Mesa Gateway Airport (Gateway Airport) in Mesa, Arizona. This solicitation may be downloaded from our website at [www.gatewayairport.com](http://www.gatewayairport.com) under the Business|Procurements & 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.

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 Offeror's name and address clearly indicated on the envelope. Submittals received on or before the correct time and date will be accepted by a staff member and a submittal receipt provided if requested. Late submittals will not be considered. **PMGAA's Administration Offices are closed on Fridays, Saturdays and Sundays and therefore, submittals will not be accepted on these days.**

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](mailto:mwhilden@gatewayairport.com)

A pre-submittal meeting is scheduled for September 26, 2019 at 9:00 a.m. The meeting will be held at the Airport Administration Building located at 5835 S. Sossaman Road, Mesa, AZ. Attendance is not mandatory, but Offerors are encouraged to attend this meeting. Any questions outside of the pre-submittal meeting will require a written inquiry by the Offeror and a written response from PMGAA to all Offerors in the form of an addendum.

Deadline for submitting questions to PMGAA is October 1, 2019. Responses to questions received will be issued in an addendum to the Request for Qualifications and posted at [www.gatewayairport.com](http://www.gatewayairport.com) under the Business|Procurements & Notices section of the website. Offerors are responsible for checking the PMGAA website at [www.gatewayairport.com](http://www.gatewayairport.com) under the Business|Procurements & Notices section for any addenda that may be created for this solicitation and including the issued addenda in its submitted Statement of Qualifications.

Direct contact with PMGAA Board of Directors and/or PMGAA 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 PMGAA Board of Directors, and/or PMGAA staff or representatives may be cause for rejection of qualifications.

Issue Date: September 12, 2019

## Request for Qualifications

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## Notice of Intent

**Solicitation Number 2020-007-RFQ, On Call Engineering Services**

**Please fax or email this page upon receipt of solicitation package**

**Fax: (480) 988-2315**

**Email: [mwhilden@gatewayairport.com](mailto: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](http://www.gatewayairport.com) under the Business | Procurements & Notices section for any addenda 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](mailto: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):**

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**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

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### A. GENERAL INFORMATION ON SOLICITATION PROCESS

1. **Availability of Solicitation.** The solicitation package is available via the Internet at [www.gatewayairport.com](http://www.gatewayairport.com) under the Business | Procurements & Notices section.
2. **Addenda.** If PMGAA deems it necessary to amend the solicitation, an Addendum will be prepared in writing and posted to PMGAA website. Offerors are responsible for obtaining all addenda via PMGAA's website at [www.gatewayairport.com](http://www.gatewayairport.com) under the Business | Procurements & Notices section or by other means. Any Addenda issued by PMGAA are to be included in the response and will become a part of the contract. Offeror shall acknowledge receipt of each addendum by signing and returning the document, as part of the Offeror's submittal under this RFQ, and by the specified due date and time of the RFQ.
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. Bids, proposals and/or statements of qualifications submitted for consideration should be prepared simply and economically, providing adequate information in a straightforward and concise manner.
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. All questions must be submitted by the date and time specified in this RFQ for PMGAA to consider its relevancy.
  - 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. **Offer and Acceptance Period.** Unless specified differently in Section Two, all proposals submitted shall remain valid and irrevocable for ninety (90) days after the opening time and date of proposals.
7. **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. Please review PMGAA's complete "Public Access to Procurement Information" contained in PMGAA's Procurement Policy that is available under the Policies, Documents and Forms link at: <http://www.gatewayairport.com/policiesdocumentsandforms>.

8. **Solicitation Results.** Results are not provided in response to telephone inquiries. A tabulation of responses received will remain on file at PMGAA and available for review after a contract is awarded.
9. **Debarment/Suspended.** By submitting a proposal, Offeror certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this solicitation by any Federal department or agency.
10. **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.
11. **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.
- 12. **Legal Remedies.** All claims and controversies shall be subject to the current PMGAA Procurement Policy.
- 13. **Special Provisions.** Wherever special provisions are written into the Special Provisions and Specifications (Section Two), which are in conflict with conditions stated in these Information and Instructions to Offerors, the provisions stated in the Special Provisions and Specifications, shall take precedence.
- 14. **Certification.** By submitting a bid, proposal or statement of qualifications, Offeror certifies:
  - a. 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.
  - b. 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 solicitation.
- 15. **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 Bidders or 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 statements of qualifications in response to this solicitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.
- 16. **Disadvantaged Business Enterprise.** The requirements of 49 CFR Part 26 apply to this contract. 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. 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 SOQs 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. SOQs may not be submitted via facsimile or electronically. Facsimiles or electronic mail SOQs shall not be considered.
  - c. Confidential, Trade Secret and Proprietary Information. Requests for nondisclosure of information deemed Confidential, Trade Secret, and/or Proprietary must be made in accordance with PMGAA's Procurement Policy. Please review PMGAA's complete "Public Access to Procurement Information" contained in PMGAA's Procurement Policy that is available under the Policies, Documents and Forms link at:  
<http://www.gatewayairport.com/policiesdocumentsandforms>.

**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 SOQs have been opened except as otherwise provided under applicable law, such as a specific request by PMGAA such as a requested Best and Final Offer (BAFO). All modifications shall be made in writing and executed and submitted in the same form and manner as the original proposal.
- 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 or other electronic format 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. PMGAA reserves the right to award to whichever Offeror(s) is deemed most advantageous to PMGAA. 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 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 PMGAA or by law.
- d. Standard Terms and Conditions. Offeror acknowledges that, by virtue of submitting a response to this RFQ, Offeror agrees all Standard Terms and Conditions, as stated in Section III of this RFQ, will be included in the executed Contract between Offeror and PMGAA as a result of this solicitation. If the Contract is not executed within 30 days from Notice of Intent to Award, PMGAA reserves the right to cancel and award to the next highest ranked Offeror.

- e. Professional Services Agreement. Selected Offeror(s) will be required to execute a Professional Services Agreement with PMGAA which will include by reference this solicitation. If the Agreement is not executed within 30 days from the Notice of Intent to Award, PMGAA reserves the right to cancel and award to the next highest rated firm.



## Section Two – Special Provisions and Specifications

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### A. PROJECT DESCRIPTION

Qualified Offerors shall provide all labor, equipment, supplies and materials to produce and deliver documents, plans, studies and/or specifications related to necessary On-Call Airport Engineering Services for various local, state and federally funded projects for the Phoenix-Mesa Gateway Airport.

This solicitation is not project specific. The Statement of Qualifications (SOQ) submitted should represent as completely as practicable the Offeror's experience in all areas of airport engineering design.

Per the latest FAA Advisory Circular 150/5100-14E, Architectural, Engineering, and Planning Consultant Services for Airport Grant Projects, the Airport Engineering basic services include, but are not limited to, the four distinct and sequential phases summarized below:

#### 1. Preliminary Phase

This phase involves those activities required for defining the scope of a project and establishing preliminary requirements. Some examples of activities within this phase of a project include, but are not limited to:

- a. Coordinating with PMGAA on project scope requirements, finances, schedules, operational safety and phasing considerations, site access and other pertinent matters.
- b. As applicable, coordinating project with local FAA personnel and other interested stakeholders to identify potential impacts to their operations.
- c. Planning, procuring, and/or preparing necessary surveys, geotechnical engineering investigations, field investigations, and engineering studies required for design considerations.
- d. Developing design schematics, sketches, environmental and aesthetic considerations, project recommendations, and preliminary layouts and cost estimates.
- e. Preparing project design criteria and other bridging documents commonly used for alternative project delivery methods such as design-build, JOC or CMAR contracting.

#### 2. Design Phase

This phase includes all activities required to undertake and accomplish a full and complete project design. Examples include, but are not limited to, those below:

- a. Conducting and attending meetings and design conferences to obtain information and to coordinate or resolve design matters.
- b. Collecting engineering data and undertaking field investigations; performing geotechnical engineering studies; and performing engineering, and special environmental studies.
- c. Preparing necessary engineering reports and recommendations.
- d. Preparing detailed plans, specifications, cost estimates, and design/construction schedules.
- e. Preparing Construction Safety and Phasing Plan (CSPP).
- f. Printing and providing necessary copies of engineering drawings and contract specifications.

#### 3. Bidding and Negotiation Phase

These activities are also sometimes considered part of the design phase and sometimes the construction phase. They involve assisting PMGAA in advertising and securing bids, negotiating for services, analyzing bid results, furnishing recommendations on the award of contracts, and preparing contract documents.

#### 4. Construction Phase

This phase may include all basic services rendered after the award of a construction contract, including, but not limited to, the following activities:

- a. Providing consultation and advice to PMGAA during all phases of construction.
- b. Representing the PMGAA at preconstruction conferences.
- c. Inspecting work in progress periodically and providing appropriate reports to PMGAA.

- d. Reviewing and approving shop and erection drawings submitted by contractors for compliance with design concept/drawings.
- e. Reviewing, analyzing, and accepting laboratory and mill test reports of materials and equipment.
- f. Assisting in the negotiation of change orders and supplemental agreements.
- g. Observing or reviewing performance tests required by specifications.
- h. Assisting in the negotiation of change orders and supplemental agreements.
- i. Observing or reviewing performance tests required by specifications.
- j. Determining amounts owed to contractors and assisting sponsors in the preparation of payment requests for amounts reimbursable from grant projects.
- k. Making final inspections and submitting punch-lists and a report of the completed project to the PMGAA.
- l. Reviewing operations and maintenance manuals.

#### **5. Project Closeout Phase**

This phase includes all basic services rendered after the completion of a construction contract, including, but not limited to, the following activities:

- a. Making final inspections and submitting punch-lists and a report of the completed project to PMGAA.
- b. Providing record drawings.
- c. Preparing summary of material testing report.
- d. Preparing summary of project change orders.
- e. Preparing grant amendment request and associated justification, if applicable.
- f. Preparing final project reports including financial summary.
- g. Obtaining release of liens from all contractors.

All work will be required to meet FAA Standards, the ADOT Multimodal Planning Department, Aeronautics Group Standards and/or City of Mesa requirements. All work shall be accomplished in accordance with all Federal, State and local guidelines and regulations including FAA Advisory Circulars, the National Environmental Policy Act (NEPA) and Arizona Environmental Statutes. Federal, State and local requirements will apply to each of the listed projects in the event projects are reimbursed through FAA's Airport Improvement Program or an approved Passenger Facility Charge at a later date.

## **B. SCOPE OF SERVICES**

The scope of work includes the design and deliverables necessary to complete projects anticipated over the term of the contract. The term is a three-year base contract with two optional one-year extensions. It is anticipated that individual projects may be assigned to the selected Offeror(s) periodically, on an as-needed basis, over the contracted period. PMGAA reserves the right to stop assigning projects to the selected Offeror(s) at any time and to perform a new consultant selection or engage the services of other consultants for specific projects on a case-by-case basis.

The projects identified below may be assigned over the term of the contract and may or may not be included in PMGAA's Capital Improvement Program. The projects listed below include federally funded AIP, State-funded grant projects and non-grant projects, and are not listed in order of priority:

PMGAA reserves the right to award a contract under this solicitation to a single Offeror or multiple Offerors.

### **Facilities**

- Terminal Annex Reconstruction – Design reconstruction of Terminal Annex gates 1-4 or approximately 20,000 square feet and including related concession spaces. Includes demolition of current facility.

- Terminal Improvements including security lanes modifications, signage/wayfinding, or other alterations.
- Proposed new Air Traffic Control Tower Construction Administration.
- FBO Building Remodel
- Wash Rack Design
- Design of the Demolition of Various Airport Buildings

### **Airfield Projects**

- Taxiway Hotel – Design realignment and demolition of existing Taxiway H from Taxiway B to Runway 12R/30L, approximately 250 feet plus transition/tapering shoulders, markings, signage.
- Runway 12R/30L – Design reconstruction of Sections 20, 30 and 40 or approximately 6,800 linear feet and including approximately 102,500 Square Yards (SY) of PCCP and 8,600 SY of AC. Includes shoulders, LED lights, pavement markings, storm drainage, signage, ERGL replacement.
- Taxiway Whiskey – Design reconstruction of portion of Taxiway W located north of the intersection of Taxiways W and T.
- Taxiway Golf – Design realignment and reconstruction of Taxiway G. Includes design of approximately 4,200 linear feet of taxiway with shoulders, signage, drainage that will meet Master Plan and FAA geometry standards. Includes demolition of existing approximately 3,000 linear feet of current taxiway.
- Parallel Taxiway West of Runway 12C/30C – Design approximately 10,500 linear feet of parallel taxiway at 75 feet wide plus 30-foot shoulders including drainage, lighting, markings, signage.
- Midfield Connectors – Design midfield connectors as recommended in the 2019 Master Plan which will include all or portion of four connectors or approximately 4,000 linear feet of new taxiways.
- Parallel Taxiway East of Taxiway Charlie – Design approximately 9,500 linear feet of parallel taxiway east of Taxiway C and end connections and estimated five connectors. Project is 75 feet wide plus 30-foot shoulders and includes drainage, lighting, markings, signage.
- General Aviation and Maintenance run-up/Holding Bay areas per the Master Plan
- Relocate Compass Calibration Pad
- Runway 12C/30C – Design reconstruction of 3000 feet of PCCP and AC. Includes shoulders, LED lights, pavement markings, storm drainage, signage, ERGL replacement.
- Extension of Runway 12L/30R 200 feet to north per Master Plan with bypass Taxiway
- New Taxiway Whiskey ADG-III Remain Over Day (ROD)/Remain Over Night (RON) Aircraft Storage Apron

- LED lighting improvements and electrical improvements, distance remaining signage and seal stripe asphalt as needed
- Maintenance Run Up areas with Blast Fence
- Corporate Aircraft Canopy
- Safety Management System
- Miscellaneous Eastside related airside improvements associated with private development.

### **Landside Projects**

- Eastside Road and Infrastructure – Design approximately two miles of Eastside Access/Spine Road and Infrastructure to support future Airport Terminal development and aeronautical and non-aeronautical space on the 700-acre site per the Airport Master Plan.
- Design of various road and utility improvements to public standards.
- Design new employee parking lot at existing Cell phone lot and design new Cell phone lot.
- Design Fuel Farm improvements including additional fuel storage tank, safety improvements, and site paving.
- Design parking lots/expansions covered parking improvements including changes to existing parking revenue control system connections, lighting, nesting, fencing. Other parking lot improvements, reconfigurations.
- Design landscape, hardscape and irrigation modifications and improvements.
- Design safety and capacity improvements for Sossaman Road including pedestrian refuge islands, markings, signal/crosswalk controls, landscaping, signage.

## **C. DISADVANTAGED BUSINESS ENTERPRISE INFORMATION AND REQUIREMENTS**

1. PMGAA's Disadvantage Business Enterprise (DBE) Program is race-neutral. PMGAA encourages the use of DBEs and other small businesses in the performance of this opportunity. PMGAA does not have a specific Small Business Enterprise (SBE) goal, however, reporting on SBE utilization is required. The entire DBE program can be found on the Airport's website at: [www.gatewayairport.com](http://www.gatewayairport.com).

Prime Offerors are encouraged to provide subcontracting opportunities of a size that small businesses, including DBEs, can reasonably perform. 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 PMGAA's 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;

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

The Arizona Department of Transportation UCP Disadvantaged Business Enterprise 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>

2. **Obligation.** Offerors are required to meet the DBE submittal requirements detailed in this Section Two 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 and other small businesses, 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.

3. **Determination of Responsiveness to DBE Requirements.** Any Offeror wishing to remain in competition for contract award shall provide all required DBE information, as listed in this RFQ, at the time of SOQ submittal. Failure to submit the DBE documentation, in completed form, will result in a determination by 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.

4. Upon execution of a contract under this solicitation between successful Offeror(s) and PMGAA, Offeror(s) will be required to submit the following for PMGAA's consideration and approval, at the time of their submission of proposed fees for **each** project that is **federally funded**:

A. Detailed Documentation of Outreach Efforts:

- i. Copy of notification sent to DBE firms that the Offeror has subcontracting opportunities and is requesting subcontractor quotes. This should include the scope of work to be quoted and performed on the project.
- ii. Documentation of each DBE firm contacted, and the response of the DBE firms or other action taken as a result of the contact. Documentation of contact with DBE firms may include, fax logs, telephone logs, mail receipts, etc. including documentation of the number of times that firms were contacted, the dates of contact, the name, phone number, fax number, and address of the contact person associated with each DBE firm.
- iii. Documentation of bid responses/quotes from all subcontractors who quoted to perform work on the project in the areas that DBE firms were also quoting on, including information regarding the reasons why DBE quotes were not considered or chosen.

B. DBE forms in the attached Professional Services Agreement:

- i. Subcontracting and Outreach Efforts Summary
- ii. Letter of Intent to Perform as a Subcontractor/Supplier
- iii. DBE's Certification Statement

- iv. DBE Identification Statement
- v. DBE Data Collection Form

Failure of the selected Offeror(s) to provide sufficient evidence to show that outreach efforts made to obtain DBE participation shall result in PMGAA determining that the selected Offeror(s) was non-responsive to the DBE requirements of the RFQ and subsequent contract requirements. The actions taken to meet the outreach requirements must be substantiated by written documentation and proof. A declaration that outreach efforts were made will not be sufficient to meet the burden of proof required. PMGAA Procurement Department's decision as to whether or not outreach efforts have been made is final and conclusive.

5. Upon execution of any subcontract entered into by Offeror(s) as a result of an award under this solicitation, Offeror(s) is required to make available to PMGAA a copy of all executed subcontracts as they relate to this solicitation, both DBE/SBE and non-DBE/SBE subcontracts prior to the subcontractors commencing any work/services. Offeror(s) shall ensure that all subcontracts or agreements to supply labor or materials require that the subcontract and all lower tier subcontracts contain the required DBE contract clauses and be performed in accordance with 49 CFR Part 26 provisions.

## **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(s).
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 member identified in the Statement of Qualifications;
  - c. An organizational chart with names and titles of senior management, including proposed project manager(s).
3. **Relevant Firm Experience:**
  - a. Firm's overall service capability as it relates to the type of projects listed within the discipline submitting for;
  - b. List and briefly describe at least three (3) comparable projects to any of the proposed projects (preferably airside projects) listed completed by your firm or currently in progress. Include your firm's role and discuss contract amendment history, if applicable. For each project, include:
    - i. Contract value
    - ii. Project owner



- iii. Project location
    - iv. Contact name and title, address, current/accurate telephone number and email address
  - c. List and describe:
    - i. Any litigation, arbitration and/or claims filed by your firm against any project owner as a result of a contract dispute
    - ii. Any claim filed against your firm
    - iii. Termination from a project
    - iv. Offeror's capability and intent to proceed without delay if selected for this work.
  - d. Provide a statement regarding your assurance that this engagement will not result in a conflict of interest
  - e. Describe the firm's knowledge and experience with applicable federal and state and local regulations, policies and procedures as it relates to this project
- 4. **Project Team Experience & Qualifications:**
  - a. Describe each team member's firm position; provide resumes of each proposed team member. List professional certifications, and any applicable coursework or training
  - b. Briefly describe each team member's role on this project
  - c. Provide "team" experience working together on similar projects
  - d. Identify proposed subconsultants, and your method of selection, if applicable. Include in your SOQ a proposed subconsultant selection plan and their business resume
- 5. **Approach to Project Management:**
  - a. Describe your approach to amendments/change orders
  - b. Describe your planning, scheduling, estimating, and/or construction management tools
  - c. Describe your quality control plan, dispute resolution, and safety management
  - d. Describe your proposed methodology for addressing the items listed in the Scope of Services
  - e. Describe the work you anticipate self-performing, and the work you anticipate being performed by subconsultants/subcontractors
  - f. Describe your approach to operating within an agreed budget and schedule
- 6. **DBE Participation and Small Business Inclusion:**
  - a. Complete Attachment C, DBE Identification Statement
  - b. Describe your efforts completed or planned as Outreach Efforts to DBEs, including Small Businesses
  - c. Possible scope(s) or work planned to be subcontracted to potential DBEs
- 7. **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 signed and included in the SOQ. Within ten days of execution of a contract with PMGAA, the successful Offeror shall furnish proof of insurance meeting the requirements of, and in the amounts listed in Attachment B, and Attachment F, sample Standard Form Professional Services Agreement.
  - c. Attachment C, DBE Identification Statement, shall be completed, signed and included in the SOQ.
  - d. Attachment D, Agreement Review Statement
  - e. Attachment E, Federal Provisions Certification
  - f. Resumes for proposed key team members, 2-page maximum for each resume.
  - g. 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 six (6) copies of their Statements of Qualifications for a total of seven (7) in addition to one (1) electronic copy of the complete Statement of Qualifications 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 for each key team member, maximum of 2 pages each
  - c. Attachment A, Authorization for Release of Performance Information and Waiver
  - d. Attachment B, Certificate of Insurability
  - e. Attachment C, DBE Identification Statement
  - f. Attachment D, Agreement Review Statement
  - g. Attachment E, Federal Provisions Certification
  - h. 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 the designated due date and time. **LATE STATEMENTS OF QUALIFICATIONS WILL NOT BE ACCEPTED.**

## **F. EVALUATION CRITERIA**

Points	Category
10	Project Team Organization
25	Relevant Firm Experience
35	Project Team Experience & Qualifications
20	Approach to Project Management
10	Other Factors (submittal quality, completeness, etc.)
100	TOTAL SCORE



## **G. SELECTION PROCESS**

1. PMGAA 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. PMGAA 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. PMGAA intends to enter into negotiations with the highest ranked Offeror(s) to finalize a Professional Services Agreement for the solicitation. If an agreement cannot be successfully negotiated with the highest ranked Offeror(s), then negotiations may be terminated with that Offeror(s) and PMGAA may:
6. Enter negotiations with the next highest ranked Offeror(s) until an agreement is reached or an impasse is declared.
7. A notification will be posted on PMGAA's website following a selection determination.
8. 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.
9. PMGAA may cancel this solicitation at any time for any reason or no reason, so long as such is legally permissible.
10. The following tentative schedule has been established for this solicitation:

RFQ Closing Date/SOQ Due	October 17, 2019 11:00 am
Notification to Firms (for possible interviews and/or non-selection)	Week of October 28, 2019
Interviews (optional)	Week of November 11, 2019
Notification to Firms (of final firm selection)	Week of November 18, 2019
Contract Award Recommendation to PMGAA Board of Directors	December 17, 2019

**PMGAA's Administration Offices are closed on Fridays, Saturdays and Sundays and therefore, submittals will not be accepted on these days.**

## Section Three – Standard Terms and Conditions

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1. **Certification.** Offeror 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 Offeror hereby certifies that the individual signing this Contract is an authorized agent for Offeror and has the authority to bind the Offeror to the Contract.
2. **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.
3. **Dispute Resolution.**
  - a. **Negotiations.** If a dispute arises out of or relates to this Contract or its breach, the parties to this Contract shall endeavor to settle the dispute through direct discussions as a condition precedent to mediation or binding dispute resolution.
  - b. **Mediation.** Should the parties to this Contract be unable to resolve their dispute through direct negotiations, the parties to this Contract, upon the written request of either, shall engage in mediation, to be administered privately by a mediator and according to rules mutually agreed upon by the parties to this Contract, or, the absence of such mutual agreement, by a mediator appointed by JAMS and administered by JAMS in accordance with its then-current mediation rules. The fees and costs of mediation shall be split equally by the parties to this Contract, but subject to reallocation following binding dispute resolution.
  - b. **Binding Dispute Resolution.** Should the parties to this Contract be unable to resolve their dispute through direct negotiations or mediation, either party may, within the time limitations for bringing claims under Arizona law and this Contract, commence formal dispute resolution proceedings. Both parties to this Contract consent to binding arbitration administered by JAMS according to its then current arbitration rules, provided, however, that (i) in the event both parties agree, the arbitration may be administered privately by an arbitrator and according to rules mutually agreed upon by the parties to this Contract, and (ii) in the event any party seeks relief against the other party or against a non-party which cannot fully be granted in arbitration, by reason of non-joinder or otherwise, the parties to this Contract are excused from this arbitration requirement and the parties to this Contract shall proceed in the state or federal courts of competent jurisdiction and located in Maricopa County, Arizona. In any arbitration or litigation, the prevailing party shall be entitled to an award of its reasonable attorneys' fees and costs as determined by the arbitrator or court as applicable.
4. **Independent Contractor.** At all times, each party acts in its individual capacity 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 Offeror 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 Offeror, including *Workers' Compensation* coverage. PMGAA will not withhold FICA, taxes, or any similar deductions from PMGAA's payments under this Contract.
5. **Affirmative Action.** Offeror shall abide by all the federal and state of Arizona provisions for equal opportunity in the work place.
6. **Human Relations.** Offeror 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. **Americans with Disabilities Act.** Offeror 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*.
9. **Confidentiality of Records.** Offeror 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. Offeror also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Offeror as needed for the performance of duties under the Contract, unless otherwise agreed to in writing by PMGAA.
10. **Gratuities.** PMGAA may, by written notice to the Offeror, cancel this Contract if it is found that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by Offeror or any agent or representative of Offeror, 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 Offeror the amount of the gratuity.
11. **Applicable Law.** This Contract shall be governed by, and PMGAA and Offeror 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.
12. **Contract.** This Contract is based on and the result of a negotiated Scope of Services and Proposal, Bid or Statement of Qualifications submitted by Offeror under this RFP, IFB or RFQ. The Contract contains the entire agreement between PMGAA and Offeror. No prior oral or written agreements, contracts, proposals, negotiations, purchase orders, or master agreements (in any form) are enforceable between the parties.
13. **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 Offeror.
14. **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.
15. **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.
16. **Protection of Government Property.** Offeror shall use reasonable care to avoid damaging all PMGAA property, including buildings, equipment, and vegetation (such as trees, shrubs, and grass). If Offeror damages PMGAA's property in any way, Offeror shall immediately repair or replace the damage at no cost to PMGAA, as directed by the PMGAA Executive Director. If Offeror 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 Offeror under the Contract.
17. **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.

18. **Subcontracts.** Offeror shall not assign any rights or interest nor enter into any subcontract with any other party to furnish any of the materials, goods or services specified herein without the prior written permission of PMGAA. PMGAA may, at its sole discretion, accept or reject proposed subcontractors or assignment. PMGAA shall notify Offeror of its acceptance or rejection within forty-five (45) days or written request by Offeror. All subcontracts shall comply with federal and state laws and regulations applicable to the materials, goods or 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 Offeror referred to herein. Offeror is responsible for Contract performance whether subcontractors are used.
19. **No Waiver.** 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 Offeror'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.
20. **Warranties.** Offeror 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 Offeror or the rights of PMGAA under the foregoing warranties. Additional warranty requirements may be set forth in this Contract.
21. **Indemnification.** To the fullest extent permitted by law, Offeror 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 Offeror's acts, errors, omissions, or mistakes relating to Offeror's services under this Contract.
22. **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.
23. **Advertising.** Offeror shall not advertise or publish information concerning this Contract without prior written consent of PMGAA.
24. **Right to Inspect.** PMGAA may, at reasonable times, and at PMGAA's expense, inspect the place of Offeror's or any of Offeror's subcontractor's business, which is related to the performance of this Contract or related subcontract.
25. **Force Majeure.** In the event either party shall be delayed or hindered in or prevented from the performance of any covenant, agreement, work, service, or other act required under this Contract to be performed by such party ("Required Act"), and such delay or hindrance is due to causes entirely beyond its control such as riots, insurrections, martial law, civil commotion, war, fire, flood, earthquake, or other casualty or acts of God ("Force Majeure Event"), then the performance of such Required Act shall be excused for the period of delay and the time period for performance of the Required Act shall be extended by the same number of days in the period of delay. For purposes of this Contract, the financial inability of Offeror to perform any Required Act, including, without limitation, failure to obtain adequate or other financing shall not be deemed to constitute a Force Majeure Event. A Force Majeure Event shall not be deemed to commence until ten (10) days before the date on which the party who asserts some right, defense, or remedy arising from or based upon such Force Majeure Event gives written notice thereof to the other party. If abnormal adverse weather conditions are the basis for a claim for an extension of time due to a Force Majeure Event, the written notice shall be accompanied by data substantiating (a) that the weather conditions were abnormal for the time and could not have been reasonably anticipated and (b) that the weather conditions complained of had a

significant adverse effect on the performance of a Required Act. To establish the extent of any delay to the performance of a Required Act due to abnormal adverse weather, a comparison will be made of the weather for the time of performance of the Required Act with the average of the preceding ten (10) years' climatic range based on the National Weather Service statistics for the nearest weather reporting station to the Premises. No extension of time for or excuse for a delay in the performance of a Required Act will be granted for rain, snow, wind, cold temperatures, flood, or other natural phenomena of normal intensity for the locality where the Premises are located.

26. **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 Offeror's risk and may be returned to Offeror. If so returned, all costs are the responsibility of Offeror. Noncompliance shall conform to the cancellation clause set forth in this Contract.
27. **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 Offeror or any other person except with prior written permission by PMGAA.
28. **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.
29. **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, Offeror shall provide a formal release of all liens.
30. **Licenses.** Offeror shall maintain in current status all federal, state, and local licenses and permits required for the operation of the business conducted by Offeror as applicable to this Contract.
31. **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 the 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.
32. **Clean Up.** Offeror shall at all times keep Contract performance areas, including storage areas used by the Offeror, 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, Offeror shall leave the work and premises in clean, neat, and workmanlike condition.
33. **Patents.** Offeror 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 Offeror under this Contract.
34. **Records and Audit Rights.** Offeror'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 Offeror 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 Offeror'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, Offeror 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 Offeror under the Contract. During normal working hours, PMGAA is entitled to access to all necessary Offeror and subcontractor facilities and shall be provided adequate and appropriate workspace, in order to conduct audits under this Section. PMGAA shall give Offeror or subcontractors reasonable advance notice of intended audits. Offeror shall require its subcontractors to comply with the provisions of this Section by including its requirements in all subcontracts related to this Contract.

35. **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. PMGAA shall have the right to inspect the papers of Offeror's and any of Offeror's subcontractor's employee who works on this Contract to ensure the Offeror is complying with this paragraph.



**ATTACHMENT A**

**AUTHORIZATION FOR RELEASE OF PERFORMANCE INFORMATION AND WAIVER**

The purpose of this disclosure is to provide references to PMGAA. Offeror hereby consents that as an Offeror to PMGAA's Solicitation 2020-007-RFQ, On-Call Engineering Services for Phoenix-Mesa Gateway Airport, Offeror authorizes those companies and government entities listed in Offeror's RFQ submittal and any other government entity for whom this company has performed Engineering Services to disclose and release to PMGAA, or their representatives, information, records and opinions concerning this company's past performance.

\_\_\_\_\_ (Offeror) hereby waives any claim it may have against PMGAA or any company or entity providing information to PMGAA 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**

Offeror hereby certifies that as an Offeror to PMGAA's Solicitation 2020-007-RFQ, On-Call Engineering Services for Phoenix-Mesa Gateway Airport, Offeror is fully aware of Insurance Requirements contained in the sample Standard Form Professional Services Agreement (Attachment F) and by the submission of this RFQ submittal, Offeror hereby assures PMGAA that Offeror is able to produce the insurance coverage required should Offeror be selected to be awarded the Professional Services Agreement.

Should Offeror be awarded the Professional Services Agreement by PMGAA, and then become unable to produce the insurance coverage specified within ten working days, Offeror is fully aware and understand that PMGAA may not consider Offeror for this and future projects.

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Signature of Offeror

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Date



**ATTACHMENT C**

**DBE IDENTIFICATION STATEMENT**

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.

**Name of Offeror's Firm:** \_\_\_\_\_

**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  
☐ \$1,000,000.00 - \$2,000,000.00  
☐ \$2,000,000.00 - \$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 \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Print Name and Title

**ATTACHMENT D**

**AGREEMENT REVIEW STATEMENT**

As an Offeror to PMGAA's Solicitation 2020-007-RFQ, On-Call Engineering Services, Offeror hereby certifies that Offeror has reviewed the PMGAA sample Standard Form Professional Services Agreement (Attachment F) and have listed any objections to it below. The response shall clearly identify if the attached sample Standard Form Professional Services Agreement is acceptable in all respects. 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.

Offeror is aware any objections to the sample Standard Form Professional Services Agreement will be considered and included in PMGAA's evaluation of Offeror's firm's qualifications. Offeror is also aware, if Offeror fails to list any objections to PMGAA's sample Standard Form Professional Services Agreement, Offeror will not be allowed to raise any objections later if selected as the most qualified Offeror.

\_\_\_\_\_  
Signature of Offeror

\_\_\_\_\_  
Date

Specific Objections:

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## ATTACHMENT E

### FEDERAL PROVISIONS CERTIFICATION

*Appropriate boxes must be marked by Offeror for item number 7 and 8*

#### 1. **Civil Rights – General**

The Offeror 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 Offeror 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 Offeror has full responsibility to monitor compliance to the referenced statute or regulation. The Offeror 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. Offeror must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The Offeror 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 (29 CFR Part 1910). Offeror 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 must provide immediate written notice to the Owner if the Offeror learns that its certification or that of a subconsultants was erroneous when submitted or has become erroneous by

reason of changed circumstances. The Offeror must require subconsultants provide immediate written notice to the Offeror 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 Offeror 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 Offeror 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-I" prior to award of contract.

#### **8. Offeror's Tax Delinquency and Felony Conviction Certification**

The Offeror shall complete the following statement by checking the appropriate boxes indicating its current status as it relates to tax delinquency and felony conviction:

The applicant represents that it ☐ is OR ☐ is not a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

The applicant represents that it ☐ is OR ☐ is not a corporation that was convicted of a criminal violation under any Federal law within the preceding 24 months

Term Definitions:

**Felony conviction:** Felony conviction means a conviction within the preceding twenty-four (24) months of a felony criminal violation under any Federal law and includes conviction of an offense defined in a section of the U.S. code that specifically classifies the offense as a felony and conviction of an offense that is classified as a felony under 18 U.S.C. § 3559.

**Tax Delinquency:** A tax delinquency is any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

The Offeror agrees that, if awarded a contract resulting from this solicitation, it will incorporate this Tax Delinquency and Felony Conviction provision for certification in all lower tier subcontracts.

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

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Signature of Offeror

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Title

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Date

**ATTACHMENT F**

**SAMPLE STANDARD FORM PROFESSIONAL SERVICES AGREEMENT**

**PHOENIX-MESA GATEWAY AIRPORT AUTHORITY**

**AND**

**[CONSULTANT]**

**FOR**

**ON CALL ENGINEERING SERVICES**

**CONTRACT NUMBER C-2020007**

*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-2020007** (“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. There is no guarantee of a minimum purchase of services.

The anticipated services to be provided by Consultant under to this Contract shall generally include, but not be limited to, the following: On Call Engineering Services, as more specifically described in Consultant’s detailed scope of work attached as **EXHIBIT A**, “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 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 contracted on or before the expiration date of the Contract as amended.

The term of this Contract shall commence on [date] and ends on [date] (“Base Term”), unless terminated, canceled or extended as provided in this Contract. This Contract has two (2) optional one-year extensions that PMGAA may exercise as its sole discretion. Prior to the expiration of the Contract Base Term, PMGAA may elect to extend the Contract. 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. Any extension of this Contract shall require an Amendment signed by both parties.

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 itself shall provide all services to be performed under this Contract. If 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.

#### **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 and/or other costs incurred or provided for in accordance with **EXHIBIT B**, “Compensation.”

All services to be rendered by Consultant are subject to the terms of **EXHIBIT B**, “Compensation” attached hereto.

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

PMGAA shall pay Consultant in agreed upon installments for services authorized and rendered under this Contract at the completion of each work assignment, provided Consultant has satisfactorily completed the requested work. If any such work requires time in excess of 30 calendar days to complete, progress payment(s) may be made on invoices certified and approved by PMGAA.

#### **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 periodic invoices for any unbilled portion of the services actually 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 – DISPUTE RESOLUTION

All disputes between PMGAA and Consultant arising out of or relating to this Contract will be subject to the Dispute Resolution provisions as set forth in **EXHIBIT C**, "PMGAA Standard Terms and Conditions", attached hereto and incorporated herein by reference.

PMGAA and Consultant shall include a similar dispute resolution 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 dispute resolution 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. All insurance policies required by this Contract, except *Workers Compensation* and *Professional Liability*, shall name PMGAA, its agents, representatives, officers, directors, officials and employees as Additional Insured.
- C. 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. Commercial General Liability: Insurance Services Office Form CG 00 01 covering Bodily Injury and Property Damage on an "occurrence" basis, including personal & advertising injury with limits no less than \$1,000,000 per occurrence, \$2,000,000 General Aggregate.
  - iii. Auto Liability: ISO Form CA 00 01 covering any auto (Symbol 1), or if Consultant has no owned autos, hired, (Symbol 8) and non-owned autos (Symbol 9), with limit no less than \$1,000,000 Combined Single limit per accident for bodily injury and property damage (\$5,000,000 if operating in the Air Operations Area of the Airport).
  - iv. 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.
- D. If the Consultant maintains higher limits than the minimums shown above, 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 PMGAA.
- E. 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 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, except *Workers Compensation* and *Professional Liability*, for claims arising out of the Consultant's work or service.
- 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. 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 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 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 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. 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**

### **THIS SECTION XX IS APPLICABLE TO ALL FEDERALLY FUNDED PROJECTS**

This Contract is subject to the requirements of the U.S. Department of Transportation's regulations, 40 CFR Part 26. Consultant 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 or projects that the Airport anticipates to be federally funded. 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/submittal as non-responsible.



Consultant is required to insert the above paragraph in all subcontracts or agreements it enters into, and all lower tier subcontracts and agreements, as a result of this contract, regardless of whether or not the subcontractor is a DBE.

Consultant is required to make available, upon execution, a copy of all subcontracts, DBE/SBE and non-DBE/SBE subcontracts. The Consultant shall ensure that all subcontracts or agreements entered into as a result of this Contract require that the subcontract and all lower tier subcontractors contain the required contract clauses and be performed in accordance with this part's provisions.

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 Enterprise (SBE)* 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 Disadvantage Business Enterprise (DBE) Program is race-neutral. PMGAA encourages the use of DBEs and other small businesses in the performance of this opportunity. Phoenix Mesa Gateway Airport Authority does not have a specific Small Business Enterprise (SBE) goal, however, reporting on SBE utilization is required.

PMGAA encourages Consultant to provide subcontracting opportunities of a size that small businesses, including DBEs, can reasonably perform. 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.

C. Outreach Efforts and Required Information/Forms Prior to Commencing Services:

Consultant agrees to employ outreach efforts to carry out the requirements of 49 CFR Part 26 through award of subcontracts to small businesses and disadvantaged business enterprises to the fullest extent consistent with the sufficient performance of PMGAA's Contract. PMGAA shall not, nor shall it require its Consultant to, award contracts or subcontracts to or to make purchases of materials or equipment from small businesses and/or DBEs who are not qualified.

Prior to issuing an Authorization of Services for a project, Consultant shall submit, with its proposed fees, the following for PMGAA's consideration and approval:

- i. Documentation of outreach efforts
  - a. Copy of notification sent to DBE firms that the Offeror has subcontracting opportunities and is requesting subcontractor quotes. This should include the scope of work to be quoted and performed on the project.
  - b. Documentation of each DBE firm contacted, and the response of the DBE firms or other action taken as a result of the contact. Documentation of contact with DBE firms may include, fax logs, telephone logs, mail receipts, etc. including documentation of the number of times that firms were contacted, the dates of contact, the name, phone number, fax number, and address of the contact person associated with each DBE firm.
  - c. Documentation of bid responses/quotes from all subcontractors who quoted to perform work on the project in the areas that DBE firms were also quoting on, including information regarding the reasons why DBE quotes were not considered or chosen.
  - d. The actions taken to meet the outreach requirements must be substantiated by written documentation and proof. A declaration that outreach efforts were made will not be sufficient to meet the burden of proof required. Failure of Consultant to provide sufficient evidence to show that outreach efforts made to obtain DBE participation shall result in PMGAA determining that Consultant was non-responsive to the DBE requirements. PMGAA Procurement department's decision as to whether or not outreach efforts have been made is final and conclusive.
- ii. EXHIBIT F: Subcontracting and Outreach Efforts Summary  
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 as DBE participation.
- iii. EXHIBIT G: Letter of Intent to Perform as a Subcontractor/Subconsultant/Supplier
- iv. EXHIBIT H: DBE's Certification Statement
- v. EXHIBIT I: DBE Identification Statement
- vi. EXHIBIT J: DBE Data Collection Form

D. Reporting:

Consultant is required to track and report all DBE participation that occurs as a result of and in conjunction with this Contract. As such, the following forms are required throughout the duration of this Contract. PMGAA reserves the right to validate the information submitted by Consultant with the DBE firm(s) listed and/or other certifying entities or licensing agents as part of the verification process. PMGAA does not have a specific Small Business Enterprise (SBE) goal, however, reporting on SBE utilization is required.

- i. EXHIBIT K: Consultant's Statement of DBE Utilization
- ii. EXHIBIT L: Certification of Prompt Payment to DBE Firms
- iii. EXHIBIT M: Certification of Payment of DBE to Lower Tier

E. Approved DBE Program:

The Phoenix-Mesa Gateway Airport Authority's Disadvantaged Business Enterprise Program, dated August 1, 2017, as amended from time to time, 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 PMGAA's website ([www.gatewayairport.com](http://www.gatewayairport.com)) under the Business|Procurements & Notices section.

F. Enforcement

This contract and all subsequent subcontracts entered into as a result of this contract, are subject to the requirements, provisions, and enforcement actions of 49 CFR Part 26, Subpart F, *Compliance and Enforcement*, § 26.105 and 26.107. Further, Consultant is required to insert § 26.107 in all DBE subcontracts entered into as a result of this Contract.

The requirements of this SECTION XX apply to Non-DBE prime Consultants and DBE prime Consultants. Failure to comply with the requirements of this SECTION XX constitutes a breach of this Contract. Such breach may lead to the termination or cancellation of the Contract.



Executed as of the Commencement Date.

**CONSULTANT**

**COMPANY NAME, a(n)**

---

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**PMGAA**

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

By: \_\_\_\_\_

Name: J. Brian O'Neill, A.A.E.

Title: Executive Director/CEO

Date: \_\_\_\_\_

## EXHIBIT A – 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 Schedule agreed to by the parties.

### **SCOPE OF SERVICES**

[Enter finalized scope]

### **FEE SCHEDULE**

[ENTER fee / rate schedule]

## EXHIBIT B - COMPENSATION

All compensation for services rendered by Consultant shall be based upon criteria established below and in accordance with each Authorization of Services initiated under this Contract. 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 A**, "Scope of Services and Fee Schedule".

2. Method of Payment

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/requisitions for payment shall be for work completed unless otherwise agreed to by PMGAA. Invoices/requisitions 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 September 30, 2014, or most current version.

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 C – PMGAA STANDARD TERMS & 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. Dispute Resolution

- a. Negotiations. If a dispute arises out of or relates to this Contract or its breach, the parties to this Contract shall endeavor to settle the dispute through direct discussions as a condition precedent to mediation or binding dispute resolution.
- b. Mediation. Should the parties to this Contract be unable to resolve their dispute through direct negotiations, the parties to this Contract, upon the written request of either, shall engage in mediation, to be administered privately by a mediator and according to rules mutually agreed upon by the parties to this Contract, or, the absence of such mutual agreement, by a mediator appointed by JAMS and administered by JAMS in accordance with its then-current mediation rules. The fees and costs of mediation shall be split equally by the parties to this Contract, but subject to reallocation following binding dispute resolution.
- c. Binding Dispute Resolution. Should the parties to this Contract be unable to resolve their dispute through direct negotiations or mediation, either party may, within the time limitations for bringing claims under Arizona law and this Contract, commence formal dispute resolution proceedings. Both parties to this Contract consent to binding arbitration administered by JAMS according to its then current arbitration rules, provided, however, that (i) in the event both parties agree, the arbitration may be administered privately by an arbitrator and according to rules mutually agreed upon by the parties to this Contract, and (ii) in the event any party seeks relief against the other party or against a non-party which cannot fully be granted in arbitration, by reason of non-joinder or otherwise, the parties to this Contract are excused from this arbitration requirement and the parties to this Contract shall proceed in the state or federal courts of competent jurisdiction and located in Maricopa County, Arizona. In any arbitration or litigation, the prevailing party shall be entitled to an award of its reasonable attorneys' fees and costs as determined by the arbitrator or court as applicable.

### 3. Independent Contractor

At all times, each party acts in its individual capacity and not as agent, employee, partner, joint venturer, or associate 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.

### 4. Affirmative Action

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

### 5. Human Relations

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

6. 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.

7. 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*.

8. 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.

9. 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.

10. 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.

11. Contract

This Contract is based on and the result of a negotiated Scope of Services and Fee Schedule 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.

12. 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.

13. 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.

14. 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.

15. 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.

16. 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.

17. Subcontracts

Offeror shall not assign any rights or interest nor enter into any subcontract with any other party to furnish any of the materials, goods or services specified herein without the prior written permission of PMGAA. PMGAA may, at its sole discretion, accept or reject proposed subcontractors or assignment. PMGAA shall notify Offeror of its acceptance or rejection within forty-five (45) days or written request by Offeror. All subcontracts shall comply with federal and state laws and regulations applicable to the materials, goods or 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 Offeror referred to herein. Offeror is responsible for Contract performance whether or not subcontractors are used.

18. No Waiver

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.

19. 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.

20. 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.

21. 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.

22. Advertising

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

23. 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.

24. Force Majeure

In the event either party shall be delayed or hindered in or prevented from the performance of any covenant, agreement, work, service, or other act required under this Contract to be performed by such party ("Required Act"), and such delay or hindrance is due to causes entirely beyond its control such as riots, insurrections, martial law, civil commotion, war, fire, flood, earthquake, or other casualty or acts of God ("Force Majeure Event"), then the performance of such Required Act shall be excused for the period of delay and the time period for performance of the Required Act shall be extended by the same number of days in the period of delay. For purposes of this Contract, the financial inability of Consultant to perform any Required Act, including, without limitation, failure to obtain adequate or other financing shall not be deemed to constitute a Force Majeure Event. A Force Majeure Event shall not be deemed to commence until ten (10) days before the date on which the party who asserts some right, defense, or remedy arising from or based upon such Force Majeure Event gives written notice thereof to the other party. If abnormal adverse weather conditions are the basis for a claim for an extension of time due to a Force Majeure Event, the written notice shall be accompanied by data substantiating (a) that the weather conditions were abnormal for the time and could not have been reasonably anticipated and (b) that the weather conditions complained of had a significant adverse effect on the performance of a Required Act. To establish the extent of any delay to the performance of a Required Act due to abnormal adverse weather, a comparison will be made of the weather for the time of performance of the Required Act with the average of the preceding ten (10) years' climatic range based on the National Weather Service statistics for the nearest weather reporting station to the Premises. No extension of time for or excuse for a delay in the performance of a Required Act will be granted for rain, snow, wind, cold temperatures, flood, or other natural phenomena of normal intensity for the locality where the Premises are located.

25. 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.

26. 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.

27. 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.

28. 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.

29. 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.

30. 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.

31. 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.

32. 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.

33. 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.

34. 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. PMGAA shall have the right to inspect the papers of Consultant's and any of Consultant's subcontractor's employee who works on this Contract to ensure the Consultant is complying with this paragraph.

35. 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.

## EXHIBIT D- FEDERAL PROVISIONS

**Paragraphs 1 through 6 shall apply to Consultant and any work/project covered under this contract, regardless of project funding. All other paragraphs shall apply to Federally funded projects.**

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

The contractor 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.

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

During the performance of this Contract, the contractor, 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 D** 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.

3. 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.*).

4. Termination for Convenience

PMGAA may, by written notice to the Consultant, terminate this Contract 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 Contract, 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.

#### 5. Termination for Default

Either party may terminate this Contract for cause if the other party fails to fulfill its obligations that are essential to the completion of the work per the terms and conditions of the Contract. 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 Contract. 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 Contract.

- a. Termination by Owner: PMGAA may terminate this Contract 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 Contract 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 Contract, 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 Contract, 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 Contract in whole or in part, if the Owner:
  - i. Defaults on its obligations under this Contract;
  - ii. Fails to make payment to the Consultant in accordance with the terms of this Contract;
  - 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 Contract or portion thereof, by mutual consent. If

Owner and Consultant cannot reach a 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 Contract 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 Contract 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.

6. 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.

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.

7. Access to Records and Reports

Consultant shall 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.

8. Disadvantaged Business Enterprises (DBE)

The requirements of 49 CFR Part 26 apply to this contract. The Contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of Department of Transportation-assisted contracts. Failure by the Contractor 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 the Owner 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 Contractor from future bidding as non-responsible.



- 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 for work satisfactorily completed within seven (7) days from the receipt of payment the Consultant receives from PMGAA. 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.

In addition, Consultant agrees to all rules, policies, and requirements as set forth in these contract documents and exhibits.

9. 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*)

10. 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.

11. 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 (29CFR 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.

12. Tax Delinquency and Felony Conviction

- a. Certification of Consultant. Consultant, by accepting this Contract, certifies that it is not a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

Consultant further certifies that it is not a corporation that was convicted of a criminal violation under any Federal law within the preceding 24 months.

- b. Certification of Lower Tier Subconsultants. Consultant, by administering each lower tier subcontract must certify and include this certification in all lower tier subcontracts.

## Term Definitions

**Felony conviction:** Felony conviction means a conviction within the preceding twenty-four (24) months of a felony criminal violation under any Federal law and includes conviction of an offense defined in a section of the U.S. code that specifically classifies the offense as a felony and conviction of an offense that is classified as a felony under 18 U.S.C. § 3559.

**Tax Delinquency:** A tax delinquency is any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

### 13. 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 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 FAA may direct through PMGAA cancellation of the contract or subcontract for default at no cost to PMGAA or the FAA.

14. 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.

15. 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.

16. 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.

17. 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 contractor 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.

18. 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.

19. 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.

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.

22. 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 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.

23. Seismic Safety

In the performance of design services, the Consultant agrees to furnish a building design and associated construction specification that conform to a building code standard which provides a level of seismic safety substantially equivalent to standards as established by the National Earthquake Hazards Reduction Program (NEHRP). Local building codes that model their building code after the current version of the International Building Code (IBC) meet the NEHRP equivalency level for seismic safety. At the conclusion of the design services, the Consultant agrees to furnish PMGAA a “certification of compliance” that attests conformance of the building design and construction specifications with the seismic standards of NEHRP or an equivalent building code.

24. Procurement of Recovered Materials

Contractor and subcontractor agree to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, and the regulatory provisions of 40 CFR Part 247. In the performance of this contract and to the extent practicable, the Contractor and subcontractors are to use of products containing the highest percentage of recovered materials for items designated by the Environmental Protection Agency (EPA) under 40 CFR Part 247 whenever:

- a. The contract requires procurement of \$10,000 or more of a designated item during the fiscal year; or,
- b. The contractor has procured \$10,000 or more of a designated item using Federal funding during the previous fiscal year.

The list of EPA-designated items is available at [www.epa.gov/epawaste/consERVE/tools/cpg/products/](http://www.epa.gov/epawaste/consERVE/tools/cpg/products/).

Section 6002(c) establishes exceptions to the preference for recovery of EPA-designated products if the contractor can demonstrate the item is:

- a. Not reasonably available within a timeframe providing for compliance with the contract performance schedule;
- b. Fails to meet reasonable contract performance requirements; or
- c. Is only available at an unreasonable price.

25. Affirmative Action

If, during the duration of this Contract, any work conducted by Consultant or Consultant's subcontractors / subconsultants, meets the current definition of construction, as defined by the U.S. Department of Labor and exceeds \$10,000.00, then all provisions, terms, and conditions of Affirmative Action as set forth in Contract Provision Guidelines for Obligated Sponsors and Airport Improvement Program Projects, shall apply to this Contract and Consultant agrees to comply with such requirements.

26. Copeland Anti-Kickback Act

If, during the duration of this Contract, any work conducted by Consultant or Consultant's subcontractors / subconsultants, meets the current definition of construction, alteration or repair as defined in 29 CFR Part 5 and the work exceeds \$2,000.00, then all provisions, terms, and conditions of the Copeland Anti-Kickback Act as set forth in Contract Provision Guidelines for Obligated Sponsors and Airport Improvement Program Projects, shall apply to this Contract and Consultant agrees to comply with such requirements.

27. Davis Bacon

If, during the duration of this Contract, any work conducted by Consultant meets the current definition of construction, alteration or repair as defined in 29 CFR Part 5 and the work exceeds \$2,000.00, then all provisions, terms, and conditions of the Davis Bacon Act as set forth in Contract Provision Guidelines for Obligated Sponsors and Airport Improvement Program Projects, shall apply to this Contract and Consultant agrees to comply with such requirements.

## EXHIBIT E - 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 All Contractor and/or subcontractor 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 Fees, Services and Rental Rates* listing available via the Airport website at [www.gatewayairport.com](http://www.gatewayairport.com) and are subject to change.
  - 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](http://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](http://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](http://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 C** 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 Status

At all relevant times, Consultant is - and shall remain - an independent contractor 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 F – SUBCONTRACTING AND OUTREACH EFFORTS SUMMARY**

**Submit:** With each cost proposal for **EACH** scope of work identified **REGARDLESS** of whether it resulted in selection of a subconsultant/subcontractor

**Completed By:** Prime Consultant

Project Description: \_\_\_\_\_

Project No.: \_\_\_\_\_

Scope of Work That May Be Subcontracted	NAISC Code(s) for Scope

FIRMS CONTACTED	NOTES / OUTCOME	DBE (Y/N)	SBE (Y/N)	NON DBE/SBE (Y/N)	SELECTED (Y/N)

**THIS FORM SHALL NOT RELEASE CONSULTANT FROM PROVIDING DETAILED DOCUMENTATION OF OUTREACH EFFORTS AS SPECIFIED IN SECTION XX (C) OF THIS CONTRACT**

- 1. CONSULTANT SHALL COMPLETE THIS FORM TO SUMMARIZE THEIR OUTREACH EFFORTS FOR EACH SCOPE OF WORK OPPORTUNITY IDENTIFIED TO SUBCONTRACT. MAKE COPIES OF THIS FORM AS NECESSARY. EXPAND TEXT BOXES OR ATTACH INFORMATION AS NEEDED.**
- 2. CONSULTANT MUST RETAIN ALL DETAILED OUTREACH EFFORTS DOCUMENTATION FOR A PERIOD OF 1 YEAR FROM FINAL ACCEPTANCE BY PMGAA.**

Consultant Hereby affirms that the above information, as well as the detailed documentation submitted regarding Consultant's outreach efforts, is true and complete to the best of Consultant's knowledge.

Further, Consultant hereby affirms that Consultant will enter into a formal agreement with the identified selected subcontractors/subconsultants/suppliers listed herein conditioned upon the execution of an Authorization of Services for the project with the Phoenix-Mesa Gateway Airport Authority.

Signed By: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

Print Name: \_\_\_\_\_

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

**Submit:** With each cost proposal for any Subconsultant/Subcontractor proposed to perform work  
**Completed By:** Each Subconsultant/Subcontractor (regardless of DBE status) to perform work

**PROJECT DESCRIPTION:** \_\_\_\_\_

**Solicitation No.:** 2020-007-RFQ

**TO:** \_\_\_\_\_ (Insert name of prime consultant)

1. The undersigned is prepared and licensed in Arizona to perform the following scope(s) of work on the above referenced project:

Scope of Work Description	NAICS Code(s) for Scope of Work to be Performed	Total Minimum Contract Amount
		\$

2. The undersigned will sublet and/or award \$ \_\_\_\_\_ of work bid to a non-DBE/SBE firm
3. The undersigned will sublet and/or award \$ \_\_\_\_\_ of work bid to a certified ☐ DBE and/or ☐ SBE firm

**IF THE SUBCONSULTANT/SUBCONTRACTOR IS A DBE OR SBE, COMPLETE THE FOLLOWING INFORMATION:**

- A. The undersigned is certified as a (check all that apply):

☐ Disadvantaged Business Enterprise. Certification No.: \_\_\_\_\_

☐ Small Business Enterprise, Certification No.: \_\_\_\_\_

- B. Certifying Agency: \_\_\_\_\_

- C. The undersigned is certified by the Arizona UPC (or other DOT-approved UPC) to perform work for the following North American Industry Classification System (NAICS) codes:

\_\_\_\_\_

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by signature below, the undersigned agrees to enter into a formal agreement/subcontract for the work cited herein should \_\_\_\_\_ receive award of this project from the Phoenix-Mesa Gateway Airport Authority.

\_\_\_\_\_  
(Print Firm Name)

\_\_\_\_\_  
(Phone Number)

\_\_\_\_\_  
(Authorized Signature)

\_\_\_\_\_  
(Print Name and Title)

**EXHIBIT H –DISADVANTAGED BUSINESS ENTERPRISE  
CERTIFICATION STATEMENT**

**Submit: With each cost proposal for any DBE Subconsultant/Subcontractor selected to perform work if the selected DBE is NOT certified by the Arizona Unified Certification Program**

**Completed By: Each DBE Subconsultant/Subcontractor selected to perform work 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: \_\_\_\_\_, 20\_\_\_\_

DBE Business Name: \_\_\_\_\_

DBE Principal Business Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone #: (\_\_\_\_) \_\_\_\_\_

DBE Qualifying Owner Name: \_\_\_\_\_

Title: \_\_\_\_\_

Licenses Held by DBE Firm: \_\_\_\_\_

Issued By: \_\_\_\_\_

Services/Work/Products Provided: \_\_\_\_\_

\_\_\_\_\_

SIGNED AND DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Print Name and Title

**EXHIBIT I – DBE IDENTIFICATION STATEMENT**

**Submit:** With each cost proposal for any Subconsultant/Subcontractor selected to perform work  
**Completed By:** Each Subconsultant/Subcontractor (regardless of DBE status) to perform work

Name of Subcontractor/Subconsultant's Firm: \_\_\_\_\_

Firm Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Subcontractor/Subconsultant:** ☐ 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  
☐ \$1,000,000.00 - \$2,000,000.00  
☐ \$2,000,000.00 - \$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 \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Print Name and Title

**EXHIBIT J – DBE DATA COLLECTION FORM**

**Submit:** After project award and upon selection of a DBE Subconsultant/Subcontractor to perform work

**Completed By:** Each DBE Subconsultant/Subcontractor selected to perform work

**Project Description:** \_\_\_\_\_

**Solicitation No.:** 2020-007-RFQ

**Prime Consultant:** \_\_\_\_\_

**DBE FIRM:** \_\_\_\_\_

4. The undersigned is certified as (select one only): ☐ Male Owned ☐ Woman Owned
5. The undersigned is certified as (select one only) ☐ Black American ☐ Hispanic American ☐ Native American  
☐ Asian-Pacific American ☐ Subcontinent Asian American  
☐ Non-Minority
6. The undersigned affirms that of the trucking/hauling work to be contracted to perform under this project (if applicable), is as follows:
- # of trucks needed to perform project \_\_\_\_\_ # of trucks owned by DBE to be used on the project \_\_\_\_\_  
# of trucks to be leased from a DBE \_\_\_\_\_ # of trucks to be leased from a non-DBE \_\_\_\_\_
7. The undersigned affirms the amount of fees and commissions for work to be contracted to perform under this project (if applicable) is as follows:

Unit Price Bid \$ \_\_\_\_\_ Fees/Commissions Portion of Bid \$ \_\_\_\_\_

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

EXHIBIT K – CONSULTANT’S STATEMENT OF DBE UTILIZATION

**Submit: With each pay request**

**Completed By: Prime Consultant**

SHEET \_\_\_\_ OF \_\_\_\_

(1) PAY REQUEST NO. \_\_\_\_\_

(2) REPORT PERIOD FROM \_\_\_\_\_ TO \_\_\_\_\_

(3) PROJECT NAME \_\_\_\_\_

(4) PROJECT NO. \_\_\_\_\_

(5) BASE BID \$ \_\_\_\_\_

(6) CONTRACT NO. \_\_\_\_\_

(7) COMMITTED DBE UTILIZATION \_\_\_\_\_%

(8) DBE NAME REPRESENTATIVE NAME & TELEPHONE NUMBER	(9) CLASS OF WORK	(10) CONTRACT AMOUNT	(12) 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 L – CERTIFICATION OF PROMPT PAYMENT TO DBE FIRMS**

**Submit:** For each payment made to a DBE Subconsultant/Subcontractor

**Completed By:** Prime Consultant & DBE Subconsultant/Subcontractor as indicated below

**PRIME CONSULTANT:** \_\_\_\_\_ **INVOICE NO.:** \_\_\_\_\_

**PRIME CONSULTANT AFFIDAVIT:**

The undersigned, having contracted as the prime consultant on Project # \_\_\_\_\_, hereby certifies that a payment has been made to the DBE subconsultant/subcontractor cited below. The total value of this payment made to the DBE firm for materials and/or work performed on this project contract is as follows:

**DBE Subconsultant:** \_\_\_\_\_ **Total Amount Paid: \$** \_\_\_\_\_ **Date Sent** \_\_\_\_\_

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 contractor, all documentation supporting the contractor'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: \_\_\_\_\_ Date: \_\_\_\_\_  
Authorized Agent for Prime Consultant

Print Name and Title: \_\_\_\_\_

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**DBE SUBCONSULTANT/SUBCONTRACTOR AFFIDAVIT:**

The undersigned DBE subconsultant/subcontractor 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 this payment received as provided herein by the prime consultant is accurate and unchallenged.

**Total Amount Received: \$** \_\_\_\_\_ **Date Received** \_\_\_\_\_

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

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Authorized Agent for DBE Subconsultant/Subcontractor

Print Name and Title: \_\_\_\_\_

**OVER FOR INSTRUCTIONS**



**PHOENIX-MESA GATEWAY AIRPORT AUTHORITY  
CERTIFICATION OF PROMPT PAYMENT TO DBE FIRMS**

**INSTRUCTIONS**

Prime Consultant will prepare a form for each DBE being paid from each Airport payment for services when the DBE Subconsultant/Subcontractor is being paid. The amount paid to each DBE should match the amount earned less any retention held on a pay application as shown on Exhibit K. In the case of a reduction in retention payment, the amount paid to each DBE should be half of any retention withheld to date.

The date documented by the Prime Consultant must be the date a check is issued or that an Electronic Fund Transfer is completed as payment to the DBE Subconsultant/Subcontractor. This must be in conformance with State and Federal prompt payment regulations per the contract.

The authorized Prime Consultant must sign and certify the accuracy of the information on Exhibit L and send it to the DBE Subconsultant/Subcontractor.

The DBE Subconsultant/Subcontractor must document the amount of payment received and the date payment from the Prime Consultant was received. The authorized DBE Subconsultant/Subcontractor representative must sign and certify accuracy of the information.

DBE Subconsultant/Subcontractor must mail the original or email a scan of the record to the Airport within five (5) days of receipt of the Prime Consultant payment. Airport contact information is as follows:

Kim Dorney  
Grants Manager  
Phoenix-Mesa Gateway Airport Authority  
5835 S. Sossaman Road  
Mesa, AZ 85212  
[kdorney@gatewayairport.com](mailto:kdorney@gatewayairport.com)

The DBE Subconsultant/Subcontractor should also copy the Prime Consultant on the record.

The Prime Consultant and DBE Subconsultant/Subcontractor must retain the payment records and evidence of compliance for three years following completion of the contract.

**FOR QUESTIONS ON COMPLETING THIS FORM, PLEASE CONTACT THE PHOENIX-MESA GATEWAY AIRPORT AUTHORITY GRANTS OFFICE AT (480) 988-7652.**

DBE Subconsultants/Subcontractors may file complaints on alleged violations of the Prompt Payment standards by contacting the Airport Project Manager or the Grants Office as noted above.

