

**CITY OF CASA GRANDE, ARIZONA  
REQUEST FOR STATEMENT OF QUALIFICATIONS**

**FOR THE  
AIRPORT HELICOPTER APRON IMPROVEMENTS PROFESSIONAL  
SERVICES**

The City of Casa Grande requests for Request for Qualifications (RFQ) for Airport Helicopter Apron Improvements Professional Services.

Each response shall be in accordance with the RFQ instructions and scope of work package on file with the City Clerk at City Hall, 510 East Florence Boulevard, Casa Grande, Arizona, 85122, where copies can be obtained by calling the City Clerk's Office (520) 421-8600, or a complete packet is available on the City's website: [www.casagrandeaz.gov](http://www.casagrandeaz.gov). All responses must be submitted by **1:30 p.m. City time on Friday, January 22, 2016** to the City Clerk at the address specified below.

Responses must be addressed to:

**Remilie S. Miller, City Clerk  
City of Casa Grande  
510 E. Florence Boulevard  
Casa Grande, Arizona 85122**

The envelope must be boldly marked:

**REQUEST FOR QUALIFICATIONS: AIRPORT HELICOPTER APRON  
IMPROVEMENTS PROFESSIONAL SERVICES  
DUE ON: FRIDAY JANUARY 22, 2016 AT 1:30 P.M.**

The City of Casa Grande reserves the right to waive any informalities or irregularities in this Request for Qualifications, or to reject any or all responses; to be the sole judge of the suitability of the materials offered, and to award a contract for the furnishing of the services it deems to be in the best interest of the City.

/s/James V. Thompson  
City Manager



City of  
Casa Grande

**REQUEST FOR QUALIFICATIONS**

**FOR**

**AIRPORT HELICOPTER APRON IMPROVEMENTS  
PROFESSIONAL SERVICES**

PROJECT NO. 15017  
DECEMBER 2015

Statement of Qualifications due by:  
Friday, January 22, 2016

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## **SECTION 1: PROJECT DESCRIPTION**

The City of Casa Grande with a population of approximately 50,000 is located in the Central Arizona region in Pinal County between the metropolitan Phoenix and Tucson. The Casa Grande Municipal Airport (CGZ) is located approximately four miles north of downtown Casa Grande on Arizona Highway 387. It is situated on 640 acres of land and is one of five public use general aviation facilities in Pinal County. CGZ is a general aviation airport and is owned by the City of Casa Grande. In addition to general aviation activities, the airport serves and supports emergency medical operations and jet fuel sales. For the CGZ airport improvements, the City remains the Sponsor for FAA and ADOT, Multimodal Planning Division, Aeronautics Group grants.

The City of Casa Grande is currently seeking a qualified aviation consultant and requests Statements of Qualifications (SOQs) for Professional Engineering Services, in accordance with FAA Advisory Circular 150/5100-14D and the AIP sponsor Guide Section 300. As outlined in AC-150/5100-14D the Professional Engineering Services will include:

1. Preliminary Phase
2. Design Phase

And optional services:

3. Bidding and Negotiation Phase
4. Construction Phase

Engineering Services are required to design the Airport Helicopter Apron Improvements Project for helicopter and Aircraft Parking Apron Extension with an approximate area of 9,000 SY at CGZ. FAA AC-5390/2C, FAA AC 150/5300-13A and other applicable Advisory Circulars shall be referenced for land use, building locations, safety of existing buildings in the vicinity and other relevant elements. A conceptual parking apron layout with a proposed (up to) three parking spaces for helicopters and (up to) six parking spaces for general aviation aircraft is provided in Exhibit A1.

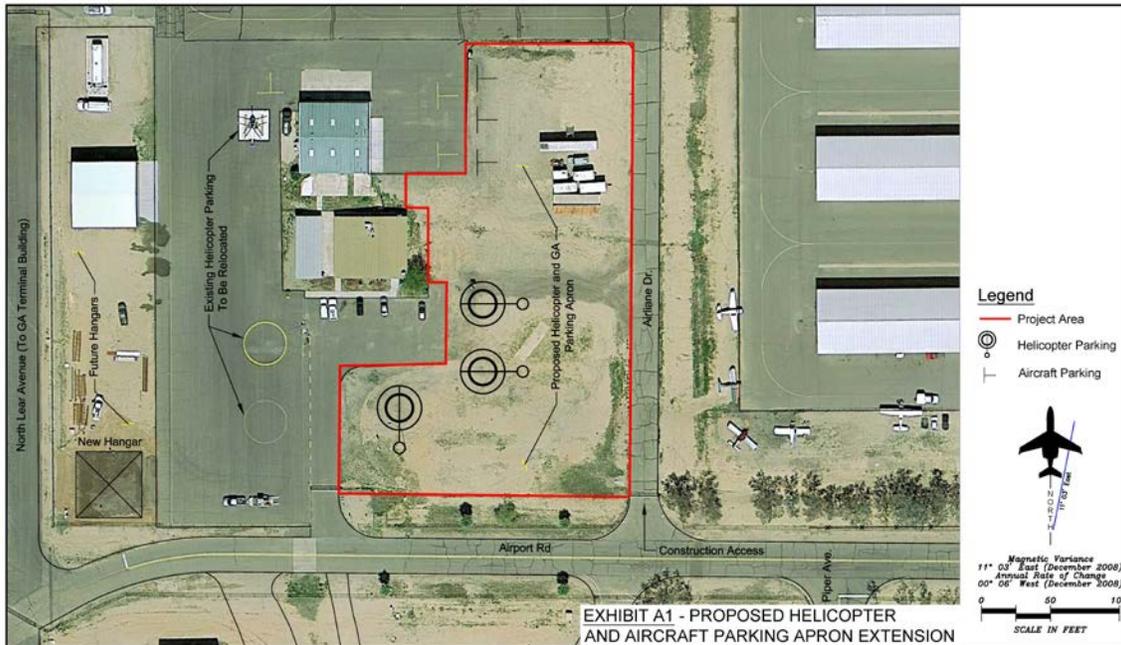
The project area is an undeveloped area in the interior of the airport north of Airport Road and adjacent to existing facilities to the east, north and west. There are not any unique or unusual features within or surrounding the airport property. To the north and west the desert land is undeveloped. To the south is a 320 acre industrial park being developed by the City and to the east across SR 387 is property being developed for commercial and residential uses compatible with the airport.

The Helicopter Parking Apron will be designed to serve small helicopters (less than 7,000 pounds gross takeoff weight) which commonly have public safety operational roles (law enforcement, search and rescue, medevac, pipeline or power line inspection, etc.). The parking apron will be constructed on an open (unpaved) area located north of West Airport Road between the access road to the GA Terminal and a controlled access road (North Aero Drive) to the T-hangars north of the proposed apron.

Helicopter and GA parking apron will involve the grading, drainage and asphalt paving of approximately 9,000 SY of unpaved area. The helicopter parking spaces will be designed for Small Helicopters with a design length of 43' and a rotor diameter of 37' in accordance

with FAA AC150/5390-2C Heliport Design standards. The GA Parking will be designed for Group II aircraft in accordance with FAA AC 150/5300-13A Airport Design (Change 1).

Construction of the helicopter parking apron will permit relocation of the existing parking positions of the medical helicopter operation that are currently immediately adjacent to existing and proposed private hangar sites. The relocation will eliminate the potential for fixed wing vs. rotor aircraft incidents, and provide additional needed apron for fixed wing aircraft.



All work shall be accomplished in accordance with all Federal, State, Local standards, guidelines, and regulations including FAA Advisory Circulars, The Environmental Protection Agency and Arizona Environmental Statutes. Consultant will be selected through a qualifications-based selection process. A detailed scope of professional services and professional fees will be negotiated and will be submitted for review and approval by FAA, ADOT Aeronautics Group and the City Council. Once approved, a formal contract will be executed between the City of Casa Grande and the Consultant. As the airport sponsor, the City will administer the contract and provide staff support. The project design and construction is subject to availability of funding.

The consultant selected to perform through this solicitation shall be required to obtain and maintain insurance coverage as specified in the sample Contract. Consultant shall follow the State of Arizona Travel Policy for any expenses related to transportation, lodging and meal reimbursements. Consultants selected to perform under this solicitation shall also be required to obtain a City of Casa Grande business license.

## **SECTION 2: CONSULTANT SERVICES**

The airport consultant services required for typical airport development projects involves services generally of an architectural, civil, geotechnical, structural, mechanical and electrical engineering nature. The City may or may not have staff availability to perform all the administrative work and may seek assistance from the consultant. Such help may be negotiated during the project scoping. The anticipated basic services that will be required are the following:

1. Preliminary Phase: This phase involves those activities required for defining the scope of the project and establishing preliminary requirements. Some examples of activities within this phase of a project include:

- a. Conferring with the Casa Grande Municipal Airport on project requirements, finances, schedules, early phases of the project and other pertinent matters and meeting with FAA and other concerned agencies and parties on matters affecting the project.
- b. Planning, procuring, and/or preparing necessary surveys, geotechnical engineering investigations, field investigations and architectural and engineering studies required for preliminary design considerations.
- c. Developing design schematics, sketches, environmental and aesthetic considerations, project recommendations and preliminary layouts and cost estimates.

2. Design Phase: This phase includes all activities required to undertake and accomplish a full and complete project design. Examples include:

- 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 architectural, engineering, and special environmental studies.
- c. Preparing necessary engineering reports and recommendations.
- d. Preparing detailed plans, specifications and cost estimates.
- e. Preparing construction safety plans.
- f. Printing and providing necessary copies including digitals of engineering drawings, contract documents, and specifications.

3. Bidding and Negotiation Phase: This includes all activities necessary to oversee bidding and construction contracting of the project. Examples include:

- a. Assisting the Casa Grande Municipal Airport in advertising and securing bids, negotiating for construction services, analyzing bid results, furnishing recommendations on the award of contracts, and preparing contract documents.
- b. Providing consultation and advice to the Casa Grande Municipal Airport during all phases of bidding and negotiation.
- c. Representing the Casa Grande Municipal Airport at preconstruction conferences.

4. Construction Phase: This includes all activities necessary to oversee construction of the project. Examples include:

- a. Providing consultation and advice to the Casa Grande Municipal Airport during all phases of construction.
- b. Onsite construction inspection and/or management involving the services of part time or full-time resident engineer(s), inspector(s), or manager(s) during the construction or installation phase of a project.
- c. Inspecting work in progress periodically and providing appropriate reports to the Casa Grande Municipal Airport.
- d. Reviewing and approving shop and erection drawings submitted by contractors for compliance with design concept.
- e. Reviewing, analyzing, and approving laboratory and mill test reports of materials and equipment.
- f. Preparing and negotiation change orders and supplemental agreements.
- g. Observing or reviewing performance tests required by specifications.
- h. Preparation of record drawings.
- i. Determining amounts owed to contractors and assisting Casa Grande Municipal Airport in the preparation of payment requests for amounts reimbursable from grant projects.
- j. Making final inspection and submitting a report of the completed project to the Casa Grande Municipal Airport, FAA and ADOT Aeronautics.
- k. Updating the Airport Layout Plan, as necessary, upon completion of a construction project.

Other Special Services: The development of some projects may involve special activities or studies. Consultants performing special services may be employed directly by the sponsor to implement one or more phases of a project or may be employed by the principal consultant via a subcontract agreement. In certain instances, these services may be performed by the principal consultant. Some examples of special services that might be employed for airport projects include, but are not limited to, the following:

- a. Soils investigations, including core sampling, laboratory tests, related analyses, and reports.
- b. Detailed mill, shop, and/or laboratory inspections of materials and equipment.
- c. Land surveys and topographic maps.
- d. Field and/or construction surveys.
- e. Photogrammetric surveys.
- f. Expert witness testimony in litigation involving specific projects.
- g. Project feasibility studies.
- h. Public information and communication

- i. Assist the Casa Grande Municipal Airport in the preparation of necessary applications for local, State and Federal grants.
- j. Assist in preparation and updating the annual Airport Capital Improvement Program
- k. Preparation of grant reimbursement forms to be submitted to FAA and ADOT
- l. Preparation of DBE Plans/Goals.
- m. Preparation of property maps.
- n. Preparation of quality control plan.
- o. Preparation of final report.
- p. Updating the Airport Layout Plan, as necessary, upon completion of a construction project or property acquisition.

**SECTION 3: PROPOSED SCHEDULE OF EVENTS**

This calendar Schedule of Events is an integral part of the Contract Documents. The City, however, reserves the right to alter these timelines as necessary in the best interest of the City, and to accommodate scheduling difficulties relating to City Council selection of the Consultant team. All times refer to local time, as kept by the City Clerk.

Event Item (Referenced Document)	Date and Time
Request for Qualifications Release	12-17-2015
Advertisement for SOQ's	12-18-2015
Time and Closing Date to Receive Qualifications	1:30pm on 01-22-2016
Pre-submittal Conference	N/A - None
Review Qualifications and Notify Top Ranked Firm	02-19-2016
Fee Negotiations Completed	02-26-2016
Anticipated Council Approval of Selected Firm/Team	03-21-2016
Notice to Proceed (NTP)	04-25-2016

Interested consultants may conduct a site visit and ask any questions during City business hours.

Last date for questions and/or requests for clarifications is January 12, 2016 at 5:00 PM which shall be submitted in writing to:

Name: Abdul Rashid  
 Title: Civil Engineer/Project Manager  
 Email: [arashid@casagrandeaz.gov](mailto:arashid@casagrandeaz.gov)

## SECTION 4: GENERAL TERMS, CONDITIONS, AND INSTRUCTIONS

### Definition of Terms Used in These Instructions

As used in these instructions, the following terms have the following meaning:

- A. “Attachments” means all items required of the Submitter as a part of the submittal.
- B. “Days” means calendar days unless otherwise specified.
- C. “Exhibits” means all items attached to the solicitation.
- D. “Submittal” means bid, submittal, quotation, and qualifications.
- E. “Submitter” means a vendor or provider who responds to any type of solicitation.
- F. “Project Manager” means the person duly authorized to enter into and administer contracts and make written determinations with respect to the contract or his or her designee.
- G. “Solicitation” means an invitation for bids (IFB), a request for submittals (RFP), a request for quotations (RFQ) or a request for statement of qualifications (SOQ).

### Preparation of Submittal

- A. Copies of Submittal: To be considered responsive, one (1) clearly marked original, five (5) copies of the SOQ and one digital copy (PDF format preferred) must be submitted in a sealed envelope or box with the SOQ Description and the submitter’s name and address clearly indicated on the package by the deadline. The submittal should be no more than 10 pages, excluding, cover letter, dividers and appendices. The submittal shall be on 8 1/2 x 11 inch paper printed on one side only with no smaller than 12-point font. Submittals not complying with the format or page count limitation may result in the rejection of the submittal. The submittal must bear the original signature of an authorized representative of the submitter on the acknowledgement provided.
- B. Forms: No Facsimile or Telegraphic Submittals. A submittal shall be provided either on the forms provided in this solicitation or their substantial equivalent. Any substitute document for the forms provided in this solicitation must be legible and contain the same information requested on the form. A facsimile, telegraphic, or mailgram submittal will be rejected.
- C. Duty to Examine: It is the responsibility of each submitter to examine the entire solicitation, seek clarification in writing, and check its submittal for accuracy before submitting the submittal. Lack of care in preparing a submittal shall not be grounds for withdrawing the submittal after the submittal due date and time nor shall it give rise to any contract claim.
- D. Amendments: Each solicitation amendment, if any, shall be signed with an original signature by the person signing the submittal, and must be submitted no later than the submittal due date and time. Failure to return a signed copy of a material solicitation amendment may result in rejection of the submittal.

- E. Submittal Amendment or Withdrawal: A submittal may not be amended or withdrawn after the submittal due date and time except as otherwise provided under the City's Procurement Code or other applicable law.
- F. Public Record: Under applicable law, all submittals submitted and opened are public records and must be retained by the City of Casa Grande. Submittals shall be open to public inspection after contract award, except for such submittals deemed to be confidential by the City Casa Grande. If a submitter believes that information in its submittal should remain confidential, it must stamp as confidential that information and submit a statement with its submittal detailing the reasons that information should not be disclosed. The City of Casa Grande shall make a determination pursuant to the City of Casa Grande's Procurement Code and the Public Records laws of the State of Arizona.
- G. Exceptions to Terms and Conditions: A submittal that takes exception to a material requirement of any part of the solicitation, including a material term and condition of any proposed contract, may be rejected. Exceptions to the submittal documents shall be clearly set forth in an attachment to the submittal.
- H. Release of Project Information: The City shall provide the release of all public information concerning the project, including selection announcements and contract awards. Those desiring to release information to the public must receive prior written approval from the City.
- I. Non-compliant Submittals to be Rejected: Submitters are advised that failure to comply with the following criteria will be grounds for disqualification and will be strictly enforced:
- Receipt of submittal by the specified cut-off date and time
  - Failure to deliver the submittal to the appropriate location
  - Failure to provide complete, signed copies of required forms

These failures will result in disqualification and no action of the City, including late acceptance by the City Clerk, shall act to waive or otherwise affect the disqualification.

- J. City Rights: The City of Casa Grande reserves the right to reject any or all Submittals, to waive any informality or irregularity in any Submittal received, to be the sole judge of the merits of the respective Submittals received, and to cancel any solicitation if deemed to be in the interest of the City to do so.

## **Inquiries**

- A. Solicitation Contact Person; Other Contact Prohibited. Any inquiry related to a solicitation shall be directed solely to the City of Casa Grande Project Manager. The submitter may not contact or direct inquiries concerning this solicitation to any other employee. All Consultants interested in this project (including the Consultants employees, representatives, agents, lobbyists, attorneys, and subconsultants) will refrain, under penalty of disqualification, from direct or indirect contact for the purpose of influencing the selection or creating bias in the selection process with

any person who may play a part in the selection process, including the evaluation panel, the City Manager, Deputy City Manager, Department Heads and other staff. This policy is intended to create a level playing field for all potential Consultants, assure that contract decisions are made in public and to protect the integrity of the selection process. **The Project Manager/Contact Person for this Solicitation shall be:**

**Abdul Rashid, PE CFM**

City Civil Engineer

3181 N Lear Ave.

Casa Grande, AZ 85122

520-421-8625 x3342

[arashid@casagrandeaz.gov](mailto:arashid@casagrandeaz.gov)

- B. Submission of Inquires. All inquiries are to be submitted via email **ONLY**. Each inquiry shall clearly refer to this solicitation in the subject line of the email. A list of all inquiries received, and responses by the city, shall be generated and be made available to all interested parties via posting on the City's website seven (7) days prior to the submittal deadline.
- C. Timeliness. Any inquiry must be submitted at least **ten (10) days** before the submittal due date and time. Failure to do so may result in the inquiry not being answered.
- D. No Right to Rely on Verbal Responses. Any inquiry that raises material issues and results in changes to the solicitation shall be answered solely through a written solicitation amendment. A submitter may not rely on verbal responses to their inquiries.

### **Cost of Submittal Preparation**

The City of Casa Grande shall not reimburse any submitter the cost of responding to a solicitation.

### **Certifications, Disclosure, and Disqualification**

- A. Non-collusion, Employment, and Services. By signing the Submittal form, or other official contract form, the submitter certifies that:
  - i) They did not engage in collusion or other anti-competitive practices in connection with the preparation or submission of its submittal; and
  - ii) They do not discriminate against any employee, applicant for employment, or person to whom it provides services because of race, color, religion, sex, national origin, or disability, and that it complies with all applicable federal, state, and local laws and executive orders.
- B. Disclosure. If the Consultant, business, or person submitting this submittal has previously been debarred, suspended, or otherwise lawfully precluded from

participating in any public procurement activity, including being disapproved as a subconsultant with any federal, state, or local government, or if any such preclusion from participation from any public procurement activity is currently pending, the Submitter must fully explain the circumstances relating to the preclusion or proposed preclusion in the submittal. If awarded, the submitter must include a letter with its submittal setting forth the name and address of the governmental unit, the effective date of this suspension or debarment, the duration of the suspension or debarment, and the relevant circumstances relating the suspension or debarment. If suspension or debarment is currently pending, a detailed description of all relevant circumstances including the details enumerated above must be provided.

- C. Disqualification. The submittal of a submitter who is currently debarred, suspended or otherwise lawfully prohibited from any public procurement activity will be rejected.

### **Award of Contract**

- A. Number or Types of Awards. Where applicable, the City of Casa Grande reserves the right to make multiple awards or to award a contract by individual line items, by a group of line items, or to make an aggregate award, whichever is deemed most advantageous to the City of Casa Grande. If the Contract Administrator determines that an aggregate award to one submitter is not in the City of Casa Grande's interest, "all or none" submittals shall be rejected.
- B. Contracting. Each consultant or Firm selected shall be required to sign and execute a standard City of Casa Grande form of Contract, and conform to all requirements contained therein. This Contract shall not be a guarantee or promise of work; the execution of Contracts shall enable the City to direct work in an expeditious manner when required. A sample of such contract is included with this solicitation.
- C. Contract Inception. A submittal does not constitute a contract nor does it confer any rights on the submitter to the award of a contract. A contract is not created until the submittal is accepted in writing by the Casa Grande City Council and executed by the authorized signature of the City Manager and the Submitter.

### **Protests**

Pursuant to Section 3.04.170 of the Casa Grande City Code, all protests shall be in writing and be filed with the City Clerk of the City of Casa Grande. To be considered timely, a protest of a solicitation any protest must be filed within three (3) days after the protester knows or should have known the basis of the protest. A protest shall include:

- A. The name, address, and telephone number of the protester;
- B. The signature of the protester or its representative;
- C. Identification of the purchasing agency and the solicitation or contract number;
- D. A detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and
- E. The form of relief requested.



**SUBMITTAL DUE DATE:                    JANUARY 22, 2016                    TIME:                    1:30 PM**

**SUBMIT TO:**                                    Office of the City Clerk  
City of Casa Grande  
510 E. Florence Boulevard  
Casa Grande, AZ 85122

***Pre-Submittal Meeting***

The City will not conduct a pre-submittal meeting. Interested consultants may request a site visit from the airport during airport business hours.

**SECTION 6: SELECTION PROCESS**

A selection panel made up of representatives of the City of Casa Grande will read, review, and evaluate the submittals independently based on the evaluation criteria. A point formula system will be used to evaluate and rank the submittals. Interview will not be held for the top ranked firms. A final list of at least three and not more than five firms will be issued.

Upon completion of the selection process and the identification of the best qualified firm/team, the City shall enter into negotiations with the top ranked firm and enter into a contract following completion of successful negotiation of fees and any contract terms for City Council consideration and approval. The form of contract shall be the standard form of contract prescribed by the City.

If the City is unable to successfully negotiate a contract with the top ranked firm, the City may then negotiate with the second (or subsequently the third) ranked firm until an agreement is reached or until the City chooses to terminate the selection process.

The SOQ shall be prepared to address the following evaluation factors. The maximum points to be awarded will be 100 points, and the maximum points to be awarded for each factor in the initial evaluation process are set forth below.

<u>Factor</u>	<u>Max.</u>
<u>Points</u>	

**Capabilities of the Project Team** (30)

Provide a general description of the prime firm and any subconsultants. Provide specific information as it relates to the key staff assigned this project. Include the following information:

1. Office location(s) where the work will be performed, organizational structure of each firm, and size and discipline make-up of staff.
2. Percent of work to be performed within the State of Arizona.
3. Breakdown of work between prime and subconsultants by task and by percent of total contract.
4. Authority to conduct business in Arizona (Arizona Board of Technical Registration Number) and insurability. Project manager must be a registered Professional Engineer (provide no.).

5. Identify the team and key personnel assigned to this project:
  - a. Work background.
  - b. Availability.
  - c. Years of experience and length of time with firm.
  - d. Work location of personnel during the full duration of the project.
  - e. Roles on this project identified with an organization chart.

**Past Performance** (10)

Provide a description of similar project experience for a minimum of 3, but not more than 5 projects, performed including information on the time frame to complete the work in relation to original contract requirements, with an explanation for significant deviation.

Supply at least two owner references with contact names, email addresses, and phone numbers for each of the projects listed.

**Project Schedule** (10)

Provide a projected project schedule identifying major milestones and activities.

**Project Understanding and Approach** (50)

State an understanding of the project requirements. Discuss any significant project features or requirements that the team perceives will influence this study. Provide a detailed description of the approach the team will take to conduct and complete the project. Identify any project issues or concerns involved with the project and discuss how you will address and mitigate these issues or concerns.

Describe the project management methodologies and systems used by the prime firm to insure conformance to the time schedule, fee budget, quality assurance/quality control processes, and securing stakeholder participation and buy-in.

**APPENDIX "A"**

**SAMPLE CONTRACT FORM**

## CONTRACT FOR PROFESSIONAL SERVICES

THIS CONTRACT is entered into this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_, an Arizona Corporation (hereinafter known as "Contractor"), whose address is \_\_\_\_\_, and the City of Casa Grande (hereinafter known as "City"), an Arizona municipal corporation, whose address is 510 East Florence Boulevard, Casa Grande, Arizona 85122.

The City engages the Contractor to perform professional services for a project know and described as the \_\_\_\_\_, hereinafter called the "Project".

### **1. Scope of Contractor's Services.**

For the project a Scope and Fee shall be negotiated with the Contractor and shall be approved by the City prior to commencement of work. The contractor agrees to provide to the City services and any materials set forth in the Scope of Work requested by the City in its Requests for Proposal during the agreement period. No material, labor, or facilities will be furnished by the City, unless otherwise provided for in the Agreement. Timing is of the essence to the City.

Consultant shall provide those services to the City as identified in Exhibit\_\_\_\_, which is attached hereto and the terms of which are incorporated by reference herein.

### **2. Accounting and Payment for Contractor Services.**

Payment to the Contractor for services rendered under this Agreement shall be a sum total of \$ \_\_\_\_\_, as set forth in Exhibit "\_\_\_\_". Where Exhibit "\_\_\_\_" requires payments by City on a monthly basis for the percentage of the work completed, payment shall be based upon billings supported, unless otherwise provided in Exhibit "\_\_\_\_", by itemized documentation of units of work actually performed and amounts earned (including where appropriate, the actual number of days worked each month and total number of hours for the month), equipment or materials supplied or used, and the total dollar payment requested. Unless specifically stated in Exhibit "\_\_\_\_" or approved in writing in advance by the City, the City will not reimburse the Contractor for any costs or expenses incurred by the Contractor in the performance of this contract that are not part of the agreed upon reimbursable expenses. Where required, the City shall, upon receipt of appropriate documentation, compensate the Contractor no more often than monthly through the City voucher system for the Contractor's service pursuant to the fee schedule set forth in Exhibit "\_\_\_\_".

### **3. Assignment and Subcontracting.**

Except for subcontractors identified by Contractor in Exhibit "\_\_\_\_", no portion of this contract may be assigned or subcontracted to any other individual, firm, or entity without the express and prior written approval of the Contracting Officer. It will be the responsibility of the Contractor to ensure that any and all subcontractors comply with the terms and conditions of this agreement and that City of Casa Grande is named as express third-party beneficiary of such subcontracts with full rights as such.

### **4. Independent Contractor.**

The Contractor's services shall be furnished by the Contractor as an independent Contractor and nothing contained herein shall be construed to create a relationship of employer-employee or master-servant, but all payments made hereunder and all services performed shall be made and performed pursuant to this Agreement by the Contractor as an independent Contractor.

#### **5. No Guarantee of Employment.**

The performance of all or part of this contract by the Contractor shall not operate to vest any employment rights whatsoever and shall not be deemed to guarantee any employment of the Contractor or any employee of the Contractor or any subcontractor or any employee of any subcontractor by the City at the present time or in the future.

#### **6. Taxes.**

The Contractor understands and acknowledges that the City will not withhold federal or state income taxes. Where required by state or federal law, the Contractor authorizes the City to make withholding for any taxes other than income taxes (i.e., Medicare). All compensation received by the Contractor will be reported to the Internal Revenue Service at the end of the calendar year in accordance with the applicable IRS regulations. It is the responsibility of the Contractor to make the necessary estimated tax payments throughout the year, if any, and the Contractor is solely liable for any tax obligation arising from the Contractor's performance of this Agreement. The Contractor hereby agrees to indemnify the City against any demand to pay taxes arising from the Contractor's failure to pay taxes on compensation earned pursuant to this Agreement.

The City will pay sales and use taxes imposed on goods or services acquired hereunder as required by law. The Contractor must pay all other taxes including, but not limited to, Business or Occupation Tax, taxes based on the Contractor's gross or net income, or personal property to which the City does not hold title.

#### **7. Regulations and Requirement.**

This Agreement shall be subject to all laws, rules and regulations of the United States of America, the State of Arizona, and the City of Casa Grande.

#### **8. Right to Review.**

This contract may be subject to review by any federal or state auditor. The City or its designee shall have the right to review and monitor the financial and service components of this program by whatever means are deemed expedient by the City. Such review may occur with reasonable notice, and may include, but is not limited to, on site inspection by City Agents or employees, inspection of all records or other materials which the City deems pertinent to the Agreement and its performance, and any and all communications with or evaluations by service recipients under this Agreement. The Contractor shall preserve and maintain all financial records and records relating to the performance of work under this Agreement for five (5) years after contract termination in accordance with A.R.S. §35-214 and shall make them available for such review within the City of Casa Grande, State of Arizona, upon request.

#### **9. Modifications.**

Either party may request changes in the Agreement. Any and all agreed modifications shall be in writing, signed by each of the parties.

## **10. Termination for Default.**

If the Contractor defaults by failing to perform any of the obligations of the contract or becomes insolvent or is declared bankrupt or commits any act of bankruptcy or insolvency or makes an assignment for the benefit of creditors, the City may, by depositing written notice to the Contractor in the U.S. mail, postage prepaid, terminate the contract, and at the City's option, obtain performance of the work elsewhere. If the contract is terminated for default, the Contractor shall not be entitled to receive any further payments under the contract until all work called for has been fully performed. Any extra cost or damage to the City resulting from such default(s) shall be deducted from any money due or coming due to the Contractor. The Contractor shall bear any extra expenses incurred by the City in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained by the City by reason of such default. If a notice of termination for default has been issued and it is later determined for any reason that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the notice of termination has been issued pursuant to the Termination for Public Convenience paragraph hereof.

## **11. Termination for Public Convenience.**

The City may terminate the contract in whole or in part whenever the City determines, in its sole discretion, that such termination is in the best interests of the City. Whenever the contract is terminated in accordance with this paragraph, the Contractor shall be entitled to payment for actual work performed at unit contract prices for completed items of work. An equitable adjustment in the contract price for partially completed items of work will be made, but such adjustment shall not include provisions for loss of anticipated profit on deleted or uncompleted work. Termination of this contract by the City at any time during the term, whether for default or convenience, shall not constitute a breach of contract by the City.

## **12. Equal Opportunity.**

This Agreement, and the parties thereto, shall comply with the provisions of Arizona Executive Order 75-5 as amended by Arizona Executive Order 99-4 as they relate to equal opportunity.

## **13. Venue and Choice of Law.**

In the event that any litigation should arise concerning the construction or interpretation of any of the terms of this Agreement, the venue of such action of litigation shall be in the courts of the State of Arizona in and for the County of Pinal. This Agreement shall be governed by the laws of the State of Arizona.

## **14. Insurance.**

**14.1 Contractor Liability Insurance.** Upon signing of the Agreement and so long as it shall remain in effect, contractor, at its cost and expense, shall purchase and maintain the insurance described in this subsection 14. The insurance shall be purchased and maintained in companies duly licensed or otherwise approved by the State of Arizona, with forms acceptable to the City of Casa Grande, and shall be primary with no right of contribution. The contractor's insurer shall have a minimum A.M. Best's rating of A-VIII. Use of alternative insurers requires prior approval for the City of Casa Grande.

The insurance coverages to be purchased and maintained are:

**14.1.1 Workers' Compensation.** Contractor shall provide workers' compensation insurance as required by state and federal laws having jurisdiction over Contractor's employees engaged in the performance of the Services within this Agreement.

**14.1.2 General Liability.** Contractor shall maintain a Commercial General Liability (Occurrence) policy that includes coverage for premises and operations, products and completed operations, contractual liability, broad form property damage, and personal injury liability. The policy shall have limits of not less than:

- \$1,000,000 for each occurrence of bodily injury and property damage; and
- \$1,000,000 for personal injury;

**14.1.3 Automobile Liability.** Contractor shall maintain an Automobile Liability policy with a combined single limit for bodily injury and property damage of not less than \$1,000,000 for each accident. The policy shall cover all owned, hired, and non-owned automobiles used in connection with the Agreement for the performance of Contractor's services.

**14.1.4 Property Insurance.** A policy or policies of fire and extended coverage property damage insurance covering the full insurable value of all tools and equipment used by contractor from time to time on the lands of City of Casa Grande pursuant to the Agreement, including mobile equipment. Contractor shall also require its agents, contractors, licensees and others performing the obligations, or exercising the rights, of Contractor under the Agreement to carry such property damage insurance. Such policy or policies shall cover the full insurable value of such tools and equipment.

**14.1.5 Adjustment of Liability Limits.** If the initial term of the Agreement shall exceed ten years or if the aggregate term of the Agreement, including any extension or renewal terms agreed to by the parties or provided for in the Agreement shall exceed ten years, on each tenth anniversary of the date of the Agreement, the liability limits provided for in sections 14.1.2 and 14.1.3 shall be increased by an amount proportional to the increase in the US consumer price index occurring since the date of the Agreement or the date of the last such increase as appropriate.

**14.1.6 Professional Liability.** The Contractor retained by the City to provide the engineering services required by the Agreement will maintain Professional Liability insurance covering errors and omissions arising out of the Services performed by the Contractor or any person employed by him, with a limit of not less than \$2,000,000 each claim and \$4,000,000 all claims. In the event the insurance policy is written on a "claims made" basis, coverage shall extend for two years past completion and acceptance of Services as evidenced by annual Certificates of Insurance.

**14.2 Insurance Certificate.** Contractor shall not exercise any of its rights under the Agreement until it delivers to City of Casa Grande's designated recipient certificates from contractor's insurers showing that the coverage required above has been obtained.

**14.2.1** The insurance certificates must show City of Casa Grande, its subsidiaries, affiliates directors, officers, and employees as additional insured parties in respect of all

liability coverage except workers' compensation and professional liability insurance. The policy shall provide and the certificate shall reflect that the insurance afforded applies separately to each insured against whom claim is made or suit is brought except with respect to the limits of the company's liability.

**14.2.2** The insurance certificate shall provide on its face that the policies it represents will not be terminated, amended, or allowed to expire without 30 days prior written notice to City of Casa Grande.

**14.2.3** Failure of City of Casa Grande to demand the insurance certificate or other evidence of full compliance with these insurance requirements or failure of City of Casa Grande to identify a deficiency from any certificate provided to it shall not be construed as a waiver of Contractor's obligation to maintain such insurance.

**14.3 Severability of Interests.** The policies referenced in 14.1.2. and 14.1.3. shall contain a severability of interests clause, generally providing, "the insurance afforded applies separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the company's insurance."

**14.4 Waiver of Subrogation.** With the exception of Workers Compensation and Professional Liability Insurance, Contractor hereby waives any and all rights that it might have against City of Casa Grande, its employees, officers and directors, to recover all or part of any loss or damage insured or insurable by the insurance policies carried or required to be carried by it pursuant to the Contract Documents. Contractor shall require each of its agents, contractors, licensees and others performing the obligations, or exercising the rights, of Contractor under the Agreement to provide a similar waiver for City of Casa Grande's benefit.

**14.5 Deductibles.** Contractor may purchase the required insurance policies with deductibles which are reasonable in light of the contractor's financial condition; provided that any loss not covered due to the deductible will be paid by Contractor. Contractor shall also require its agents, contractors, licensees and others performing the obligations, or exercising the rights, of contractor under the Agreement to carry such property damage insurance. Such policy or policies shall cover the full insurable value of such tools and equipment.

## **15. Withholding Payment.**

In the event the Contractor has failed to perform any substantial obligation to be performed by the Contractor under this Agreement and said failure has not been cured within the times set forth in this Agreement, then the City may, upon written notice, withhold all monies due and payable to Contractor, without penalty, until such failure to perform is cured or otherwise adjudicated.

## **16. Future Non-Allocation of Funds.**

If sufficient funds are not appropriated or allocated for payment under this contract for any future fiscal period, the City will not be obligated to make payments for services or amounts incurred after the end of the current fiscal period. No penalty or expense shall accrue to the City in the event this provision applies.

## **17. Protection of Licensee Data.**

Contractor warrants that the Contractor's installation, maintenance, and upgrade of any software provided hereunder shall not result in the use or disclosure by Contractor of any information concerning a patient/client obtained by the City in providing service in violation of any State laws, Federal laws, including, but not limited to, the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), and any federal regulations governing privacy, including, but not limited to, 45 CFR Section 160-164, as well as other applicable federal and state statutes and regulations.

## **18. Contractor Commitments, Warranties and Representations.**

Any written commitment received from the Contractor concerning this Agreement shall be binding upon the Contractor, unless otherwise specifically provided herein with reference to this paragraph. Failure of the Contractor to materially fulfill such a commitment shall result in a breach of this Contract. A commitment includes, but is not limited to any representation made prior to execution of this Agreement, whether or not incorporated elsewhere herein by reference, as to performance of services or equipment, prices or options for future acquisition to remain in effect for a fixed period, or warranties.

## **19. Patent/Copyright Infringement.**

Contractor will defend and indemnify the City from any claimed action, cause or demand brought against the City, to the extent such action is based on the claim that information supplied by the Contractor infringes any patent or copyright. The Contractor will pay those costs and damages attributable to any such claims that are finally awarded against the City in any action. Such defense and payments are conditioned upon the following:

- a. That Contractor shall be notified promptly in writing by City of any notice of such claim; and
- b. Vendor shall have the right, hereunder, at its option and expense, to obtain for the City the right to continue using the information, in the event such claim of infringement is made, provided no reduction in performance or loss results to the City.

## **20. Disputes.**

**20.1 General.** Differences between the Contractor and the City, arising under and by virtue of the Contract Documents shall be brought to the attention of the City at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. Except for such objections as are made of record in the manner hereinafter specified and within the time limits stated, the records, orders, rulings, instructions and decisions of the Contracting Officer, shall be final and conclusive.

**20.2 Notice of Potential Claims.** The Contractor shall not be entitled to additional compensation which otherwise may be payable, or to extension of time for (1) any act or failure to act by the City, or (2) the happening of any event or occurrence, unless the Contractor has given the City a written Notice of Potential Claim within 10 days of the commencement of the act, failure, or event giving rise to the claim, and before final payment by the City. The written Notice of Potential Claim shall set forth the reasons for which the Contractor believes additional compensation or extension of time is due, the nature of the cost involved, and insofar as possible, the amount of the

potential claim. Contractor shall keep full and complete daily records of the Work performed, labor and material used, and all costs and additional time claimed to be additional.

**20.3 Detailed Claim.** The Contractor shall not be entitled to claim any such additional compensation, or extension of time, unless within 30 days of the accomplishment of the portion of the work from which the claim arose, and before the final payment by the City, the Contractor has given the City a detailed written statement of each element of cost or other compensation requested and of all elements of additional time required, and copies of supporting documents evidencing the amount or the extension of time claimed to be due.

## **21. Ownership of Items Produced.**

All writings, programs, data, public records or other materials prepared by the Contractor and/or its Contractors or subcontractors, in connection with the performance of this Agreement shall be the sole and absolute property of the City.

## **22. Conflict of Interest.**

The Contractor agrees to promptly disclose any financial or economic interest in the Project property, or any property affected by the Project, existing prior to the execution of this Contract. Further, the Contractor agrees to promptly disclose any financial or economic interest with the Project property, or any property affected by the Project, if the Contractor gains such interest during the course of this Contract.

If the Contractor gains any financial or economic interest in the Project during the course of this Contract, this may be grounds for terminating this Contract at the sole discretion of the City.

The Contractor shall not engage the services on the Contract of any present or former City employee who was involved as a decision maker in the selection or approval processes, or who negotiated or approved billings or contract modifications for this Contract.

The Contractor agrees that it shall not perform services on this Project for the contractor, sub-contractor, or any supplier.

The Contractor shall not negotiate, contract, or make any agreement with the contractor, sub-contractor, or any supplier with regard to any of the work under this Project, or any services, equipment or facilities to be used on this Project.

This Agreement is subject to the cancellation provisions for conflicts of interest pursuant to A.R.S. §38-511.

## **23. Covenant Against Contingent Fees.**

The Contractor affirms that he has not employed or retained any company or person, other than a bona fide employee working for the Contractor to solicit or secure this Contract, and that he has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of the Contract. For breach or violation of this clause, the City may terminate this Contract without liability, or in its discretion may deduct from the Contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage brokerage fee, gift, or contingent fee.

## **24. Indemnification.**

To the fullest extent permitted by law, the Contractor shall defend, indemnify and hold harmless the City, its agents, officers, officials, and employees from and against all claims, damages, losses, and expenses (including but not limited to attorney's fees, court costs, and the costs of appellate proceedings), relating to, arising out of, or alleged to have resulted from the negligent acts, errors, mistakes or omissions in the work, services, or professional services of the Contractor, its agents, employees, or any other person (not the City) for whose negligent acts, errors, mistakes or omissions in the work, services, or professional services the Contractor may be legally liable in the performance of this Contract.

Contractor's duty to defend, hold harmless and indemnify the City, its agents, officers, officials, and employees from and against all claims, damages, losses, and expenses that are attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of any person or property, including loss or use resulting therefrom, caused by any negligent acts, errors, mistakes, omissions, work, services, or professional services in the performance of this Contract by Contractor or any employee of the Contractor, or any other person (not the City) for whose negligent acts, errors, mistakes, omissions, work, or services the Contractor may be legally liable. The amount and type of insurance coverage requirement set for the herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

To the fullest extent permitted by law, the City agrees to indemnify and hold the Contractor harmless from any damage, liability or cost (including reasonable attorney's fees and costs of defense) to the extent caused by the City's negligent acts, errors or omissions and those of his or her contractors, subcontractors or consultants or anyone for whom the City is legally liable, and arising from the project that is the subject of this Agreement. The Contractor is not obligated to indemnify the City in any manner whatsoever for the City's own negligence.

## **25. Confidentiality.**

The Contractor, its employees, subcontractors, and their employees shall maintain the confidentiality of all information provided by the City or acquired by the Contractor in performance of this Agreement, except upon the prior written consent of the City Attorney, or an order entered by a court after having acquired jurisdiction over the City. Contractor shall immediately give to the City notice of any judicial proceeding seeking disclosure of such information. Contractor shall indemnify and hold harmless the City, its officials, agents or employees from all loss or expense, including, but not limited to settlements, judgments, setoffs, attorneys' fees and costs resulting from Contractor's breach of this provision.

## **26. Public Disclosure.**

In the event of a public records request to the City for the Licensed Program or Licensed Documentation, the City shall promptly provide a copy of such request to Contractor so that it has at least 7 days from Contractor's receipt of such request in which to seek an order restraining the City from disclosing the Licensed Program and Documentation pursuant to such public records request. If Contractor does not obtain a restraining order within such period of time, the City may disclose the Licensed Program and Licensed Documentation pursuant to such public request as the City deems appropriate to comply with Arizona's Public Records Laws.

## **27. Notice.**

Except as set forth elsewhere in the Agreement, for all purposes under this Agreement, except service of process, notice shall be given by the Contractor to the department head of the department for whom services are rendered and to the City Attorney's Office. Notice may be given by delivery or by depositing in the U.S. Mail, first class, postage prepaid.

**28. Severability.**

If any term or condition of this contract or the application thereof to any person(s) or circumstance(s) is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this contract are declared severable.

**29. Waiver.**

Waiver of any breach or condition of this contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this contract shall be held to be waived, modified or deleted except by an instrument, in writing, signed by the parties hereto.

**30. Survival.**

The provisions of paragraphs, 4, 6, 8, 10, 11, 12, 13, 14, 16, 17, 18, 19, 20, 21, 24, 25, 26, 27, 33 and 34 and the provisions of any non-collusion affidavit, shall survive, notwithstanding the termination or invalidity of this Agreement for any reason.

**31. Discrimination.**

Contractor **shall not** unlawfully discriminate against any employee, applicant for employment, recipient of services or programs, or applicant for services or programs, on the basis of race, creed, color, sex, age, marital status, national origin or the presence of any sensory, mental or physical handicap. Contractor shall comply with the Americans with Disabilities Act.

**32. Entire Agreement.**

This written contract represents the entire Agreement between the parties and supersedes any prior oral statements, discussions or understandings between the parties.

**33. E-Verify.**

To the extent applicable under ARIZ. REV. STAT. § 41-4401, the Contractor 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 ARIZ. REV. STAT. § 23-214(A). The Contractor's or subcontractor's breach of the above-mentioned warranty shall be deemed a material breach of the Agreement and may result in the termination of the Agreement by City. The Contractor agrees to insert language similar to this paragraph in all contracts in which they engage with subcontractors on this project to ensure that those subcontractors are meeting the requirements of the above-mentioned statutes. City retains the legal right to randomly inspect the papers and records of the Contractor and its subcontractors who work on the Agreement to ensure that the Contractor and its subcontractors are complying with the above-mentioned warranty. The Contractor and its subcontractors warrant to keep the papers and records open for random

inspection during normal business hours by City. The Contractor and its subcontractors shall cooperate with City's random inspections including granting City entry rights onto its property to perform the random inspections and waiving their respective rights to keep such papers and records confidential.

**34. City Contact**

The Contact for the City Shall be \_\_\_\_\_.

**35. Compliance with FAA AIP and Federal Requirements**

The Contact for the City shall be \_\_\_\_\_. Contractor shall comply with FAA, AIP and associated Federal Requirements as set forth in Exhibit C.



**EXHIBIT “A”—SCOPE OF SERVICES**

**EXHIBIT “B”— FEE SCHEDULE – ENGINEERING SERVICES ESTIMATE**

**EXHIBIT “C”— FAA, AIP AND FEDERAL REQUIREMENTS**

## **CIVIL RIGHTS ACT OF 1964, TITLE VI – CONTRACTOR CONTRACTUAL REQUIREMENTS**

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

**1.1 Compliance with Regulations.** The contractor shall comply with the Regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

**1.2 Nondiscrimination.** The contractor, with regard to the work performed by it during the contract, shall 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 shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

**1.3 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 shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

**1.4 Information and Reports.** The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Sponsor or the Federal Aviation Administration (FAA) to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the sponsor or the FAA, as appropriate, and shall set forth what efforts it has made to obtain the information.

**1.5 Sanctions for Noncompliance.** In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the sponsor shall impose such contract sanctions as it or the FAA may determine to be appropriate, including, but not limited to:

- a. Withholding of payments to the contractor under the contract until the contractor complies, and/or
- b. Cancellation, termination, or suspension of the contract, in whole or in part.

**1.6 Incorporation of Provisions.** The contractor shall include the provisions of paragraphs 1 through 5 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the sponsor or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a

subcontractor or supplier as a result of such direction, the contractor may request the Sponsor to enter into such litigation to protect the interests of the sponsor and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

### **AIRPORT AND AIRWAY IMPROVEMENT ACT OF 1982, SECTION 520 - GENERAL CIVIL RIGHTS PROVISIONS**

The contractor assures that it will comply with pertinent statutes, Executive orders and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision obligates the tenant/concessionaire/lessee or its transferee for the period during which Federal assistance is extended to the airport a program, except where Federal assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon. In these cases the provision obligates the party or any transferee for the longer of the following periods: (a) the period during which the property is used by the airport sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits or (b) the period during which the airport sponsor or any transferee retains ownership or possession of the property. In the case of contractors, this provision binds the contractors 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.

### **DISADVANTAGED BUSINESS ENTERPRISES**

**Policy** - It is the policy of the Department of Transportation (DOT) that disadvantaged business enterprises, as defined in 49 CFR Part 23, shall have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds under this agreement.

**DBE Obligation** - The Contractor agrees to ensure that disadvantaged business enterprises, as defined in 49 CFR Part 23 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard, all Contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. Contractor shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT assisted contracts.

**Contract Assurance (§26.13)** - 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 DOT 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 recipient deems appropriate.

**Prompt Payment (§26.29)** - The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than **30 days** from the receipt of each payment the prime contractor receives from the Sponsor/Owner. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor's

work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Sponsor/Owner. This clause applies to both DBE and non-DBE subcontractors.

### **LOBBYING AND INFLUENCING FEDERAL EMPLOYEES**

(1) No Federal appropriated funds shall be paid, by or on behalf of the contractor, 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.

(2) 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.

The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-contracts, sub-grants and contracts under grants, loans and cooperative agreements) and 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 pre-requisite for making or entering into this transaction imposed by Section 1352, Title 31, US. 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.

### **ACCESS TO RECORDS AND REPORTS**

The Contractor shall maintain an acceptable cost accounting system. The Contractor agrees to provide the Sponsor, the Federal Aviation Administration and the Comptroller General of the United States or any of their duly authorized representatives access to any books, documents, papers, and records of the contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Contractor agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.

### **BREACH OF CONTRACT TERMS**

Any violation or breach of terms of this contract on the part of the contractor or their subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement. The duties and obligations imposed by the Contract Documents 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.

### **RIGHTS TO INVENTIONS**

All rights to inventions and materials generated under this contract are subject to regulations issued by the FAA and the Sponsor of the Federal grant under which this contract is executed.

## **TERMINATION OF CONTRACT**

- a. The Sponsor may, by written notice, terminate this contract in whole or in part at any time, either for the Sponsor's convenience or because of failure to fulfill the contract obligations. Upon receipt of such notice services shall be immediately discontinued (unless the notice directs otherwise) and all materials as may have been accumulated in performing this contract, whether completed or in progress, delivered to the Sponsor.
- b. If the termination is for the convenience of the Sponsor, an equitable adjustment in the contract price shall be made, but no amount shall be allowed for anticipated profit on unperformed services.
- c. If the termination is due to failure to fulfill the contractor's obligations, the Sponsor may take over the work and prosecute the same to completion by contract or otherwise. In such case, the contractor shall be liable to the Sponsor for any additional cost occasioned to the Sponsor thereby.
- d. If, after notice of termination for failure to fulfill contract obligations, it is determined that the contractor had not so failed, the termination shall be deemed to have been effected for the convenience of the Sponsor. In such event, adjustment in the contract price shall be made as provided in paragraph 2 of this clause.
- e. The rights and remedies of the sponsor provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

## **CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION**

The bidder/offeror certifies, by submission of this proposal or acceptance of this contract, 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. It further agrees by submitting this proposal that it will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts, and subcontracts. Where the bidder/offeror/contractor or any lower tier participant is unable to certify to this statement, it shall attach an explanation to this solicitation/proposal.

## **ADDITIONAL FEDERAL REQUIREMENTS**

### **1.1 ENERGY CONSERVATION REQUIREMENTS**

The contractor agrees to comply with mandatory standards and policies relating to energy efficiency that are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Public Law 94- 163)

### **1.2 TRADE RESTRICTION CLAUSE**

The contractor or subcontractor, by submission of an offer and/or execution of a contract, certifies that it:

- 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 published by the Office of the United States Trade Representative (USTR);
- b. has not knowingly entered into any contract or 3.22B TRADE RESTRICTION CLAUSE The

contractor or subcontractor, by submission of an offer and/or execution of a contract, certifies that it: 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 published by the Office of the United States Trade Representative (USTR); subcontract for this project with a person that is a citizen or national of a foreign country on said list, or is owned or controlled directly or indirectly by one or more citizens or nationals of a foreign country on said list;

c. has not procured any product nor subcontracted for the supply of any product for use on the project that is produced in a foreign country on said list.

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 a contractor or subcontractor who is unable to certify to the above. If the contractor knowingly procures or subcontracts for the supply of any product or service of a foreign country on said list for use on the project, the Federal Aviation Administration may direct through the Sponsor cancellation of the contract at no cost to the Government.

Further, the contractor agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in each contract and in all lower tier subcontracts. The contractor may rely on the certification of a prospective subcontractor unless it has knowledge that the certification is erroneous.

The contractor shall provide immediate written notice to the sponsor if the contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances.

The subcontractor agrees to provide written notice to the contractor if at any time it learns that its certification was erroneous by reason of changed circumstances. This certification is a material representation of fact upon which reliance was placed when making the award. If it is later determined that the contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration may direct through the Sponsor cancellation of the contract or subcontract for default at no cost to the Government.

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.

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 100 1.

### **1.3 VETERAN'S PREFERENCE**

In the employment of labor (except executive, administrative, and supervisory positions), preference shall be given to veterans of the Vietnam era and disabled veterans. However, this preference shall apply only where the individuals are available and qualified to perform work to which the employment relates.

### **1.4 DAVIS-BACON ACT PROVISIONS**

1. All mechanics and laborers employed or working upon the site of the work will be paid

unconditionally and not less often than once a week and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amounts due at time of payment computed at wage rates not less than those contained in the wage determination decision(s) of the Secretary of Labor which is (are) attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics; and the wage determination decision(s) shall be posted by the Contractor at the site of the work in a prominent place where it (they) can be easily seen by the workers. For the purpose of this paragraph, contributions made or costs reasonably anticipated under Section 1(b)(2) of the Davis- Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of Subparagraph 4 below. Also for the purpose of this paragraph, regular contributions made or costs incurred for more than a weekly period under plans, funds, or programs, but covering the particular weekly period, are deemed to be constructively made or incurred during such weekly period [29 CFR 5.5(a)(1)(i)].

2. Any class of laborers or mechanics, including apprentices and trainees, which is not listed in the wage determination(s) and which is to be employed under the contract, shall be classified or reclassified conformably to the wage determination(s), and a report of the action taken shall be sent by the OWNER to the FAA for approval and transmittal to the Secretary of Labor. In the event that the interested parties cannot agree on the proper classification or reclassification of a particular class of laborers and mechanics, including apprentices and trainees, to be used, the question accompanied by the recommendation of the FAA shall be referred to the Secretary of Labor for final determination [29 CFR 5.5(a)(1)(ii)].

3. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly wage rate and the Contractor is obligated to pay a cash equivalent of such a fringe benefit, an hourly cash equivalent thereof shall be established. In the event the interested parties cannot agree upon a cash equivalent of the fringe benefit, the question accompanied by the recommendation of the FAA shall be referred to the Secretary of Labor for determination [29 CFR 5.5(a)(1)(iii)].

4. If the Contractor does not make payments to a trustee or other third person, he may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing benefits under a plan or program of a type expressly listed in the wage determination decision of the Secretary of Labor which is a part of this contract. Provided, however, the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

## **1.5 CIVIL RIGHTS (EQUAL EMPLOYMENT OPPORTUNITY, AFFIRMATIVE ACTION, AND NON-DISCRIMINATION)**

(1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In

addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

(a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq ., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. 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. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(3) The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

## **1.6 CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS 29 CFR PART 5**

1. Overtime Requirements. No contractor or subcontractor 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.

2. Violation; Liability for Unpaid Wages; Liquidated Damages. In the event of any violation of the

clause set forth in paragraph (1) above, the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor 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 above, 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 above.

3. Withholding for Unpaid Wages and Liquidated Damages. The Federal Aviation Administration or the Sponsor 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 monies payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract: subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 2 above.

4. Subcontractors. The contractor or subcontractor 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 contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs I. through 4 of this section.

### **1.7 SPECIAL GRANT CONDITION**

Office of Management and Budget issued Memorandum M-08-03 implementing Section 106(g) of the Trafficking Victims Protection Act of 2000, as amended (TVPA) (22 U.S.C. 7104(g)).

#### **TRAFFICKING IN PERSONS:**

a. **Provisions applicable to a recipient that is a private entity.**

1. You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not -
  - i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
  - ii Procure a commercial sex act during the period of time that the award is in effect;
  - or
  - iii. Use forced labor in the performance of the award or subawards under the award.

### **1.8 SUSPENSION AND DEBARMENT REQUIREMENTS FOR ALL CONTRACTS OVER \$25,000**

The Contractor certifies, by acceptance of this Agreement, 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. It further

agrees that it will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts, and subcontracts. Where the Contractor or any lower tier participant is unable to certify to this statement, it shall attach an explanation to the agreement.

### **1.9 DRUG-FREE WORKPLACE CERTIFICATION**

Contractor hereby certifies compliance in matters relating to providing a drug-free workplace. Contractor will:

1. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying action to be taken against employees for violations.
2. Establish a Drug-Free Awareness Program to inform employees about all of the following:
  - a. The dangers of drug abuse in the workplace,
  - b. The person's or organization's policy of maintaining a drug-free workplace,
  - c. Any available counseling, rehabilitation and employees assistance programs, and
  - d. Penalties that may be imposed upon employees for a drug abuse violations.
3. Provide that every employee who works on the proposed contract or grant
  - a. Will receive a copy of the company's drug-free policy statement, and
  - b. Will agree to abide by the terms of the company's statement as a condition of employment on the contract or grant.

**APPENDIX “B”**

**REQUIRED FORMS**

**THESE FORMS MUST BE SIGNED AND RETURNED WITH SUBMITTAL**

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## SUBMITTAL ACKNOWLEDGMENT

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To the City of Casa Grande:

The undersigned hereby submits and agrees to furnish services in compliance with all terms, conditions, specifications and amendments in the Solicitation. Signature also certifies understanding and compliance with the City of Casa Grande's **Sample** Contract

COMPANY NAME:

ADDRESS:

CITY/STATE/ZIP:

PHONE:

FAX:

CONTACT PERSON:

EMAIL for CONTACT PERSON:

AUTHORIZED COMPANY SIGNATURE AND TITLE:

**NON-COLLUSION AFFIDAVIT**

State of            )  
                          )        ss.  
County of        )

                  , affiant,

(Name)

the            of

(Title)

(Consultant/Bidder)

who is the person or other entity that makes the accompanying Submittal, having first been duly sworn, deposes and says:

That such Submittal is genuine and not sham or collusive, nor made in the interest of, or on behalf of, any persons not herein named, and that the Submitter has not directly or indirectly induced or solicited any other Submitter to put in a sham bid, or any other person, firm, company or corporation to refrain from making a submittal, and that the Submitter has not in any manner sought by collusion to secure for itself an advantage over any other Submitter.

(Title)

Subscribed and sworn to before me \_\_\_\_\_  
This \_\_ day of \_\_\_\_\_, 20\_\_

Notary Public: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

**Authorization for Release of Performance Information and Waiver**

I, \_\_\_\_\_, the undersigned, on behalf of \_\_\_\_\_ (this company), being duly authorized to do so, do hereby consent and authorize all those companies and government entities listed in my Submittal to the City of Casa Grande, and any other government entity for whom this company has performed pre-construction and/or construction services, to disclose and release to the City of Casa Grande, or its representatives, information, records and opinions concerning this company's performance. The purpose of this disclosure is to provide references and background material to the City of Casa Grande. This company hereby waives any claim it may have against the City of Casa Grande or any company or entity providing information to the City of Casa Grande by reason of any information being disclosed or opinions provided regarding the actions or performance of this company.

This authorization shall be effective for one year, and a copy of this authorization shall be as valid and effective as the original.

Dated: \_\_\_\_\_

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

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