COUNCIL DECISION REQUEST

SUBJECT: Airport On-Call Engineering and Construction Management Contract

MEETING DATE: 12-10-09

PAYSON GOAL: NEW: EXISTING:

ITEM NO.:

TENTATIVE SCHEDULE:

SUBMITTED BY: LaRon Garrett, Pub. Wks. Dir.

AMOUNT BUDGETED: $0

SUBMITTAL TO AGENDA
APPROVED BY TOWN MANAGER

EXPENDITURE REQUIRED: $0

CONT. FUNDING REQUIRED: $0

EXHIBITS (If Applicable, To Be Attached): Copy of the Proposed Contract

---

POSSIBLE MOTION

I move to approve the on-call engineering and construction management contract for the Payson Airport with Armstrong Consultants, Inc. and authorize the Mayor to sign the necessary contract documents, contingent on receiving final approval from the FAA.

SUMMARY OF THE BASIS FOR POSSIBLE MOTION:

On September 15, 2009 the Town issued a Request for Qualifications for Engineering Design and Construction Management Services for the Payson Municipal Airport. These proposals were due on October 26, 2009. The RFQ was advertised in the local newspaper and on two internet sites available worldwide. Fifty firms / individuals requested a copy of the Request for Proposals. We received 10 responses to this RFQ.

The 10 proposals were reviewed by a panel made up of two Town employees, one Town Councilmember, and one member of the PRAA Board of Directors. The four reviewers scored and ranked the ten proposals independently. The scores and ranking were then combined to come up with an overall score and ranking.

Based on this review, four firms were ranked very close together and above the others. The review panel then interviewed the top four firms of Armstrong Consulting, Kimley-Horn, Morrison Maierle, Inc., and Z&H Engineering. After the interviews, the consensus of the review panel is to recommend Armstrong Consulting as the Town of Payson on-call Airport Engineer.

The purpose of this contract is to have an on-call engineer that we can go to whenever there is an airport project. This contract is for one year but can be renewed annually for an additional four years. There are no professional fees associated with this contract. When a project is identified a Scope of Services and Professional Fee will be negotiated for that particular project. That negotiated Scope and Fee will be brought back to the Council with an Authorization for Services for that project.

This contract must also be approved by the FAA and the ADOT Aeronautics Division. We have already received an approval from ADOT. The FAA approval is still pending. In order to get the engineer on board as soon as possible staff is requesting Council approval of the contract with Armstrong Consultants, Inc. contingent on getting the final approval from the FAA.

DEC 10 2009 I.5

COUNCIL DECISION REQUEST

Staff recommends that the Town Council approve this on-call engineering and construction management contract for the Payson Airport with Armstrong Consultants, Inc. and authorize the Mayor to sign the necessary contract documents, contingent on receiving final approval from the FAA.

PROS: This will allow the contract to become effective as soon as FAA approval is received and will let us start working on grant projects that have funding available.

CONS: None

PUBLIC INPUT (if any):

N/A

BOARD/COMMITTEE/COMMISSION ACTIONS/RECOMMENDATIONS (if any) (give dates and attach minutes): N/A

FUNDING:

Acct:	Budget:	Available	Expense:	Remaining:
Acct:	Budget:	Available:	Expense:	Remaining:
Acct:	Budget:	Available:	Expense:	Remaining:

3A: _____ Date: _____

TOWN OF PAYSON
GENERAL AIRPORT TECHNICAL SERVICES CONTRACT
2009

This CONTRACT, entered into as of this _____ day of _____, 2009, by and between the TOWN OF PAYSON, herein called the TOWN, and Armstrong Consultants, Inc., a professional corporation, herein called the "CONSULTANT",

WITNESSETH THAT: **WHEREAS,**

1. The TOWN desires to procure the services of CONSULTANT for the purpose of performing general airport engineering and construction management services for the Payson Municipal Airport, including: preliminary design, design services, bidding services, construction management services, construction administration services, and grant coordination services. Said services are to be authorized by the TOWN COUNCIL through individual authorizations for Services. This General Airport Technical Services Contract will be for a period of one (1) year commencing this _____ day of _____, 2009, with potential one-year renewals every year thereafter for the following four (4) years.

2. The CONSULTANT and TOWN desire to enter into and execute a written contract involving said services and to agree upon the terms thereof.

NOW, THEREFORE, in consideration of the foregoing recitals and of the covenants and agreements by the parties made to be kept and performed, the parties agree as follows:

ARTICLE I <u>CONTRACT</u>

The CONSULTANT as an independent contractor and not as an agent of the TOWN shall provide the services required in accordance with the Scopes of Services to be included as part of individual Authorizations for Services. Nothing herein contained is intended nor shall it be construed to create either an agency or employment relationship between the TOWN and the CONSULTANT. Services at the TOWN'S request may include, in general, the following:

1. Preparation of Preliminary Engineering and Cost Estimates
2. Preparation of Pre-applications and Applications for Grants
3. Field Surveys
4. Geotechnical Investigations
5. Pavement Designs
6. Preparation of Engineering Improvement Plans
7. Preparation of Specifications
8. Preparation of Bid Documents
9. Assistance in Bid Advertisement and Receipt of Bids

10. Bid Analysis and Construction Contract Award Assistance
11. Construction Observation
12. Construction Quality Assurance Testing
13. Construction Management
14. Construction Administration
15. Grant Management
16. Assistance in preparing the annual Airport Capital Improvement Program
17. Updating the Airport Layout Plan, as needed
18. Other tasks as directed by the Public Works Director

Specific projects the Town anticipates to be included under this contract using an individual Authorization of Services for each project include, but may not be limited to, the following:

- Design the Run-up area for Runway 24
- Design the relocated campground on the east end of the airport
- Design the taxiways for the future hangars at the west end of the airport
- Design the RSAT items 003, 005, and 006. RSAT 003 is Service Roads and fence around the airport property. RSAT 005 & 006 is distance remaining signs, taxiway edge markers, runway edge stripes and unlighted guidance signs.
- Acquire appraisal for the 13.5 acre land acquisition
- Purchase the 13.5 acres
- Construct RSAT items 003, 005, and 006 RSAT 003 is Service Roads and fence around the airport property. RSAT 005 & 006 is distance remaining signs, taxiway edge markers, runway edge stripes and unlighted guidance signs.
- Design new terminal building (including relocated fuel FBO and PRAA space) and parking areas
- Construct Echo Ramp Phase 2 (already designed), including Cat Ex.
- Construct relocated campground at east end
- Construct infrastructure for new hangars at the west end of the airport
- Construct 10 new hangars to replace Hangar One
- Design Alpha Ramp and Bravo Ramp Expansions
- Construct new terminal building (including relocated fuel FBO and PRAA space) and parking areas
- Construct Alpha Ramp and Bravo Ramp Expansions
- Design and construct relocated taxiway to meet B-II standards
- Design and construct a run-up area for Runway 6
- Design and construct taxiway on 13.5 acre parcel.

A specific Scope of Services will be prepared for each project authorized by the TOWN and included in an "Authorization for Services." The TOWN will provide written approval for each "Authorization for Services" prior to any work commencing.

ARTICLE II TIME OF PERFORMANCE

This CONTRACT will be valid for a period of one (1) calendar year from the date of said CONTRACT and is subject to annual renewal every year thereafter for the following four (4) years if both parties give written consent. The consultant shall initiate this renewal request in writing at least 30 calendar days prior to the expiration of the current contract. If the consultant renewal request is not received as stated in this article, this CONTRACT automatically becomes null and void as if it had been terminated in accordance with Article XXI of this CONTRACT. The request shall also contain an updated fee rate schedule to be used during the term of the requested renewal. The Town Council shall approve the renewal request prior to its becoming effective. If the Town Council does not approve the renewal request within 90 days of receipt, this CONTRACT automatically becomes null and void as if it had been terminated in accordance with Article XXI of this CONTRACT.

Individual Authorizations for Services will include times of performance for the work tasks covered in said Authorizations. CONSULTANT shall perform all services in an expeditious manner so as not to delay the project. Neither party hereto shall be considered in default in the performance of its obligations hereunder to the extent that the performance of any such obligation is prevented or delayed by any cause, existing or future, which is beyond the reasonable control of such party.

ARTICLE III COMPENSATION AND PAYMENT

For the performance of its services, CONSULTANT shall be paid in accordance with the individual Authorizations for Services approved by the TOWN, in the manner and at the times specified in said Authorizations.

A. MANNER OF PAYMENT - On or as soon as practicable after the last day of each month, CONSULTANT shall prepare and submit to TOWN an invoice covering costs incurred during the previous month based on an estimate of the work completed to date. A progress report shall accompany each invoice. TOWN shall pay CONSULTANT within thirty days after receipt of the invoice the amount shown to be due.

B. CONSULTANT'S FEE - There are no fees associated with this CONTRACT. CONSULTANT'S fee for performance of services will be outlined in the individual Authorization for Services issued for each project. This fee is guaranteed for the work specified in the Scope of Services attached to the Authorization of Services and CONSULTANT shall charge no additional amount for such work. Additional services beyond the total cost set forth in the Authorization of Services shall not be undertaken by the CONSULTANT without prior authorization by the TOWN. The cost of additional services shall be based on either an agreed upon lump sum, or hourly based on the fee rate schedule included in ATTACHMENT A, if applicable.

C. The CONSULTANT shall update the fee rate schedule in Attachment 'A' annually with its request for a contract renewal, if submitted.

D. This contract, and all Authorization of Services pertaining to it, is for TOWN authorized projects only. The TOWN is not financially responsible for any CONSULTANT costs, direct or indirect, incurred based on requests from the Payson Regional Airport Authority, private developers, or any other entity.

ARTICLE IV CHANGES IN WORK

Significant changes in the scope, character, or complexity of the work or services in addition to those specified in the Scope of Services approved with each Authorization of Services may be negotiated if the TOWN determines that such changes are desirable and necessary. Authorization to perform additional service shall be in writing, and shall specify the basis of CONSULTANT'S fee. No changes in scope of services or amendments to this CONTRACT shall be made without prior written approval of the TOWN, the Arizona Department Of Transportation Multimodal Planning Division, Aeronautics Group (ADOT-MPG Aeronautics Group), and the Federal Aviation Administration. Such changes increasing the amount of CONSULTANT'S compensation shall be incorporated in written supplemental agreements to individual Authorization of Service. CONSULTANT will supply fee estimates for such additional services on request of the TOWN.

ARTICLE V INSURANCE

The CONSULTANT shall furnish certificates prior to commencement of the work described herein, showing insurance in force as follows:

1. Public Liability and Property Damage insurance in an amount not less than one million ($1,000,000.00) dollars per occurrence, two million ($2,000,000.00) aggregate.

2. Architect's and/or Engineers' Professional Liability insurance in an amount not less than one million ($1,000,000.00) dollars per occurrence, two million ($2,000,000.00) aggregate.

Excepting the Professional Liability coverage, insurance certificates shall name both the CONSULTANT and the TOWN as insureds.

ARTICLE VI OWNERSHIP OF DOCUMENTS

All documents, including original drawings, estimates, specifications, field notes and data which are prepared in the performance of this CONTRACT are to be and remain the property of the TOWN and are to be delivered to the Public Works Director before the final payment is made to the CONSULTANT. However, if the CONSULTANT wishes, he may retain reproducible record prints of drawings and copies of other documents. The Consultant shall endorse by his professional seal all plans, specifications and engineering data furnished by him. Such sealed documents shall not be used for extensions of the Project or for new projects without CONSULTANT'S written permission. However, the TOWN has the right to contract for design and/or construction engineering services on any of the projects identified in the Airport Master

Plan or Airport Capital Improvements Program without first seeking the CONSULTANT'S written permission.

ARTICLE VII RETENTION OF RECORDS

The CONSULTANT and any subcontractor shall maintain all books, documents, papers, accounting records, and other evidence pertaining to costs incurred under this contract, and shall make all such materials available to the TOWN, or its duly authorized representatives at any reasonable time during the term of work on the contract, and for six (6) years after the date of final payment to the CONSULTANT by the TOWN for work performed hereunder.

ARTICLE VIII ASSIGNMENT

This CONTRACT shall not be assigned by either party without prior written approval of the other. The CONSULTANT may utilize sub-consultant personnel or services in the performance of this CONTRACT with prior written approval of the TOWN. In the event that CONSULTANT so utilizes the personnel or services of such entities, CONSULTANT shall be solely responsible for payment to each of such entities for the personnel or services so utilized, and the TOWN shall be under no obligation of any kind either to reimburse CONSULTANT for such costs or to pay such entities directly for such costs. It shall extend to and be binding upon the heirs, administrators, executors, successors and assigns of the parties hereto.

ARTICLE IX RESPONSIBILITY OF CONSULTANT

CONSULTANT shall perform its services to the best of its ability as an independent contractor in accordance with industry standards, this CONTRACT, and applicable laws and regulations. CONSULTANT agrees to correct any deficiencies and reimburse the TOWN for any costs to the TOWN arising from or related to such deficiencies resulting from its services which are discovered and reported to CONSULTANT within one year from the date of completion of its services hereunder. If CONSULTANT does not correct deficiencies as written in this Article, then he shall be liable for the amount necessary to replace the services necessary for such corrections. Under no circumstances shall CONSULTANT, it's subcontractors and suppliers, be liable to TOWN for any consequential damages including loss of use or loss of profit, except that CONSULTANT shall be liable to TOWN, and shall hold the TOWN harmless therefrom, for any loss or damage arising out of or in connection with CONSULTANT'S negligent performance of this CONTRACT. It is understood by CONSULTANT and the TOWN that CONSULTANT shall provide insurance against the possibility of such negligence, as provided by Article V herein above.

ARTICLE X RESPONSIBILITY OF TOWN

The TOWN will designate a representative to review and approve documents submitted by CONSULTANT. The representative shall be empowered to render decisions and provide information in a timely manner that will not delay the orderly progress of the work, to the extent practicable and provided for by the Town Council of the Town of Payson.

ARTICLE XI STATE FUNDING REQUIREMENTS

The CONSULTANT agrees to comply with the provisions of the State of Arizona Executive Order 75-5, dated April 28, 1975, as amended by Executive Order 99-4, relating to equal opportunity which is herein incorporated by reference.

ARTICLE XII AUDIT

The CONSULTANT shall grant the Town of Payson, the ADOT-MPG Aeronautics Group, the Federal Aviation Administration, or any of its duly authorized representatives to have access to any books, documents, papers and records of the CONSULTANT which are directly pertinent to this CONTRACT for the purpose of making audit, examination, excerpts, and transcriptions.

ARTICLE XIII CIVIL RIGHTS ACT OF 1964, TITLE VI REQUIREMENTS

During the performance of this CONTRACT, the CONSULTANT for itself, its assigns and successors in interest agree as follows:

1. Compliance with Regulations:

   The CONSULTANT 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.

2. Nondiscrimination:

   The CONSULTANT, with regard to the work performed by it during this CONTRACT, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The CONSULTANT 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.

3. Solicitations for Subcontracts, Including Procurement of Materials and Equipment:

   In all solicitations either by competitive bidding or negotiation made by the CONSULTANT for work to be performed under a Subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the CONSULTANT of the CONSULTANT'S obligations under this Contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

4. Information and Reports:

The CONSULTANT 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 TOWN, the Federal Aviation Administration, or the ADOT-MPG Aeronautics Group, to be pertinent to ascertain compliance with such Regulations, orders and instructions or for the purpose of making audit, examination, excerpts, and transcripts. Where any information required of a Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the TOWN or the Federal Aviation Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance:

In the event of the CONSULTANT'S noncompliance with the nondiscrimination provisions of this CONTRACT, the TOWN shall impose such Contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

(a) Withholding of payments to the CONSULTANT under this CONTRACT until the CONSULTANT complies, and/or

(b) Cancellation, termination or suspension of this CONTRACT, in whole or in part

6. Incorporation of Provisions:

The CONSULTANT shall include the provisions of paragraphs 1 through 5 above in every subcontract, including procurement of materials and leases of equipment unless exempt by the Regulations or directives issued pursuant thereto. The CONSULTANT shall take such action, with respect to any subcontract or procurement, as the TOWN or the Federal Aviation Administration 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 supplier as a result of such direction, the CONSULTANT may request the TOWN to enter into such litigation to protect the interest of the TOWN and, in addition, the CONSULTANT may request the United States to enter into such litigation to protect the interest of the United States.

ARTICLE XIV <u>AIRPORT AND AIRWAY IMPROVEMENT ACT OF 1982, SECTION 520 - GENERAL CIVIL RIGHTS PROVISIONS</u>

The CONSULTANT assures that it will comply with the 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 program, except where Federal assistance is to provided, 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 Consultants, this provision binds the Consultant 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.

ARTICLE XV <u>DISADVANTAGED BUSINESS ENTERPRISE (DBE) ASSURANCES</u>

1. Policy.

It is the policy of the Department of Transportation (DOT) that disadvantaged business enterprises as defined in 49 CFR Part 26 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this CONTRACT. Consequently, the DBE requirements of 49 CFR Part 26 apply to this CONTRACT.

2. DBE Obligation.

The CONSULTANT agrees to ensure that disadvantaged business enterprises as defined in 49 CFR Part 26 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 CONTRACT. In this regard, all Consultants shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. Consultants shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT-assisted contracts.

3. Contract Assurance (§26.13).

The Consultant or Sub-Consultants shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Consultant 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 our 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.

4. Prompt Payment (§26.29).

The prime Consultant agrees to pay each Sub-Consultant under this prime Contract for satisfactory performance of its contract no later than 60 days from the receipt of each payment the prime Consultant receives from the Town. The prime Consultant agrees further

to return retainage payments to each Sub-Consultant with 60 days after the Sub-Consultant'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 Town. This clause applies to both DBE and non-DBE Sub-Consultants.

ARTICLE XVI LOBBYING AND INFLUENCING FEDERAL EMPLOYEES

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

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 any employee of a Member of Congress in connection with any Federal grant, the CONSULTANT shall complete and submit Standard Form-LLL, "Disclosure of Lobby Activities", in accordance with its instructions.

ARTICLE XVII ACCESS TO RECORDS AND REPORTS

The CONSULTANT shall maintain an acceptable cost accounting system. The CONSULTANT agrees to provide the TOWN, 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 CONSULTANT which are directly pertinent to this contract for the purposes of making an audit, examination, excerpts, and transcriptions. The CONSULTANT agrees to maintain all books, records, and reports required under this Contract for a period of not less than 3 years after final payment is made and all pending matters are closed.

ARTICLE XVIII BREACH OF CONTRACT TERMS

Any violation or breach of the terms of this CONTRACT on the part of the CONSULTANT or their Sub-Consultants may result in the suspension or termination of this CONTRACT or such other action which may be necessary to enforce the rights of the parties of this CONTRACT. 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.

ARTICLE XIX 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.

ARTICLE XX TRADE RESTRICTION CLAUSES

The CONSULTANT, by execution of this CONTRACT, certifies that it:

1. 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);

2. 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 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;

3. 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 CONSULTANT or Sub-Consultant who is unable to certify to the above. If the CONSULTANT 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 TOWN cancellation of the contract at no cost to the Government.

Further, the CONSULTANT 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 CONSULTANT may rely on the certification of a prospective subcontractor unless it has knowledge that the certification is erroneous.

The CONSULTANT shall provide immediate written notice to the TOWN if the CONSULTANT 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 CONSULTANT 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 CONSULTANT or Sub-Consultant knowingly rendered an erroneous certification, the Federal Aviation Administration may direct through the TOWN 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 CONSULTANT 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 1001.

ARTICLE XXI TERMINATION OF CONTRACT

1. The TOWN may, by written notice, terminate this contract in whole or in part at any time, either for the TOWN's convenience or because of the CONSULTANT'S 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 process, delivered to the TOWN.

2. If the termination is for the convenience of the TOWN, an equitable adjustment in the Authorization of Service price shall be made, but no amount shall be allowed for anticipated profit on unperformed services.

3. If the termination is due to failure to fulfill the CONSULTANT'S obligations, the TOWN may take over the work and prosecute the same to completion by contract or otherwise. In such case, the CONSULTANT shall be liable to the TOWN for any additional cost occasioned to the TOWN thereby.

4. If, after notice of termination for failure to fulfill contract obligations, it is determined that the CONSULTANT had not so failed, the termination shall be deemed to have been effected for the convenience of the TOWN. In such event, adjustment in the Authorization of Service price shall be made as provided in paragraph 2 of this clause.

5. This contract may also be terminated automatically if the CONSULTANT fails to submit the annual renewal request as described in Article II of this document.

6. The rights and remedies of the TOWN provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

ARTICLE XXII CERTIFICATION REGARDING DEBARMENT, SUSPENSION,

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

ARTICLE XXIII NON-APPROPRIATION/NON-RECEIPT OF FUNDS.

Nothing herein shall be construed as obligating the Town to expend, or as involving the Town in any contract or other obligation for the future payment of money in excess of appropriations authorized by law and administratively allocated for this work. Nor shall anything herein be construed as obligating the Town to expend, or as involving the Town in any contract or other obligation for the future payment of money if the Town does not have sufficient revenues for this expenditure.

ARTICLE XXIV BUSINESS LICENSE.

The CONSULTANT shall provide the TOWN with a copy of its Town of Payson business license. If the CONSULTANT is exempt from the Town's business licensing requirements, it shall still provide the Town with the items required under Section 110.03(C)-(D) of the Town Code.

ARTICLE XXV SCRUTINIZED BUSINESS OPERATIONS.

Pursuant to A.R.S. §35-391.06, the Parties hereby warrant and represent that they do not have, nor any of their subcontractors have, and during the term of the Contract will not have a scrutinized business operation in ether Sudan or Iran.

ARTICLE XXVI AUTHORIZED PRESENCE REQUIREMENTS/GOVERNMENT PROCUREMENT (A.R.S. §41-4401).

1. Consultant and any Sub-consultant employed by Consultant warrants their compliance with all Federal immigration laws and regulations that relate to their employees and Arizona Revised Statutes Section 23-214(A).

2. A breach of the warranty under Sub-Section 1 above shall be deemed a material breach of this Contract and shall be subject to penalties up to and including termination of the Contract.

3 The Town retains the legal right to inspect the papers of the Consultant or Sub-consultant who works on this CONTRACT to ensure that the Consultant or Sub-consultant is complying with Sub-Section 1 above.

ARTICLE XXVII DISPUTE RESOLUTION.

This CONTRACT shall be governed and construed in accordance with the internal laws of the State of Arizona. In particular, this CONTRACT is subject to the provisions of A.R.S. § 38-511, the terms of which are incorporated herein, and which provides for cancellation of contracts by the municipality for certain conflicts of interest. With the written consent of both Parties, any dispute, controversy, claim, or cause of action arising out of or related to this CONTRACT may,

but in no event need, be settled by submission to binding arbitration in accordance with the rules of the American Arbitration Association and the Arizona Uniform Arbitration Act, A.R.S. § 12-1501, et seq. Judgment upon any award rendered by the arbitrator(s), if filed in Arizona Superior Court, shall be filed in the Superior Court of Gila County, Arizona; or any such dispute, controversy, claim, or cause of action may be litigated in the Superior Court of Gila County, Arizona. The venue for any such dispute shall be Gila County, Arizona, and both Parties consent in advance to such venue and jurisdiction and waive any right to object that Gila County is an inconvenient or improper forum based upon lack of venue. Neither Party shall be entitled to recover from the other party any of its attorneys' fees, costs, or expert witness fees incurred in any such dispute, controversy, claim, or cause of action, but each party shall bear its own attorneys' fees without contribution from the other party, whether the same is resolved through arbitration, litigation in a court, or otherwise.

ARTICLE XXVIII CERTIFICATION OF CONSULTANT

I hereby certify that I am a Principal, Secretary/Treasurer and duly authorized representative of the firm of Armstrong Consultants, Inc. whose address is 861 Rood Avenue, Grand Junction, CO 81501, and that neither I nor the above firm I represent has:

1. Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above Consultant) to solicit or secure this CONTRACT,

2. Agreed, as an express or implied condition for obtaining this CONTRACT, to employ or retain the services of any firm or person in connection with carrying out the CONTRACT, other than specified in Article IX,

3. Paid or agreed to pay to any firm, organization or person (other than a bona fide employee working solely for me or the above consultant) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the CONTRACT; except as here expressly stated:

I acknowledge that this certificate is to be furnished to the Federal Aviation Administration of the United States Department of Transportation, in connection with this Contract involving participation of Airport Improvement Program (A.I.P.) funds and is subject to applicable State and Federal Laws, both criminal and civil.

_____ _____

DATE TITLE

Binding Upon Successors: This CONTRACT shall be binding upon the undersigned parties, their successors, partners, assigns, and legal representatives.

IN WITNESS WHEREOF, the parties hereto have entered into this CONTRACT effective as of the day and year first herein above written.

TOWN OF PAYSON
A MUNICIPAL CORPORATION
303 N. Beeline Highway
Payson, AZ 85541

BY:_____

ITS:_____Mayor_____

ARMSTRONG CONSULTANTS, INC.
861 Rood Avenue
Grand Junction, CO 81501

BY:_____

ITS:_____

ATTEST:_____

ITS:____Town Clerk_____

APPROVAL AS TO FORM

The Town of Payson Legal Department has reviewed this contract and approved it as to form. When reviewing this contract for form, the Legal Department considers whether the following situations have been addressed:

1. Identification of parties;
2. Offer and acceptance;
3. Existence of contract consideration (we do not review to determine if consideration is adequate);
4. That certain provisions specifically required by statute are included (i.e., provisions concerning non-availability of funds and conflict of interest, A.R.S. § 38-511).

We have not reviewed the contract for other issues. Therefore, approval as to form should not be considered as approval of the appropriateness of the terms or conditions of the contract or the underlying transaction. In addition, approval as to the form should not be considered approval of the underlying policy considerations addressed by the contract.

Dated this _____ day of _____, 20___.

By_____
Samuel I. Streichman, Town Attorney

ATTACHMENT A

ARMSTRONG CONSULTANTS, INC.
2009 Charge Out Rates

Category	Rate/ Hour
Principal	$190.00
Project Manager	$150.00
Project Engineer	$130.00
Planning Manager	$130.00
Resident Engineer	$95.00
Staff Engineer	$95.00
Staff Planner	$72.00
CADD Operator	$85.00
Clerical	$45.00
Pilot	$70.00 / $35.00
Computer Time	$50.00
Airplanes	
C 210	$275.00
C182	$250.00

ATTACHMENT B

CURRENT FAA ADVISORY CIRCULARS FOR AIP PROJECTS

Effective Date: **11-09**

NUMBER	SUBJECT
150/5100-6D	Labor Requirements for the Airport Improvement Program (AIP)
150/5100-10A	Accounting Records Guide for Airport and Program Sponsors
150/5100-13A	Development of State Standards for Non-Primary Airports.
150/5100-14D	Architectural, Engineering, and Planning Consultant Services for Airport Grant Projects
150/5100-15A	Civil Rights Requirements for the Airport Improvement Program (AIP)
150/5100-17	Land Acquisition and Relocation Assistance for Airport Improvement Program Assisted Projects
150/5100-19C	Guide for Airport Financial Reports Filed by Airport Sponsors
150/5200-28D	Notices To Airmen (NOTAMS) for Airport Operators
150/5210-5C	Painting, Marking and Lighting of Vehicles Used on an Airport
150/5210-6D	Aircraft Fire and Rescue Facilities and Extinguishing Agents
150/5210-7D	Aircraft Rescue and Fire Fighting Communications
150/5210-15A	Aircraft Rescue and Fire Fighting Building Design
150/5220-4B	Water Supply Systems for Aircraft Fire and Rescue Protection
150/5220-9A	Aircraft Arresting System for Joint Civil/Military Airports
150/5220-10D	Guide Specifications for Water/Foam Type Aircraft Fire and Rescue Trucks
150/5220-16C	Automated Weather Observing Systems for Non-Federal Applications
150/5220-17A CHG1	Design Standards for Aircraft Rescue Fire-fighting Training Facilities
150/5220-18A	Buildings for Storage and Maintenance of Airport Snow and Ice Control Equipment and Materials
150/5220-20 CHG 1	Airport Snow and Ice Control Equipment
150/5220-21B	Guide Specification for Lifts Used to Board Airline Passengers With Mobility Impairments
150/5220-23	Frangible Connections
150/5230-4A	Aircraft Fuel Storage, Handling, and Dispensing On Airports
150/5300-7B	FAA Policy on Facility Relocations Occasioned by Airport Improvements or Changes
150/5300-9A	Pre-design, Pre-bid and Preconstruction Conferences for Airport Grant Projects

	Projects
150/5300-13	Airport Design
CHG 1-14 INCLUSIVE	
150/5300-14B	Design of Aircraft Deicing Facilities
150/5300-15A	Use of Value Engineering for Engineering Design of Airport Grant Projects
150/5320-5C	Airport Drainage
CHG 1	
150/5320-6E	Airport Pavement Design and Evaluation
150/5320-12C	Measurement, Construction and Maintenance of Skid Resistant Airport Pavement Surfaces
CHG 1-8 INCLUSIVE	
150/5320-14	Airport Landscaping for Noise Control Purposes
150/5320-15A	Management of Airport Industrial Waste
150/5320-17	Airfield Pavement Surface Evaluation and Rating Manuals
150/5325-4B	Runway Length Requirements for Airport Design
150/5335-5A	Standardized Method of Reporting Airport Pavement Strength (PCN)
150/5340-1J	Standards for Airport Markings
CHG 1 & 2	
150/5340-5C	Segmented Circle Airport Marker System
150/5340-18E	Standards for Airport Sign Systems
150/5340-26A	Maintenance of Airport Visual Aid Facilities
150/5340-30D	Design and Installation Details for Airport Visual Aids
150/5345-3F	Specifications for L-821 Panels for Remote Control of Airport Lighting
150/5345-5B	Circuit Selector Switch
150/5345-7E	Specification for L-824 Underground Electrical Cable for Airport Lighting Circuits
150/5345-10F	Specifications for Constant Current Regulators and Regulator Monitors
150/5345-12E	Specification for Airport and Helicopter Beacon
150/5345-13B	Specification for L-841 Auxiliary Relay Cabinet Assembly for Pilot Control of Airport Lighting Circuits
150/5345-26D	Specification for L-823 Plug and Receptacle, Cable Connectors
150/5345-27D	Specification for Wind Cone Assemblies
150/5345-28F	Precision Approach Path Indicator (PAPI) Systems
150/5345-39C	FAA Specification L-853, Runway and Taxiway Centerline Retro Reflective Markers
150/5345-42F	Specification for Airport Light Bases, Transformer Housings, Junction Boxes and Accessories
150/5345-43F	Specification for Obstruction Lighting Equipment
150/5345-44H	Specification for Taxiway and Runway Signs
150/5345-45C	Lightweight Approach Light Structure

150/5345-46D	Specification for Runway and Taxiway Light Fixtures
150/5345-47B	Isolation Transformers for Airport Lighting Systems
150/5345-49C	Specification L-854, Radio Control Equipment
150/5345-50B CHG 1	Specification for Portable Runway Lights
150/5345-51A	Specification for Discharge-Type Flasher Equipment
150/5345-52A	Generic Visual Glideslope Indicators (GVGI)
150/5345-53C	Airport Lighting Equipment Certification Program
150/5345-54A	Specification for L-884 Power and Central Unit for Land and Hold Short Lighting Systems
150/5345-55A	Specifications for L893, Lighted Visual Aid to Indicate Temporary Runway Closure
150/5345-56	Specifications for L-890 Airport Lighting Control and Monitoring System (ALCMS)
150/5360-9	Planning and Design of Airport Terminal Facilities at Non-Hub Locations
150-5360-12E	Airport Signing and Graphics
150/5360-13	Planning and Design Guidelines for Airport Terminal Facilities
150/5360-14	Access to Airports By Individuals with Disabilities
150/5370-2E	Operational Safety on Airports During Construction
150/5370-6D	Construction Progress and Inspection Report-Airports Grant Program
150/5370-10D	Standards for Specifying Construction of Airports
150/5370-11A	Use of Nondestructive Testing Devices in the Evaluation of Airport Pavements
15015370-12A	Quality Control of Construction for Airport Grant Projects
150/5370-13A	Off-peak Construction of Airport Pavements Using Hot-Mix Asphalt
150/5370-14A	Hot-Mix Asphalt Paving Handbook
150/5370-15	Airside Applications for Artificial Turf
150/5370-16	Rapid Construction of Rigid (Portland Cement Concrete) Airfield Pavements
150/5380-5B	Debris Hazards at Civil Airports
150/5380-6B	Guidelines and Procedures for Maintenance of Airport Pavements
150/5380-7A	Pavement Management System
150/5380-8	Handbook for Identification of Alkalai-Silica Reactivity in Airfield Pavements
150/5380-9	Guidelines and Procedures for Measuring Airfield Pavement Roughness
150/5390-2B	Heliport Design
150/5390-3	Vertiport Design