

LAKE CHELAN AIRPORT BOARD  
FEBRUARY 12, 2015

1. Call to Order
2. Agenda Changes
3. Minutes
  - A. Approve [Minutes of the January 22, 2015](#) Airport Board Meeting (Gallucci)
4. Consent Agenda
  - A. Approve February 12, 2015 Claim & Payroll Warrants (Reviewed by McCardle)
5. Action Items
  - A. Community Economic Revitalization Board Initial Offer of Finance Aid (Schmidt) [2015A-01](#)
  - B. Professional Services Agreement for Preliminary Evaluation of Water Service to the Lake Chelan Airport (Schmidt) [2015A-02](#)
6. Airport Manager Comments
7. Adjournment

MINUTES OF THE JANUARY 22, 2015  
AIRPORT BOARD MEETING  
Chelan City Hall, 135 East Johnson Street, Chelan, Washington

1. **CALL TO ORDER:**

The meeting was called to order at 7:27 p.m.

**PRESENT:**

Airport Board President Goedde, Members Cooney, Harper, Higgins, McCardle, Morehouse, Steele, Manager Schmidt, Secretary Gallucci, and Treasurer Grant. **ABSENT:** Board Member Isenhart.

2. **AGENDA CHANGES:**

A. None.

3. **MINUTES:**

Mr. Harper moved to approve the minutes as follows. Second by Mr. Morehouse. Motion passed unanimously.

A. Minutes from the January 8, 2015 Airport Board Meeting

4. **CONSENT AGENDA:**

Mr. Harper moved to approve the consent agenda as follows. Second by Mr. Steele. Motion passed unanimously.

A. January 22, 2015 Claim Warrant No. 6013 – 6018 totaling \$20,510.71 and Payroll Warrants No. 2995 - 2999 totaling \$738.93.

5. **ACTION ITEMS:**

A. None.

6. **AIRPORT MANAGER COMMENTS:**

A. None.

7. **ADJOURNMENT:**

There being no further business, the meeting adjourned at 7:28 p.m.

Prepared by:

Attested to:

Date approved by Airport Board:

\_\_\_\_\_  
Peri Gallucci  
Airport Board Secretary

\_\_\_\_\_  
Robert R. Goedde  
Airport Board President

AGENDA BILL NO. 2015A-01

BUSINESS OF THE LAKE CHELAN AIRPORT BOARD  
CHELAN, WASHINGTON

SUBJECT: CERB Initial Offer of Financial Aid  
FOR AGENDA OF: February 12, 2015  
ORIGINATOR: Paul Schmidt  
Airport Board Manager

- EXHIBITS  
1. Letter of Award  
2. Initial Offer of Financial Aid  
3. Planning Study Minimum Requirements  
4. Pre-Contract Requirements

APPROVED:   
City Administrator

Reviewed by Attorney: No

EXPENDITURE AMOUNT APPROPRIATION FINANCE  
REQUIRED: BUDGETED: REQUIRED: DIRECTOR: 

**AUTHORITY: RCW 39.34.080 Contracts to perform governmental activities which each contracting agency is authorized to perform. "Any one or more public agencies may contract with any one or more other public agencies to perform any governmental service, activity, or undertaking which each public agency entering into the contract is authorized to perform PROVIDED, That such contract shall be authorized by the governing body of each party to the contract. Such contract shall set forth fully the purposes, powers, rights, objectives, and responsibilities of the contract party".**

\*\*\*\*\* SUMMARY STATEMENT/ISSUES \*\*\*\*\*

On January 15, 2015, CERB (Community Economic Revitalization Board) approved the City of Chelan's Planning Study Proposal to research the feasibility of extending water service to the Lake Chelan Airport for fire flow purposes.

In doing so, the Lake Chelan Airport Board is required to accept the "Initial Offer of Financial Aid" from CERB in order to move towards the next step of entering into a contract agreement for the planning study. Moreover, the Initial Offer of Financial Aid requires pre-contract requirements to be in place for the contract agreement (see Exhibit 4). In review of the pre-contract requirements, it doesn't appear we will have any problems complying.

\*\*\*\*\*

[ ] Public Hearing                      [X] Legislative Matter                      [ ] Other:

Suggested Motion:

**I move to authorize the Airport Board President to sign the "Initial Offer of Financial Aid" from CERB as presented.**



INVESTING IN WASHINGTON'S ECONOMIC FUTURE

## Community Economic Revitalization Board

1011 Plum St SE • PO Box 42525 • Olympia, Washington 98504-2525 • (360) 725-3151

February 2, 2015

Paul Schmidt  
City Administrator  
City of Chelan  
135 E Johnson Ave  
Chelan, WA 98816

Dear Mr. Schmidt:

Congratulations! The Community Economic Revitalization Board (CERB) has awarded funding to your planning project. Enclosed is a list of pre-contract conditions which must be satisfied no later than **May 21, 2015**, in order to execute a final contract with CERB.

Once the conditions have been met, a final contract will be developed by CERB prior to disbursement of funds. Please note that no project costs incurred prior to the execution date of the Initial Offer of Financial Aid will be reimbursed by CERB. After contract execution, a signed copy will be forwarded for the City of Chelan's records. The execution date of the final contract will be based on the date of the CERB Chair's final signature. A sample of the contract document is enclosed for your records.

I will be your primary contact during this contracting process. If you have any questions, please don't hesitate to contact me at 360.725.3151 or [Janea.Eddy@commerce.wa.gov](mailto:Janea.Eddy@commerce.wa.gov).

Sincerely,

  
Janea Eddy  
CERB Program Coordinator

Enclosures:

- Initial Offer of Financial Aid (IOFA)
- Planning study minimum requirements
- Sample Contract

Project Number: A2015-026  
Contract Number: S15-790A0-061

Washington State Department of Commerce  
Community Economic Revitalization Board

**Initial Offer of Financial Aid**

City of Chelan  
Federal Tax Number: 91-6001411  
Offer Date: January 15, 2015

The Community Economic Revitalization Board (CERB) is authorized by chapter 43.160 RCW to provide funds to political subdivisions to assist in financing the cost of certain public facilities. This Initial Offer of Financial Aid is contingent upon the availability of CERB funds. CERB hereby offers to make funds available to the **City of Chelan**, hereafter referred to as the "Contractor," in order to aid in financing the cost of, **feasibility study to explore the extension of water service for airport improvements**, as described in the application (hereafter collectively referred to as the "Project").

Funds provided shall be in the form of a **grant** in the maximum principal amount of **\$22,500**, which must have a local **cash** match in the amount of at least **\$7,500**. Local cash match amounts and sources are identified as:

- a. City of Chelan                      \$2,500 cash
- b. Chelan Airport                      \$2,500 cash
- c. Port of Chelan                      \$2,500 cash

This offer is subject to completion of pre-contract conditions, as described in Attachment E.

A final contract shall be developed by CERB prior to disbursement of funds. No project costs incurred prior to the execution of this offer will be reimbursed by CERB. In the event a final contract is not executed, no CERB funds will be disbursed.

If accepted, this Initial Offer of Financial Aid must be signed and returned to CERB by **February 27, 2015**.

ACCEPTANCE

FOR CERB

FOR THE CONTRACTOR

\_\_\_\_\_

\_\_\_\_\_

Steve R Anderson, Chair  
Community Economic Revitalization Board

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

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

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

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

### Planning Study Minimum Requirements

The planning study must contain the following minimum requirements:

- a. A product market analysis linked to economic development.
- b. A market strategy containing action elements linked to timelines.
- c. Identification of targeted industries.
- d. Identification of the group responsible for implementing the marketing strategy. Describe the group's capacity to complete the responsibility.
- e. The site's appropriateness by addressing, at minimum, appropriate zoning, affect to the state or local transportation system, environmental restrictions, cultural resource review, and the site's overall adequacy to support the anticipated development upon project completion.
- f. A location analysis of other adequately served vacant industrial land.
- g. Total funding for the public facilities improvements is secured or will be secured within a given time frame.
- h. An analysis of how the project will assist local economic diversification efforts.
- i. Indicate the specific issues that will be addressed.
- j. List one or more economic outcomes that you expect from the proposed CERB project.
- k. Describe the specific, quantifiable measures of the outcome(s) that will indicate success. Describe in measurable terms what you expect to be able to show as progress toward the outcome for each year before the whole outcome has been achieved.
- l. Describe what data you will collect to determine whether the outcome is being achieved.
- m. Describe the data collection procedure including when data will be collected, from whom and by whom.
- n. The estimated median hourly wage of the jobs created when development occurs.
- o. If the project is determined to be feasible, the following information must be provided within the final report:
  1. Total estimated jobs created (in FTEs).
  2. Describe benefits offered to employees.
  3. Describe the median hourly wage of the new jobs in relation to the median hourly county wage.
  4. The county three-year unemployment rate in relation to the state rate.
  5. County population change in the last five years.
  6. The estimated jobs created represent what percentage of the county's labor force.
  7. The estimated jobs created represent what percentage of the county's unemployed workers.
  8. Estimated new annual state and local revenue generated by the private business.
  9. Estimated private investment generated by project.

## CERB Pre-Contract Requirements

### Initial Offer of Financial Aid

If you wish to accept CERB's offer, please sign and return **two original copies of the enclosed Initial Offer of Financial Aid by February 27, 2015**. A copy of the executed Initial Offer will be forwarded for the Port's records.

If the terms and conditions of this offer are not acceptable, you may request in writing that CERB reconsider, amend or modify its offer.

### Pre-Contract Requirements

Please complete the conditions below and submit the appropriate documentation to CERB.

If all conditions are not completed by **May 21, 2015**, you have the option to request an extension from the Board. If the Board does not approve an extension of the initial offer, the offer will expire. Please see the enclosed policy on extension requests for details.

1. Finalized scope of work.
2. Evidence that consultant services have been selected to complete the study
3. Evidence that the \$7,500-cash match is in-place, from the following or alternate sources:
  - a. City of Chelan \$2,500 cash
  - b. Chelan Airport \$2,500 cash
  - c. Port of Chelan \$2,500 cash

Please note that CERB requires feasibility studies/planning documents to be completed within 24 months of the executed contract date.

AGENDA BILL NO. 2015A-02

BUSINESS OF THE LAKE CHELAN AIRPORT BOARD  
CHELAN, WASHINGTON

SUBJECT: Professional Services Agreement  
for Preliminary Evaluation of  
Water Services to the Airport

EXHIBITS  
1. Proposed Professional Services  
Agreement

FOR AGENDA OF: February 12, 2015

ORIGINATOR: Paul Schmidt  
Airport Board Manager

APPROVED:  
City Administrator

Reviewed by Attorney: Yes

EXPENDITURE REQUIRED:	AMOUNT BUDGETED:	APPROPRIATION REQUIRED:	FINANCE DIRECTOR:
			COX

**AUTHORITY: RCW 35A.11.010 Rights, powers, and privileges. "Each city governed under this optional municipal code...and, by and through its legislative body, such municipality may contract and be contracted with..."**

\*\*\*\*\* SUMMARY STATEMENT/ISSUES \*\*\*\*\*

The draft agreement with RH2 is in place and ready for City Council action. As noted, we are now requiring professional service agreements to be attached to the City's base agreement as an exhibit in order to assure all the City contract requirements are included. RH2 has provided a very clear and concise approach to the planning study and also for the subsequent payment for the work tasks.

\*\*\*\*\*

Public Hearing                       Legislative Matter                       Other: \_\_\_\_\_

Suggested Motion:

**I move to authorize the Airport Board President to enter into the Professional Services Agreement with RH2 for preliminary Evaluation of Water Services to the Airport as presented.**

**PROFESSIONAL SERVICES AGREEMENT**

THIS AGREEMENT, is made in duplicate by and between the CITY OF CHELAN, a Washington municipal corporation (the "CITY") and RH2 Engineering, Inc., a Washington corporation (the "SERVICE PROVIDER").

WHEREAS, the CITY desires to complete the Preliminary Evaluation of Water Service to Airport (the "Project") which requires specialized skills and other supportive capabilities which the CITY is not able to provide; and

WHEREAS, the SERVICE PROVIDER is qualified and possesses sufficient skills and the necessary capabilities, including technical and professional expertise to perform the services and/or tasks set forth in this Agreement for the Project.

NOW, THEREFORE, the parties agree as follows:

1. Scope of Services. The SERVICE PROVIDER shall perform such services and accomplish such tasks, including the furnishing of all materials and equipment necessary for full performance thereof (the "Services") as detailed in **Exhibit "A"**. All Services shall be provided according to the care and skill ordinarily used by members of the SERVICE PROVIDER'S profession practicing under the same or similar circumstances at the same time and in the same locality as the Services being performed.

2. Term. This Agreement is effective upon execution by the Mayor. The SERVICE PROVIDER shall begin and complete the provision of the Services, unless sooner terminated according to this Agreement, as follows:

Commencement Date: Reference **Exhibit A**  
Completion Date: Reference **Exhibit A**

3. Compensation and Method of Payment.

3.1 Compensation. The City shall pay the SERVICE PROVIDER on a Time and Expense basis. Time will be according to the rates shown in **Exhibit "B"**. Expenses are defined as costs incurred by the SERVICE PROVIDER, other than payroll costs, which are directly attributable to the performance of the Services and include mileage and related expenses, long-distance telephone, facsimile, postage and delivery, and other expenses incurred in the direct interest of the Services. Expenses shall also include technical or professional services obtained by the SERVICE PROVIDER upon prior approval of the City that are needed by the SERVICE PROVIDER to complete the Services. Such costs shall be the reimbursed by the City to the SERVICE PROVIDER, plus an additional amount for the SERVICE PROVIDER, as set out in **Exhibit "C"**, but no greater than 10%.

- 3.2 Billing and Payment. No payment shall be made for any Service rendered by the SERVICE PROVIDER except for Services and expenses identified in this Agreement. The SERVICE PROVIDER will transmit invoices to the City no more often than once each month, for the Services and expenses provided pursuant to this Agreement. All invoices shall list the actual time (days and/or hours) and dates during which the Services were performed and the compensation shall be determined using the rates set out in *Exhibit "B"*, and shall include a report generally describing the progress of the Services and the Project. Payment for the amount stated on the invoice shall be due thirty (30) days from the receipt of the invoice by the City, and amounts not paid when due shall accrue interest at the rate of one percent (1%) per month.
  
4. Information. The SERVICE PROVIDER shall furnish to the CITY within a reasonable time such statements, records, reports, data, and information as the CITY may request pertaining to the Services and the Project.
  
5. Independent Contractor Relationship.
  - 5.1 The parties intend that an independent contractor relationship will be created by this Agreement. The CITY is interested primarily in the results to be achieved by the Services. The implementation of Services will lie solely with the discretion of the SERVICE PROVIDER. No agent, employee, servant or representative of the SERVICE PROVIDER shall be deemed to be an employee, agent, servant or representative of the CITY for any purpose, and the employees of the SERVICE PROVIDER are not entitled to any of the benefits the CITY provides for its employees. The SERVICE PROVIDER will be solely and entirely responsible for its acts and for the acts of its agents, employees, servants, subcontractors or representatives during the performance of the Services.
  
  - 5.2 In the performance of the Services the SERVICE PROVIDER is an independent contractor with the authority to control and direct the performance of the details of the Services, however, the results of the Services be approved by the CITY and shall be subject to the CITY'S general rights of inspection and review to secure the satisfactory performances of the Services. Notwithstanding, the CITY may at its sole discretion require the SERVICE PROVIDER to remove an employee(s), agent(s) or subcontractor(s) from providing Services or otherwise being involved with the Project.
  
6. Hold Harmless/Indemnification.
  - 6.1 SERVICE PROVIDER shall defend, indemnify and hold the CITY, its officers, officials, employees, contractors and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the negligent acts, errors or omissions of the SERVICE PROVIDER in performance of this Agreement, except for injuries and damages caused by the negligence of the CITY.

6.2 For purposes of this indemnification and hold harmless agreement, the SERVICE PROVIDER waives any immunity that may be granted to it under the Washington State Industrial Insurance Act, Title 51 RCW. The parties expressly agree that this waiver of workers' compensation immunity has been negotiated.

7. Insurance. The SERVICE PROVIDER shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the Services by the SERVICE PROVIDER, its agents, representatives, or employees.

7.1 Minimum Scope of Insurance. SERVICE PROVIDER shall obtain insurance of the types described below:

- a. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles, with a minimum combined single limit for bodily injury and property damage of One Million Dollars (\$1,000,000) per accident.. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.
- b. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors and personal injury and advertising injury, with limits no less than One Million Dollars (\$1,000,000) each occurrence, Two Million Dollars (\$2,000,000) general aggregate. The CITY shall be named as an insured under the SERVICE PROVIDER'S Commercial General Liability insurance policy with respect to the work performed for the CITY.
- c. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
- d. Professional Liability Insurance appropriate to the SERVICE PROVIDER'S profession, with limits no less than One Million Dollars (\$1,000,000) per claim and One Million Dollars (\$1,000,000) policy aggregate limit.

7.2 Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability, Professional Liability and Commercial General Liability insurance:

- a. The SERVICE PROVIDER'S insurance coverage shall be primary insurance with respect to the CITY. Any insurance, self-insurance, or insurance pool coverage maintained by the CITY shall be excess of the SERVICE PROVIDER'S insurance and shall not contribute with it.
- b. The SERVICE PROVIDER'S insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the CITY.

7.3 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

7.4 Verification of Coverage. SERVICE PROVIDER shall furnish the CITY with original certificates and a copy of the amendatory endorsements including, but not necessarily limited to, the additional insured endorsement, evidencing the insurance requirements of the SERVICE PROVIDER before commencement of the Services.

8. Ownership of Property.

8.1 City's Property. All property furnished by the CITY for the use of the SERVICE PROVIDER shall remain the property of the CITY.

8.2 Instruments of Service. All documents, including drawings and specifications, prepared by the SERVICE PROVIDER pursuant to this Agreement are the instruments of service with respect to the Services and shall be owned by the City upon payment of the SERVICE PROVIDER fee by the City. The SERVICE PROVIDER shall provide the City with reproducible copies of all documents, drawings, specifications, and other work products constituting the instruments of service. The instruments of service are not intended nor represented by the SERVICE PROVIDER to be suitable for reuse by the City or others on extensions of the services provided for the Services, or any other project. Any reuse without written verification or adaptation by the City will be at the City's sole risk and without liability or legal exposure to the SERVICE PROVIDER, and the City shall indemnify and hold the SERVICE PROVIDER harmless from all claims, damages, losses, and expenses including attorney's fees arising out of or resulting therefrom.

9. Compliance with Laws.

9.1 The SERVICE PROVIDER, in the performance of this Agreement, shall comply with all applicable federal, state or local laws and ordinances, including regulations for licensing, certification and operation of facilities, programs and accreditation, and licensing of individuals, and any other standards or criteria as described in this Agreement to assure quality of services.

9.2 The SERVICE PROVIDER specifically agrees to pay any applicable business and occupation (B&O) taxes that may be due on account of this Agreement.

10. Nondiscrimination. Because The CITY is an equal opportunity employer:

10.1 Nondiscrimination in Employment. In the performance of this Agreement, the SERVICE PROVIDER will not discriminate against any employee or applicant for employment on the grounds of race, creed, color, national origin, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental or physical disability, or the use of a trained dog guide or service animal by a person with a disability; provided that the prohibition against discrimination in employment because of disability, or the use of a trained dog guide or service animal by a person with a disability, shall not apply if the particular disability prevents the proper performance of the particular worker involved. The SERVICE PROVIDER shall ensure that applicants are employed, and that employees are treated during employment without discrimination because of their race, creed, color, national origin, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental or physical disability or the use of a trained guide dog or service animal by a person with a disability. Such action shall include, but not be limited to: employment, upgrading, demotion or transfers, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and programs for training including apprenticeships. The SERVICE PROVIDER shall take such action with respect to this Agreement as may be required to ensure full compliance with local, state and federal laws prohibiting discrimination in employment.

10.2 Nondiscrimination in Services. The SERVICE PROVIDER will not discriminate against any recipient of any services or benefits provided for in this Agreement on the grounds of race, creed, color, national origin, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental or physical disability or the use of a trained guide dog or service animal by a person with a disability.

10.3 Assignment. If any assignment or subcontracting has been authorized by the CITY, the assignment or subcontract shall include appropriate safeguards against discrimination.

11. Certification Regarding Debarment, Suspension, and Other Responsibility Matters.

11.1 By signing the agreement below, the SERVICE PROVIDER certifies to the best of its knowledge and belief, that it and its principals:

- a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
  - b. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission or fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph 11.1(b) of this certification; and
  - d. Have not within a three (3) year period preceding this Agreement had one or more public transactions (federal, state, or local) terminated for cause or default.
- 11.2. Where the SERVICE PROVIDER is unable to certify to any of the statements in this certification, such SERVICE PROVIDER shall attach an explanation to this proposal.

12. Assignment/subcontracting.

- 12.1 The SERVICE PROVIDER shall not assign its performance of the Services or any portion of this Agreement without the City's prior written consent of not less than thirty (30) days. The CITY reserves the right to reject without cause any such assignment.
- 12.2 Any assignment shall be subject to each provision of this Agreement and proper bidding procedures where applicable as set forth in local, state and/or federal statutes, ordinances and guidelines.
- 12.3 Any technical/professional service subcontract not listed in this Agreement, must have express advance approval by the CITY.

13. Maintenance and Inspection of Records.

- 13.1 The SERVICE PROVIDER shall maintain books, records and documents, which sufficiently and properly reflect all direct and indirect costs related to the performance of this Agreement and shall maintain such accounting procedures and practices as may be necessary to assure proper accounting of all funds paid pursuant to this Agreement. These records shall be subject at all reasonable times

to inspection, review, or audit, by the CITY, its authorized representative, the State Auditor, or other governmental officials authorized by law to monitor this Agreement.

13.2 The SERVICE PROVIDER shall retain all books, records, documents and other material relevant to this Agreement, for six (6) years after its expiration. The SERVICE PROVIDER agrees that the CITY or its designee shall have full access and right to examine any of said materials at all reasonable times during said period.

14. Termination.

14.1 Termination for Convenience. The CITY may terminate this Agreement, in whole or in part, at any time, by giving thirty (30) days' written notice to the SERVICE PROVIDER. Upon such termination for convenience, the CITY shall pay the SERVICE PROVIDER for all Services provided under this Agreement through the date of termination.

14.2 Termination for Cause. If the SERVICE PROVIDER fails to perform in the manner called for in this Agreement, or if the SERVICE PROVIDER fails to comply with any other provisions of the Agreement and fails to correct such failure or noncompliance within five (5) days' written notice thereof, the CITY may terminate this Agreement for cause. Termination shall be effected by serving a notice of termination on the SERVICE PROVIDER setting forth the manner in which the SERVICE PROVIDER is in default and the date of the termination. The SERVICE PROVIDER will only be paid for Services performed in accordance with this Agreement through the date of termination.

15. Notice. Notice provided for in this Agreement shall be sent by certified mail to the addresses designated for the parties on the last page of this Agreement.

16. Attorneys Fees and Costs. In any dispute arising from the terms or performance of this Agreement, whether a lawsuit is commences, the prevailing party shall be entitled to recover from the other party, in addition to any other relief to which such party may be entitled, reasonable attorney's fees and other costs incurred in that action or proceeding, including an appeal.

17. Jurisdiction and Venue.

17.1 This Agreement has been and shall be construed as having been made and delivered within the State of Washington, and shall be governed by laws of the State of Washington, both as to interpretation and performance.

17.2 Any action of law, suit in equity, or judicial proceeding for the enforcement of this Agreement or any provisions thereof shall be instituted and maintained only in any of the courts of competent jurisdiction in Chelan County, Washington.

18. Severability. If any portion of this Agreement is held to be invalid or unenforceable for any reason, such holding shall not affect the validity or enforceability of the remaining portions of this Agreement.
19. Entire Agreement. This Agreement, including the Exhibits attached, is the complete and exclusion expression of the agreement between them and shall bind their successors and assigns. Any modification of this Agreement shall be in writing and signed by both parties. Failure to comply with any provision of this Agreement shall constitute a material breach of contract and be cause for termination. The parties recognize time is of the essence in the performance of this Agreement. The forgiveness or waiver of the nonperformance of any provision of this Agreement does not constitute a waiver of any subsequent nonperformance by a party.

CITY:

SERVICE PROVIDER:

CITY OF CHELAN  
PO Box 1669  
Chelan, WA 98816

\_\_\_\_\_  
Robert E. Goedde, Mayor

\_\_\_\_\_, 2015

\_\_\_\_\_  
*Randy Asplund*  
\_\_\_\_\_  
*Mayor* 1/30, 2015

Attest:

\_\_\_\_\_  
Peri Gallucci, City Clerk

**EXHIBIT A**  
**Scope of Work**  
**City of Chelan**  
**Preliminary Evaluation of**  
**Water Service to Airport**  
January 2015

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**Background**

The City of Chelan (City) is interested in extending water service to the Chelan Municipal Airport (Airport) to provide fire flow for economic development. Because of the distance from the City, and the probability of rock along a pipeline route, alternative options for providing water service should be investigated. RH2 Engineering, Inc., (RH2) has prepared this Scope of Work to review the feasibility of various options for providing domestic water service to this area.

**Task 1 – Economic Feasibility Analysis**

**Objective:** Work with the Port, the City Chamber of Commerce, the Washington State Employment Security Department, and other local agencies to meet the Community Economic Revitalization Board (CERB) Planning Study minimum requirements.

**Approach:**

- 1.1 Perform a product market analysis linked to economic development.
- 1.2 Develop a market strategy containing action elements linked to timelines.
- 1.3 Work with local stakeholders to identify targeted industries.
- 1.4 Identify the group responsible for implementing the marketing strategy. Provide a description of the group's capabilities.
- 1.5 Assess the site's appropriateness for development. Assess zoning, probable affects to the state or local transportation system, environmental restrictions, cultural resource review, and the site's overall adequacy to support the anticipated development upon project completion.
- 1.6 Provide a location analysis of other adequately-served vacant industrial land in Chelan County.
- 1.7 Assess available methods to secure funding for the public facilities improvements within a given time frame.
- 1.8 Provide an analysis of how the project will assist local economic diversification efforts.
- 1.9 Indicate the specific issues that will be addressed.
- 1.10 List one or more economic outcomes that the City expects from the proposed CERB project.
- 1.11 Describe the specific, quantifiable measures of the outcome(s) that will indicate success. Describe in measurable terms what the City expects to be able to show as progress toward the outcome for each year before the whole outcome has been achieved.
- 1.12 Describe what data the City will collect to determine whether the outcome is being achieved.
- 1.13 Describe the data collection procedure including when data will be collected, from whom and by whom.
- 1.14 Provide the estimated median hourly wage of the jobs created when development occurs.
- 1.15 Assuming the project is determined to be feasible, provide the following information within the

City of Chelan  
Preliminary Evaluation of Water Service to Airport

Exhibit A  
Scope of Work

final report:

- Total estimated jobs created in full-time equivalent (FTEs).
- Describe benefits offered to employees.
- Describe the median hourly wage of the new jobs in relation to the median hourly County wage.
- The County three (3) -year unemployment rate in relation to the state rate.
- County population change in the last five (5) years.
- The estimated jobs created represent what percentage of the County's labor force.
- The estimated jobs created represent what percentage of the County's unemployed workers.
- Estimated new annual state and local revenue generated by the private business.

**Provided by the City:**

- Input on possible development.

**Assumptions:** *Most of this task will be performed by Pole Star Consulting.*

**RH2 Deliverables:**

- Draft and finalize economic feasibility section and incorporate into the Planning Study Report.

**Task 2 – Alternatives Analysis**

**Objective:** Identify specific project requirements. Identify available data. Determine feasible alternatives to provide service to the Airport. *Distribution piping at and around the Airport will not be included in this analysis.* Provide conservative budget-level cost estimates for each alternative. Determine key constraints and issues of each alternative, including water quality. Investigate three (3) alternatives, including the following:

Alternative 1: Large-diameter pipe, as required, to provide fire flow from the City's existing system.

Alternative 2: Small-diameter pipe to serve a new reservoir near the Airport.

Alternative 3: Stand-alone water system at the Airport, including a well, a reservoir, and primary transmission pipes.

Provide results in a letter report and include in the Planning Study Report.

**Approach:**

- 2.1 Outline possible service area and estimate possible demands, including fire flow. Desired fire flow is 3,500 gallons per minute (gpm).
- 2.2 Collect existing well data and available topographic data from the City. Review the City's Water System Plan (WSP) for existing facilities and water rights.
- 2.3 Determine requirements for Alternative 1, including estimating storage requirements if existing storage does not meet the projected needs.
- 2.4 Include considerations of adding storage in the City and the effects on fire flow within the city core and surrounding industrial and commercially-zoned lands.
- 2.5 Provide a budget-level estimate of costs for Alternative 1.
- 2.6 Determine possible locations and overall feasibility of siting a new reservoir in the vicinity of the

City of Chelan  
Preliminary Evaluation of Water Service to Airport

Exhibit A  
Scope of Work

Airport.

- 2.7 Determine requirements for Alternative 2, including constructing a new reservoir near the Airport. Provide a budget-level estimate of costs.
- 2.8 Determine requirements for Alternative 3, including a well and a reservoir. Include a brief summary of possible water rights issues. Provide a budget-level estimate of costs.
- 2.9 Develop a sketch showing the three (3) alternatives. Provide a draft letter report comparing the alternatives and relative costs.
- 2.10 Meet with the City's Public Works Department to discuss fire flow improvements. Meet with the City Administrator to discuss finding(s). Finalize the letter based on the results of the discussion. Letter will include recommendations for the City's preferred alternative.

**Assumptions:** *Demand analysis will be very preliminary and will be based on direction from the City on development potential. The cost estimates will be conservative due to the large number of unknowns. Irrigation water will not be used to provide fire flow.*

**Provided by the City:**

- Marked-up map showing desired development.

**RH2 Deliverables:**

- Draft and final analysis in a letter report.

**Task 3 – Project Report**

**Objective:** Develop the project report, as described in the *2009 Water System Design Manual*.

**Approach:**

- 3.1 Determine storage requirements with the City. Check adequacy of supply against projected demands.
- 3.2 Work with the City to determine the desired location for a new reservoir. Perform limited hydraulic modeling to determine other system improvements required to serve the Airport from the new tank. Determine if a surge analysis will be required during final design.
- 3.3 Perform sizing of pumps, valves, and other system components. Determine telemetry requirements.
- 3.4 Identify land and right-of-way acquisition requirements.
- 3.5 Provide updated cost estimates.
- 3.6 Provide a project description, as required for a project report. Prepare a state environmental policy act (SEPA) checklist for the project report (as a nonproject action per SEPA).

City of Chelan  
Preliminary Evaluation of Water Service to Airport

Exhibit A  
Scope of Work

- 3.7 Develop an implementation schedule.
- 3.8 Provide design criteria applicable to the project not included in the City's WSP.
- 3.9 Discuss operation and maintenance (O&M) considerations, including descriptions of routine operation, preventive maintenance tasks and frequencies, and estimated costs of O&M for the facility.
- 3.10 Discuss legal considerations pertinent to the project, including property ownership, rights-of-ways, and permits required.
- 3.11 Determine permitting requirements with the City.
- 3.12 Prepare a draft report that addresses the components of a project report as required in the Washington State Department of Health (DOH) *Water System Design Manual*. Submit for review by the City and for internal QA/QC review.
- 3.13 Incorporate the City's comments and the internal review comments, and submit report to DOH.
- 3.14 Finalize the report based on DOH comments, and provide one (1) copy to DOH, and two (2) copies to the City.
- 3.15 Provide project management for the RH2 team, including invoice review, budget tracking, staffing, and file management.

**Assumptions:** *A new source will not be required. If a new source is required, significant additional effort would be required. Alternative 1 will be the most cost effective option.*

**Provided by the City:**

- Review of Project Report.

**RH2 Deliverables:**

- Draft and final project report.

**Task 4 – Management Reserve**

**Objective:** Perform other work not currently identified.

**Approach:**

- 4.1 Perform additional tasks as identified during the execution of Tasks 1 through 3 meant to increase the viability of the project.

**Project Schedule**

Tasks 1 and 2 will be completed within sixty (60) days of authorization to proceed. Task 3 will be completed within ninety (90) days following completion of Task 2.

**EXHIBIT B**  
**City of Chelan**  
**Preliminary Evaluation of Water Service to Airport**  
**Estimate of Time and Expense**

Task #	Description Classification	Principal		Project Manager		Project Engineer		Word Processor		Total Hours	Total Labor	Subconsultant	Total Expense	Total Cost							
		Professional IX	Professional VII	Professional III	Professional III	Administrative III	Administrative III														
<b>Task 1 Economic Feasibility Analysis</b>																					
1.1	Perform product market analysis										\$	\$	\$	2,300							
1.2	Develop market strategy										\$	\$	\$	600							
1.3	Identify group responsible for implementing marketing strategy										\$	\$	\$	400							
1.4	Implement market strategy										\$	\$	\$	100							
1.5	Assess appropriateness for development										\$	\$	\$	100							
1.6	Assess funding methods										\$	\$	\$	492							
1.7	Provide location analysis										\$	\$	\$	150							
1.8	Provide an analysis to assist economic diversity efforts										\$	\$	\$	192							
1.9	Assess funding methods										\$	\$	\$	200							
1.10	Indicate specific issues										\$	\$	\$	300							
1.11	List economic outcomes										\$	\$	\$	300							
1.12	Describe outcome measures										\$	\$	\$	209							
1.13	Describe data to be collected										\$	\$	\$	100							
1.14	Describe data collection procedures										\$	\$	\$	200							
1.15	Provide median hourly wages determination										\$	\$	\$	100							
1.15	Provide information on jobs data for final report										\$	\$	\$	400							
<b>Subtotal</b>											<b>5</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>5,600</b>	<b>\$</b>	<b>21</b>	<b>\$</b>	<b>6,455</b>		
<b>Task 2 Alternatives Analysis</b>																					
2.1	Outline service area and estimate demands										\$	\$	\$	984							
2.2	Collect existing data and review WSP										\$	\$	\$	684							
2.3	Determine requirements for Alternative 1 evaluation										\$	\$	\$	1,026							
2.4	Consider adding storage in City										\$	\$	\$	684							
2.5	Provide budget level cost estimate for Alternative 1										\$	\$	\$	684							
2.6	Determine new reservoir location near the airport										\$	\$	\$	534							
2.7	Determine requirements for Alternative 2 evaluation										\$	\$	\$	824							
2.8	Determine requirements for Alternative 3 evaluation										\$	\$	\$	1,283							
2.9	Develop sketch of alternatives and draft letter										\$	\$	\$	735							
2.10	Meetings with Public Works and City Administrator										\$	\$	\$	279							
2.11	Provide Project Management										\$	\$	\$	8,733							
<b>Subtotal</b>											<b>24</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>25</b>	<b>\$</b>	<b>7</b>	<b>\$</b>	<b>9,237</b>		
<b>Task 3 Project Report</b>																					
3.1	Determine storage and supply requirements										\$	\$	\$	576							
3.2	Hydraulic modeling										\$	\$	\$	2,568							
3.3	Perform sizing of pumps and valves, telemetry requirements										\$	\$	\$	768							
3.4	Identify land and right-of-way										\$	\$	\$	192							
3.5	Update cost estimate										\$	\$	\$	684							
3.6	Provide project description, SEPA, checks										\$	\$	\$	1,026							
3.7	Develop implementation schedule										\$	\$	\$	192							
3.8	Provide design criteria										\$	\$	\$	384							
3.9	Discuss O&M requirements and costs										\$	\$	\$	192							
3.10	Discuss legal considerations										\$	\$	\$	192							
3.11	Determine permitting requirements										\$	\$	\$	3,012							
3.12	Prepare draft project report, O&M/C&C										\$	\$	\$	240							
3.13	Incorporate comments and submit to DPH										\$	\$	\$	993							
3.14	Finalize report										\$	\$	\$	79							
3.15	Provide project management										\$	\$	\$	888							
<b>Subtotal</b>											<b>42</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>1,047</b>	<b>\$</b>	<b>26</b>	<b>\$</b>	<b>1,073</b>		
<b>Task 4 Management Reserve</b>																					
4.1	Management Reserve										\$	\$	\$	760							
4.1	Other work as needed										\$	\$	\$	760							
<b>Subtotal</b>																					
<b>PROJECT TOTAL</b>											<b>132</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>22,368</b>	<b>\$</b>	<b>5,600</b>	<b>\$</b>	<b>1,263</b>	<b>\$</b>	<b>30,000</b>

**EXHIBIT C  
 RH2 ENGINEERING, INC.  
 SCHEDULE OF RATES AND CHARGES**

**2014 HOURLY RATES**

CLASSIFICATION		RATE	CLASSIFICATION		RATE
Professional	IX	\$201.00	Technician	IV	\$132.00
Professional	VIII	\$201.00	Technician	III	\$124.00
Professional	VII	\$192.00	Technician	II	\$93.00
			Technician	I	\$86.00
Professional	VI	\$181.00			
Professional	V	\$171.00	Administrative	V	\$125.00
Professional	IV	\$163.00	Administrative	IV	\$102.00
			Administrative	III	\$87.00
Professional	III	\$150.00	Administrative	II	\$73.00
Professional	II	\$142.00	Administrative	I	\$63.00
Professional	I	\$133.00			

**IN-HOUSE SERVICES**

In-house copies (each)	8.5" X 11"	\$0.09	CAD Plots	Large	\$25.00
In-house copies (each)	8.5" X 14"	\$0.14	CAD Plots	Full Size	\$10.00
In-house copies (each)	11" X 17"	\$0.20	CAD Plots	Half Size	\$2.50
In-house copies (color) (each)	8.5" X 11"	\$0.90	CAD System	Per Hour	\$27.50
In-house copies (color) (each)	8.5" X 14"	\$1.20	GIS System	Per Hour	\$27.50
In-house copies (color) (each)	11 X 17"	\$2.00	Technology Charge		2.5% of Direct Labor
			Mileage		Current IRS Rate

**OUTSIDE SERVICES**

Outside direct costs for permit fees, reports, maps, data, reprographics, couriers, postage, and non-mileage related travel expenses that are necessary for the execution of the project and are not specifically identified elsewhere in the contract will be invoiced at cost.

All Subconsultant services are billed at cost plus 15%.

**CHANGES IN RATES**

Rates listed here are adjusted annually. The current schedule of rates and charges is used for billing purposes. Payment for work accomplished shall be based on the hourly rates and expenses in effect at the time of billing as stated in this Exhibit.

## EXHIBIT D

### AIP Contract Provisions

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

The Contractor must 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.

#### **BUY AMERICAN CERTIFICATION**

The contractor agrees to comply with 49 USC § 50101, which provides that Federal funds may not be obligated unless all steel and manufactured goods used in AIP-funded projects are produced in the United States, unless the FAA has issued a waiver for the product; the product is listed as an Excepted Article, Material Or Supply in Federal Acquisition Regulation subpart 25.108; or is included in the FAA Nationwide Buy American Waivers Issued list.

#### **GENERAL CIVIL RIGHTS PROVISIONS**

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

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.

This provision also obligates the tenant/concessionaire/lessee or its transferee for the period during which Federal assistance is extended to the airport through the Airport Improvement Program, except where Federal assistance is to provide, or is in the form of personal property; real property or interest therein; 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.

EXHIBIT D continued

**Compliance with Nondiscrimination 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. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the **Title VI List of Pertinent Nondiscrimination Statutes and Authorities**, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
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 will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
  - a. Withholding payments to the contractor under the contract until the contractor complies; and/or
  - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless

EXHIBIT D continued

exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

**DISADVANTAGED BUSINESS ENTERPRISES**

**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 {specify number} days from the receipt of each payment the prime contractor receives from {Name of recipient}. The prime contractor agrees further to return retainage payments to each subcontractor within {specify the same number as above} 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 {Name of Recipient}. This clause applies to both DBE and non-DBE subcontractors

**FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)**

The following provisions are hereby incorporated by reference, with the same force and effect as if given in full text. The contractor has full responsibility to monitor compliance to the referenced statute or regulation. The contractor must address any claims or disputes that pertain to a referenced requirement directly with the Federal Agency with enforcement responsibilities.

Requirement	Federal Agency with Enforcement Responsibilities
Federal Fair Labor Standards Act (29 USC 201)	U.S. Department of Labor – Wage and Hour Division

**LOBBYING AND INFLUENCING FEDERAL EMPLOYEES**

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

- 1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the bidder or offeror, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any

EXHIBIT D continued

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

- 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 this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

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

**OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970**

The following provisions are hereby incorporated by reference, with the same force and effect as if given in full text. The contractor has full responsibility to monitor compliance to the referenced statute or regulation. The contractor must address any claims or disputes that pertain to a referenced requirement directly with the Federal Agency with enforcement responsibilities.

Requirement	Federal Agency with Enforcement Responsibilities
Occupational Safety and Health Act of 1970 (20 CFR Part 1910)	U.S. Department of Labor – Occupational Safety and Health Administration

**RIGHTS TO INVENTIONS**

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

**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);

## EXHIBIT D continued

- b. has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country 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 1001.

### 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 must 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 will be made, but no amount will be allowed for anticipated profit on unperformed services.

EXHIBIT D continued

- 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 is 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 will be deemed to have been effected for the convenience of the Sponsor. In such event, adjustment in the contract price will 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.

**CERTIFICATE REGARDING DEBARMENT AND SUSPENSION (BIDDER OR OFFEROR)**

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

**CERTIFICATION REGARDING DEBARMENT AND SUSPENSION (SUCCESSFUL BIDDER REGARDING LOWER TIER PARTICIPANTS)**

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

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

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