

CONSULTANT: American Association of Airport Executives
CONTACT PERSON: Sarah Pilli
ADDRESS: 601 Madison Street
Alexandria, VA 22314
FEDERAL TAX ID NUMBER/U.B.I. NUMBER: 51-0094939
TELEPHONE/FAX NUMBER: 703-797-2542
COUNTY DEPT: Airport
DEPT. CONTACT PERSON: Kara Underwood
TELEPHONE/FAX NUMBER: 425-388-5110
PROJECT: Designated Aviation Channeling Services & Computer Based Training
AMOUNT: \$ 85,700
FUND SOURCE: 410-5216804101
CONTRACT DURATION: executeion of contract through April 1, 2020

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT (the "Agreement") is made by and between SNOHOMISH COUNTY, a political subdivision of the State of Washington (the "County") and the American Association of Airport Executives' wholly owned and operated not-for-profit entity, the Transportation Security Clearinghouse (the "Contractor"). In consideration of the mutual benefits and covenants contained herein, the parties agree as follows:

1. Purpose of Agreement; Scope of Services. The purpose of this Agreement is to provide Designated Aviation Channeling (DAC) services and Computer Based Training (CBT) solutions to operate effectively and efficiently, in accordance with federal regulations ("Services"). The scope of services is as defined in Schedule A (DAC services) and Schedule B (CBT solutions) attached hereto and by this reference made a part hereof. This Agreement is the product of County RFP No. 15-18SR, Designated Aviation Channeling (DAC) & Computer Based Training (CBT).

The services shall be performed in accordance with the requirements of this Agreement and with generally accepted practices prevailing in the western Washington region in the occupation or industry in which the Contractor practices or operates at the time the services are

performed. The Contractor shall perform the work in a timely manner and in accordance with the terms of this Agreement. Any materials or equipment used by the Contractor in connection with performing the services shall be of good quality. The Contractor represents that it is fully qualified to perform the services to be performed under this Agreement in a competent and professional manner.

The Contractor will prepare and present status reports and other information regarding performance of the Agreement as the County may request.

2. Term of Agreement; Time of Performance. This Agreement shall be effective upon contract execution (the "Effective Date") and shall terminate on April 1, 2020, PROVIDED, HOWEVER, that the term of this Agreement may be extended or renewed for up to five (5) additional two (2) year terms, at the sole discretion of the County, by written notice from the County to the Contractor. PROVIDED, HOWEVER, that the County's obligations after December 31, 2018 are contingent upon local legislative appropriation of necessary funds for this specific purpose in accordance with the County Charter and applicable law.

3. Compensation.

a. Services. The County will pay the Contractor for services as and when set forth in Schedule C, which is attached hereto and by this reference made a part of this Agreement.

b. Overhead and Expenses. The Contractor's compensation for services set forth in Section 3a above includes overhead and expenses and no separate claims for reimbursement of overhead or expenses will be allowed under this Agreement.

c. Invoices. In regards to the DAC services, the Contractor shall submit properly executed invoices to the County no more frequently than monthly. Each invoice shall include an itemization of the dates on which services were provided. In regards to the CBT solutions, the County shall provide the payments in according the timeline outlined in Schedule C. Subject to Section 8 of this Agreement, the County will pay such invoices within thirty (30) calendar days of receipt.

d. Payment. The County's preferred method of payment under this contract is electronic using the County's "e-Payable" system with Bank of America. The Contractor is highly encouraged to take advantage of the electronic payment method.

In order to utilize the electronic payment method, the Contractor shall email SnocoEpayables@snoco.org and indicate it was awarded a contract with Snohomish County and will be receiving payment through the County's e-Payable process. The Contractor needs to provide contact information (name, phone number and email address). The Contractor will be contacted by a person in the Finance Accounts Payable group and assisted with the

enrollment process. This should be done as soon as feasible after County award of a contract or purchase order, but not exceeding ten (10) business days.

Department approved invoices received in Finance will be processed for payment within seven calendar days for e-Payable contractors. Invoices are processed for payment by Finance two times a week for contractors who have selected the e-Payable payment option.

In the alternative, if the Contractor does not enroll in the electronic ("e-Payable") payment method described above, contract payments will be processed by Finance with the issuance of paper checks or, if available, an alternative electronic method. Alternative payment methods, other than e-Payables, will be processed not more than 30 days from receipt of department approved invoices to Finance.

THE COUNTY MAY MAKE PAYMENTS FOR PURCHASES UNDER THIS CONTRACT USING THE COUNTY'S VISA PURCHASING CARD (PCARD).

Upon acceptance of payment, the Contractor waives any claims for the goods or services covered by the Invoice. Except for DAC services, no advance payment shall be made for the goods or services furnished by Contractor pursuant to this Contract.

4. Independent Contractor. The Contractor agrees that Contractor will perform the services under this Agreement as an independent contractor and not as an agent, employee, or servant of the County. This Agreement neither constitutes nor creates an employer-employee relationship. The parties agree that the Contractor is not entitled to any benefits or rights enjoyed by employees of the County. The Contractor specifically has the right to direct and control Contractor's own activities in providing the agreed services in accordance with the specifications set out in this Agreement. The County shall only have the right to ensure performance. Nothing in this Agreement shall be construed to render the parties partners or joint venturers.

The Contractor shall furnish, employ and have exclusive control of all persons to be engaged in performing the Contractor's obligations under this Agreement (the "Contractor personnel"), and shall prescribe and control the means and methods of performing such obligations by providing adequate and proper supervision. Such Contractor personnel shall for all purposes be solely the employees or agents of the Contractor and shall not be deemed to be employees or agents of the County for any purposes whatsoever. With respect to Contractor personnel, the Contractor shall be solely responsible for compliance with all rules, laws and regulations relating to employment of labor, hours of labor, working conditions, payment of wages and payment of taxes, including applicable contributions from Contractor personnel when required by law.

Because it is an independent contractor, the Contractor shall be responsible for all obligations relating to federal income tax, self-employment or FICA taxes and contributions, and all other so-called employer taxes and contributions including, but not limited to, industrial insurance (workers' compensation). The Contractor agrees to indemnify, defend and hold the County harmless from any and all claims, valid or otherwise, made to the County because of these obligations.

The Contractor assumes full responsibility for the payment of all payroll taxes, use, sales, income, or other form of taxes, fees, licenses, excises or payments required by any city, county, federal or state legislation which are now or may during the term of the Agreement be enacted as to all persons employed by the Contractor and as to all duties, activities and requirements by the Contractor in performance of the work under this Agreement. The Contractor shall assume exclusive liability therefor, and shall meet all requirements thereunder pursuant to any rules or regulations that are now or may be promulgated in connection therewith.

5. Intellectual Property Rights

a. The Contractor and County acknowledge that both parties and/or third parties retain all right, title and interest under applicable contractual, copyright, intellectual property, and related laws to their previously owned, developed or obtained intellectual property and any enhancements and modifications to same and in the databases and information contained therein used to provide either party's products or services hereunder, and the parties shall use such materials consistent with such right, title and interest and notify the applicable party of any threatened or actual infringement thereof.

b. The Contractor retains all its previously owned, developed or obtained intellectual property. The County shall use the Contractor's intellectual property with such rights as necessary to perform the functions of the Services, and notify the Contractor of any threatened or actual infringement thereof. Contractor grants the County a nontransferable, nonexclusive, limited license to use the Software. Legal title to the Software and Software documentation provided under this Agreement shall remain with Contractor as its sole property, subject to the County's rights specified in this agreement.

c. In the event that development work is undertaken under this contract by the Contractor, which specifically excludes all previously owned, developed or obtained intellectual property, then any such developed items shall be owned by the Contractor except in instances where the Contractor develops County specific data or video for CBT solutions, which are explicitly for the County and using County information, then the developed data and video shall be owned by the County.

d. Warranty. Contractor warrants that the software, hardware and training courses at the time of installation of CBT shall materially conform to the specifications agreed-upon. In case of a nonconformance, the County shall promptly notify Contractor. Contractor shall correct any nonconformance after notification within a reasonable time by the means it determines to be the most appropriate, whether by telephone instructions, the issuance of updating documentation, corrective code, hardware replacement or modification, or other methods. Notwithstanding the warranties outlined, Contractor makes no other warranties, express or implied, oral or written, and makes no representation or guarantees to County whatsoever and specifically disclaims all other warranties.

e. County shall not, except as required by applicable law (and then only to that extent):

- Reverse engineer, translate, disassemble, decompile the whole or any part of the Contractor's service offering, solution or proprietary assets or otherwise attempt to access same;
- Assign, transfer, sell, license, sub-license, lease, rent, charge or otherwise deal in or encumber the proprietary material of the Contractor or use the proprietary material of the Contractor on behalf of or for the benefit of any third party, or make available the same in any way whatsoever to any third party without the Contractor's prior written consent in a fashion contrary to the terms of this Agreement;
- Distribute, create derivative works of or modify proprietary material of the Contractor in anyway, nor create or develop a competitive or similar offering to that of the Contractor, nor use, copy, duplicate or display the proprietary material of Contractor on a commercial or development basis except as expressly provided under an agreement.

6. Changes. No changes or additions shall be made in this Agreement except as agreed to by both parties, reduced to writing and executed with the same formalities as are required for the execution of this Agreement.

7. County Contact Person. The assigned contact person (or project manager) for the County for this Agreement shall be:

Name: Kara Underwood
Title: Superintendent of Operaitons
Department: Airport
Telephone: (425) 388-5110
Email: kara.underwood@snoco.org

8. County Review and Approval. With the exeption of DAC services, when the Contractor has completed any discrete portion of the services, the Contractor shall verify that the work is free from errors and defects and otherwise conforms to the requirements of this Agreement. The Contractor shall then notify the County that said work is complete. The County shall promptly review and inspect the work to determine whether the work is acceptable. If the County determines the work conforms to the requirements of this Agreement, the County shall notify the Contractor that the County accepts the work. If the County determines the work contains errors, omissions, or otherwise fails to conform to the requirements of this Agreement, the County shall reject the work by providing the Contractor with written notice describing the problems with the work and describing the necessary corrections or modifications to same. In such event, the Contractor shall promptly remedy the problem or problems and re-submit the work to the County. The Contractor shall receive no additional compensation for time spent correcting errors. Payment for the work will not be made until the work is accepted by the County. The Contractor shall be responsible for the accuracy of work even after the County accepts the work.

If the Contractor fails or refuses to correct the Contractor's work when so directed by the County, the County may withhold from any payment otherwise due to the Contractor an amount that the County in good faith believes is equal to the cost the County would incur in correcting the errors, in re-procuring the work from an alternate source, and in remedying any damage caused by the Contractor's conduct.

9. Subcontracting and Assignment. The Contractor shall not subcontract, assign, or delegate any of the rights, duties or obligations covered by this Agreement without prior express written consent of the County. Any attempt by the Contractor to subcontract, assign, or delegate any portion of the Contractor's obligations under this Agreement to another party in violation of the preceding sentence shall be null and void and shall constitute a material breach of this Agreement.

10. Records and Access; Audit; Ineligible Expenditures. The Contractor shall maintain adequate records to support billings. Said records shall be maintained for a period of seven (7) years after completion of this Agreement by the Contractor. The County or any of its duly authorized representatives shall have access at reasonable times to any books, documents, papers and records of the Contractor which are directly related to this Agreement for the purposes of making audit examinations, obtaining excerpts, transcripts or copies, and ensuring compliance by the County with applicable laws. Expenditures under this Agreement, which are determined by audit to be ineligible for reimbursement and for which payment has been made to the Contractor, shall be refunded to the County by the Contractor.

11. Indemnification.

a. Professional Liability.

The Contractor agrees to indemnify the County and, if any funds for this Agreement are provided by the State, the State and their officers, officials, agents and employees from damages and liability for damages, including reasonable attorneys' fees, court costs, expert witness fees, and other claims-related expenses, arising out of the performance of the Contractor's professional services under this Agreement, to the extent that such liability is caused by the negligent acts, errors or omissions of the Contractor, its principals, employees or subcontractors. The Contractor has no obligation to pay for any of the indemnitees' defense-related cost prior to a final determination of liability or to pay any amount that exceeds Contractor's finally determined percentage of liability based upon the comparative fault of the Contractor, its principals, employees and subcontractors. For the purpose of this section, the County and the Contractor agree that the County's and, if applicable, the State's costs of defense shall be included in the definition of damages above.

b. All Other Liabilities Except Professional Liability.

To the maximum extent permitted by law and except to the extent caused by the sole negligence of the County and, if any funds for this Agreement are provided by the State, the State, the Contractor shall indemnify and hold harmless the County and the State, their officers, officials, agents and employees, from and against any and all suits, claims, actions, losses, costs, penalties and damages of whatsoever kind or nature arising out of, in connection with, or incidental to the services and/or deliverables provided by or on behalf of the Contractor. In addition, the Contractor shall assume the defense of the County and, if applicable, the State and their officers and employees in all legal or claim proceedings arising out of, in connection with, or incidental to such services and/or deliverables and shall pay all defense expenses, including reasonable attorneys' fees, expert fees and costs incurred by the County and, if applicable, the State, on account of such litigation or claims.

The above indemnification obligations shall include, but are not limited to, all claims against the County and, if applicable, the State by an employee or former employee of the Contractor or its subcontractors, and the Contractor, by mutual negotiation, expressly waives all immunity and limitation on liability, as respects only the County and, if applicable, the State, under any industrial insurance act, including Title 51 RCW, other worker's compensation act, disability benefit act, or other employee benefit act of any jurisdiction which would otherwise be applicable in the case of such claim.

In the event that the County or, if applicable, the State incurs any judgment, award and/or cost including attorneys' fees arising from the provisions of this section, or to enforce the provisions of this section, any such judgment, award, fees, expenses and costs shall be recoverable from the Contractor.

In addition to injuries to persons and damage to property, the term "claims," for purposes of this provision, shall include, but not be limited to, assertions that the use or transfer of any software, book, document, report, film, tape, or sound reproduction or material of any kind, delivered hereunder, constitutes an infringement of any copyright, patent, trademark, trade name, and/or otherwise results in an unfair trade practice.

The indemnification, protection, defense and save harmless obligations contained herein shall survive the expiration, abandonment or termination of this Agreement.

Nothing contained within this provision shall affect or alter the application of any other provision contained within this Agreement.

12. Insurance Requirements. The Contractor shall procure by the time of execution of this Agreement, and maintain for the duration of this Agreement, (i) insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the services hereunder by the Contractor, its agents, representatives, or employees, and (ii) a current certificate of insurance and additional insured endorsement when applicable.

a. General. Each insurance policy shall be written on an "occurrence" form, except that Professional Liability, Errors and Omissions coverage, if applicable, may be written on a claims made basis. If coverage is approved and purchased on a "claims made" basis, the Contractor warrants continuation of coverage, either through policy renewals or the purchase of an extended discovery period, if such extended coverage is available, for not less than three (3) years from the date of completion of the work which is the subject of this Agreement.

By requiring the minimum insurance coverage set forth in this Section 12, the County shall not be deemed or construed to have assessed the risks that may be applicable to the Contractor under this Agreement. The Contractor shall assess its own risks and, if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage.

b. No Limitation on Liability. The Contractor's maintenance of insurance as required by this Agreement shall not be construed to limit the liability of the Contractor to the coverage provided by such insurance, or otherwise limit the County's recourse to any remedy available at law or in equity.

c. Minimum Scope and Limits of Insurance. The Contractor shall maintain coverage at least as broad as, and with limits no less than:

(i) General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage, and for those policies with aggregate limits, a \$2,000,000 aggregate limit. CG 00 01 current edition, including Products and Completed Operations;

(ii) Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage. CA 0001 current edition, Symbol 1;

(iii) Workers' Compensation: To meet applicable statutory requirements for workers' compensation coverage of the state or states of residency of the workers providing services under this Agreement;

(iv) Employers' Liability or "Stop Gap" coverage: \$1,000,000;

d. Other Insurance Provisions and Requirements. The insurance coverages required in this Agreement for all liability policies except workers' compensation and Professional Liability, if applicable, must contain, or must be endorsed to contain, the following provisions:

(i) The County, its officers, officials, employees and agents are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of the Contractor in connection with this Agreement. Such coverage shall be primary and non-contributory insurance as respects the County, its officers, officials, employees and agents. Additional Insured Endorsement shall be included with the certificate of insurance, "CG 2026 07/04" or its equivalent is required.

(ii) The Contractor's insurance coverage shall apply separately to each insured against whom a claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability.

(iii) Any deductibles or self-insured retentions must be declared to, and approved by, the County. The deductible and/or self-insured retention of the policies shall not limit or apply to the Contractor's liability to the County and shall be the sole responsibility of the Contractor.

(iv) Insurance coverage must be placed with insurers with a Best's Underwriting Guide rating of no less than A:VIII, or, if not rated in the Best's Underwriting Guide, with minimum surpluses the equivalent of Best's surplus size VIII. Professional Liability, Errors and Omissions insurance coverage, if applicable, may be placed with insurers with a Best's rating of B+:VII. Any exception must be approved by the County.

Coverage shall not be suspended, voided, canceled, reduced in coverage or in limits until after forty-five (45) calendar days' prior written notice has been given to the County.

If at any time any of the foregoing policies fail to meet minimum requirements, the Contractor shall, upon notice to that effect from the County, promptly obtain a new policy, and shall submit the same to the County, with the appropriate certificates and endorsements, for approval.

e. Subcontractors. The Contractor shall include all subcontractors as insureds under its policies, or shall furnish separate certificates of insurance and policy endorsements for each subcontractor. **Insurance coverages provided by subcontractors instead of the Contractor as evidence of compliance with the insurance requirements of this Agreement shall be subject to all of the requirements stated herein.**

13. County Non-discrimination. It is the policy of the County to reject discrimination which denies equal treatment to any individual because of his or her race, creed, color, national origin, families with children, 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 as provided in Washington's Law against Discrimination, Chapter 49.60 RCW, and the Snohomish County Human Rights Ordinance, Chapter 2.460 SCC. These laws protect against specific forms of discrimination in employment, credit transactions, public accommodation, housing, county facilities and services, and county contracts.

[The Contractor shall comply with the substantive requirements of Chapter 2.460 SCC, which are incorporated herein by this reference. Execution of this Agreement constitutes a certification by the Contractor of the Contractor's compliance with the requirements of Chapter 2.460 SCC. If the Contractor is found to have violated this provision, or to have furnished false or misleading information in an investigation or proceeding conducted pursuant to this Agreement or Chapter 2.460 SCC, this Agreement may be subject to a declaration of default and termination

at the County's discretion. This provision shall not affect the Contractor's obligations under other federal, state, or local laws against discrimination.]

14. Federal Non-discrimination. Snohomish County assures that no persons shall on the grounds of race, color, national origin, or sex as provided by Title VI of the Civil Rights Act of 1964 (Pub. L. No. 88-352), as amended, and the Civil Rights Restoration Act of 1987 (Pub. L. No. 100-259) be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any County sponsored program or activity. Snohomish County further assures that every effort will be made to ensure nondiscrimination in all of its programs and activities, whether those programs and activities are federally funded or not.

A. General Civil Rights Provisions: The contractor agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision binds the contractor and subtier 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.

B. Title VI Solicitation Notice: The Snohomish County Airport, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

C. Compliance with Nondiscrimination Requirements: During the performance of this contract, the contractor, for itself, its assignees, its consultants, its subcontractors and successors (hereinafter collectively referred to as contractor) in interest agrees as follows:

1. **Compliance with Regulations.** The contractor will comply with the Title VI List of Pertinent Nondiscrimination Acts And Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract as Addendum D.

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 Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment.** If subcontracts applicable, in all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, each potential

subcontractor will be notified by the contractor of the contractor's obligations under this contract and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.

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 County or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts And Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to 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 Nondiscrimination provisions of this contract, the County 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, if any. The contractor will take action with respect to any subcontract as the County 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, the contractor may request the County to enter into any litigation to protect the interests of the County. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

15. Employment of County Employees. SCC 2.50.075, "Restrictions on future employment of County employees," imposes certain restrictions on the subsequent employment and compensation of County employees. The Contractor represents and warrants to the County that it does not at the time of execution of this Agreement, and that it shall not during the term of this Agreement, employ a former or current County employee in violation of SCC 2.50.075. For breach or violation of these representations and warranties, the County shall have the right to terminate this Agreement without liability.

16. Compliance with Other Laws. The Contractor shall comply with all other applicable federal, state and local laws, rules, and regulations in performing this Agreement.

17. Compliance with Grant Terms and Conditions. The Contractor shall comply with any and all conditions, terms and requirements of any federal, state or other grant, if any, that wholly or partially funds the Contractor's work hereunder.

18. Prohibition of Contingency Fee Arrangements. The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, brokerage fee, gifts or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the County shall have the right to terminate this Agreement without liability or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

19. Force Majeure. If either party is unable to perform any of its obligations under this Agreement as a direct result of an unforeseeable event beyond that party's reasonable control, including but not limited to an act of war, act of nature (including but not limited to earthquake and flood), embargo, riot, sabotage, labor shortage or dispute (despite due diligence in obtaining the same), or governmental restriction imposed subsequent to execution of the Agreement (collectively, a "force majeure event"), the time for performance shall be extended by the number of days directly attributable to the force majeure event. Both parties agree to use their best efforts to minimize the effects of such failures or delays.

20. Suspension of Work. The County may, at any time, instruct the Contractor in writing to stop work effective immediately, or as directed, pending either further instructions from the County to resume the work or a notice from the County of breach or termination under Section 21 of this Agreement.

21. Non-Waiver of Breach; Termination.

a. The failure of the County to insist upon strict performance of any of the covenants or agreements contained in this Agreement, or to exercise any option conferred by this Agreement, in one or more instances shall not be construed to be a waiver or relinquishment of those covenants, agreements or options, and the same shall be and remain in full force and effect.

b. If the Contractor breaches any of its obligations hereunder, and fails to cure the same within ten (10) business days of written notice to do so by the County, the County may terminate this Agreement, in which case the County shall pay the Contractor only for the services and corresponding reimbursable expenses, if any, accepted by the County in accordance with Sections 3 and 8 hereof.

c. The County may terminate this Agreement upon twenty (20) business days' written notice to the Contractor for any reason other than stated in subparagraph b above, in which case payment shall be made in accordance with Sections 3 and 8 hereof for the services and

corresponding reimbursable expenses, if any, reasonably and directly incurred by the Contractor in performing this Agreement prior to receipt of the termination notice.

d. Termination by the County hereunder shall not affect the rights of the County as against the Contractor provided under any other section or paragraph herein. The County does not, by exercising its rights under this Section 21, waive, release or forego any legal remedy for any violation, breach or non-performance of any of the provisions of this Agreement. If after providing the Contractor with ten (10) business days to cure any contract violations, breaches or non-performance, the Contractor has not cured such violation, breach or non-performance, the County, at its sole option may deduct from the final payment due the Contractor (i) any damages, expenses or costs arising out of any such violations, breaches or non-performance and (ii) any other set-offs or credits including, but not limited to, the costs to the County of selecting another contractor to complete the work of the Agreement.

22. Notices. All notices and other communications shall be in writing and shall be sufficient if given, and shall be deemed given, on the date on which the same has been mailed by certified mail, return receipt requested, postage prepaid, addressed as follows:

If to the County: Snohomish County Airport
 3220 100th ST SW Suite A
 Everett, Washington 98204
 Attention: Kara Underwood

and to: Snohomish County Purchasing Division
 3000 Rockefeller Avenue, M/S 507
 Everett, Washington 98201
 Attention: Bramby Tollen
 Purchasing Manager

If to the Contractor: AAAE
 601 Madison Street
 Alexandria, VA 22314
 Attention: Sarah Pilli, VP AAAE Services

The County or the Contractor may, by notice to the other given hereunder, designate any further or different addresses to which subsequent notices or other communications shall be sent.

23. Confidentiality.

The Contractor shall not disclose, transfer, sell or otherwise release to any third party any confidential information gained by reason of or otherwise in connection with the Contractor's performance under this Agreement. The Contractor may use such information solely for the

purposes necessary to perform its obligations under this Agreement. The Contractor shall promptly give written notice to the County of any judicial proceeding seeking disclosure of such information.

24. Public Records Act. This Agreement and all public records associated with this Agreement shall be available from the County for inspection and copying by the public where required by the Public Records Act, Chapter 42.56 RCW (the "Act"). To the extent that public records then in the custody of the Contractor are needed for the County to respond to a request under the Act, as determined by the County, the Contractor agrees to make them promptly available to the County. If the Contractor considers any portion of any record provided to the County under this Agreement, whether in electronic or hard copy form, to be protected from disclosure under law, the Contractor shall clearly identify any specific information that it claims to be confidential or proprietary. The County acknowledges that any proprietary data or Intellectual Property rights, provided by Contractor to the County, including but not limited to commercial, technical, or financial information, in its performance of this Agreement may be "Confidential Information." Except as required by the Act or order of a court of competent jurisdiction, the County agrees to make efforts to hold the Confidential Information of Contractor in confidence and not to disclose such information to third parties or to use such information for any purposes other than as reasonably necessary to perform and exercise its rights and obligations under the terms and conditions of this Agreement. The County agrees to advise its employees involved with the implementation of this Agreement to keep such information confidential. The Contractor acknowledges and agrees, however, that the County as a public entity is subject to public records laws and may be required to disclose documents or information in its files. If the County receives a request under the Act to inspect or copy the information so identified by the Contractor and the County determines that release of the information is required by the Act or otherwise appropriate, the County's sole obligations shall be to notify the Contractor (a) of the request and (b) of the date that such information will be released to the requester unless the Contractor obtains a court order to enjoin that disclosure pursuant to RCW 42.56.540. If the Contractor fails to timely obtain a court order enjoining disclosure, the County will release the requested information on the date specified.

The County has, and by this section assumes, no obligation on behalf of the Contractor to claim any exemption from disclosure under the Act. The County shall not be liable to the Contractor for releasing records not clearly identified by the Contractor as confidential or proprietary. The County shall not be liable to the Contractor for any records that the County releases in compliance with this section or in compliance with an order of a court of competent jurisdiction.

The County's obligations under this Section shall survive the expiration or earlier termination of this Agreement.

25. Interpretation. This Agreement and each of the terms and provisions of it are deemed to have been explicitly negotiated by the parties. The language in all parts of this Agreement shall, in all cases, be construed according to its fair meaning and not strictly for or against either of the

parties hereto. The captions and headings of this Agreement are used only for convenience and are not intended to affect the interpretation of the provisions of this Agreement. This Agreement shall be construed so that wherever applicable the use of the singular number shall include the plural number, and vice versa, and the use of any gender shall be applicable to all genders.

26. Complete Agreement. The Contractor was selected through the County's RFP identified in Section 1. The RFP and the Contractor's response are incorporated herein by this reference. To the extent of any inconsistency among this Agreement, the RFP, and the Contractor's response, this Agreement shall govern. To the extent of any inconsistency between the RFP and the Contractor's response, the RFP shall govern.

27. Conflicts between Attachments and Text. Should any conflicts exist between any attached exhibit or schedule and the text or main body of this Agreement, the text or main body of this Agreement shall prevail.

28. No Third Party Beneficiaries. The provisions of this Agreement are for the exclusive benefit of the County and the Contractor. This Agreement shall not be deemed to have conferred any rights, express or implied, upon any third parties.

29. Governing Law; Venue. This Agreement shall be governed by the laws of the State of Washington. The venue of any action arising out of this Agreement shall be in the Superior Court of the State of Washington, in and for Snohomish County.

30. Severability. Should any clause, phrase, sentence or paragraph of this agreement be declared invalid or void, the remaining provisions of this Agreement shall remain in full force and effect.

31. Authority. Each signatory to this Agreement represents that he or she has full and sufficient authority to execute this Agreement on behalf of the County or the Contractor, as the case may be, and that upon execution of this Agreement it shall constitute a binding obligation of the County or the Contractor, as the case may be.

32. Survival. Those provisions of this Agreement that by their sense and purpose should survive expiration or termination of the Agreement shall so survive.

33. Execution in Counterparts. This Agreement may be executed in counterparts, each of which shall constitute an original and all of which shall constitute one and the same Agreement.

SNOHOMISH COUNTY:

Carter Morris
Carter Morris, EVP AAAE

4/25/18
Date

Susan Neely 5-16-18
County Executive Date

SUSAN NEELY
Executive Director

Approved as to insurance
and indemnification provisions:

[Signature] 5-1-18
Risk Management Date

Approved as to form only:

[Signature] 4/25/18
Legal Counsel to the Contractor Date

Approved as to form only:

[Signature] 4-30-18
Deputy Prosecuting Attorney Date

COUNCIL USE ONLY
Approved: 5-13-18
Docfile: D-3

Schedule A

DAC Statement of Work

Contractor will perform Designated Aviation Channeler (DAC) services for the County by doing the statutorily required biometric checks; the TSA mandated biographical data checks; and providing the optional subscription to the Transportation Security Administration (TSA) Aviation FBI Rap Back Program.

The Contractor's service obligations will include:

- Collecting the County airport's aviation worker fingerprints, biographical data and required payments for processing the background investigations and immediately forwarding each fingerprint to TSA or another appropriate Federal agency for processing, using electronic means to transmit electronic prints.
- Digitizing inked fingerprint card submissions and forwarding them electronically. The Contractor takes all necessary steps required to ensure that the fingerprints are not altered in any way from their original condition.
- Enrolling the County's airport into the TSA Aviation FBI Rap Back program, managing the airport's subscription and providing support to the airport for the program's reporting requirements.
- Utilizing the Contractor's fingerprint tracking process, which allows for accurate fingerprint submission status at any point in the background check process.
- Performing "real-time" processing to transmit fingerprints to the federal system.
- Providing quality assurance and error corrections, when possible, allowing for the maintenance of one of the best error rates in the U.S. for submissions to the FBI.
- Providing superior customer support to the County for questions regarding the Contractor's services and coordinating the resolution of the Contractor problems regarding TSA technical and procedural issues.
- Ensure that the airport data transmitted to TSA is secured in accordance with the Federal Information Security Management Act (FISMA), DHS 4300a controls, and appropriate DHS and TSA security policies.

- Ensure that processes are in strict accordance with TSA and FBI regulations and guidance and the Contractor maintains the highest standards for privacy of the employee information.

The County's will perform the obligations required to support the Contractor in performing the Services, including, but not limited to:

- delivering to the Contractor formatted data, associated supporting documentation, and certification, as required by TSA,
- establishing and maintaining secure and reliable communication with the Contractor and keep the communication methods in good working order, and
- providing the Contractor with complete and accurate documents and biometric data for each aviation worker program applicant and in a form and format that is reasonably acceptable to the Contractor.

Schedule B

CBT Statement of Work

The Contractor will provide Computer Based Training to the County consisting of a customized, web-based training solution. The Contractor's web-based system, the Interactive Employee Training Learning Suite (IET-LS), is airport-specific, scalable and has cloud-based capabilities.

Contractor will provide the following services for the development of CBT:

- Advance consultation on custom videotaping
- Custom content / scenario development
- Story boarding and visual development
- On-site videotaping, to include site survey
- Visualization and scene layouts
- Dramatization and scenario development
- Pre-production meetings for role playing development
- Directing and production of scenarios
- Overseeing scene treatment and continuity
- Non-linear editing and post production
- Narration and Audio mixing
- All graphics and graphic art work
- Interactive script development and branching for Upgraded IET
- Integration of custom video into interactive course for Upgraded IET
- Programming interactive assessments for Upgraded IET
- A review version of the interactive course
- Packaging of approved interactive program
- Final interactive program loaded on each unit
- Installation and On-site testing
- Quality assurance

The Contractor's obligations are as follows:

The Contractor will be directly involved in all aspects of the project and is responsible for planning and execution. The Contractor's team consists of a Project Manager who will be the County's primary point of contact, and a number of team members who are assigned to deliver their tasks according to the project schedule or timeline. On large projects, some team members may serve as Team Leads, providing task and technical leadership. The Project Manager will be responsible for overseeing the day-to-day activity and coordinate all functions and work flows.

At initiation of the project, the Project Manager will schedule a kick off meeting to review development phases and approval cycles. The courses and their contents will be provided to the

County for review, and the County will have time to review course material. A delay in reviewing and approving courses and content may result in significant delays in delivery of a completed training system. The Project Manager will provide the County with a project timeline and scope of work. Once the scope of work and timeline has been approved and the work has started, any further changes will require a change order and additional costs may apply.

The County's obligations are as follows:

Course Script Approval. Those authorized to review and approve course scripts from the County will have ten (10) business days to make editing comments upon delivery from a Project Manager. If no comments or edits are received after ten (10) business days from delivery, Contractor will assume the County has accepted and approved the script as delivered and proceed to the next phase of production. If County makes changes to the approved script after the commenting period is complete, then a change order will be initiated at a rate of \$150 per hour charged to the County.

Course Video Production Approval. Those authorized to review and approve course video production will have seven (7) business days to make editing comments upon notification from a Project Manager. If no comments or edits are received after seven (7) business days from delivery, Contractor will assume the County has accepted and approved the production as delivered and proceed to the next phase of the project. If the County makes changes to the approved video production after the commenting period is complete, then a change order will be initiated at a rate of \$150 per hour charged to the County.

User Acceptance Testing. Those authorized to conduct user acceptance testing for the County will have seven (7) business days to make comments upon delivery from the Contractor. If no comments are received after seven (7) business days from delivery, Contractor will assume the County has accepted and approved the delivered courses and complete the project. If the County makes changes to the courses after the user acceptance period is complete, then a change order will be initiated at a rate of \$150 per hour charged to the County.

Schedule C

Pricing and Payment

AAAE Services Pricing – Designated Aviation Channeling (DAC) and Computer-Based Training (CBT)

DAC	Per electronic Criminal History Record Check (CHRC) <i>*Includes FBI fee – currently \$10.00 per CHRC</i>	\$13.00
	Per Security Threat Assessment (STA)	\$2.00
	Per Rap Back subscription (<u>optional</u> service – removes federal requirement to submit a new CHRC every two years)	\$2.00
Total vetting cost per new applicant (CHRC + STA only)		\$15.00
OPTIONAL - Total vetting cost per new applicant with Rap Back (CHRC + STA + Rap Back)		\$17.00
CBT	IET-LS Software – Learning Suite	\$10,000.00
	IET-LS Course Production – SIDA, GA Security and Authorized Signatory	\$34,500.00
	Production Travel Costs	\$4,000.00
	Open Captioning for ADA Compliance	\$6,000.00
	Configuration of IET-LS Online	\$6,000.00
Initial Training Scope of Work Project Cost		\$60,500.00
CBT Service Plan	Annual Training Service & Support Package – Year One	\$6,600.00
	Annual Training Service & Support Package – Year Two	\$6,600.00
	Annual Training Service & Support Package – Year Three	\$6,600.00
	Annual Training Service & Support Package – Year Four	\$6,600.00
	Annual Training Service & Support Package – Year Five	\$6,600.00
	Five-Year Annual Training Service and Support Package	\$33,000.00

Payment Schedule for the Computer-Based Training is as follows:

1. Upon Delivery of the final CBT system, the County will pay Contractor \$60,500.00.

Addendum D

Title VI List of Pertinent Nondiscrimination Acts and Authorities

During the performance of this contract, the contractor, for itself, its consultants, its subcontractors, its assignees, and successors in interest agrees to comply with the following non-discrimination statutes and authorities, as they may be amended from time to time and which are incorporated herein by reference, including but not limited to:

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

Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).