

**CHELAN DOUGLAS REGIONAL PORT AUTHORITY
RESOLUTION NO. 2022-08**

**A RESOLUTION OF THE CHELAN DOUGLAS REGIONAL
PORT AUTHORITY FINDING SPECIAL MARKET CONDITIONS
EXIST AND AUTHORIZING DIRECT MANUFACTURER
SOLICITATION OF PRICING FOR THE PURCHASE OF SPECIFIC
MATERIALS FOR USE IN COMPLETION OF THE MALAGA
DEVELOPMENT WATER IMPROVEMENTS PROJECT**

Whereas, the Chelan Douglas Regional Port Authority (“CDRPA”) and the Malaga Water District (“District”) entered into an interlocal cooperation agreement for the construction of the “Malaga Development Water Improvements” dated June 14, 2022 with a First Addendum thereto dated June 21, 2022 (collectively “ILA”); and

Whereas, pursuant to the terms of the ILA the CDRPA is obligated to design and construct the “Malaga Development Water Improvements” as identified in the ILA; and

Whereas, effective June 24, 2022, the CDRPA and Microsoft Corporation (“Microsoft”) entered into the Phase 1 Development and Reimbursement Agreement for reimbursement by Microsoft to the CDRPA for the CDRPA design and construction of the “Malaga Development Water Improvements” (the “Microsoft Reimbursement Agreement”); and

Whereas, the CDRPA staff and consultants have determined the purchase of material to be used in the public work project that is the subject of the ILA and the Microsoft Reimbursement Agreement is unavailable for direct purchase through vendors at the present time in the quantities necessary for the public works project to be constructed by the CDRPA pursuant to the ILA and the Microsoft Reimbursement Agreements; and

Whereas, CDRPA staff and consultants have identified a limited number of United States companies that manufacture the 18-inch watermain materials the CDRPA must purchase for the completion of the Malaga Water Improvements Development project and all of the manufacturers identified have the delay in manufacture and pricing issues identified in this Resolution; and

Whereas, specifically the approximately 5,000 feet of 18-inch watermain pipe and appurtenances manufactured in the United States is subject to approximately six-month delays in delivery from the date of order to the time of delivery and the pricing continues to increase as a result of the backlog caused in part by the COVID pandemic; and

Whereas, in order to avoid delay of the project commitments of the CDRPA as set forth the ILA and the Microsoft Reimbursement Agreement, a direct purchase of the watermain material from a manufacturer is necessary; and

Whereas, the CDRPA staff and consultant research of industry pricing indicates the price of the watermain material that must be purchased in order to complete the project has continuously increased in price and the delays in the delivery time from the date of order to the date of deliver are increasing as well; and

Whereas, the CDRPA engineering consulting firm continues to develop the design for the public works construction project to complete the public work identified in the ILA and the Microsoft Reimbursement Agreement which will likely be completed and result in a project that can be awarded to a construction company in November 2022 at which time the contractor awarded the project work would then be able to make a commitment to order the watermain materials that are the subject of this special market conditions Resolution which would result in delivery of the watermain materials to the contractor sometime in May or June 2023 at the earliest; and

Whereas, if the CDRPA makes a direct purchase of the watermain materials needed for the public work project from a manufacturer now, the delivery time for the watermain materials is estimated to be in January or February of 2023 and the cost is anticipated to be less because the order will be placed much earlier than it would be if the materials were made a part of the public work contractor bid package for the project and the purchase will be directly from a United States manufacturer; and

Whereas, the Microsoft Reimbursement Agreement provides that all of the public funds used to purchase the watermain materials that are the subject of this Resolution will be reimbursed to the CDRPA by Microsoft; and

Whereas, the CDRPA Board of Commissioners has evaluated the risk associated with the direct purchase of the public works project materials from the manufacturer and determined that the acceptance of the risk associated with the direct purchase outweighs the increased cost and product timing availability uncertainty associated with delaying the purchase of the known needed materials to make the materials purchase a part of the competitively bid public works project for construction of the Malaga Water Development Improvements; and

Whereas, based upon the totality of the circumstances presented the CDRPA Board of Commissioners finds that a special market condition pursuant to RCW 39.04.280(1)(b) does exist that warrants the purchase of the watermain materials identified in this Resolution directly from a United States manufacturer now; **NOW, THEREFORE,**

THE BOARD OF COMMISSIONERS OF THE CHELAN DOUGLAS REGIONAL PORT AUTHORITY HEREBY RESOLVE AS FOLLOWS:

Section 1. **Recitals.** The Recitals set forth above in this Resolution are made a part of this Resolution.

Section 2. **Special Market Conditions Purchase.** CDRPA staff are authorized to obtain fixed price quotes directly from United States manufacturers for the approximate 5,000 feet

of 18-inch watermain pipe and appurtenances according to the specifications identified by the CDRPA consulting engineers, RH2 Engineering, and to make a recommendation to the CDRPA Board of Commissioners at a future CDRPA Board Meeting to enter into an agreement with a manufacturer for the special market conditions purchase of these necessary materials to be used by the contractor in the Malaga Development Water Improvements public works project as described in the ILA and in the Microsoft Reimbursement Agreement.

Section 3. Conflict Priority. In the event the provisions of this Resolution authorizing a specific special market conditions purchase are in conflict with any existing CDRPA resolutions, policy, or procedures concerning purchasing and contracting, the provisions of this Resolution shall have priority and shall be the controlling authority of the CDRPA for the purchase identified in this Resolution.

Section 4. Effective Date. This Resolution shall be effective immediately upon passage by the CDRPA Board.

Adopted by the Board of Directors of the Chelan Douglas Regional Port Authority at a regular meeting thereof held this 12th day of July, 2022.

CHELAN DOUGLAS REGIONAL PORT AUTHORITY



JC Baldwin, Director



Jim Huffman, Director



Donn Etherington, Director



Mark Spurgeon, Director



Richard DeRock, Director



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