

HONOLULU AUTHORITY FOR RAPID TRANSPORTATION

HONOLULU RAIL TRANSIT PROJECT

**HART SENIOR STAFF SEARCH SERVICES
PROFESSIONAL SERVICES CONTRACT**

REQUEST FOR PROPOSALS

NO. RFP-HRT-618211

**ATTACHMENT 2
SPECIAL PROVISIONS**

HART SENIOR STAFF SEARCH SERVICES

**SPECIAL PROVISIONS
TABLE OF CONTENTS**

- I. PROJECT
- II. SERVICES
- III. TIME
- IV. COMPENSATION AND INVOICING
- V. MODIFICATIONS TO THE GENERAL TERMS AND CONDITIONS FOR CONTRACTS FOR PROFESSIONAL SERVICES FOR THE CITY AND COUNTY OF HONOLULU (08/2000)
- VI. FEDERAL CLAUSES
- VII. NEWS MEDIA AND CONFIDENTIALITY
- VIII. OWNERSHIP OF PRODUCT
- IX. ASSIGNMENT
- X. HEADINGS; GENDER; NUMBER

LIST OF SPECIAL PROVISIONS APPENDICES

APPENDIX A – SCOPE OF SERVICES

APPENDIX B – CONTRACT COST (EXHIBIT 11)

APPENDIX C – FEDERAL REQUIREMENTS

- 1. Attachment 1.6a) - DBE Participation Report
- 2. Attachment 1.6b) - Final Report of DBE Participation and Instructions for completion of the Final Report of DBE Participation

These Special Provisions to the Agreement between the Honolulu Authority for Rapid Transportation ("HART") and KRAUTHAMER & ASSOCIATES, INC., and the General Terms and Conditions for Contracts for Professional Services for the City and County of Honolulu dated 08/2000 ("General Terms and Conditions") shall apply to, and are incorporated into and are a part of that certain Agreement, by and between HART and KRAUTHAMER & ASSOCIATES, INC., dated _____ (the "Agreement"). All defined terms in the Agreement shall have the same meaning in these Special Provisions.

I. PROJECT

The CONSULTANT will provide specialized expertise in federal transit personnel placements and provide local and national searches, from start to finish, for two or more key, senior-level staff positions for HART, hereinafter referred to as the "PROJECT."

II. SERVICES

The CONSULTANT's responsibilities under this Agreement include providing services set forth in the Scope of Services attached hereto and incorporated herein as Appendix A.

III. TERM

The term of this contract is one year from issuance of the first Notice to Proceed (NTP).

IV. COMPENSATION AND INVOICING

A. Compensation to the CONSULTANT under this Agreement shall not exceed the amount stated in the Agreement. Payment shall be made in accordance with Appendix B, attached hereto and incorporated herein, inclusive of all taxes.

B. Final acceptance of the Work contracted for herein and payment therefore shall not excuse the CONSULTANT from any liability for defects in performance of the Work which may subsequently appear.

V. MODIFICATIONS TO THE GENERAL TERMS AND CONDITIONS FOR CONTRACTS FOR PROFESSIONAL SERVICES FOR THE CITY AND COUNTY OF HONOLULU (08/2000)

The General Terms and Conditions for Contracts for Professional Services for the City and County of Honolulu (08/2000) shall apply to, and are incorporated by reference into this Agreement, except as modified herein.

A. DEFINITIONS

The following definitions are added to the General Terms and Conditions:

"C.F.R." means the Code of Federal Regulations.

"CHIEF PROCUREMENT OFFICER" shall mean and refer to the

HART SENIOR STAFF SEARCH SERVICES

HART Executive Director and CEO, or designee.

“FEDERAL GOVERNMENT” means the United States of America and any executive department or agency thereof.

“FTA” means the Federal Transit Administration, United States Department of Transportation. The Federal Transit Administration is the current designation for the former Urban Mass Transportation Administration. Any reference in any law, map, regulation, document, paper, or other record of the United States to the Urban Mass Transportation Administration or its acronym UMTA is deemed a reference to the Federal Transit Administration.

“FULL FUNDING GRANT AGREEMENT (“FFGA”) means the designated means for the FTA to provide New Starts funds to projects with a Federal share of \$25 million or more. An FFGA establishes the terms and conditions for Federal financial participation in a New Starts project; defines the project; sets the maximum amount of Federal New Starts funding for a project; covers the period of time for completion of the project; and facilitates efficient management of the project in accordance with applicable Federal statutes, regulations, and policy.

“HART” means the Honolulu Authority for Rapid Transportation. The acronym “HART” shall be substituted for the “City and County of Honolulu,” “CITY,” “Rapid Transit Division,” and “RTD” wherever those terms appear in the General Terms and Conditions, unless the context clearly indicates otherwise.

“PMSC” means InfraConsult LLC, the HART Project Management Services Contractor or any successor entity.

“PROJECT” means Work performed as set forth in the Agreement, including furnishing all services, labor, materials, supplies, equipment and other incidentals reasonably necessary for the successful completion of the Work contemplated under the Agreement.

“STANDARD” or “REQUIREMENT” means any provision of any Federal, State, or City law, code, rule, regulation, guideline, directive, order, circular, agreement, practice, policy, notice, plan, statement, or other standard or requirement, and any amendment or revision thereto made in the future, including any mandatory provision, term, condition, clause, representation, certification, assurance or other statement required thereunder.

“SUBCONTRACTOR” means any subcontractor who enters into an agreement with the CONSULTANT or the CONSULTANT’s subcontractors at any tier to perform a portion of the Work for the CONSULTANT.

“U.S.C.” means the United States Code.

HART SENIOR STAFF SEARCH SERVICES

“U.S. DOT” means the United States Department of Transportation, including its operating administrations.

The following definitions in the General Terms and Conditions are modified as follows:

“CITY AND COUNTY OF HONOLULU” or **“CITY”**, shall be replaced by **“HART”** whenever those terms appear unless the context specifically indicates otherwise.

“CONSULTANT” or **“CONTRACTOR”** means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or other private legal entity engaged by HART to perform the Work under this Agreement. For purposes of this Agreement, **“Contractor”** shall mean **“CONSULTANT”**.

“DIRECTOR” or **“DIRECTOR OF BUDGET AND FISCAL SERVICES”** shall be replaced by HART’s Executive Director and CEO or the Executive Director and CEO’s duly authorized representative or designee, unless the context specifically indicates otherwise.

“OFFICER-IN-CHARGE” means the HART Executive Director and CEO or designee.

B. DESIGNATION OF PROJECT MANAGERS

The Officer-in-Charge will designate a key representative to coordinate the Work under this Agreement, to coordinate work under other HART contracts with the Work under this Agreement, and to act as the liaison between HART and the CONSULTANT in order to assist in expediting the resolution of questions or controversies, the making of HART decisions, and the review and approval by HART of documents, progress reports, requests, and other matters as required.

The CONSULTANT shall, subject to written approval from HART, designate a key representative, who shall maintain close and frequent communications with HART’s key representative and be authorized to act on behalf of the CONSULTANT. Any change in the CONSULTANT’s key representative will be made by request, in writing, to be approved by HART. The CONSULTANT’s key representative shall be experienced and qualified in the type of work involved and shall be directly responsible for the prosecution of the Work under this Agreement.

The Parties to this Agreement will make all reasonable efforts to retain the same key representative in order to maintain continuity of effort and control.

C. INDEPENDENT CONSULTANT

Section 4.1.1 is hereby deleted in its entirety and replaced with the following:

HART SENIOR STAFF SEARCH SERVICES

“4.1.1. The CONSULTANT shall perform the work as an independent consultant and shall indemnify and hold harmless HART and the City, its departments, and all of their officers, employees or agents, from any and all deaths, injuries, losses and damages to persons or property, and any and all claims, demands, suits, action and liability therefor including reasonable attorney fees and cost of defense, caused by error, omissions or negligence in the performance of the contract by the CONSULTANT or the CONSULTANT’s subcontractors, agents and employees and this requirement shall survive the termination of contract.

The CONSULTANT is an independent consultant and shall not be deemed to be an agent, servant, representative or employee of HART or the City. The contract shall not be construed to create a partnership or joint venture between HART or the City and the CONSULTANT.”

D. INSURANCE

Section 4.3.2, paragraph 5 of the General Terms and Conditions is hereby deleted in its entirety and replaced with the following:

“5. Be provided by insurers authorized to provide insurance in the State of Hawai‘i, and with a current Best’s rating of not less than A-, or otherwise as approved by HART;”

Section 4.3.3, paragraph 3 of the General Terms and Conditions is hereby deleted in its entirety and replaced with the following:

“3. Certificates shall show the Certificate Holder as the Honolulu Authority for Rapid Transportation, and be delivered to the Executive Director and CEO, 1099 Alakea Street, Suite 1700, Honolulu, Hawai‘i 96813. Certificates shall name the Honolulu Authority for Rapid Transportation and the City and County of Honolulu as additional insureds.”

E. MODIFICATIONS

Section 5.1.1 (c) of the General Terms and Conditions is hereby deleted in its entirety and replaced with the following:

“(c) *Within thirty (30) days* after receipt of a written change order, unless the period is extended by the Officer-in-Charge in writing, the CONSULTANT shall respond with a claim for an adjustment. The requirement for a timely written response cannot be waived and shall be a condition precedent to the assertion of a claim.”

Section 5.2 of the General Terms and Conditions is hereby deleted in its entirety and replaced with the following:

HART SENIOR STAFF SEARCH SERVICES

“5.2 PRICE ADJUSTMENT.

- (a) Any adjustment in contract price pursuant to a clause in the contract shall be made in one or more of the following ways:
1. By agreement on a fixed price adjustment before commencement of the pertinent performance;
 2. By unit prices specified in the contract or subsequently agreed upon before commencement of the pertinent performance;
 3. By the costs attributable to the events or situations under such clauses with adjustment of profit or fee, all as specified in the contract or subsequently agreed upon before commencement of the pertinent performance;
 4. In any other manner as the parties may mutually agree before commencement of the pertinent performance; or
 5. In the absence of agreement between the parties, the provisions of section 103D-501(b)(5), HRS, shall apply.
- (b) Submission of costs or pricing data. The CONSULTANT shall be required to submit cost or pricing data if any adjustment in contract price is subject to the provisions of section 103D-312, HRS. The submission of any cost or pricing data shall be made subject to the provisions of subchapter 15, chapter 3-122. A fully executed change order or other document permitting billing for the adjustment in price under any method listed in paragraph (a)(1) through (a)(4) above shall be issued within ten days after agreement on the method of adjustment.”

F. DELAY

Section 6.2 of the General Terms and Conditions is hereby deleted in its entirety and replaced with the following:

“6.2 DELAY. If any excusable delay occurs, it shall be dealt with in accordance with subsection 9.2.3, Excuse for nonperformance or

HART SENIOR STAFF SEARCH SERVICES

delayed performance. No extension of time however, shall be granted unless the written application therefore stating in detail the cause or causes of delay is filed by the CONSULTANT with the Officer-in-Charge *within thirty (30) days* after the commencement of the delay. No such extension shall be deemed a waiver of the right of the Officer-in-Charge to require the completion of services under the contract within the time required herein as so extended by the specific terms of such extension or extensions, nor a waiver of right to terminate the contract for any other or additional delay not covered by the specific terms of such extension or extensions. The number of days of each extension of time shall be determined by the Chief Procurement Officer upon the recommendation of the Project Manager.”

G. LIQUIDATED DAMAGES

Section 6.6 of the General Terms and Conditions, entitled "LIQUIDATED DAMAGES", is hereby deleted in its entirety.

H. PAYMENT

Section 8.2 of the General Terms and Conditions, entitled "PROGRESS PAYMENT", is hereby deleted in its entirety and replaced with the following:

"8.2 PAYMENT

- (a) Payments to the CONSULTANT for Work satisfactorily performed will be made in accordance with Appendix B:
 - 1. Scope of Payment. The CONSULTANT shall receive and accept compensation provided for in the Agreement as full payment for performing all Work under the Agreement in a complete and acceptable manner and for all risk, loss, damage, or expense of whatever character arising out of the nature of the Work or the prosecution thereof.
 - 2. Payment Concept. Payment will be calculated using unit prices set forth in Appendix B.
 - 3. Payment does not imply acceptance of the Work. The granting of any payment by HART, or the receipt thereof by CONSULTANT, shall in no way imply acceptance of the Work. Such Work, equipment, components or workmanship that do not conform to the requirements of this Agreement may be rejected by HART and in such case must be replaced by CONSULTANT without delay.
- (b) HART's obligation to make timely payment and the HART SENIOR STAFF SEARCH SERVICES

statutory interest that accrues to any late unpaid balance shall be according to HRS § 103-10."

K. RETAINAGE

Section 8.5 of the General Terms and Conditions, entitled "RETAINAGE", is hereby deleted in its entirety.

L. PROMPT PAYMENT BY CONTACTORS TO SUBCONTRACTORS

Section 8.6 of the General Terms and Conditions, entitled "PROMPT PAYMENT TO SUBCONTRACTORS," is hereby deleted in its entirety and replaced with the following:

"8.6 PROMPT PAYMENT BY CONSULTANTS TO SUBCONTRACTORS

- (a) Generally. Any money paid to a CONSULTANT shall be disbursed to subcontractors within ten (10) days after receipt of the money in accordance with the terms of the subcontract; provided that the subcontractor has met all the terms and conditions of the subcontract and there are no bona fide disputes on which the procurement agency has withheld payment.
- (b) Final Payment. Upon final payment to the CONSULTANT, full payment to the subcontractor, including retainage, shall be made within ten (10) days after receipt of the money; provided that there are no bona fide disputes over the subcontractor's performance under the subcontract. The final payment request shall be properly documented as required under HAR § 3-125-23 (4).
- (c) Penalties. The contractor may be subject to a penalty of one and one-half (1 ½) percent per month on the outstanding amounts due that were not timely paid to the subcontractor under the following conditions. Where a subcontractor has provided evidence to the contractor of satisfactorily completing all work under their subcontract and has provided a properly documented final payment request as described in paragraph (d), and:
 - (1) Has provided to the contractor an acceptable performance and payment bond for the

HART SENIOR STAFF SEARCH SERVICES

project executed by a surety company authorized to do business in the state; or

(2) The following has occurred:

(i) A period of ninety days after the day on which the last of the labor was done or performed and the last of the material was furnished or supplied has elapsed without written notice of a claim given to contractor and the surety, and

(ii) The subcontractor has provided to the contractor, an acceptable release of retainage bond, executed by a surety company authorized to do business in the state, in an amount of not more than two times the amount being retained or withheld by the contractor; any other bond acceptable to the contractor; or any other form of mutually acceptable collateral, then, all sums retained or withheld from a subcontractor and otherwise due to the subcontractor for satisfactory performance under the subcontract shall be paid by the procurement officer to the contractor and subsequently, upon receipt from the procurement officer, by the contractor to the subcontractor within the applicable time periods specified in paragraph (b). The penalty may be withheld from future payment due to the contractor, if the contractor was the responsible party. If a contractor has violated paragraph (b) three or more times within two years of the first violation, the contractor shall be referred by the procurement officer to the contractors license board for action.

(d) A properly documented final payment request from a subcontractor, as required by paragraph (c), shall include:

(1) Substantiation of the amounts requested;

(2) A certification by the subcontractor to the best of the subcontractor's knowledge and belief, that:

(a) The amounts requested are only for performance in accordance with the specifications, terms, and conditions of the subcontract;

(b) The subcontractor has made payments due to its subcontractors and suppliers from previous payments received under the subcontract and will make timely payments from the proceeds of the payment covered by the certification, in accordance with their subcontract agreements and the requirements of this section; and

(c) The payment request does not include any amounts that the subcontractor intends to withhold or retain from a subcontractor or supplier in accordance with the terms and conditions of their subcontract; and

(3) The submission of documentation confirming that all other terms and conditions required under the subcontract agreement have been fully satisfied.

The procurement officer shall return any final payment request that is defective to the contractor within seven (7) days after receipt, with a statement identifying the defect.

(e) In case of a construction contract, a payment request made by a contractor to the procurement officer that includes a request for sums that were withheld or retained from a subcontractor and are due to a subcontractor may not be approved under paragraph (c) unless the payment request includes:

(1) Substantiation of the amounts requested; and

(2) A certification by the contractor, to the best of the contractor's knowledge and belief, that:

(a) The amounts requested are only for performance in accordance with the specifications, terms, and conditions of the contract;

(b) The subcontractor has made payments due to its subcontractors and

suppliers from previous payments received under the contract and will make timely payments from the proceeds of the payment covered by the certification, in accordance with their subcontract agreements and the requirements of this section; and

(c) The payment request does not include any amounts that the contractor intends to withhold or retain from a subcontractor or supplier in accordance with the terms and conditions of their subcontract.

The procurement officer shall return any final payment request that is defective to the contractor within seven (7) days after receipt, with a statement identifying the defect.

(f) This section shall not be construed to impair the right of a contractor or a subcontractor at any tier to negotiate and to include in their respective subcontracts provisions that provide for additional terms and conditions that are requested to be met before the subcontractor shall be entitled to receive final payment under paragraph (c); provide that any such payments withheld shall be withheld by the procurement officer.”

VI. FEDERAL CLAUSES

This Agreement includes, in part, certain standard terms and conditions required by the FTA, whether or not expressly set forth in the Agreement provisions. All provisions required by the FTA, as set forth in FTA Circular 4220.1F, as amended, are incorporated by reference. Anything to the contrary notwithstanding, all FTA mandated terms and conditions will be deemed to control in the event of a conflict with other provisions contained in the Agreement. The CONSULTANT shall not perform any act, fail to perform any act, or refuse to comply with any HART requests which would cause HART or the City to be in violation of FTA terms and conditions. This Agreement will be subject to any financial assistance agreement between the City and the FTA and all laws, regulations, guidelines, and provisions of the financial assistance agreement will apply to the Agreement and will be incorporated by reference as if fully set forth therein.

The CONSULTANT shall at all times comply with all applicable Federal Government laws and regulations, including without limitation FTA regulations, policies, procedures and directives, including those listed directly or by reference in Applicable Grant Agreements between the City and FTA relating to HRTP, as they may be amended or

HART SENIOR STAFF SEARCH SERVICES

promulgated from time to time during the term of the Agreement (collectively, "Federal Requirements"). These Federal Requirements may change and the changed Federal Requirements will apply to this Agreement as required unless the Federal Government determines otherwise. The CONSULTANT's failure to comply with the Federal Requirements shall constitute a material breach of the Agreement.

The Federal Requirements are contained in Appendix C, Federal Requirements, attached hereto and incorporated by reference.

VII. NEWS MEDIA AND CONFIDENTIALITY

When dealing with news media, the CONSULTANT is expected to be circumspect and to treat all matters falling within the scope of this Agreement with utmost confidentiality. The CONSULTANT shall consult with and/or obtain the consent of the Officer-in-Charge prior to having conversations with or giving public interviews to the news media or any other members of the public.

VIII. OWNERSHIP OF PRODUCT

All documents or other information developed or received by the CONSULTANT while in performance of the services within the scope of the Agreement shall be the property of HART. The CONSULTANT shall provide HART with copies of these items upon demand or upon termination of this Agreement. The CONSULTANT is not authorized to use non-public information or materials generated or obtained in the performance of the Agreement for general use or for other clients or contracts.

IX. ASSIGNMENT

The CONSULTANT agrees that it shall not transfer or assign this Agreement in whole or in part, except by an instrument, in writing, approved by HART.

XI. HEADINGS; GENDER; NUMBER

The titles of headings of Sections, Subsections and Paragraphs are intended for convenience of reference and shall not be considered as having any bearing on their interpretation.

All words used in the singular shall extend to and include the plural. All words used in the plural shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

APPENDIX A

HONOLULU RAIL TRANSIT PROJECT

**HART SENIOR STAFF SEARCH SERVICES
PROFESSIONAL SERVICES CONTRACT**

SCOPE OF SERVICES

Honolulu Rail Transit Project

APPENDIX A

SENIOR STAFF SEARCH SERVICES

SCOPE OF SERVICES

The CONSULTANT shall provide the services as set forth below in accordance with the terms and conditions of this Agreement and all applicable state and federal laws and regulations. The CONSULTANT shall designate an Account Representative to work with HART's Human Resources Department. Attached to this scope of services are draft position descriptions for potential staff placements. Broader descriptions shall be developed as part of this Agreement as set forth below. Potential staff placements include:

1. HART Deputy Chief of Planning and Environmental

This position reports to the Director of Planning, Utilities, Permits and Right-of-Way. This position manages and coordinates the comprehensive transit and environmental planning functions related to the Honolulu Rail Transit Project (HRTP). The position will oversee the preparation of documents to comply with federal environmental regulatory acts, executive orders, Hawaii Revised Statutes, local land use regulations and agency requirements. The position is also responsible for consulting with the Federal Transit Administration (FTA) and with the Project Management Oversight Consultant on matters related to HRTP transit planning and environmental issues.

2. HART Grants Manager

This position reports to the Chief Financial Officer, and will be responsible for coordinating the activities of HART's capital grant program that supports Authority-wide capital projects. The position will: act as a liaison with the FTA by preparing and submitting grant applications, amendments, financing options, management reviews, and quarterly or annual reports as required by federal and state regulations; be responsible for the preparation, coordination and submission of federal grant applications; ensure all submittals are in accordance with grant requirements; research available grant programs; coordinate federal reviews of grant certifications with the FTA; and coordinate FTA/HART quarterly progress review programs and the triennial program review relative to federally funded grants.

The CONSULTANT shall perform the following services:

A. SCOPING /POSITION UNDERSTANDING/WORK PLAN DEVELOPMENT

1. Meet with HART's Human Resources Department, the Executive Director and CEO, the Deputy Executive Director, and other HART managers, as necessary, to obtain applicable information on the Authority, the HRTP, the Departments and the positions to be filled and to establish the appropriate recruitment sources, job advertisements, and position descriptions.

Honolulu Rail Transit Project

2. Provide assistance to determine the level of education, skills, certifications, specialties, etc., that are typically required for the position to be filled.
3. Develop a Work Plan for the search to include: (a) sourcing capabilities, recommended national/international media advertisements, outreach contacts and other methodology to encourage qualified applicants for the position; (b) interview questions, resume submittal requirements and reference check procedures; (c) an evaluation and selection matrix; (d) expected compensation and the negotiation process to achieve a successful conclusion; and (e) a schedule for completion of the services for each position to be filled.
4. Research comparable data to ensure market competitiveness.

B. SOURCING AND IDENTIFYING QUALIFIED APPLICANTS

1. Conduct an expansive search, locally and nationally.
2. Advertise positions constantly during the recruitment process in the appropriate venues, such as Transit Talent and APTA's Passenger Transport magazine among others.

C. BACKGROUND CHECKS AND WORKING WITH PROJECT MANAGERS/HR

1. Conduct candidate evaluations.
2. Perform senior level background searches, including criminal, educational, financial (when applicable), civil litigation and other appropriate background checks.

D. ASSIST HART IN CONDUCTING INTERVIEWS AND NEGOTIATING A CONTRACT

1. Assist HART in conducting candidate interviews.
2. Assist HART in negotiating a contract
3. Assist HART in confirming job offer.

E. PERFORMING MISCELLANEOUS SERVICES RELATED TO THE SEARCH PROCESS

1. Perform miscellaneous services related to the search process as required to reach a successful placement.

APPENDIX B

HONOLULU RAIL TRANSIT PROJECT

**HART SENIOR STAFF SEARCH SERVICES
PROFESSIONAL SERVICES CONTRACT**

CONTRACT COST (SEE EXHIBIT 5)

APPENDIX C

HONOLULU RAIL TRANSIT PROJECT

**HART SENIOR STAFF SEARCH SERVICES
PROFESSIONAL SERVICES CONTRACT**

FEDERAL REQUIREMENTS

Table Of Contents

1.0 General 3

1.1 NO GOVERNMENT OBLIGATION TO THIRD PARTIES 3

1.2 PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS..... 3

1.3 ACCESS TO RECORDS AND REPORTS 3

1.4 FEDERAL CHANGES 4

1.5 CIVIL RIGHTS REQUIREMENTS 4

1.6 DISADVANTAGED BUSINESS ENTERPRISES (DBE) 5

1.7 GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NON-PROCUREMENT)..... 6

1.8 LOBBYING 7

1.9 CLEAN AIR REQUIREMENTS 7

1.10 CLEAN WATER REQUIREMENTS..... 7

1.11 FLY AMERICA REQUIREMENTS 7

1.12 ENERGY CONSERVATION REQUIREMENTS 7

1.13 RECYCLED PRODUCTS 8

1.14 ADA ACCESS 8

1.15 SEISMIC SAFETY 8

1.16 TEXT MESSAGING WHILE DRIVING 8

1.17 SENSITIVE SECURITY INFORMATION..... 9

1.18 INCORPORATION OF FTA TERMS..... 9

Attachment 1.6 a) - DBE PARTICIPATION REPORT.....-10 -

Attachment 1.6 b) - FINAL REPORT DBE PARTICIPATION-11 -

INSTRUCTIONS FOR COMPLETION OF THE FINAL REPORT OF DBE PARTICIPATION.....-12 -

FEDERAL REQUIREMENTS

1.0 GENERAL

The CONTRACTOR understands that Federal laws, regulations, policies, and related administrative practices applicable to this Agreement on the date signed may be modified from time to time. The CONTRACTOR agrees that the most recent of such Federal requirements will govern the administration of the Agreement at any particular point in time, except if HART issues a written determination otherwise. To achieve compliance with changing Federal requirements, the CONTRACTOR agrees to include notice in each subcontract that Federal requirements may change and that the changed requirements will apply to the subcontract as required.

1.1 No Government Obligation to Third Parties

(a) HART and the CONTRACTOR acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Agreement, absent the express written consent by the Federal Government, the Federal Government is not a party to this Agreement and shall not be subject to any obligations or liabilities to HART, the CONTRACTOR, or any other party (whether or not a party to that Agreement) pertaining to any matter resulting from the underlying Agreement.

(b) The CONTRACTOR agrees to include the above clause in each subcontract. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

1.2 Program Fraud and False or Fraudulent Statements and Related Acts

(a) The CONTRACTOR acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§ 3801 *et seq.* and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying Agreement, the CONTRACTOR certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying Agreement or the FTA assisted project for which this Agreement work is being performed. In addition to other penalties that may be applicable, the CONTRACTOR further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the CONTRACTOR to the extent the Federal Government deems appropriate.

(b) The CONTRACTOR also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under an Agreement connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. Chapter 53, the Federal Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on the CONTRACTOR, to the extent the Federal Government deems appropriate.

(c) The CONTRACTOR shall include the above two clauses in each subcontract. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

1.3 Access to Records and Reports

(a) The CONTRACTOR shall provide HART, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and

records of the CONTRACTOR which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts and transcriptions. The CONTRACTOR shall, pursuant to 49 C.F.R. § 633.17, provide the FTA Administrator or his authorized representatives, including any Project Management Oversight Contractor, access to the CONTRACTOR's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. § 5302(a)(1), which is receiving federal financial assistance through the programs described at 49 U.S.C. §§ 5307, 5309 or 5311.

(b) The CONTRACTOR shall permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

(c) The CONTRACTOR shall maintain all books, records, accounts and reports required under this Agreement for a period of not less than three (3) years after the date of termination or expiration of this Agreement, except in the event of litigation or settlement of claims arising from the performance of this Agreement, in which case the CONTRACTOR shall maintain the same until HART, the FTA Administrator, the Comptroller General of the United States, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto.

1.4 Federal Changes

The CONTRACTOR shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the City and the FTA, as they may be amended or promulgated from time to time during the term of this Agreement. The CONTRACTOR's failure to so comply shall constitute a material breach of this Agreement.

1.5 Civil Rights Requirements

The CONTRACTOR shall comply with the following requirements and include the following requirements in each subcontract, modified only if necessary to identify the affected parties:

(a) Nondiscrimination. In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the CONTRACTOR shall not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the CONTRACTOR shall comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(b) Equal Employment Opportunity. The following equal employment opportunity requirements apply to the underlying Agreement:

(1) Race, Color, Creed, National Origin, Sex. In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the CONTRACTOR shall comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Agreement Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The CONTRACTOR shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other

forms of compensation; and selection for training, including apprenticeship. In addition, the CONTRACTOR shall comply with any implementing requirements FTA may issue.

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

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

(4) Access for Individuals with Disabilities. The CONTRACTOR shall comply with 49 U.S.C. § 5301(d), which states the Federal policy that elderly individuals and individuals with disabilities have the same right as other individuals to use public transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly individuals and individuals with disabilities.

1.6 Disadvantaged Business Enterprises (DBE)

(a) DBE Assurances. The CONTRACTOR and its subcontractors shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The CONTRACTOR shall carry out applicable requirements of 49 C.F.R. Part 26 in the award and administration of U.S. DOT-assisted Agreements. Failure by the CONTRACTOR to carry out these requirements is a material breach of this Agreement, which may result in termination of this Agreement or such other remedy, as HART deems appropriate.

The above paragraph shall be included in each subcontract the CONTRACTOR signs with a subcontractor.

(b) Prompt Payment. The CONTRACTOR shall pay all subcontractors (DBEs and non-DBEs) for satisfactory performance of their subcontracts no later than ten (10) days from receipt of payment by HART. Full and prompt payment by the CONTRACTOR to all subcontractors shall include retainage, if applicable.

(c) DBE Goal. HART has established an overall DBE goal of 13.00% for the duration of this agreement and a separate contract goal has not been established for this procurement. DBE firms and small businesses shall have an equal opportunity to participate in the agreement. The CONTRACTOR shall adhere to the following requirements:

(1) Take affirmative steps to use as many of the race-neutral means of achieving DBE participation identified at 49 C.F.R. § 26.51(b) as practicable to afford opportunities to DBEs to participate in the Agreement. A race-neutral measure is one that is, or can be, used to assist all small businesses.

(2) A DBE firm must perform a commercially useful function, i.e., must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work; and

(3) A DBE firm must be certified by the Hawai'i State Department of Transportation before its participation is reportable under paragraph (d) below;

(d) Reports to HART. The CONTRACTOR shall report its DBE participation obtained through race-neutral means throughout the period of performance. The CONTRACTOR shall submit the "DBE PARTICIPATION REPORT" reflecting payments made by the CONTRACTOR to DBE subcontractors. Payments to the CONTRACTOR will not be processed if the DBE PARTICIPATION REPORT is not properly completed and attached. The DBE PARTICIPATION REPORT shall be prepared in the format set forth in ATTACHMENT 1.6 a) to this Exhibit.

(e) Records. On request, the CONTRACTOR shall make available for inspection, and assure that its subcontractors make available for inspection:

- (1) Records of prompt payments made in accordance with Section 1.6(b), above;
- (2) The names and addresses of DBE subcontractors, vendors, and suppliers under this Agreement;
- (3) The dollar amount and nature of work of each DBE subcontractor;
- (4) The social/economic disadvantaged category of the DBE firms, i.e. Black American, Hispanic American, Native American, Subcontinent Asian American, Asian Pacific American, Non-Minority Women, or Other; and
- (5) Other related materials and information.

(f) The CONTRACTOR shall promptly notify HART, whenever a DBE subcontractor performing work related to this Agreement is terminated or fails to complete its work. The CONTRACTOR shall also promptly notify HART of a DBE subcontractor's inability or unwillingness to perform and provide reasonable documentation.

1.7 Government-Wide Debarment and Suspension (Non-procurement)

(a) This Agreement is a covered transaction for purposes of 2 C.F.R. § 180.220(b) and 2 C.F.R. § 1200.220. As such, the CONTRACTOR is required to verify that none of the CONTRACTOR, its principals, as defined at 2 C.F.R. § 180.995, or affiliates, as defined at 2 C.F.R. § 180.905, are excluded or disqualified as defined at 2 C.F.R. § 180.940 and 2 C.F.R. § 180.935.

(b) The CONTRACTOR is required to comply with 2 C.F.R. 180, Subpart C, as supplemented by 2 C.F.R. 1200, Subpart C, and must include the requirement to comply with 2 C.F.R. 180, Subpart C, as supplemented by 2 C.F.R. 1200, Subpart C, in any lower tier covered transaction equal to or exceeding \$25,000 it enters into. By signing the Agreement, the CONTRACTOR certifies as follows:

The certification in this clause is a material representation of fact relied upon by HART. If it is later determined that the CONTRACTOR knowingly rendered an erroneous certification, in addition to remedies available to HART, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The CONTRACTOR agrees to comply with the requirements of 2 C.F.R. 180, Subpart C, as supplemented by 2 C.F.R. 1200, Subpart C, throughout the Agreement period. The CONTRACTOR further agrees to include a provision requiring such compliance in its lower tier covered transactions equal to or exceeding \$25,000.

1.8 Lobbying

The "CERTIFICATION REGARDING LOBBYING," as executed by the CONTRACTOR in Exhibit 7 of the Special Provisions is incorporated herein by reference. The CONTRACTOR and its subcontractors at every tier shall comply with U.S. DOT regulations, "New Restrictions on Lobbying," 49 C.F.R. Part 20, modified as necessary by 31 U.S.C. § 1352, which requires that no Federal appropriated funds shall be used to pay any person or organization 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 obtaining any Federal Agreement, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal Agreement, grant, or award covered by 31 U.S.C. § 1352. Such disclosures are forwarded from tier to tier up to HART.

1.9 Clean Air Requirements

(a) The CONTRACTOR shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The CONTRACTOR shall report each violation to HART and understands and agrees that HART will, in turn, report each violation as required to FTA and the appropriate EPA Regional Office.

(b) The CONTRACTOR shall include the above clause in each subcontract exceeding \$100,000.

1.10 Clean Water Requirements

(a) The CONTRACTOR shall comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§ 1251 et seq. The CONTRACTOR shall report each violation to HART and understands and agrees that HART will, in turn, report each violation as required to FTA and the appropriate EPA Regional Office.

(b) The CONTRACTOR shall include the above clause in each subcontract exceeding \$100,000.

1.11 Fly America Requirements

(a) The CONTRACTOR shall comply with 49 U.S.C. § 40118 (the "Fly America Act") in accordance with the General Services Administration's regulations at 41 C.F.R. Parts 301-10, which provide that HART and sub-recipients of Federal funds and their consultants are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The CONTRACTOR shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements.

(b) The CONTRACTOR shall include the requirements of this section in all subcontracts that may involve international air transportation.

1.12 Energy Conservation Requirements

(a) The CONTRACTOR shall comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

(b) The CONTRACTOR shall include the above clause in each subcontract at every tier. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to the provisions.

1.13 Recycled Products

The CONTRACTOR agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act as amended (42 U.S.C. § 6962), including but not limited to the regulatory provisions of 40 C.F.R. Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 C.F.R. Part 247.

1.14 ADA Access

The CONTRACTOR shall comply with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities; and with the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities, and any subsequent amendments to these laws. In addition, the CONTRACTOR agrees to comply with all applicable implementing Federal regulations and directives and any subsequent amendments thereto.

1.15 Seismic Safety

The CONTRACTOR shall ensure that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in the U.S. Department of Transportation's Seismic Safety Regulations (49 C.F.R. Part 41) and shall certify to compliance to the extent required by the regulation. The CONTRACTOR also agrees to ensure that all work performed under this Agreement including work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the Project.

1.16 Text Messaging While Driving

In accordance with Executive Order No. 13513, Federal Leadership on Reducing Text Messaging While Driving, October 1, 2009, 23 U.S.C.A. § 402 note, and DOT Order 3902.10, Text Messaging While December 30, 2009, the CONTRACTOR is encouraged to comply with the terms of the following:

(a) **Definitions.**

(1) "Driving" means operating a motor vehicle on a roadway, including while temporarily stationary because of traffic, a traffic light, stop sign, or otherwise. "Driving" does not include being in your vehicle (with or without the motor running) in a location off the roadway where it is safe and legal to remain stationary.

(2) "Text Messaging" means reading from or entering data into any handheld or other electronic device, including for the purpose of short message service texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication. The term does not include the use of a cell phone or other electronic device for the limited purpose of entering a telephone number to make an outgoing call or answer an incoming call, unless the practice is prohibited by State or local law.

(b) **Safety.** The CONTRACTOR is encouraged to:

(1) Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving:

(i) CONTRACTOR-owned or CONTRACTOR-rented vehicles or Government-owned, leased or rented vehicles;

(ii) Privately-owned vehicles when on official Project related business or when performing any work for or on behalf of the Project; or

(iii) Any vehicle, on or off duty, and using an employer supplied electronic device.

(2) Conduct workplace safety initiatives in a manner commensurate with the CONTRACTOR's size, such as:

(i) Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and

(ii) Education, awareness, and other outreach to employees about the safety risks associated with text messaging while driving.

(3) Include this Special Provision in its subagreements with its subrecipients and third party contracts and also encourage its subrecipients, lessees, and third party contractors to comply with the terms of this Special Provision and include this clause in each subagreement, lease, and subcontract at each tier financed with Federal assistance provided by the Federal Government.

1.17 Sensitive Security Information

The CONTRACTOR, as a third party contractor must protect, and take measures to ensure that its subcontractors at each tier protect, "sensitive security information" made available during the administration of a third party contract or subcontract to ensure compliance with 49 U.S.C. § 40119(b) and implementing U.S. DOT regulations, "Protection of Sensitive Security Information," 49 C.F.R. Part 15, and with 49 U.S.C. § 114(r) and implementing Department of Homeland Security regulations, "Protection of Sensitive Security Information," 49 C.F.R. Part 1520.

1.18 Incorporation of FTA Terms

(a) The Special Provisions include, in part, certain Standard Terms and Conditions required by the U.S. DOT, whether or not expressly set forth in the preceding provisions. All contractual provisions required by the U.S. DOT, as set forth in FTA Circular 4220.1F are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The CONTRACTOR shall not perform any act, fail to perform any act, or refuse to comply with any HART requests which would cause HART to be in violation of the FTA terms and conditions.

(b) The CONTRACTOR shall include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

ATTACHMENT 1.6 a) – DBE PARTICIPATION REPORT

DBE PARTICIPATION REPORT

This report shall be submitted with each invoice as a condition of payment under this Contract.

Project Name:		Contractant Name:		Total to Date	
Contract No.:		Contract Amount (including amendments):		\$	
Federal ID No.: (OWP WE #, FTA Grant #, FHWA Project #)		Current		Total to Date	
Period Covered By This Report:		(Invoice #)	To		
Total Invoice Amount	(A) \$			(B) \$	
Payment Requested:	DBE? (Yes/No) DBE Code (if "Yes")	Prior Amount*		Current Amount*	Total Amount to Date*
Prime Consultant		\$		\$	\$
Subcontractors (attach additional sheets as needed):		\$		\$	\$
Name:		\$		\$	\$
Type of Work:		\$		\$	\$
Name:		\$		\$	\$
Type of Work:		\$		\$	\$
Name:		\$		\$	\$
Type of Work:		\$		\$	\$
TOTALS		\$		\$	(C) \$
DBE Participation to Date (C/B)				%	

***Insert dollar amounts for DBEs only**

ATTACHMENT 1.6 a) – DBE PARTICIPATION REPORT

Acknowledgment of Prompt Payments by Consultants to Subcontractors:

As a duly authorized representative of the company I fully understand and testify that our company has complied with the following prompt payment by Consultants to subcontractors, terms and conditions.

- 1) Any money paid to Consultant for work performed by a subcontractor shall be disbursed to the subcontractor within ten (10) days after receipt of the money in accordance with the terms of the subcontract; provided that the subcontractor has met all the terms and conditions of the subcontract and there are no bona fide disputes on which the Contracting Officer has withheld payment.
- 2) Upon final payment to Consultant, full payment to the subcontractor, including retainage, shall be made within ten (10) days after receipt of the money; provided there are no bona fide disputes over the subcontractor's performance under the subcontract.

Printed Name and Title

Signature

Date

ATTACHMENT 1.6 b) - FINAL REPORT OF DBE PARTICIPATION

This report must be submitted by the Consultant with the final invoice or request for payment under this contract.

Project Title: _____

Consultant Name: _____

Project No.: _____ Contract No.: _____

Period Covered by this Report: _____

Contract Amount (including amendments): \$ _____

Final Payment Amount: \$ _____ Invoice No.: _____

Total Payment to DBE: \$ _____

All Subcontractors (DBE and non-DBE) & DBE Suppliers or Manufacturers	Type of Service or Materials Provided	Subcontract Amount
Name Address Telephone No.		

Add additional sheets as necessary.

Signature

Print Name & Title

ATTACHMENT 1.6 b) - FINAL REPORT OF DBE PARTICIPATION

Acknowledgment of Prompt Payments by Contractors to Subcontractors:

As a duly authorized representative of the company I fully understand and testify that our company has complied with the following prompt payment by Contractors to subcontractors, terms and conditions.

- 1) Any money paid to Contractor for work performed by a subcontractor shall be disbursed to the subcontractor within ten (10) days after receipt of the money in accordance with the terms of the subcontract; provided that the subcontractor has met all the terms and conditions of the subcontract and there are no bona fide disputes on which the Contracting Officer has withheld payment.
- 2) Upon final payment to Contractor, full payment to the subcontractor, including retainage, shall be made within ten (10) days after receipt of the money; provided there are no bona fide disputes over the subcontractor's performance under the subcontract.

Printed Name and Title

Signature

Date

ATTACHMENT 1.6 b) - FINAL REPORT OF DBE PARTICIPATION

Instructions for completing the final report of DBE participation:

All subcontractors, suppliers and manufacturers should be listed on the FINAL REPORT OF DBE PARTICIPATION in the same order as listed in the proposal.

Project Title:	Self Explanatory
Project No.:	Self Explanatory
Period Covered by this Report:	Same period as invoice period
Consultant Name:	Self-Explanatory
Contractor No:	Self-Explanatory
Contract Amount (including amendments):	Less Mobilization, Force Account Items and Allowance Items Amendments should be listed separately with an explanation of how it was allocated to DBEs and non-DBEs
Invoice No.:	Self-Explanatory
Final Payment Amount:	Self-Explanatory
Total Payment to DBE	Total \$ amount paid to DBE
Acknowledgement of Prompt Payment	Self-Explanatory

EXHIBIT 1
CERTIFICATION REGARDING CONFLICT OF INTEREST

“Organizational conflict of interest” means that, because of other activities or relationships with other persons or firms, a potential Consultant (including its principal participants, directors, proposed consultants or subcontractors) would be unable or potentially unable to render impartial, technically sound assistance or advice to the Honolulu Authority for Rapid Transportation (HART); or the potential Consultant’s objectivity in performing the Contract Work would or might be otherwise impaired; or the potential Consultant has an unfair competitive advantage.

On behalf of _____ I certify that: **Krauthamer & Associates**
(Name of Offeror)

(Check one)

The Offeror does not have any relationships with any firms or individuals that are or appear to be an organizational conflict of interest.

The Offeror has had the following relationships with the specific firm(s)/individual(s), identified on the attached sheet, which may be determined to be an organizational conflict of interest. I understand that based on the information I have provided, HART may exclude the Offeror from further consideration and may withdraw its selection if the real or apparent organizational conflict of interest cannot be avoided or mitigated. I further certify that the degree and extent of the relationship of the Offeror with these named firm(s)/individual(s) have been fully disclosed on the attached sheet.



(Signature of Authorized Official)

Gregg A. Moser, Principal

(Print Name)

12/19/13

(Date)

EXHIBIT 2
CERTIFICATE REGARDING INELIGIBLE CONTRACTORS

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER
INELIGIBILITY AND VOLUNTARY EXCLUSION FROM TRANSACTIONS
FINANCED IN PART BY THE U.S. GOVERNMENT**

I, Gregg A. Moser, hereby Principal
(Name of Certifying Officer) (Title of Certifying Officer)

certify that Krauthamer & Associates
(Name of Contractor)

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any Federal department or agency or from participation in the Honolulu Authority for Rapid Transportation Project No. RFP-HRT-618211;
2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of 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;
3. 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 2 of this certification; and
4. Have not within a three-year period preceding this proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

If any Principal Participant is unable to certify to any of the statements in this certification, such prospective Principal Participant shall attach an explanation to this certification.

I hereby certify and affirm the truthfulness and accuracy of the above statement, and I understand that the provisions of 31 United States Code (U.S.C.) §3801 et seq., (Administrative Remedies for False Claims and Statements) are applicable hereto.

Krauthamer & Associates

Name of Contractor

5530 Wisconsin Ave., #1202

Street Address of Contractor

Chevy Chase, MD 20815

City, State, Zip

301-654-7533

Telephone Number of Contractor

Gregg A. Moser

Signature of Certifying Officer

(Note: The above certification merely certifies that an Offeror and its subcontractors are not declared by the Federal Government or have not voluntarily declared themselves debarred, suspended, or declared ineligible from doing transactions with the Federal Government or any of its agencies.)

STATE OF HAWAII

CONTRACTOR'S ACKNOWLEDGMENT

STATE OF Maryland)
) S.S.
Montgomery COUNTY OF

On this 19th day of December, 2013, before me appeared

Gregg A. Moser, and _____, to me

known, to be the person(s) described in and, who, being by me duly sworn, did say that he/she/they is/are

Principal and _____ of

Krauthamer & Associates the CONTRACTOR named in the foregoing instrument, and that

he/she/they is/are authorized to sign said instrument on behalf of the CONTRACTOR, and acknowledges

that he/she/they executed said instrument as the free act and deed of the CONTRACTOR.

gh

(Signature)

Gregg A. Moser

(Print name)

(Notary Stamp or Seal)

Notary Public, State of _____

My Commission Expires: _____

NOTARY CERTIFICATE (Hawaii Administrative Rules §5-11-8)

Document Identification or Description: Contractor's Acknowledgement

Undated at time
Doc. Date: of notarization No. of Pages: _____ Jurisdiction: _____

Jeffrey Krauthamer
Signature of Notary

12/19/13
Date of Certificate

(Notary Stamp or Seal)

Printed Name of Notary

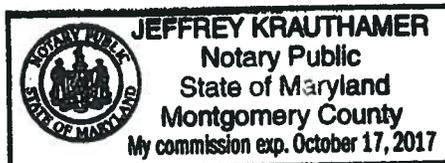


EXHIBIT 3
CERTIFICATION REGARDING LOBBYING

The undersigned certifies, 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 undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any 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 making lobbying contacts to 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 as amended by "Government-wide Guidance for New Restrictions on Lobbying," 61 Federal Regulations 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq.).

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code (as amended by the Lobbying Disclosure Act of 1995). 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.

Note: Pursuant to 31 U.S.C. §1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each expenditure or failure.

The Offeror: ~~Krauthamer & Associates~~ ~~certifies~~ affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Offeror understands and agrees that the provisions of 31 U.S.C. §3801, et seq., apply to this certification and disclosure, if any.

Company Name: Krauthamer & Associates

Signature: 

Print Name: Gregg A. Moser

Title: Principal

Date: 12/19/13

NOTE: THE CONTRACTOR IS REQUIRED PURSUANT TO FEDERAL LAW, TO INCLUDE THE ABOVE LANGUAGE IN SUBCONTRACTS OVER \$100,000 AND TO OBTAIN THIS LOBBYING CERTIFICATE FROM EACH SUBCONTRACTOR BEING PAID \$100,000 OR MORE UNDER THIS CONTRACT

HART SENIOR STAFF SEARCH SERVICES

STATE OF HAWAII

CONTRACTOR'S ACKNOWLEDGMENT

STATE OF Maryland)
) S.S.
 COUNTY OF Montgomery

On this 19th day of December, 2013, before me appeared
Gregg A. Moser, and _____, to me
known, to be the person(s) described in and, who, being by me duly sworn, did say that he/she/they is/are
Principal and _____ of
Krauthamer & Associates the CONTRACTOR named in the foregoing instrument, and that
he/she/they is/are authorized to sign said instrument on behalf of the CONTRACTOR, and acknowledges
that he/she/they executed said instrument as the free act and deed of the CONTRACTOR.



(Signature)

Gregg A. Moser

(Print name)

(Notary Stamp or Seal)

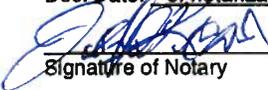
Notary Public, State of _____

My Commission Expires: _____

NOTARY CERTIFICATE (Hawaii Administrative Rules §5-11-8)

Document Identification or Description: _____
Contractor Acknowledgment

Undated at time
Doc. Date: of notarization No. of Pages: _____ Jurisdiction: _____

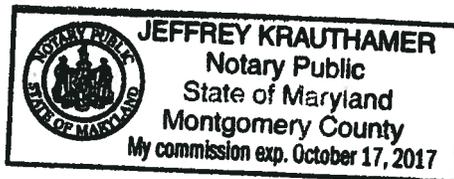


Signature of Notary

12/19/13
Date of Certificate

(Notary Stamp or Seal)

Printed Name of Notary



HART SENIOR STAFF SEARCH SERVICES

Exhibit 5
Price Proposal Form

Search Task	Unit Price	# of Staff to Recruit / Trips / Allowance	Total
A: Scoping / Position Understanding / Work Plan Development			
B: Sourcing and Identifying Qualified Applicants (including advertising)			
C: Background Checks and Working with Project Managers/HR			
D: Assist HART in Conducting Interviews and Negotiating a Contract			
E: Performing Miscellaneous Services Related to the Search Process			
Total Lump Sum Contract Amount			
Allowance for Travel Expenses			
Sub Total:			
Total Aggregate Amount*			\$125,000.00

redacted pursuant to HRS 92F

*All taxes included in the prices above