

Honolulu Authority for Rapid Transportation

**AGREEMENT FOR CONSTRUCTION SERVICES
CONTRACT No. CT-HRT-1400323**

This Contract for construction services dated June 30, 2014 [to be completed by HART] (the “Contract” or “Agreement”) is entered into by and between the HONOLULU AUTHORITY FOR RAPID TRANSPORTATION (“HART”), a semi-autonomous agency of the City and County of Honolulu, whose principal place of business and mailing address is Ali‘i Place, 17th Floor, 1099 Alakea Street, Honolulu, Hawaii 96813 and NAN, INC. (the “Contractor”), a Hawai‘i corporation, whose principal place of business and mailing address is 636 Laumaka Street, Honolulu, Hawai‘i 96819. HART and the Contractor collectively, are the “Parties”, and individually a “Party”, all as governed by the context in which such words are used.

WITNESSETH:

WHEREAS, HART issued RFB-HRT-698009 on December 17, 2013 for utilities construction work for the Airport Section of the Honolulu Rail Transit Project (“HRTTP”); and

WHEREAS, the Contractor was selected pursuant to Hawai‘i Revised Statutes (“HRS”) Section 103D-302, competitive sealed bidding, and related Hawai‘i Administrative Rules (“HAR”);

NOW, THEREFORE, HART and the Contractor, in consideration of the foregoing and of the mutual promises hereinafter set forth, and intending to be legally bound, hereby mutually agree as follows:

1. The Contractor shall provide all services, including labor, materials, and equipment, to complete the Work required and as set forth in the Contract Documents.

2. Work under the Contract shall not proceed until HART has issued a written Notice to Proceed (“NTP”). Any work undertaken by the Contractor prior to issuance of the NTP will be the sole responsibility of and will be undertaken at the sole risk of the Contractor, without any obligation on the part of HART.

3. Order of Precedence/Contract Documents. The Contractor shall complete and perform the Work in accordance with this Agreement, which consists of the documents listed below that are collectively referred to as “Contract Documents.” The order of precedence of these documents in the event of conflicting terms is as follows:

- Agreement Form/Coverleaf;
- Special Provisions and the Addenda to the solicitation documents (with the most recent Addenda governing over all other previously-issued Addenda) as follows:

- Addendum 1 dated January 1, 2014;
- Addendum 2 dated January 31, 2014;
- Addendum 3 dated February 13, 2014;
- Addendum 4 dated February 14, 2014;
- Addendum 5 dated February 20, 2014;
- Addendum 6 dated March 6, 2014;
- Addendum 7 dated March 10, 2014;
- Addendum 8 dated March 13, 2014;
- Addendum 9 dated April 14, 2014; and
- Addendum 10 dated May 21, 2014;
- General Conditions for Construction Contracts;
- Technical Specifications;
- Plans;
- Solicitation Documents for RFB-HRT-698009 dated December 17, 2013; and
- Contractor's final Bid Proposal dated March 18, 2014 ("Bid Proposal"), provided however, where the terms of the Bid Proposal exceed the standards and expectations of the solicitation document, such terms of the Bid Proposal shall be the new minimum specifications.

The Contract Documents are also referred to as the "Contract" or "Agreement."

4. This is a firm fixed-price Contract, and HART agrees to pay the Contractor for the satisfactory completion of the Work in accordance with the terms of the Contract in the following not to exceed amount of TWENTY-SEVEN MILLION THREE HUNDRED EIGHTY-THREE THOUSAND TWENTY-ONE AND 80/100 DOLLARS (\$27,383,021.80).

In addition to the firm fixed-price not to exceed amount established for the Contract, HART has established an Allowance for contaminated materials and compensable project delay to be utilized at HART's sole discretion if such events occur during performance of the Work. If required, HART agrees to pay the Contractor for such Allowance items in accordance with the respective unit prices set forth in Contractor's Bid Proposal. The aggregate amount of all Allowance payments shall not exceed SIX HUNDRED TEN THOUSAND TWO HUNDRED SIXTY-SEVEN AND 70/100 DOLLARS (\$610,267.70). The aggregate Allowance is not to be exceeded without a Contract amendment and any funds remaining at the end of this Contract shall revert back to HART.

HART may, at its sole discretion, exercise its option to require one or more of the "Additive Alternatives" set forth in the Contractor's Bid Proposal. If required, an Additive Alternative shall be exercised via a Contract amendment in accordance with the Contract Documents and shall not exceed its respective firm fixed lump sum amount set forth in the Contractor's Bid Proposal. The lump sum amount of any Additive

Alternative exercised by HART shall be in addition to the firm fixed-price not to exceed amount established for the Contract.

The lump sum payments for Work performed under the Contract are all inclusive of, but not limited to, labor, overhead, general and administrative expenses, other direct costs, subcontractor costs, fixed fees, and all applicable taxes, State general excise and use tax (GET) and county one-half percent (0.5%) GET surcharge. The Contractor shall not pass through any future increases in tax to HART.

5. Unless otherwise agreed in writing, when formal notice is to be given to a party, or service of process must be made upon a party, such notice or service shall be to the respective addresses stated above.

IN WITNESS WHEREOF, HART and the Contractor have executed this Contract by their duly authorized officers or agents on the day and year first above written.

HONOLULU AUTHORITY FOR
RAPID TRANSPORTATION

By: 
Its Executive Director and CEO

NAN, Inc.

By: 
Its President, Fooney Freestone

APPROVED AS TO FORM AND
LEGALITY:


Deputy Corporation Counsel
GARY Y. TAKEUCHI

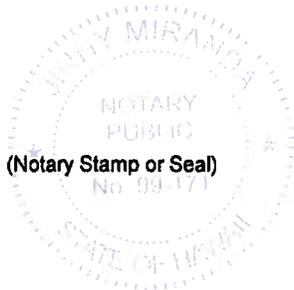
STATE OF HAWAII

CONTRACTOR'S ACKNOWLEDGMENT

STATE OF HAWAII)
) S.S.
CITY & COUNTY OF HONOLULU)

On this 24th day of JUNE, 2014, before me appeared
FOONEY FREESTONE, 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
PRESIDENT and _____ of

NAN, INC. 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.



Jinny Miranda
(Signature)

JINNY MIRANDA
(Print name)

Notary Public, State of HAWAII

My Commission Expires: 04/14/2015

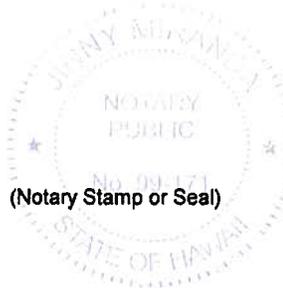
NOTARY CERTIFICATE (Hawaii Administrative Rules §5-11-8)

Document Identification or Description: Agreement for
construction services
contract no. CT-HRT-1400323

Doc. Date: Undated at time of notarization No. of Pages: 5 Jurisdiction:

Jinny Miranda
Signature of Notary Date of Certificate 6/24/14

Jinny Miranda
Printed Name of Notary



**ACTION UPON UNANIMOUS WRITTEN CONSENT
OF THE BOARD OF DIRECTORS OF NAN, INC.
IN LIEU OF ANNUAL MEETING FOR THE YEAR 2014**

This Action upon Unanimous Written Consent of the Board of Directors of Nan, Inc. ("Corporation"), a Hawaii corporation, is made pursuant to Section 414-212 of the Hawaii Revised Statutes, as amended, and is in lieu of the regular meeting of the Corporation's Board of Directors for the year 2014.

WITNESSETH:

WHEREAS, Fooney Freestone ("Freestone") is the President and the Treasurer of the Corporation, Ryan Nakaima ("Nakaima") is the Senior Vice President and the Secretary of the Corporation, Frank Okimoto ("Okimoto") is the Vice President of the Corporation, Lane Uchimura ("Uchimura") is the Executive Vice President of the Corporation; and

NOW THEREFORE, BE IT RESOLVED that:

Freestone is reelected and shall continue to serve as the President and the Treasurer, Nakaima is reelected and shall continue to serve as the Senior Vice President and the Secretary, Okimoto is reelected and shall continue to serve as the Vice President of the Corporation, and Uchimura is reelected and shall continue to serve as the Executive Vice President of the Corporation for the year 2014; and

There being no further business, this Action upon Unanimous Written Consent of the Board of Directors of Nan, Inc. In Lieu of Meeting for the Year 2014 shall be forwarded to the Secretary of the Corporation for filing in the Corporation's minutes book.

Dated: Honolulu, Hawaii December 30, 2013



RYAN NAKAIMA,
SENIOR VICE PRESIDENT/CHAIRMAN
OF BOARD DIRECTOR



SIRIPORN HOGAN, DIRECTOR

Nan Inc

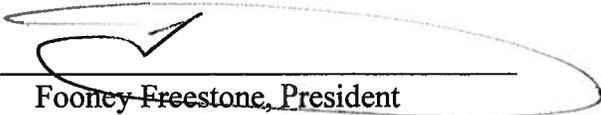
License #ABC-19711
636 Laumaka Street
Honolulu, Hawaii 96819
Telephone: (808) 842-4929
Facsimile: (808) 841-8281

CERTIFICATE OF CURRENT COST OR PRICING DATA

This is to certify that, to the best of my knowledge and belief, cost or pricing data as defined in section 3-122-122, HAR, and submitted pursuant to section 3-122-125, HAR; either actually or by specific identification in writing to the officer-in-charge in support of RFB-HRT-698009, Airport Utilities Construction Project are accurate, complete and current as of June 18, 2014.

This certification includes the cost or pricing data supporting any advance agreement(s) between the offeror and HART which are part of the proposal.

Firm: Nan, Inc.

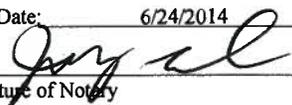
Signature: 
Fooncy Freestone, President

Date of Execution: June 24, 2014

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

Document Identification or Description: CERTIFICATE OF CURRENT COST OR PRICING DATA

Doc. Date: 6/24/2014 No. of Pages: 1 Jurisdiction:


Signature of Notary

6/24/14
Date of Certificate

JINNY MIRANDA
Printed Name of Notary

