

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT for professional services is made and entered into this 10<sup>th</sup> day of Feb, 2013 (this "Agreement" or "Contract"), by and between the HONOLULU AUTHORITY FOR RAPID TRANSPORTATION, a semi-autonomous agency of the City and County of Honolulu, whose principal place of business and mailing address is 1099 Alakea Street, Suite 1700, Honolulu, Hawai'i 96813, hereinafter referred to as "HART," and LEA + ELLIOTT, INC., a Delaware corporation, whose principal place of business and mailing address is 2505 N. State HWY 360, Suite 750, Grand Prairie, Texas 75050, hereinafter referred to as the "CONSULTANT." HART and the CONSULTANT, collectively, are the "Parties," and individually a "Party," all as governed by the context in which such words are used.

WITNESSETH THAT:

WHEREAS, HART desires to engage the CONSULTANT for professional engineering and consulting services for the Honolulu Rail Transit Project (the "HRTTP") in support of the design, fabrication, installation, testing and commissioning, and operations and maintenance start-up of the Core Systems, for the Honolulu Rail Transit Project hereinafter called the "Project";

WHEREAS, the services entered hereunder are technical and professional in nature and HART personnel are not able to provide these services;

WHEREAS, the CONSULTANT was selected pursuant to Section 103D-304 of the Hawaii Revised Statutes ("HRS"), as amended, and related Hawaii Administrative Rules ("HAR"), as amended, relating to procurement of professional services, under RFQ-HRT-667108 ("RFQ");

WHEREAS, federal funding is involved in this Project and, as such, the CONSULTANT is required to comply with the applicable laws, rules and regulations of the Federal Transit Administration ("FTA"); and

WHEREAS, the CONSULTANT is qualified, able, and willing to render the required services on the terms, conditions, and compensation hereinafter fully set forth;

NOW, THEREFORE, HART and the CONSULTANT, in consideration of the foregoing and of the mutual promises hereinafter set forth, the sufficiency and adequacy of which are hereby acknowledged, and intending to be legally bound, hereby mutually agree as follows:

1. Services to be Provided. The CONSULTANT shall, in a proper and satisfactory manner as determined by HART, perform and complete all of the services required in accordance with and set forth in the Contract Documents as hereinafter described; furnish all services, labor, goods, materials, supplies, equipment and other incidentals reasonably necessary for the successful completion of the work contemplated under the Contract Documents (the "Work"); and receive and accept as full compensation for all the Work, the price for the various items of the Work as hereinafter set forth.

2. Contract Documents. The CONSULTANT shall complete and perform the Work in accordance with this Agreement and its appendices, as follows:

a. This Agreement;

- b. Appendix A: The Special Provisions and any exhibits and attachments thereto, including, but not limited to, Exhibit 1, Scope of Services; Exhibit 2, Compensation and Invoicing; and Exhibit 8, Federal Requirements;
- c. Appendix B: The General Terms and Conditions for Contracts for Professional Services for the City and County of Honolulu, dated 8/2000 (“General Terms and Conditions”);
- d. Appendix C: RFQ No. RFQ-HRT-667108 and all addenda thereto; and
- e. Appendix D: The CONSULTANT’s Statement of Qualifications, dated October 11, 2013.

The Agreement and its appendices, attached hereto and incorporated herein, are also referred to as the “Contract Documents.” Any future modifications, changes or amendments to the Contract Documents shall be incorporated and made a part of this Agreement. The Contract Documents are listed in order of controlling preference should there be any conflict in the terms of the Contract Documents, except that those portions of Appendix D that exceed the requirements of the other Contract Documents become the new minimum Contract requirements.

3. Term of Agreement. The term of this Agreement will be for five (5) years and seven (7) months from the date of execution of this Agreement by all Parties, unless terminated or extended pursuant to the provisions of the Contract Documents.

a. This is a multi-term agreement subject to the availability of funds in accordance with HAR Section 3-122-149, as further described in the Special Provisions. Work shall not begin until HART has issued a Notice to Proceed (“NTP”). Any Work undertaken by the CONSULTANT prior to issuance of a written NTP will be the sole responsibility of and will be undertaken at the sole risk of the CONSULTANT, without any obligation on the part of HART or the Federal Government.

4. Compensation.

a. This is a cost plus fixed fee contract and subject to the provisions of this paragraph and in accordance with Section VI to the Special Provisions, Exhibit 2B of the Special Provisions, Compensation and Invoicing, and Section 8 of the General Terms and Conditions, HART agrees to pay the CONSULTANT, for the satisfactory performance and completion of the Work, the payments in accordance with invoices received, and further as set forth in the Special Provisions attached hereto. The Aggregate Amount of such payments for the Work shall not exceed FORTY-THREE MILLION NINE HUNDRED EIGHTY-EIGHT THOUSAND NINE HUNDRED EIGHTY-NINE AND 00/100 DOLLARS (\$43,988,989.00). The payments for services and the Work performed under this Agreement are all inclusive of direct labor, overhead, general and administrative expenses, reimbursable other direct costs, subcontractor costs, fixed-fees, and all applicable taxes, including the State General Excise and Use Tax (“GET”) and the county one-half percent (0.5%) GET Surcharge. Any increases in tax shall not pass through to HART.

b. Also included in the Aggregate Amount is an Allowance for reimbursable Other Direct Costs of EIGHT HUNDRED EIGHTY-SEVEN THOUSAND NINE HUNDRED FOUR AND 00/100 DOLLARS (\$887,904.00). The reimbursable allowance is not to be exceeded without a contract amendment and any funds remaining at the end of this Agreement shall revert back to HART. The reimbursable allowance is provided for expenses identified in Exhibit 2A, Schedule B to

the Special Provisions, and such other expenses as are specifically approved by HART ("Other Direct Costs"). Reimbursement for Other Direct Costs is subject to the terms contained in the Special Provisions. Reimbursement shall be made for actual costs incurred without markup upon submission of a CONSULTANT invoice that includes a copy of the vendor invoice for which reimbursement is being requested. The reimbursement of Other Direct Costs shall be in accordance with OMB Circular A-87, General Principles for Determining Allowable Costs for allowable project-related expenses incurred in the performance of the Work.

c. HART has established a budgetary not-to-exceed Allowance for Extra Work that is currently not included in the Aggregate Amount. Extra Work requested by HART shall be authorized via a written amendment to the Agreement as set forth in Section 5 of the General Terms and Conditions.

d. In accordance with the paragraphs above, the total aggregate amount of FORTY-THREE MILLION NINE HUNDRED EIGHTY-EIGHT THOUSAND NINE HUNDRED EIGHTY-NINE AND 00/100 DOLLARS (\$43,988,989.00) is established as the maximum payable under this Agreement (the "Total Price") and is subject to the Special Provisions and the General Terms and Conditions, including the provisions thereof relating to reducing or increasing the compensation of the CONSULTANT.

5. Cost and Pricing Data. By signing below, the CONSULTANT hereby certifies that, to the best of its 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 this Agreement, is accurate, complete, and current as of the date of this Agreement. This certification includes the cost or pricing data supporting any advance agreement(s) between the CONSULTANT and HART which are part of the proposal.

6. Unless notified otherwise by the Officer-in-Charge in writing, when notice is to be given to HART, it shall be mailed or delivered to:

Daniel A. Grabauskas  
Executive Director and CEO  
Honolulu Authority for Rapid Transit  
1099 Alakea Street Suite 1700  
Honolulu, Hawai'i 96813

7. Unless mutually agreed to otherwise in writing, when notice is to be given to the CONSULTANT, it shall be mailed or delivered to:

Huy Huynh, P.E.  
Principal/Core Systems Support Services Project Manager  
LEA + ELLIOTT, Inc.  
1099 Alakea Street, Suite 1100  
Honolulu, Hawai'i 96813

8. This Agreement, its integrated attachments, and the Contract Documents constitute the entire agreement of the Parties and such is intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Agreement specifically displays a mutual intent to amend a particular part of this Agreement, general conflicts in language between any such attachment and this Agreement shall be construed to be consistent with the terms of this Agreement. Unless otherwise expressly authorized by the terms of this Agreement

HART-12 (11/11)

## Certificate

The attached contract for professional services during the design, fabrication, and commissioning of the Core Systems in support of the Honolulu Rapid Transit Authority.

\$50,000,000.00 \*

is hereby approved as to availability and designation of funds, and certification is hereby made that there is a valid appropriation from which expenditures to be made under said contract may be made and that sufficient unencumbered funds are available in the Treasury of the City and County of Honolulu to the credit of such appropriation to pay the amounts of such expenditures when the same become due and payable.

CONTRACT NO. SC-HRT-1400049  
FUND Capital Transit Fund (690)  
ACCOUNT NO. 690/7790-14=\$3,600,000.00

HONOLULU, HAWAII

Date: 2/10/14



Executive Director and CEO

Honolulu Authority for Rapid Transportation

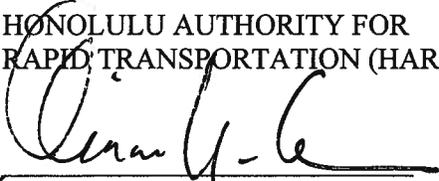
\*Subject to availability of future funds of \$46,400,000.00

OK 1/6/14

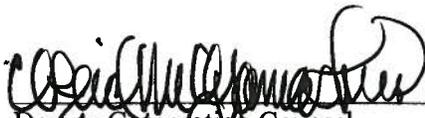
or the Contract Documents, no modification or amendment to this Agreement or the Contract Documents shall be binding upon the Parties unless the same is in writing and signed by the respective Parties hereto.

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

HONOLULU AUTHORITY FOR  
RAPID TRANSPORTATION (HART)

*for*   
By: Daniel A. Grabauskas  
Executive Director and CEO

APPROVED AS TO FORM AND  
LEGALITY

  
Deputy Corporation Counsel  
Reta M. Yamashiro

[Attach Notary Page]

LEA + ELLIOTT, Inc.

By:   
Its: President/CEO



ADDRESS:

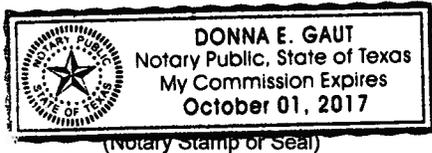
Lea+Elliott, Inc.  
Ali'i Place  
1099 Alakea Street, Suite 1700  
Honolulu, HI 96813

STATE OF HAWAII

CONTRACTOR'S ACKNOWLEDGMENT

STATE OF Texas )  
 ) S.S.  
                     COUNTY OF Tarrant )

On this 5th day of February, 2014, before me appeared  
Jack Norton, and n/a, 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/CEO and n/a of  
Lea+Elliott, 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.



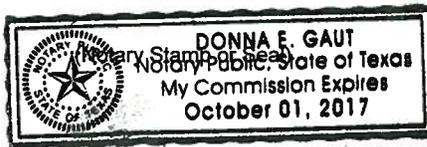
Donna E. Gaut  
(Signature)  
Donna E. Gaut  
(Print name)  
Notary Public, State of Texas  
My Commission Expires: 10/01/2017

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

Document Identification or Description: Core Systems Support Services Consultant Contract (the Agreement, Appendix A Special Provisions and exhibits and attachments thereto; the General Terms and Conditions for Contracts for Professional Services for the City and County of Honolulu, dated 8/2000; and all other relevant documents of the Contract)

Undated at time  
Doc. Date:            of notarization, No. of Pages: 120 Jurisdiction:           

Donna E. Gaut 02/05/2014  
Signature of Notary Date of Certificate  
Donna E. Gaut  
Printed Name of Notary



### 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 \*the Honolulu Rail Transit Project - Core Systems Support Services Consultant Contract (RFQ-HRT-667108)

are accurate, complete, and current as of \*\* January 7, 2014 .  
(Month, day, year)

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

Firm: Lea+Elliott, Inc.

Signature: [Handwritten Signature]

JACK NORTON - PRESIDENT / CEO

(Print name & title of person signing)



Date of execution\*\*\*: \_\_\_\_\_

- \* Describe the project and reference (i.e. project name, +PCD No., field change, change order number, etc.).
- \*\* The date should be a mutually determined date prior to but as close to the date when price negotiations were concluded and the price was agreed to as possible.
- \*\*\* Date of execution should be as soon after the date when price negotiations were concluded and the contract price was agreed to as practical.

(This document shall be signed, sealed, and notarized.)