

**APPENDIX A
SPECIAL PROVISIONS**

HONOLULU RAIL TRANSIT PROJECT

**CORE SYSTEMS SUPPORT SERVICES
PROFESSIONAL SERVICES CONTRACT**

SPECIAL PROVISIONS TABLE OF CONTENTS

- I. PROJECT
- II. SERVICES
- III. TIME
- IV. LIQUIDATED DAMAGES
- V. INSURANCE REQUIREMENTS
- VI. COMPENSATION, INVOICING, AND PAYMENT
- VII. MODIFICATIONS TO THE GENERAL TERMS AND CONDITIONS FOR CONTRACTS FOR PROFESSIONAL SERVICES FOR THE CITY AND COUNTY OF HONOLULU (08/2000)
- VIII. FEDERAL CLAUSES
- IX. ASSIGNMENT
- X. HEADINGS; GENDER; NUMBER
- XI. REFERENCES TO THE CITY AND COUNTY OF HONOLULU
- XII. COMPLIANCE WITH OMB CIRCULAR A-87

LIST OF SPECIAL PROVISIONS EXHIBITS

- EXHIBIT 1 - SCOPE OF SERVICES
- EXHIBIT 2 - A. COST ESTIMATE
 - B. COMPENSATION AND INVOICING
 - C. OVERHEAD RATE SCHEDULE
 - D. APPROVED PERSONNEL LIST
- EXHIBIT 3 - CERTIFICATION REGARDING CONFLICT OF INTEREST
- EXHIBIT 4 - LETTER OF SUBCONTRACT INTENT
- EXHIBIT 5 - CERTIFICATE REGARDING INELIGIBLE CONTRACTORS
- EXHIBIT 6 - CERTIFICATE REGARDING INELIGIBLE SUBCONTRACTORS
- EXHIBIT 7 - CERTIFICATION REGARDING LOBBYING
- EXHIBIT 8 - 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 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 by reference into the Agreement, except as modified by reference herein. All defined terms in the Agreement shall have the same meaning in these Special Provisions.

I. PROJECT

The Honolulu Rail Transit Project ("HRTP") is described in the Final Environmental Impact Statement as a twenty (20) mile grade separated fixed guideway transit system between East Kapolei and Ala Moana. The CONSULTANT will provide professional engineering and consulting services for the HRTP in support of the design, fabrication, installation, testing and commissioning, and operations and maintenance start-up of the Core Systems, hereinafter referred to as the "PROJECT."

II. SERVICES

The CONSULTANT's responsibilities under this Agreement include providing services as set forth in the Scope of Services attached hereto and incorporated herein as Exhibit 1.

III. TIME

A. The term of this Agreement is for five (5) years and seven (7) months ("Initial Term") commencing with a written Notice to Proceed. HART may extend the period of performance of this Agreement for up to an additional three (3) years if compensation to CONSULTANT is provided. The Agreement may be extended pursuant to Section 5 of the General Terms and Conditions at any time prior to the end of the Initial Term by an amendment to the Agreement.

B. This is a multi-term Agreement subject to the availability of funds in accordance with HAR § 3-122-149. Funds are available for only the initial year of the Agreement. The contractual obligation of both Parties in each fiscal period succeeding the first will be subject to the appropriation and availability of funds. HART shall notify the CONSULTANT, on a timely basis, whether or not funds are available for the continuation of the Agreement for each succeeding fiscal period. The Agreement will be terminated if funds are not appropriated or otherwise made available to support continuation of performance in any fiscal period succeeding the initial year of the Agreement; however, this does not affect either HART's rights or the CONSULTANT's rights under any termination clause of the Agreement. If funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the Agreement shall be terminated and the CONSULTANT shall be reimbursed for the unamortized, reasonably incurred, nonrecurring costs.

IV. LIQUIDATED DAMAGES

Liquidated damages shall not apply to this Agreement. Section 6.6 of the General Terms and Conditions, entitled "LIQUIDATED DAMAGES," is hereby deleted in its entirety.

V. INSURANCE REQUIREMENTS

See Paragraph 4.3., Insurance, of the General Terms and Conditions as modified by Section VII (E) below.

VI. COMPENSATION, INVOICING, AND PAYMENT

A. This is a cost plus fixed fee contract subject to the General Terms and Conditions. The compensation of the CONSULTANT shall be allowable Costs and a Fixed Fee up to the amount stated in the Agreement and shall be made in accordance with the Contract Cost Estimate in Exhibit 2A and accompanying Schedule A (Cost Estimate Detail), Schedule B (Other Direct Cost Detail), and Schedule C (Approved Subconsultants) and, the Compensation and Invoicing, requirements in Exhibit 2B.

B. HART reserves the right to direct removal from the PROJECT of any CONSULTANT or SUBCONSULTANT employee for any reason and at any time. Should an employee removal be deemed necessary, HART shall issue sufficient advance notice to allow the CONSULTANT reasonable time to identify and provide a replacement employee, if HART requires a replacement.

C. Reimbursement of CONSULTANT labor-related Work should be invoiced to HART on a monthly basis and shall be accompanied by a schedule with the details identified in Exhibit 2B, paragraph 2.a. The CONSULTANT shall certify that the schedule includes only employees authorized by HART to charge the PROJECT and that the information ties to the CONSULTANT's general ledger. The invoice shall also be accompanied by a report of the work accomplished during the previous month and a list of major work in progress.

D. Reimbursement to the CONSULTANT for Subconsultant Costs and Other Direct Costs (ODC) shall be made upon submission of Subconsultant and Expense Reimbursement Invoices, which shall include copies of pertinent vendor bills or invoices.

E. 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.

VII. 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:

“AIRPORT ALIGNMENT” means the approximately twenty (20)-mile minimum operable segment of the Locally Preferred Alternative identified by Honolulu City Council Resolution No. 08-261.

“BASELINE DESIGN SCHEDULE” means the time-scaled and cost-loaded critical path network, updated monthly in accordance with the Agreement and depicting the Price Items and subordinate activities and their respective prices (distributed over time), durations, sequences, and interrelationships that represent the CONSULTANT’s Work plans, work breakdown structure (“WBS”) for completing the PROJECT and the cost of all Work to be performed under the Agreement, distributed over the duration of the Agreement.

“C.F.R.” means the Code of Federal Regulations.

“CHIEF PROCUREMENT OFFICER” shall mean and refer to the HART Executive Director and CEO or designee.

“CONFORMANCE CHECKLIST” is the formal checklist used by the Project team to verify design criteria and construction specification conformance for each certifiable element in accordance with the H RTP Safety and Security Management Plan dated June 1, 2011.

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

“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.

“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.

“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.

“MILESTONE” means a defined step toward the completion of Work in the Schedule of Milestones.

“PMOC” means the FTA’s Project Management Oversight Contractor.

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

“PROJECT” means all 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.

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

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

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

“WORK” in addition to the definition described in the Agreement for Professional Services, paragraph 1, means the furnishing of all services, labor, goods, materials, supplies, equipment and other incidentals reasonably required by the Agreement. In certain cases, the term is also used to mean the products of the Work.

“WORK BREAKDOWN STRUCTURE” (“WBS”) means a hierarchal breakdown of the Scope of Work into components.

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

“CITY AND COUNTY OF HONOLULU,” “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 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 communication 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, and 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 representatives in order to maintain continuity of effort and control.

C. INDEPENDENT CONTRACTOR

Section 4.1.1 of the General Terms and Conditions is hereby deleted in its entirety and replaced with the following:

“4.1.1 The CONSULTANT shall perform the work as an independent contractor and shall indemnify and hold harmless HART and all of its officers and employees from death, injuries, losses and damages to persons or property, including reasonable attorneys' fees and cost of defense, caused by the negligent act, error or omission in the performance of the contract by the CONSULTANT or the CONSULTANT's subconsultants, agents and employees and this requirement shall survive the termination of the contract.

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

D. COPYRIGHT OR PATENT

Section 4.2 of the General Terms and Conditions is hereby revised by inserting the following provision 4.2.3 as set forth below:

“4.2.3 All of the work product of the CONSULTANT in executing this Project shall become the property of HART. Any inventions, patents, copyrights, computer software, or other intellectual property developed during the course of, or as a result of, the Project shall remain the property of HART.”

E. INSURANCE

Section 4.3 of the General Terms and Conditions is hereby deleted in its entirety and replaced with the following:

“4.3.1 Unless otherwise specified in the Contract Documents, the CONSULTANT shall procure or cause to be procured and maintain (as provided herein), at no cost to HART, during the life of this Agreement and any extensions thereof, all insurance to cover the CONSULTANT’s operations under this Agreement, that may be required under the laws, ordinances or regulations of any governmental authority, including but not limited to the coverages below. The CONSULTANT shall either include all tiers of subcontractors, if any, under the policies required under paragraphs 2 through 4, to the extent permitted by law, or shall require all subcontractors to maintain coverages described in paragraphs 1 through 4.

1. Workers Compensation and Employers Liability Insurance.

The CONSULTANT shall maintain workers compensation and employers liability insurance. Workers compensation coverage shall be in accordance with State statutes. Employers liability coverage shall provide limits of not less than \$100,000 each accident for bodily injury by accident or \$100,000 each employee, \$100,000 aggregate, for bodily injury by disease.

2. Commercial General and Umbrella Liability Insurance.

The CONSULTANT shall maintain commercial general liability (CGL) and if necessary commercial umbrella insurance with a limit of not less than \$1,000,000 each occurrence, and general aggregate. CGL insurance shall be written on ISO occurrence form, CG 00 01 (or a substitute form providing equivalent coverage), and shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract). HART and the CITY shall be included as additional insureds under the CGL, using ISO additional insured endorsement CG 20 10 (or equivalent); such additional insured provisions shall also apply under the commercial umbrella, if any. The policy(ies) shall contain a waiver of subrogation in favor of HART and the CITY.

3. Business Automobile and Umbrella Liability Insurance.

The CONSULTANT shall maintain business auto liability (including no-fault coverage) and if necessary, commercial umbrella liability insurance with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of any auto (including owned, hired, and non-owned autos) used by the CONSULTANT in the performance of this Agreement. Business auto coverage shall be written on ISO form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage, subject to policy terms and conditions.

4. Professional Liability Insurance. The CONSULTANT shall maintain professional liability insurance with limits of not less than \$1,000,000 per claim/annual aggregate, covering the CONSULTANT and the CONSULTANT's employees or agents for liability arising out of negligent acts, errors or omissions in the performance of professional services under the Agreement. Such insurance shall remain in full force and effect continuously for the period of design and construction of the Work, and for a period of three years following substantial completion of construction, provided that such coverage is reasonably available at commercially affordable premiums, as mutually determined and agreed. Notwithstanding the foregoing, however, it is understood and agreed that the coverage afforded under this article 4.3.1.4 shall cover only the vicarious liability of the CONSULTANT for the negligent acts or omissions of its agents. The CONSULTANT will provide, or have provided, Professional Liability insurance for the negligent act, errors or omissions of its agents with terms and conditions no less than stated in this article 4.3.1.4.

4.3.2 The insurance specified above shall:

1. Provide that insurance specified in 4.3.1.2 and 4.3.1.3 above is primary for claims arising from the CONSULTANT's performance of services or operation of automobiles under this Agreement and that insurance (or self-insurance) carried by HART and/or the CITY shall be excess and non-contributing to CONSULTANT's insurance;
2. Contain a standard Cross Liability coverage providing that the insurance applies separately to each insured, applicable to policies specified in 4.3.1.2 and 4.3.1.3 above;
3. Not be canceled or non-renewed or reduced in limits by endorsement without THIRTY (30) DAYS prior written notice to HART, except for non payment of premium in which case, TEN (10) DAYS notice of cancellation shall be given;
4. Except for Professional Liability insurance required in 4.3.1.4 above, be written on an "Occurrence" form of policy, unless otherwise specifically approved by HART;
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-7 or otherwise approved by HART.

4.3.3 Certificate of Insurance:

1. The CONSULTANT will provide and thereafter maintain current and renewal certificates of insurance, prepared by a duly authorized agent, evidencing the insurance in effect at all times during the term of this Agreement as required herein to HART. In the event of a claim, the CITY or HART may request, and CONSULTANT shall then provide, a copy of the insurance policies.

2. Certificates shall clearly identify the project by name and/or contract number.

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 as to General Liability and Automobile Liability insurances."

F. 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:

"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 cost 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, Hawai'i Administrative Rules. 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.”

G. FIELD SAFETY AND SECURITY

A new Section 6.8 of the General Terms and Conditions, entitled “FIELD SAFETY AND SECURITY,” is hereby inserted as follows.

“6.8 FIELD SAFETY AND SECURITY

- (a) The CONSULTANT shall comply with the Honolulu Rail Transit Project Construction Safety and Security Plan (CSSP) current revision and comply with applicable sections, such as, but not limited to, visitor control, public access, first aid/emergency response, safe work practices, personal protective equipment and safety and security reporting requirements. All personnel who will be accessing field locations must attend the HART Safety and Environmental Orientation.
- (b) Notwithstanding the foregoing provisions of this Article 6.8, it is understood and agreed that the CONSULTANT is responsible only for the safety of its employees and its subcontractor's employees at all times.”
- (c) The CONSULTANT's personnel will be onsite at construction sites as necessary to perform its obligations under this Agreement; however, the presence or duties of the CONSULTANT's personnel at a construction site, whether as onsite representatives or otherwise, do not make the CONSULTANT or the CONSULTANT's personnel in any way responsible for those duties that belong to HART and/or the construction contractors or other entities, and do not relieve the construction contractors or any other entity of their obligations, duties, and responsibilities,

including, but not limited to, all construction methods, means, techniques, sequences, and procedures necessary for coordinating and completing all portions of the construction work in accordance with the construction Contract Documents.”

H. KEY PERSONNEL

A new Section 6.9 of the General Terms and Conditions, entitled “KEY PERSONNEL,” is hereby inserted as follows.

“6.9 KEY PERSONNEL

(a) The key personnel as specified below are considered essential to the Work being performed under this Agreement. The key personnel may not be changed without the consent of the Officer-in-Charge.

(b) Prior to removing, replacing, or diverting any of the specified key personnel, the CONSULTANT shall seek HART’s approval by notifying the Project Manager, in writing. The CONSULTANT shall submit information to support the proposed action to enable the Officer-in-Charge to evaluate the potential impact of the change on the Agreement. The CONSULTANT shall not remove or replace key personnel under this Agreement until the Officer-in-Charge approves the change. The Officer-in-Charge shall not unreasonably withhold his consent to remove and replace any key personnel.

(c) The key personnel under this Agreement are:

1. Huy Huynh, P.E. – Project Manager
2. Steve Beebe – Change & Claims Engineer
3. Paul Trahey – Contract Compliance Engineer
4. Eric Phillips – Interface Engineer
5. Nick Gutierrez - Lead Office Engineer
6. Peter Chu – System Support Engineer
7. Edwin Sorensen – Field Oversight Engineer

(d) Should the CONSULTANT’s Project Manager be replaced for any reason prior to completion of the Agreement, HART’s costs shall be reduced by \$250,000. In addition, each time any of the other key personnel are replaced for any reason prior to completion of this Agreement, HART’s costs shall be reduced by \$100,000. Cost reductions due to HART under this provision shall be credited to HART within thirty (30) days following the departure of any key personnel identified in Special Provisions 6.9(c) above. The CONSULTANT may request, in writing, that the Officer-in-Charge waive all or part of a reduction if extenuating circumstances exist. The Officer-in-Charge shall have unilateral discretion to waive all or part of a reduction.

(e) If an employee leaves the CONSULTANT’s employ for any reason, or if the employee leaves the project due to documented medical, family, or personal conditions beyond the control of the CONSULTANT, the Officer-in-Charge shall

waive any monetary reductions.”

I. RETAINAGE

Retainage shall not apply to this Agreement. Section 8.5 of the General Terms and Conditions, entitled "RETAINAGE," is hereby deleted in its entirety.

J. PROMPT PAYMENT BY CONTRACTORS 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 CONTRACTORS TO SUBCONTRACTORS

- (a) Generally. Any money paid to a contractor 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 contractor, 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 project executed by a surety company authorized to do business in the state’ or
 - (2) The following has occurred:
 - (a) 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

(b) 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."

VIII. FEDERAL CLAUSES

FEDERAL FUNDING, INCORPORATION OF FTA TERMS, AND CHANGES TO FEDERAL REQUIREMENTS

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, will be 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 to be in violation of FTA terms and conditions. This Agreement will be subject to any financial assistance agreement between HART/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 herein.

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 HART/City and FTA relating to the HRTP, as they may be amended or 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 Exhibit 8, attached hereto and incorporated by reference.

IX. ASSIGNMENT

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

X. HEADINGS; GENDER; NUMBER

The titles of headings of Sections, Subsection 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.

XI. COMPLIANCE WITH OMB CIRCULAR A-87 - OFFICE OF MANAGEMENT AND BUDGET

The CONSULTANT shall at all times comply with the Office of Management and Budget (OMB) Circular A-87, Revised 05/10/2004, which establishes principles and standards for determining costs for Federal awards carried out through grants, cost reimbursement contracts, and other agreements with State, Local, and Indian Tribal Governments. This Circular and its Attachments (A-E) establish the principles and standards to provide a uniform approach for determining allowable costs.

EXHIBIT 1

SPECIAL PROVISIONS

HONOLULU RAIL TRANSIT PROJECT

CORE SYSTEMS SUPPORT SERVICE CONSULTANTS CONTRACT

SCOPE OF SERVICES

MANAGEMENT AND OVERSIGHT FOR THE CORE SYSTEMS DESIGN-BUILD-OPERATE-MAINTAIN (CSDBOM) CONTRACT

The CONSULTANT will provide design and construction management oversight for the Core Systems Design-Build-Operate-Maintain (CSDBOM) Contract. The CONSULTANT will take the lead in the oversight of the CSDBOM Contractor's design and construction scope of work at the direction of HART program management. This includes Phase 1 (East Kapolei to Aloha Stadium) and Phase 2 (Aloha Stadium to Ala Moana). The CONSULTANT will support HART on an as-needed basis in the management oversight of the CSDBOM Contractor for system commissioning, passenger service start-up, and pre-revenue operations and maintenance activities. The CONSULTANT will assign the required resident full-time Key Personnel and additional staff to the Project for various periods of time, as required. The CONSULTANT may assign specialized personnel to the contract to inspect special phases of the work. These personnel will work under the supervision of the CONSULTANT's Project Manager. The CONSULTANT's primary services are listed below. The CONSULTANT will communicate and coordinate these activities with HART program management on an on-going basis throughout the term of the Agreement.

- Project and construction management
- Review and approval of contract submittals
- Design audit, review, and acceptance
- Fixed Facilities interface management
- Manufacturing oversight and factory inspections
- Installation oversight
- System acceptance/testing and commissioning
- Operation and maintenance services
- Contract close-out

1. Project and Construction Management

The CONSULTANT will perform services under the leadership of the CONSULTANT's Deputy Program Manager. The CONSULTANT's Deputy Program Manager will oversee all of the CONSULTANT's efforts on the CSDBOM Contract and will serve as HART's primary point of contact for the CSDBOM Contractor. The CONSULTANT's Deputy Program Manager will generally be responsible for the quality oversight of all aspects related to the CONSULTANT's Contract and CSDBOM Contract administration. Detailed responsibilities will be discussed throughout this section.

The CONSULTANT will comply with approved HART procedures for Nonconformance Reports (NCRs) and construction change orders, and will oversee the documentation of NCRs and change orders. The CONSULTANT will comply with the approved HART construction claims avoidance program, and manage the construction claims process while providing oversight of the CSDBOM Contractor. These services will include participating in the contract partnering programs.

1.1 Project Management

1.1.1 Communication/Meeting/Record Keeping

As the primary point of contact for HART with the CSDBOM Contractor, the CONSULTANT will receive CSDBOM Contractor correspondence and control outgoing CONSULTANT/HART correspondence. Pursuant to a written delegation of authority from HART, the CONSULTANT will sign transmittals and either draft letters for HART signature or sign on behalf of HART, depending on HART's preferences. The CONSULTANT will maintain an ongoing dialogue with the CSDBOM Contractor and other contractors at all working levels in order to promote unity of purpose and teamwork.

The CONSULTANT will participate in or conduct regular meetings with the CSDBOM Contractor, including:

- Preconstruction meetings
- Progress meetings
- Design review meetings
- Change/claim negotiation meetings

The CONSULTANT will generate meeting minutes for all regular meetings conducted by the CONSULTANT. The CONSULTANT will review and provide comments on all meeting minutes provided by the CSDBOM Contractor.

The CONSULTANT will maintain files for all formal documents associated with the CSDBOM contract. Files will be organized under a uniform file index to be provided by HART to maintain consistency between contracts. Files will be maintained in accordance with HART approved procedures.

1.1.2 Contract Cost and Payment Management

Pay requests will be processed in accordance with HART approved procedures.

Deliverables

Monthly review and validation of each monthly CSDBOM Contractor's Pay Request.

1.1.3 Contract Schedule Management

The CSDBOM Contractor's schedule will be processed in accordance with HART approved procedures. The CONSULTANT will perform reviews of the CSDBOM Contractor's baseline schedule updates to verify compliance with the CSDBOM Contract requirements. As part of the baseline schedule review, the CONSULTANT will also review the CSDBOM Contractor's Schedule of Milestones, if applicable. The CONSULTANT will review CSDBOM Contractor monthly progress schedules and pay requests in accordance with approved HART procedures. The CONSULTANT's reviews shall be completed within fourteen (14) days of receipt of the contractor's submittal.

When requested, the CONSULTANT will assist HART in the updating of the Master Project Schedule (MPS) in accordance with HART's approved procedures.

Assumptions

The CSDBOM Contractor will submit a monthly schedule update in Primavera P6 (or higher version). HART's Project Control will provide schedule personnel to analyze the CSDBOM Contractor's Primavera schedule.

Schedule

The CSDBOM Contractor's schedules will be submitted to the CONSULTANT monthly.

Deliverables

Review comments for each Monthly Schedule Update by CONSULTANT.

1.1.4 **Manage Environmental Compliance**

The CONSULTANT will monitor the CSDBOM Contractor's activities to avoid or minimize impacts to the environment and general public in compliance with the CSDBOM contract documents.

1.1.5 **Requests for Information (RFI)**

In accordance with HART approved procedures, the CONSULTANT will process CSDBOM Contractor RFIs via HART's Construction Management System (CMS). RFI reviews performed by the CONSULTANT will be completed within fourteen (14) days.

Assumptions

The CSDBOM Contractor will be responsible for obtaining answers to third party questions.

1.1.6 **Cost Estimating**

The CONSULTANT will provide independent cost estimates for specialized Core Systems elements (automated train control, communications, rolling stock, etc.) that are involved with contract changes to the original CSDBOM Contract. These include but are not limited to owner initiated changes, CSDBOM Contractor initiated changes, and potential claims. Independent estimates of non-specialized construction materials and labor will be provided by HART under a separate contract. Cost estimates will be broken down by labor, material and equipment based on historical project data, industry standard cost data, or vendor quotations as applicable.

1.1.7 **Document Control**

The CONSULTANT will provide document control services in accordance with HART's approved procedures. The CONSULTANT will manage the receipt, logging, control, tracking, and timely processing of all project documents, including correspondence and other forms of communication, technical documents, documentation of mitigation compliance oversight, shop drawings, calculations, data submittals,

manuals, and samples received as part of the design, procurement, and construction process. The CONSULTANT will file all communications in the Project files, in accordance with HART's CMS.

1.1.8 Quality Assurance/Quality Control (QA/QC)

The CONSULTANT will support HART in the oversight of quality assurance/quality control of the CSDBOM Contractor's work. HART has direct responsibility to perform quality oversight activities of the CSDBOM Contractor's QA/QC activities, including review and acceptance of the CSDBOM Contractor's submittals, development of Audit and Surveillance schedules and checklists, and follow-up on preventive or corrective actions. Verification of implementation procedures will include a scope, purpose, identification of responsibilities, the quality procedure process, and quality records to be maintained. Additional forms, checklists, and other reference documents will be developed, as needed, to perform and document quality activities.

1.1.9 Safety/Security

The CONSULTANT will provide technical and management support services to assist HART in completing the safety and security certification of the CSDBOM Contractor's scope of work. Activities to be performed by the CONSULTANT, under HART management, include the following: participate in HART Safety and Security committees and working groups; review HART's System Safety Security Management Plan (SSMP), System Safety Security Certification Plan (SSCP), and Construction Safety and Security Certification Plan (CSSP); participate in CSDBOM Contractor design reviews; review on RFIs; notify HART of any proposed changes or deviations in the design criteria or CSDBOM Contractor's specifications; monitor the CSDBOM Contractor's compliance with the requirements of the SSMP, SSCP and CSSP, and provide reports; review hazard analyses; review system safety certification documentation such as Critical Element List (CEL), Certifiable Item List (CIL), and various Design Criteria Conformance Checklists; review the CSDBOM Contractor's technical submittals that are the means of verification for their certifiable items; review construction safety and security related submittals; review operational plans and procedures; perform verification of certifiable items; assist in investigations and report preparation of incidents and near misses involving the CSDBOM Contractor; support other activities required for testing, start-up, and achieving final safety and security certification; and coordinate and interface with HART Safety Department and the new Safety and Security Support Services Consultant.

Assumptions

The CONSULTANT is not responsible for the following activities that are performed by others: revise and/or update the SSMP, SSCP, CSSP; review Facilities certification documentation; audit Facilities Designers/Contractor compliance with the requirements of the SSMP, CSSP, and SSSP; develop a hazard tracking system; review, revise, and/or develop safety and security hazard analyses related to the fixed Facilities Designers'/Contractors' scopes of work; develop and conduct

construction S&S orientations and Competent Person training; coordinate with Project Management Oversight Contractor (PMOC) on Safety and Security issues.

1.1.10 Project Administration

The CONSULTANT will provide project management and administration tasks, including administering subcontracts and providing monthly status reports.

Deliverables

- Monthly project status report.
- Monthly PMOC presentation.
- Past month and next quarter staff utilization and expenses report.
- Quarterly key staff Paid Time Off look-ahead.
- Monthly submittal logs sent and received from the CSDBOM Contractor
- Monthly submittal logs of all Fixed Facilities design packages sent to the CSDBOM Contractor.
- Monthly submittal logs of all Request for Information (RFI) documentation.
- Monthly submittal logs of all Request for Interface Data (RFID) documentation and Interface Control Documents (ICD).

1.2 **Change and Claim Management**

In accordance with procedures approved by HART, the CONSULTANT will manage the construction contract change process, from initiation through change order execution as follows.

1.2.1 HART-Initiated Changes

HART-initiated changes are those changes that are generally initiated by HART or the CONSULTANT. The CONSULTANT will be responsible for:

- Preparing the outgoing change package generally consisting of a cover transmittal document and technical attachments (generally prepared by the CONSULTANT), along with internal documentation explaining the reason for the change.
- Determining if the change affects additional contracts within the Project and prepares the necessary documents.
- Preparing independent estimate of cost and time impacts associated with the change.
- Determining whether the change affects the Project configuration and, if so, informing HART's Configuration Manager and assist in managing the effects on configuration in accordance with HART's Configuration Management Plan.
- Determining whether the CSDBOM Contractor needs to implement the change prior to completion of cost and time negotiations in order to mitigate impacts.
- Reviewing change with HART and obtaining concurrence.
- Transmitting change to the CSDBOM Contractor.

- Evaluating contractor cost and time estimate against independent estimate.
- Negotiating the change cost and time with the CSDBOM Contractor, including preparation of pre-negotiation plans and post negotiation records as applicable. Cost and time settlements negotiated by the CONSULTANT will be subject to approval by HART.
- Assisting HART in the preparation of change order documentation and routing for signature by HART and the CSDBOM Contractor.

1.2.2 CSDBOM Contractor-Initiated Changes and Notifications of Potential Changes

CSDBOM Contractor-initiated changes will generally consist of scope changes, differing site condition changes, impact-type changes resulting from HART-controlled actions or documents, or notifications of potential changes where the extent of impact is not yet clear. In accordance with HART approved procedures, the CONSULTANT will be responsible for performing the following on the CSDBOM Contractor initiated changes:

- Receiving the CSDBOM Contractor request for change, and performing a technical and commercial evaluation, with recommendation to HART.
- Determining if the change affects additional contracts within the Project and preparing the necessary documents.
- Determining whether the change affects the Project configuration and, if so, informing HART's Configuration Manager and assisting in managing the effects on configuration in accordance with HART's Configuration Management Plan.
- With HART concurrence, prepare a response to the CSDBOM Contractor. Response will generally recognize requested change, reject or deny merit of requested change, or request additional information for evaluation.
- On recognized impact type changes, working with the CSDBOM Contractor to mitigate impacts.
- Preparing independent estimate of cost and time impacts associated with recognized changes.
- Evaluating the CSDBOM Contractor cost and time estimate against independent estimate.
- Negotiating the change cost and time with the CSDBOM Contractor, including preparation of pre-negotiation plans and post-negotiation records as applicable. Cost and time settlements negotiated by the CONSULTANT will be subject to approval by HART.
- Assisting HART in the preparation of change order documentation and routing for signature by HART and the CSDBOM Contractor.

Assumptions

The CONSULTANT is to take the lead role on change order documentation.

CMS software as analyzed and configured by HART will be utilized for change management and administration.

1.2.3 CSDBOM Contractor Claims and Disputes

For purposes of this document, “claims” are defined as CSDBOM Contractor-requested changes where merit has initially been denied by the CONSULTANT in the Change and Claim Management responsibilities described above but which continue to be pursued by the CSDBOM Contractor. “Disputes” are defined as claims that continue to be pursued by the CSDBOM Contractor, cannot be resolved between the CONSULTANT/HART and the CSDBOM Contractor, and are submitted to third parties for resolution. (HART has a Claims and Disputes Resolution Procedure.)

In accordance with procedures approved by HART, the CONSULTANT will assist HART in the resolution of claims and disputes as follows:

Claims

- Preparing merit assessment with recommendation to settle or dispute for HART review.
- For claims where HART elects to settle, assisting HART to the extent requested in the negotiation and resolution of the issue, and preparing documentation similar to that discussed above in Change and Claim Management responsibilities.
- For claims where HART elects to dispute, preparing responses to the CSDBOM Contractor.

Disputes

- Assist HART in the initiation of the disputes management process.
- Support the dispute resolution process on an on-call basis as requested by HART, providing support such as information, documentation, analysis, testimony, etc.

Assumptions

HART will be responsible for managing claims and/or disputes arising during Operations & Maintenance (O&M) phases of the Project.

HART may request that the CONSULTANT provide expert witnesses and/or other subconsultants to assist in the evaluation and resolution of CSDBOM Contractor claims and disputes. HART will provide additional compensation, consistent with the provisions of Exhibit 2B-Compensation and Invoicing, for these services to be negotiated with the CONSULTANT at the time of tasking.

Additional compensation will be provided when the level of support required from the CONSULTANT exceeds that which can be reasonably be provided by the CONSULTANT’s personnel or subcontractors assigned to the Project within the context of performing their primary duties.

Deliverables

- All change control documentation.

2. Review and Approval of Contract Submittals

The CSDBOM Contract documents identify various data and documentation that the CSDBOM Contractor must prepare and submit for review and approval throughout the course of the Project. The CONSULTANT will track and review submittals in accordance with approved HART procedures for conformance with CSDBOM Contract requirements. The CONSULTANT will work with the CSDBOM Contractor to verify that the review and approval of the contract submittals are carried out in an organized, systematic way. The review will require participants from the CONSULTANT's specialists and experts in various fields such as Automated Train Control, vehicles, O&M, communications, traction electrification, etc.

The CONSULTANT will process CSDBOM Contractor submittals in CMS. Submittals will be received by the CONSULTANT, and reviewed for completeness and verification of CSDBOM Contractor reviews. HART will be included in submittal reviews to the extent HART desires. Upon return of reviewer comments, the CONSULTANT will return comments to the CSDBOM Contractor. Submittal reviews performed by the CONSULTANT will be coordinated with HART with the goal of completing the review and returning to the CSDBOM Contractor within thirty (30) calendar days of receipt by the CONSULTANT.

Internal documents and products that are required to show compliance with the CSDBOM Contractor's design, such as shop drawings, product data, and samples, will generally not be reviewed by the CONSULTANT.

Schedule

Per Master Project Schedule.

3. Design Review and Acceptance

The CSDBOM Contract documents require that the CSDBOM Contractor submit Core Systems technical designs for review. In accordance with the CSDBOM Special Provisions Section 4.7, the CSDBOM Contractor is required to carry out major design reviews: (1) Definitive Design Review, (2) Interim Design Review, and (3) Final Design Review. The CONSULTANT's audit and review activities shall provide verification that the CSDBOM Contractor's designs meet the contract requirements and that they have appropriate interfaces with the fixed facilities and latest project requirements. As required, the CONSULTANT shall audit designs for all of the major Core Systems elements and subsystems including: vehicles, traction and propulsion power, automatic controls, station equipment, O&M equipment, operation control center equipment, and other applicable Core Systems equipment.

The CONSULTANT shall closely monitor the Design Review Records prepared by the CSDBOM Contractor and verify that open design issues are tracked and resolved in a timely manner.

Schedule

Per Master Project Schedule.

4. Interface Management

The CONSULTANT will monitor and facilitate the interface management process responsibly and conducted by the CSDBOM Contractor. The CONSULTANT will use the HART Interface Management Plan (IMP) to conduct the interface work. The CONSULTANT will review and provide acceptance of the CSDBOM Contractor's final Interface Control Manual (ICM). The

CONSULTANT will monitor the CSDBOM Contractor's interface activities during the design and construction phase to ensure compliance with their approved ICM and the HART's IMP.

5. Manufacturing Oversight and Factory Inspections

The purpose of this task is to verify that the CSDBOM Contractor is in compliance with its QA Plan and that fabrication is proceeding in accordance with accepted designs at the manufacturing sites. These manufacturing components include but are not limited to the vehicles, automated train control system, automatic platform gate system, communication equipment, fare collection equipment, and the traction power equipment. Close monitoring of the manufacturing process should be maintained to verify a successful delivery of the Core Systems equipment. Manufacturing oversight and inspection services will include:

- Participation in First Article Inspection—Quality Review
- In-process inspection of component manufacture and compliance with quality procedures and documentation requirements
- In-process inspection of final assembly
- Production progress monitoring
- Pre-shipment inspection
- Factory testing oversight and audit

The CONSULTANT will review certified test results and participate in qualification testing, if deemed appropriate by CONSULTANT and HART program management. The qualification testing is the controlled testing of individual components, elemental assemblies, new designs or product modifications, prior to their being incorporated into larger parts of the CSDBOM Contractor's work. During the design review process, the CONSULTANT will collaborate with the CSDBOM Contractor in the identification of new design or product modifications that will require qualification testing prior to final installation and/or assembly. The CONSULTANT will monitor this situation to verify the CSDBOM Contractor performs qualification tests in accordance with industry standard tests and specifications and/or quality assurance test specifications.

5.1 Vehicle Manufacturing Acceptance

The CONSULTANT will provide one (1) full-time staff at the CSDBOM Contractor's final assembly facility in the United States to oversee the vehicle assembly/manufacturing process when activity begins. The CONSULTANT will provide one (1) qualified staff to visit the CSDBOM Contractor's vehicle manufacturing facility in Italy to oversee the vehicle shells' fabrication. The CONSULTANT's personnel will visit the CSDBOM Contractor's manufacturing facility for two (2) weeks every two (2) months for the first twelve (12) months when the vehicle shell production begins. The visit will be limited to one (1) week every three (3) months for the remaining duration of the vehicle shell production.

5.2 Other Core Systems Equipment Manufacturing

There are four (4) other major subsystems: automated train control, communications, traction electrification, and passenger platform gates (PSG) under the CSDBOM Contract. The CONSULTANT will provide one (1) qualified staff person at each of the major subsystems' manufacturing facilities to oversee production progress, participate in First Article Inspections,

and witness qualifications tests. The CONSULTANT staff will be available one (1) week a month during the manufacturing period for each of the major subsystems. The CONSULTANT will work with HART program management to determine appropriate level of coverage as required.

Assumptions

The CONSULTANT will coordinate testing and manufacturing oversight with HART to facilitate knowledge transfer of the various systems operations and maintenance characteristics from the CONSULTANT's technical team to HART's Engineering and Operations staff. The CONSULTANT is to mentor and utilize HART staff where appropriate in this task.

Schedule

Per Master Project Schedule.

Deliverables

Progress reports.

Trip reports.

6. Installation Oversight

The CONSULTANT will provide qualified field personnel and equipment to monitor, document and observe tests and construction. These services will be provided as follows:

- Document construction progress and issues in daily construction reports and in progress photographs.
- Review contractor progress payment estimates for conformance to actual progress.
- Participate in Substantial Completion activities.
- Ensuring the CSDBOM Contractor achieves contract levels of construction quality, maintains public safety, and protects the environment during construction.
- Participate in resolution of issues pertaining to field construction.
- Observe and report on work done by the CSDBOM Contractor for Force Account Work.
- Initiate Nonconformance Reports (NCR) when applicable. Maintain deficiency log in CMS.
- Provide qualified testing laboratory services as requested by HART.
- Perform construction oversight, verifying that the CSDBOM Contractor quality personnel are working in accordance with their approved procedures as well as performing random check inspections and testing. The CONSULTANT will inform HART of any observed deviations from the construction documents.

Assumptions

The CONSULTANT will coordinate field testing with HART to facilitate knowledge transfer of the various systems operations and maintenance characteristic from the

CONSULTANT's technical team to HART's Engineering and Operations staff. The CONSULTANT is to mentor and utilize HART staff where appropriate in this task.

Schedule

Per Master Project Schedule.

7. Commissioning/Testing/Acceptance

The CONSULTANT shall monitor the CSDBOM Contractor's performance regarding acceptance activities in accordance with the Plan required in the CSDBOM Contract Technical Provisions Section 2 Verification, Test and Acceptance. The Plan, as expanded by the CSDBOM Contractor, will specify all requirements and activities and the basic order of conduct for verifying that the completion of each operating segment meets CSDBOM Contract requirements. The CSDBOM Contractor will develop the expanded Plan early in the project and submit it for review and acceptance. While the CSDBOM Contract documents have established the general sequence in which on-site acceptance activities are to occur, the CSDBOM Contractor will develop its specific acceptance schedule as part of the Plan. After the CONSULTANT's review and approval of this Plan, it will serve as the basis for all on-site acceptance activities.

The tasks to be performed in this section cover the following major activities:

- **Post Installation Check-out**—these activities occur after the physical installation and energization of the Core Systems equipment. These activities systematically test and verify proper functional performance of each element of the Core Systems equipment.
- **On-Site Integration Testing and Inspection**—these activities verify that each subsystem and assemblies thereof, are installed and interconnected in accepted design drawings and engineering installation instructions, and that they function in accordance with intended design.
- **System Demonstration**—this activity is the culmination of Core Systems and Fixed Facilities verification activities to demonstrate system's maintainability and dependability.

The CONSULTANT, in conjunction with HART, will review and provide approval of the CSDBOM Contractor's proposed acceptance test and inspection procedures and plans for each of the acceptance activities in conformance with specified CSDBOM Contract requirements. The CONSULTANT will also review and provide approval of the CSDBOM Contractor's Acceptance Schedule for each activity. The CONSULTANT, in conjunction with HART, will monitor the status of the documentation and progress for each activity. Also, the CONSULTANT will maintain active status tracking of each activity prior to the scheduled beginning of acceptance activities.

Following the acceptance approval of test plans and procedures, the CONSULTANT, in conjunction with HART, will observe critical acceptance activities, tests, and inspections conducted by the CSDBOM Contractor to verify compliance with the CSDBOM Contract requirements.

After the completion of the test procedures, the CSDBOM Contractor will prepare reports of on-site acceptance tests and other activities and submit them for review and acceptance. The CONSULTANT will review the reports and results of tests and inspections for conformance with

the CSDBOM Contract requirements and report on the CSDBOM Contractor's progress toward Substantial Completion and readiness for passenger service.

As the CSDBOM Contractor progresses to the next construction segment, it will be necessary for the CSDBOM Contractor to separate the Operating Segment from the next construction segment to assure that the activities on the construction segment do not impact passenger service and vice versa. The CONSULTANT will review and approval the "Cutover" plan to be developed by the CSDBOM Contractor when the construction of a new segment is ready to be integrated to the existing operating segment. Upon successful acceptance of each segment, the CONSULTANT will make recommendation to HART regarding the issuance of the Certificate of Substantial Completion to the CSDBOM Contractor.

The CONSULTANT will perform periodic Quality Assurance inspections, maintain records of all witness testing, maintain a log of deficiencies and resolutions, review warranty documentation for completeness and acceptance, and confirm the acceptability of training and O&M documentation.

Assumptions

The CONSULTANT will coordinate testing and acceptance with HART to facilitate knowledge transfer of the various systems operations and maintenance characteristics from the CONSULTANT's technical team to HART's Engineering and Operations staff. The CONSULTANT is to mentor and utilize HART staff where appropriate in this task.

Deliverables

Substantial Completion Report.

Close-out Report when punch list is completed.

Develop warranty matrix (all contracts).

8. Contract Closeout

This section will cover CONSULTANT activities that provide HART with the required documentation for closing out the CONSULTANT's contract and that assist the HART at the completion of the CONSULTANT's contract with future FTA Closeout documentation that will be finalized and submitted by the HART.

8.1 Contract Closeout Documents

The CONSULTANT will provide to HART all required CONSULTANT-developed Contract closeout documents in accordance with the applicable HART-approved procedures, including:

- Review and transfer of as-built drawings prepared by the contractor.
- Verification that all punchlist items have been completed by the contractor (or otherwise resolved to the satisfaction of HART).
- Verification that all contract documents that must be retained by HART, such as calculations, QC records, environmental reports and records, labor compliance reports, safety and security reports, etc., have been submitted by the contractor. Additionally, the CONSULTANT will verify that all closeout documents, such as warranty certificates, O&M manuals, releases, etc., have been submitted by the contractor, as applicable, and that all commercial issues have been resolved.

- Verification that all software programs and design documentation such as software design descriptions, software verification and validation plans, verification results reports, user documentation, software configuration management plan and other documents as applicable are delivered to HART and/or escrow account.

Schedule

Per Master Project Schedule.

Deliverables

As-built drawings where applicable.

8.2 Contract Summary Report

The CONSULTANT will prepare and submit to HART a Contract Summary Report that packages and summarizes applicable CONSULTANT records including a summary narrative.

Schedule

Per Master Project Schedule.

Deliverables

Draft and Final Contract Summary Reports.

Honolulu Rail Transit Project

EXHIBIT 2A
COST ESTIMATE

Cost Description	Total
Total Estimated Direct Labor Costs (including Overhead):	\$35,028,890.00
Fixed Fee	\$3,398,401.00
Other Direct Costs (tax included)	\$887,904.00
Total Estimated Subconsultant Costs (including tax)	\$ 2,731,117.00
Sub-Total	\$42,046,312.00
GET Taxes (@4.712%)	\$1,942,677.00
Total Aggregate Amount	\$43,988,989.00

Schedule A: Cost Estimate Detail
Schedule B: Other Direct Cost Detail
Schedule C: Approved Subconsultants

Honolulu Rail Transit Project

EXHIBIT 2A
SCHEDULE A
COST ESTIMATE DETAIL

Cost Description	Total
Total Estimated Direct Labor Costs	redacted pursuant to
Total Overhead (Direct Labor)	HRS 92F
Fixed Fee	\$3,398,401.00
Other Direct Costs – Reimbursable (tax included)	\$887,904.00
Total Estimated Subconsultant Costs (including tax)	\$2,731,117.00
Sub-Total	\$42,046,312.00
GET Taxes (@4.712%)	\$1,942,677.00
Total Aggregate Amount	\$43,988,989.00

Honolulu Rail Transit Project

EXHIBIT 2A

SCHEDULE B

OTHER DIRECT COST DETAILS

<u>Item</u>	<u>Description</u>	<u>Total Cost</u>
1	Travel - Project	
	Estimated Other Direct Costs	<u>\$ 887,904.00</u>

EXHIBIT 2A

SCHEDULE C

APPROVED SUBCONSULTANT LIST

R. M. Towill Corporation
LKG-CMC, Inc.

EXHIBIT 2B

COMPENSATION AND INVOICING

1. Subject to the provisions set forth in this Agreement, the CONSULTANT will be paid on a monthly basis by HART for authorized and satisfactorily completed work and services rendered under this Agreement. Such payment shall be full compensation for work performed and services rendered, for all supervision, labor, supplies, materials, equipment or use thereof, taxes, and for all other necessary incidentals. The amount to be paid to the CONSULTANT shall be computed as hereinafter set forth; provided that such payment shall not exceed the amount of FORTY-THREE MILLION NINE HUNDRED EIGHTY-EIGHT THOUSAND NINE HUNDRED EIGHTY-NINE AND 00/100 DOLLARS (\$43,988,989.00) (hereinafter called the "Total Price"), which includes all costs and fees associated with this Agreement, subject only to authorized adjustments as specifically provided in this Agreement. In the event the CONSULTANT incurs costs, fees or other compensation in excess of the Total Price, adjusted as provided herein, the CONSULTANT shall pay such excess from its own funds and HART shall not be required to pay any part of such excess and the CONSULTANT shall have no claim against HART on account thereof.

2. Compensation for work and services shall be on a cost plus fixed fee basis but not to exceed the Total Price.

Cost:	\$40,590,588.00
Fixed Fee:	<u>\$ 3,398,401.00</u>
Total Price:	\$43,988,989.00

Compensation shall be the sum of direct labor costs, indirect costs, subconsultant costs including other direct costs, CONSULTANT other direct costs, fixed fee and General Excise and Use Tax as described below. Costs to be paid are identified in the "Contract Cost Estimate" schedule, which is attached hereto as Exhibit 2A and incorporated herein by this reference, and comprise the following:

a. Direct Labor Costs. Direct labor costs shall be the total number of hours worked on the PROJECT by each authorized employee multiplied by the employee's regular hourly rate. Employees direct hourly rates shall not be increased by more than three percent (3%) for any twelve-month period during the term of this Agreement. The list of employees authorized to charge to the PROJECT shall be named in the Approved Personnel List, attached hereto as Exhibit 2D and incorporated herein by reference. Requests by the CONSULTANT to add employees to the Approved Personnel List shall be submitted in writing to HART for approval. The request will identify the individual by name, position, primary task to be assigned, estimated hours, current raw hourly rate and the overhead rate applicable for the charges. Charges made by employees who are not on the Approved Personnel List at the time the charges were incurred will not be reimbursed by HART. Employees who are no longer authorized to charge to the PROJECT will be removed from the Approved Personnel List. In no event shall overtime be classified or billed as direct labor without prior HART approval.

Honolulu Rail Transit Project

b. Indirect Costs. Indirect costs shall be the product of all direct labor costs multiplied by an overhead rate. The Parties agree that the negotiated Overhead Rates attached hereto as Exhibit 2C and incorporated herein by reference, shall be used for the purpose of invoicing for the period ending December 31, 2014. The CONSULTANT's negotiated Overhead Rates are to be calculated on an annual basis and are to be prepared on the basis of accounting practices prescribed by Part 31, Subparts 31.1 and 31.2 of the Federal Acquisition Regulations and be supported by a "Report of Independent Auditors." Facilities, services and office equipment (except for computers, network, PRINTERS and software) for "Project Office" CONSULTANT staff will be provided by HART. Computers, network, PRINTERS and software are included in the CONSULTANT's negotiated Overhead Rate. The CONSULTANT's negotiated Overhead Rates will be reviewed annually by HART and adjusted if deemed acceptable to HART. The initial negotiated Overhead Rates shall be used from date of Notice to Proceed until December 31, 2014.

c. Other Direct Costs. Other direct costs shall be billed at cost without markup by the CONSULTANT and shall include actual authorized expenses incurred by the CONSULTANT for PROJECT work that is identified in the Other Direct Cost Details which is attached hereto as Exhibit 2A, Schedule B and incorporated herein by reference.

d. Fixed Fee. HART shall pay the CONSULTANT a fixed fee of THREE MILLION THREE HUNDRED NINETY-EIGHT THOUSAND FOUR HUNDRED ONE AND 00/100 DOLLARS (\$3,398,401.00). Such fixed fee is included in the Total Price set forth above. It is understood and agreed that the fixed fee is only due and payable for the PROJECT work for which HART has given Notice to Proceed and for which the CONSULTANT has satisfactorily completed. The fixed fee will be prorated and paid monthly in proportion to the CONSULTANT's direct labor and overhead for work satisfactorily completed. The proportion of work completed shall be documented by invoices. A payment for an individual month shall include that approved portion of the fixed fee allocable to the PROJECT work satisfactorily completed during said month and not previously paid. Any portion of the fixed fee not previously paid in the monthly payments shall be included in the final payment. HART may permit an increase in the fixed fee only due to "Additional Work" anticipated beyond that work covered by the scope of services that is contained in the Scope of Services, attached hereto as Exhibit 1 and incorporated herein by reference. In the event HART deletes work from the Scope of Services, a proportional decrease in the fixed fee may be required.

e. Subconsultant Costs. It is agreed that HART has the right to approve any CONSULTANT subcontractors related to the PROJECT. The provisions contained in Exhibit 2B shall apply to Subconsultant costs. Subconsultant costs shall be billed to HART at cost without markup by the CONSULTANT and shall include actual authorized expenses incurred by the CONSULTANT for PROJECT work that is identified in the Contract Cost Estimate, attached hereto as Exhibit 2A. Subcontractors listed in the Approved Subconsultant List, attached as Exhibit 2A, Schedule C and incorporated herein by reference are deemed approved.

Honolulu Rail Transit Project

f. The CONSULTANT's personnel contained in the Approved Personnel List shall designate by employee the expected overhead rate schedule to be used for billing and any changes will require advance HART approval.

3. Payment Schedule. Each month the CONSULTANT shall submit to HART an invoice for payment for PROJECT work completed to the end of the previous month in a form and in reasonable detail as determined by HART. Such invoices shall be for work performed subsequent to that work covered by all previously submitted invoices and shall be completed pursuant to the rates and limitations set forth hereinabove. Invoices shall be supported by adequate documentation as determined by HART and shall detail the work, charge(s) by sub-task, hours, amount and employee name for which payment is being requested, including subconsultant employees, and shall itemize, with receipts and invoices attached, the Other Direct Costs for which reimbursement is being requested. Within thirty (30) days of receipt of an invoice and upon approval of the work satisfactorily completed and amount billed, HART will pay the invoice as approved. At no time shall the total cumulative amount paid for the PROJECT work exceed the Total Price. A copy of invoices submitted by the authorized subconsultants identified in the Approved Subconsultant List for which payment is requested by the CONSULTANT shall be attached to the CONSULTANT's invoice submitted to HART. The CONSULTANT shall notify the HART Project Manager in writing no later than ten (10) days after incurring seventy-five percent (75 %) of the Total Price or whenever the CONSULTANT believes the PROJECT Work cannot be completed for the Total Price.

EXHIBIT 2C
OVERHEAD RATE SCHEDULE

<u>Company</u>	<u>Overhead thru 12/31/2014</u>
LEA + ELLIOTT, INC.	
Home Office	
Project Office	
R. M. Towill Corporation	
LKG-CMC, Inc.	

redacted pursuant to
HRS 92F

EXHIBIT 2D

APPROVED PERSONNEL LIST

Aaron Hester	Lead Traction Power Engineer
Brian Yeschenko	ATC Engineer #2
Chris Gambla	Lead O&M Engineer
Cindy Sugimoto	Safety Engineer
Don Wiles	Communication Engineer
Ed Sorensen	Supervising Field Oversight Engineer
Edwina Williams	Change/Claim Administrator/RM Towill
Eric Philips	Interface Engineer
Gustavo Cevallos	Traction Power Engineer
Huy Huynh	Deputy Program Manager
Jack Norton	Principal-in-Charge
Jeff Davis	Lead Comm Engineer
Jenny Baumgartner	Fare Collection Engineer
Kamel Mokhtech	ATC Engineer #1
Mark Incorvati	Lead ATC Engineer
Matt Sturgell	Systems Engineer
Nicholas Gutierrez	Lead Off. Engineer
Paul Trahey	Contract Compliance Engineer
Peter Chu	Systems Engineering Support
Rich Koerner	Systems Engineer
Rod Falvey	Lead Vehicle Engineer
Russ Green	Vehicle Engineer #1
Shirlita Jones	Document Control Administrator/LKG
Steve Beebe	Change/Claim Engineer
Ted Barker	O&M Engineer
Yuko Taroski	Project Support/Doc

EXHIBIT 3
CERTIFICATION REGARDING CONFLICT OF INTEREST

“Organizational conflict of interest” means that, because of other activities or relationships with other persons or firms, a potential Contractor (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 Contractor’s objectivity in performing the Contract Work would or might be otherwise impaired; or the potential Contractor has an unfair competitive advantage.

On behalf of Lea + Elliott, Inc. I certify that:
(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)

JACK NORTON

(Print Name)

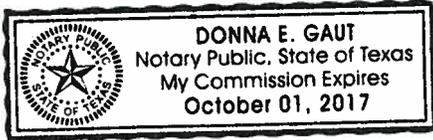


STATE OF HAWAII

CONTRACTOR'S ACKNOWLEDGMENT

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

On this 21st day of January, 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.



(Notary Stamp or Seal)

Donna E. Gaut
(Signature)

Donna E. Gaut
(Print name)

Notary Public, State of Texas

My Commission Expires: 10/01/2017

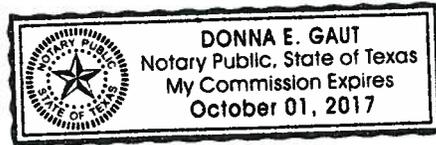
NOTARY CERTIFICATE (Hawaii Administrative Rules §5-11-8)

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 1/21/14
Signature of Notary Date of Certificate

Donna E. Gaut
Printed Name of Notary



(Notary Stamp or Seal)

EXHIBIT 4
LETTER OF SUBCONTRACT INTENT

Lea+Elliott, Inc. intends to subcontract Work for the Core Systems Support Services Contract to LKG-CMC, Inc.

LKG-CMC, Inc.

(Name of Subcontractor/Consultant)

to perform the following type of work:

Document control administration support

The minimum value of the Subcontract is \$500,000.00.

The Subcontractor/Consultant LKG-CMC, Inc. is a certified DBE firm.

If certified, indicate certifying entity: Hawaii DOT 98-472 Include a name and telephone number for certifying entity Don Fukuhara (808) 587-6333.

For the Consultant:

Huy P. Huynh
(Signature)

HUY HUYNH
(Printed Name)

PRINCIPAL & VICE PRESIDENT
(Title)

January 2014
(Date)



For the Subcontractor/Subconsultant:

Claudia A. Elliott
Confirmed by: (Signature)

Claudia A. Elliott
(Printed Name)

Vice President
(Title)

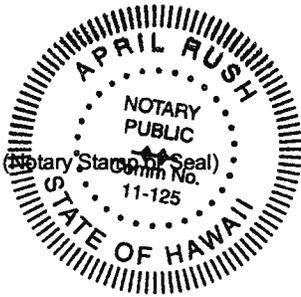
January 17, 2014
(Date)

STATE OF HAWAII

CONTRACTOR'S ACKNOWLEDGMENT

STATE OF Hawaii)
City and COUNTY OF Honolulu) S.S.

On this 24th day of January, 2014, before me appeared
Huy Huynh, 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
Principal and Vice President 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.



April Rush
(Signature)
April Rush
(Print name)

Notary Public, State of Hawaii

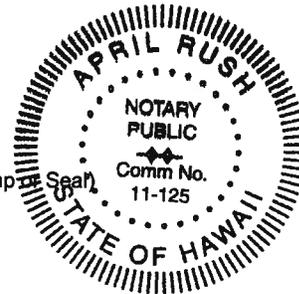
My Commission Expires: May 8, 2015

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) Exhibit 4

Undated at time
Doc. Date: of notarization No. of Pages: 3 Jurisdiction: 1ST
April Rush Jan 24, 2014 (Notary Stamp Seal)

Signature of Notary
April Rush
Printed Name of Notary



CALIFORNIA JURAT WITH AFFIANT STATEMENT

GOVERNMENT CODE § 8202

- See Attached Document (Notary to cross out lines 1-6 below)
- See Statement Below (Lines 1-6 to be completed only by document signer[s], *not* Notary)

1 _____
 2 _____
 3 _____
 4 _____
 5 _____
 6 _____

Signature of Document Signer No. 1 _____ Signature of Document Signer No. 2 (if any) _____

State of California
 County of Los Angeles

Subscribed and sworn to (or affirmed) before me
 on this 17 day of JAN, 20 14
Date Month Year

by
 (1) CLAUDIA A. ELLIOTT
Name of Signer

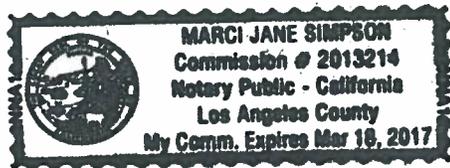
proved to me on the basis of satisfactory evidence
 to be the person who appeared before me (.) (.)

(and

(2) _____
Name of Signer

proved to me on the basis of satisfactory evidence
 to be the person who appeared before me.)

Signature _____
Signature of Notary Public



Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Further Description of Any Attached Document

Title or Type of Document: LETTER OF SUBCONTRACT INTENT
 Document Date: 1-17-14 Number of Pages: 1

Signer(s) Other Than Named Above: _____

RIGHT THUMBPRINT OF SIGNER #1	RIGHT THUMBPRINT OF SIGNER #2
Top of thumb here	Top of thumb here

EXHIBIT 4
LETTER OF SUBCONTRACT INTENT

Lea+Elliott, Inc. intends to subcontract
Work for the Core Systems Support Services Contract to R.M. Towill Corporation

(Name of Subcontractor/Consultant)

to perform the following type of work:
Change control administration support

The minimum value of the Subcontract is \$700,000.00.

The Subcontractor/Consultant _____ is ***is not*** a certified DBE firm.

If certified, indicate certifying entity: _____ . Include a name and telephone
number for certifying entity _____ .

For the Consultant:

Henry P. Ghann
(Signature)

HUY HUYNH
(Printed Name)

PRINCIPAL VICE PRESIDENT
(Title)

Jan 21, 2014
(Date)



For the Subcontractor/Subconsultant:

A. Hiyakumoto
Confirmed by: (Signature)

Greg H. Hiyakumoto
(Printed Name)

President
(Title)

January 17, 2014
(Date)

STATE OF HAWAII

CONTRACTOR'S ACKNOWLEDGMENT

STATE OF Hawaii)
City and COUNTY OF Honolulu) S.S.)

On this 24th day of January, 2014, before me appeared

Huy Huynh, 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~~
Principal and Vice President 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.

April Rush

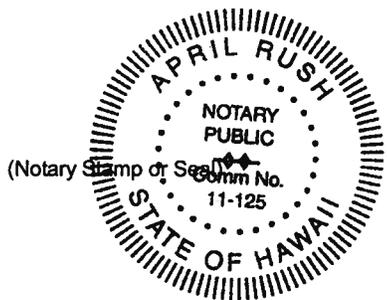
(Signature)

April Rush

(Print name)

Notary Public, State of Hawaii

My Commission Expires: May 8, 2015



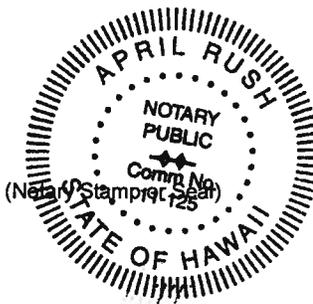
NOTARY CERTIFICATE (Hawaii Administrative Rules §5-11-8)

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) Exhibit 4

Undated at time
Doc. Date: of notarization No. of Pages: 2 Jurisdiction: 1ST

April Rush Jan. 24, 2014
Signature of Notary Date of Certificate

April Rush
Printed Name of Notary





STATE OF HAWAII

CONTRACTOR'S ACKNOWLEDGMENT

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 17th day of January, 2014 before me appeared
Greg H. Hiyakumoto and
President and
R. M. TOWILL CORPORATION, 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.



Handwritten signature of Joanne M. Fujioka

Joanne M. Fujioka
(Print Name)

Notary Public, State of Hawaii

My commission expires: 6-17-2015

Doc. Date: Undated # Pages:
Notary Name: Joanne M. Fujioka First Circuit
Doc. Description: Exhibit 4 - Letter of Subcontract Intent
(6 copies)



Handwritten signature of Joanne M. Fujioka
January 17, 2014
Notary Signature Date

NOTARY CERTIFICATION

EXHIBIT 5
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, JACK NORTON, President / CEO, hereby
(Name of Certifying Officer) (Title of Certifying Officer)

certify that LEA + ELLIOTT, INC.
(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.
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.



[Signature]
Signature of Certifying Officer

LEA + ELLIOTT, INC
Name of Contractor

ALI'L PLACE, Suite 1700
Street Address of Contractor

HONOLULU, HAWAII 96813
City, State, Zip

801-768-8932
Telephone Number of Contractor

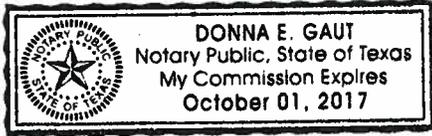
(Note: The above certification merely certifies that an Offeror and its subcontractors are not declared by the Federal Government or have not voluntarily declared themselves debarred, suspended, or declared ineligible from doing transactions with the Federal Government or any of its agencies.)

STATE OF HAWAII

CONTRACTOR'S ACKNOWLEDGMENT

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

On this 21st day of January, 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.



(Notary Stamp or Seal)

Donna E. Gaut

(Signature)

Donna E. Gaut

(Print name)

Notary Public, State of Texas

My Commission Expires: 10/01/2017

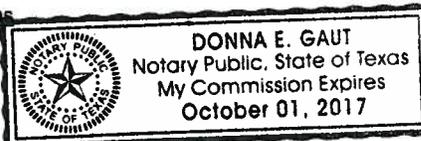
NOTARY CERTIFICATE (Hawaii Administrative Rules §5-11-8)

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
Signature of Notary

1/21/14
Date of Certificate



(Notary Stamp or Seal)

Donna E. Gaut
Printed Name of Notary

EXHIBIT 6
CERTIFICATE REGARDING INELIGIBLE SUBCONTRACTORS

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
Lower Tier Covered Transactions**

- 1) The prospective lower tier participant (Subcontractor/Subconsultant) certifies, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in General Engineering Consultant Professional Services Contract by any federal department or agency.
- 2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation.

(60 FR 33042, 33064, June 26, 1995)

Signed 



JACK NORTON

Typed or Printed Name

LEA + ELLIOTT, INC.

Company Name

1/21/14

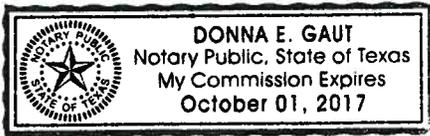
Date

STATE OF HAWAII

CONTRACTOR'S ACKNOWLEDGMENT

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

On this 21st day of January, 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.



(Notary Stamp or Seal)

Donna E. Gaut
(Signature)

Donna E. Gaut
(Print name)

Notary Public, State of Texas

My Commission Expires: 10/01/2017

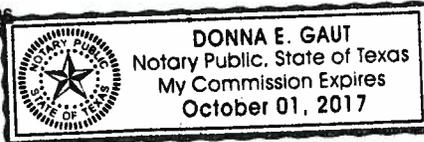
NOTARY CERTIFICATE (Hawaii Administrative Rules §5-11-8)

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 1/21/14
Signature of Notary Date of Certificate

Donna E. Gaut
Printed Name of Notary



(Notary Stamp or Seal)

EXHIBIT 7

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 CONSULTANT, LEA + ELLIOTT, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the CONSULTANT understands and agrees that the provisions of 31 U.S.C. §3801, et seq., apply to this certification and disclosure, if any.

Company Name: LEA + ELLIOTT, INC.

Signature: [Handwritten Signature]

Print Name: JACK NORTON

Title: PRESIDENT / CEO

Date: 1/21/14



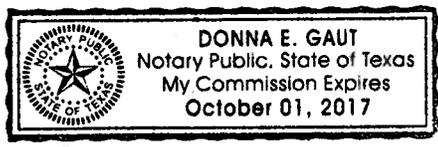
NOTE: THE CONSULTANT IS REQUIRED PURSUANT TO FEDERAL LAW, TO INCLUDE THE ABOVE LANGUAGE IN SUBCONTRACTS OVER \$100,000 AND TO OBTAIN THIS LOBBYING CERTIFICATE FROM EACH SUBCONTRACTOR BEING PAID \$100,000 OR MORE UNDER THIS CONTRACT.

STATE OF HAWAII

CONTRACTOR'S ACKNOWLEDGMENT

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

On this 21st day of January, 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.



(Notary Stamp or Seal)

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 1/21/14
Signature of Notary Date of Certificate



(Notary Stamp or Seal)

Donna E. Gaut
Printed Name of Notary

EXHIBIT 8

**HONOLULU RAIL TRANSIT PROJECT
CORE SYSTEMS SUPPORT SERVICES
PROFESSIONAL SERVICES CONTRACT**

FEDERAL REQUIREMENTS

Table Of Contents

1.0 General.....3

1.1 NO GOVERNMENT OBLIGATION TO THIRD PARTIES3

1.2 PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS3

1.3 ACCESS TO RECORDS AND REPORTS.....3

1.4 FEDERAL CHANGES.....4

1.5 CIVIL RIGHTS REQUIREMENTS4

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 REQUIREMENTS7

1.11 FLY AMERICA REQUIREMENTS7

1.12 ENERGY CONSERVATION REQUIREMENTS.....7

1.13 RECYCLED PRODUCTS.....8

1.14 ADA ACCESS.....8

1.15 SEISMIC SAFETY8

1.16 TEXT MESSAGING WHILE DRIVING.....8

1.17 SENSITIVE SECURITY INFORMATION9

1.18 INCORPORATION OF FTA TERMS9

1.19 INCORPORATION OF THE OFFICE OF MANAGEMENT AND BUDGET (OMB) CIRCULAR A-879

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 contract. 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 U.S.DOT Order 3902.10, Text Messaging While Driving 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.

1.19 Incorporation of the Office of Management and Budget (OMB) Circular A-87

The CONTRACTOR shall at all times comply with the Office of Management and Budget (OMB) Circular A-87, Revised 05/10/2004, which establishes principles and standards for determining costs for Federal awards carried out through grants, cost reimbursement contracts, and other agreements with State, Local, and Indian Tribal Governments. This Circular and its Attachments (A-E) establish the principles and standards to provide a uniform approach for determining allowable costs.

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:		Contract No.:		Consultant Name:	
Federal ID No.: (OWP WE #, FTA Grant #, FHWA Project #)		Contract Amount (including amendments):		\$	
Period Covered By This Report:		Current		Total to Date	
		(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					
DBE Participation to Date (C/B)					
				\$ (C) \$	
				%	

***Insert dollar amounts for DBEs only**

ATTACHMENT 1.6 a) – DBE PARTICIPATION REPORT

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

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
Consultant 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