



HONOLULU AUTHORITY for RAPID TRANSPORTATION

Daniel A. Grabauskas  
EXECUTIVE DIRECTOR AND CEO

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**Joint Meeting of  
Finance Committee and  
Project Oversight Committee  
Ali'i Place, Suite 150  
1099 Alakea Street, Honolulu, Hawaii  
(meeting room entrance on Richards Street)  
Thursday, August 27, 2015 9:30 am**

**Agenda**

- I. Call to Order by Chair
- II. Public Testimony on all Agenda Items
- III. Approval of the July 30, 2015 Minutes of the Joint Meeting of the Finance Committee and Project Oversight Committee
- IV. Change Order Process Overview Presentation
- V. Change Order Approval
  - A. Core Systems Contract Nine Month Delay Claim Resolution
  - B. Kiewit Subcontractor Commercial Metals Escalation
- VI. Executive Session

Pursuant to Hawaii Revised Statutes Section 92-4 and Section 92-5(a)(4), the Committee may enter into Executive Session to consult with its attorneys on questions and issues on matters pertaining to the Committee's powers, duties, privileges, immunities and liabilities.
- VII. Adjournment

Note: Persons wishing to testify on items listed on the agenda are requested to register by completing a speaker registration form at the meeting or online on the HART section of the [www.honolulustransit.org](http://www.honolulustransit.org) website. Each speaker is limited to a **two-minute** presentation.

Persons who have not registered to speak in advance should raise their hands at the time designated for public testimony and they will be given an opportunity to speak following oral testimonies of the registered speakers.

Any physically challenged person requiring special assistance should call (808) 768-6258 for details at least three days prior to the meeting date.



# Change Order Process Overview

August 27, 2015

# Change Order Process

- **Initiation of a Change**
  - Merit
  - Fact Finding
  - Field Personnel
- **Request For Change (RFC) and Independent Cost Estimate (ICE)**
  - Concurrent Actions
  - Technical Cost Support

# Change Order Process (con't)

- **Analysis and Negotiation Strategy**
  - Level of Effort
  - Contract Administration Support
  - Officer In Charge Approvals
  
- **Negotiations and Change Order Document**
  - Fair and Reasonable
  - Contract Administration Participation
  - Corporation Counsel Review
  
- **Approvals**
  - Various Levels

# Validity of the Process

- **Procurement Compliance Standards**
  - Federal Acquisition Regulation
  - FTA Circular 4220.1F
  - Hawaii State 103D
  
- **Checks and Balances**
  - Internal HART Board Review
  - Fair and Reasonable
    - Protects the Taxpayer
    - Provides Minimum Requirement

# *Mahalo!*



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**HART**

HONOLULU AUTHORITY for RAPID TRANSPORTATION



HONOLULU AUTHORITY for RAPID TRANSPORTATION

Daniel A. Grabauskas  
EXECUTIVE DIRECTOR AND CEO

July 30, 2015

FINANCE  
COMMITTEE MEMBERS

Donald G. Horner  
VICE CHAIR

George I. Atta  
Michael D. Formby  
Ford N. Fuchigami  
Damien T.K. Kim  
Ivan M. Lui-Kwan, Esq.

**TO:** HART Board of Directors

**THROUGH:** Daniel A. Grabauskas *DAG*  
Executive Director and CEO

PROJECT OVERSIGHT  
COMMITTEE MEMBERS

Damien T.K. Kim  
CHAIR

**FROM:** Charles S. Camaggio *CSC*  
Officer-in-Charge

William "Buzz" Hong  
VICE CHAIR

Justin Garrod, Project Manager *JG*

Michael D. Formby  
Donald G. Horner  
Ivan M. Lui-Kwan, Esq.

**SUBJECT:** 9 Month Delay Claim Resubmittal  
Core Systems Design-Build-Operate-Maintain  
Contract No.: CT-HRT-1200106  
CCO 00018 (RFCC 00002b)

## Overview

This Change Order No. 18 is for the settlement of the Core Systems Contractor's nine (9) month delay claim and includes the full reconciliation of its Best and Final schedule (pre-Notice to Proceed [NTP]) and post-NTP baseline progress schedule.

## Recommendation

It is recommended that HART approve Contract Change Order No. 18 for a cost amount of \$8,700,000.

## Justification

This Contract Change Order resolves the Contractor's claim for cost escalation due to the nine (9) month delay between the expected NTP date and the actual NTP date. The delay in issuance of NTP was due to bid protests filed by the unsuccessful Core Systems Offerors, for which a stay on the award of the contract was in effect until the DCCA Hearings Officer's decisions regarding the protests were issued. The delay was an event beyond the control of the Core Systems Contractor and the



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additional compensation provided by this Change Order covers the reasonable and verifiable additional direct costs incurred by the Contractor because of the delay.

### **Fiscal Impact**

The cost of \$8,700,000 was not part of the Core Systems Design-Build-Operate-Maintain contract. This cost amount will be covered by the Contract's allocated contingency funds. After the execution of this change order the balance of allocated contingency funds will be \$45,878,576.

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CHAIR

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VICE CHAIR

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Donald G. Horner  
Ivan M. Lui-Kwan, Esq.

# Change Order 0018

## 9-Month Delay Claim Resolution

# Proposed Action

- **Authorizes the Chief Executive Officer to execute Change Order 00018 with Ansaldo Honolulu Joint Venture for the settlement of the Core Systems Contractor's nine (9) month delay claim and includes the full reconciliation of its Best and Final schedule (pre-Notice to Proceed [NTP]) and post-NTP baseline progress schedule in the amount of \$8,700,000.**

# Core Systems Fiscal Information

**Allocated Contingency**

**\$67,432,099**

Previously Executed Change Orders / Credits	- \$21,280,893
Net Contingency Transfer(s) to/from Unallocated Contingency	+ \$8,317,350
<b>Available Contingency</b>	<b>\$54,468,556</b>
Cost of this Action	- \$8,700,000
<b>Remaining Contingency after Execution of this Action</b>	<b>\$45,768,556</b>

# **Nine-month Delay Claim**

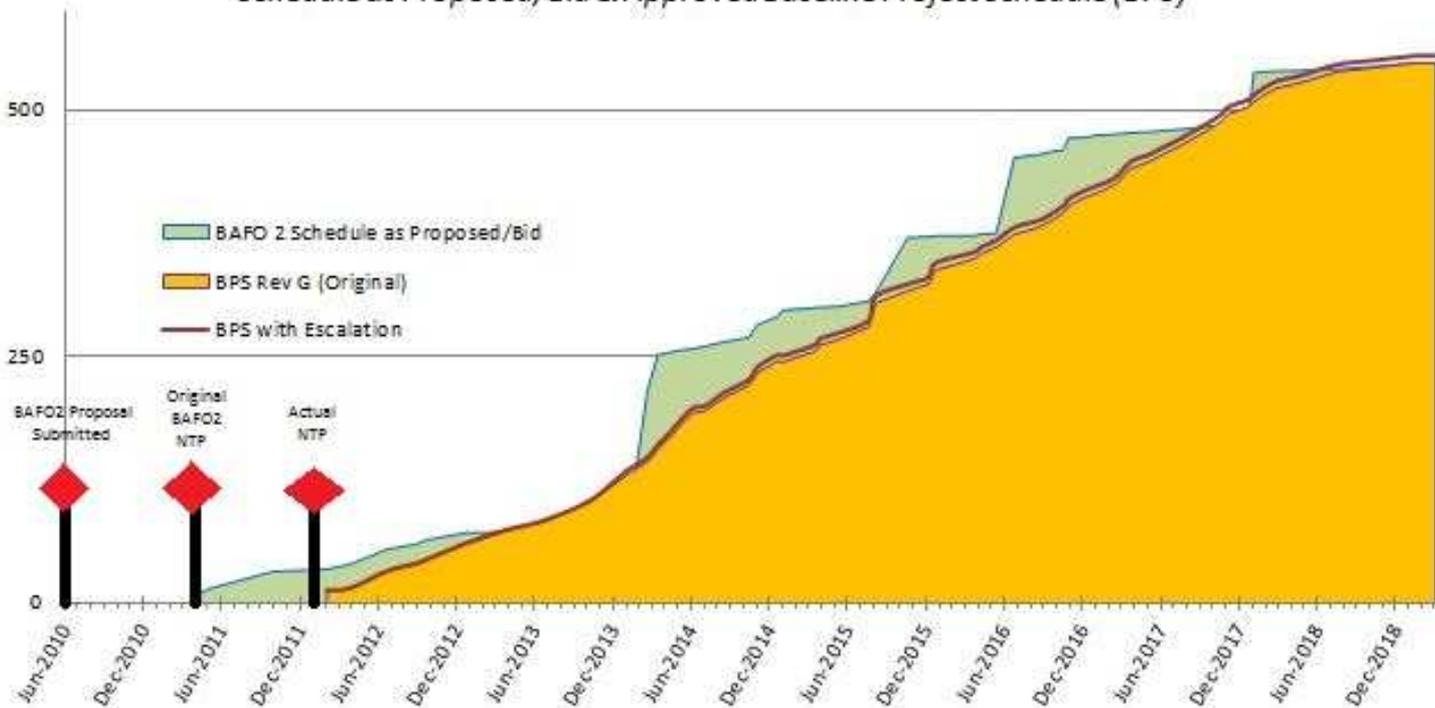
## **Key Feature Summary**

- **HART issued Notice of Award to Ansaldo Honolulu Joint Venture (AHJV) on March 11, 2011**
- **Notice to Proceed (NTP) expected and as identified in the contract documents, no later than April, 11 2011**
- **NTP issued on January 13, 2012**
- **Total days delay in issuance of NTP, 277 days**

# Delay in Notice to Proceed

Schedule as Proposed/Bid & Approved Baseline Project Schedule (BPS)

SCHEDULE OF ACTIVITIES (\$M)



- BAFO2 Technical, Price and Schedule Proposal submitted to the City of Honolulu in **June 2010**
- Proposal Documents defined Notice to Proceed as **April 2011**
- Actual Notice to Proceed was issued in **January 2012** due to a bid protest
- Full Opening Completion was maintained in the Approved Baseline Schedule requiring certain activities to be accelerated.

# Nine-month Delay Claim Background

- **The Core Systems Contract is a Firm Fixed Price contract.**
- **The Contractor has affirmed their commitment to perform the defined scope of work in the time defined in the contract for the sum of the Firm Fixed Price as submitted with their Proposal.**

# Nine-month Delay Claim

## Background

- **Often the Owner will assume market fluctuation risk by including an Economic Price Adjustment clause in the contract that allows for price adjustment payments based on changes in certain pre-defined indexes; PPI or CPI.**
- **This contract did that but only for the Full Operations and Maintenance Phases of the contract.**
- **The Contractor had the responsibility to price into their price proposal their expected market fluctuations and to balance that with the objective of winning the contract that has a certain amount of price components that were taken into account when awarding the contract.**
- **Because we structured the contract without the Economic Price Adjustment clause the impact in pricing of the work is being calculated and formed the basis for our the negotiations and compensation of this change order.**

# Nine-month Delay Claim Justification

- **The delay in issuance of NTP was due to bid protests filed by the unsuccessful Core Systems Offerors, for which a stay on the award of the contract was in effect until the DCCA Hearings Officer's decisions regarding the protests were issued.**
- **The delay was an event beyond the control of the Core Systems Contractor and HART.**

# Nine-month Delay Claim

## Independent Cost Estimate (ICE)

- **HART ICE determined escalation costs based on a comparison of the delay in schedule activities between the Baseline Project Schedule (BPS) – Rev. G and the BAFO BPS**
  - **Activity mid-point dates from the two schedules are analyzed to determine the specific delay impact for each activity.**
  - **Escalation costs are then calculated on the prorated annual escalation rate based on the specific delay impact calculated for the activity.**
  - **The escalation rate utilized are shown on the next slide.**
- **ICE Low and High Range for Negotiations: \$7,274,707 and \$9,406,486**

# Nine-month Delay Claim Escalation Index Evaluation

Cost Factor	ICE	PMOC Spot Report 2010 – 2019 *
Labor	2.88% (Low) 4.67% (High)	4.67%
Materials	3.30%	3.30%

\*Escalation values from Table 5-7, Recommended Escalation Factors, FTA PMOC CLIN 0005: Spot Report, Dated July 2009. A review of both labor and material index performance from NTP to today indicate that the labor and material rates identified in the 2009 report are still valid.

\*\* 2.88% Labor Escalation Rate was the rate utilized in AHJV bid proposal and found in their Escrow bid documents.

# Nine-month Delay Claim

## Contractor Proposed Cost (CPC) Estimate (\$ million)

➤ Financial Impact Cost:	\$2.03
➤ Delay Escalation Cost:	\$12.14
➤ Financial Review Cost:	\$0.03
➤ Expert Review Cost:	\$0.04
➤ Preparation Cost:	\$0.19
➤ G.E.T.:	\$0.68
➤ Interest:	\$1.32
➤ OH&P	<u>\$0.04</u>
➤ TOTAL:	\$16.48

# Nine-month Delay Claim

## Summary of Negotiations

➤ CPC	\$16,478,561
➤ HART ICE Low	\$7,274,707
➤ HART ICE High	\$9,406,486
➤ Settled Amount	\$8,700,000

**This Contract Change Order is for the settlement of the Core Systems Contract's nine (9) month delay claim and includes full reconciliation of its Best and Final schedule (pre-Notice to Proceed) and baseline progress schedule (post-NTP).**



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Daniel A. Grabauskas  
EXECUTIVE DIRECTOR AND CEO

August 27, 2015

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Ford N. Fuchigami  
Donald G. Horner

**TO:** HART Board of Directors

**THROUGH:** Daniel A. Grabauskas  
Executive Director and CEO

**FROM:** Charles S. Carnaggio  
Officer-in-Charge

John M. Moore  
Deputy Director of Project Management

**SUBJECT:** Escalation due to Schedule Impacts  
West Oahu Farrington Highway Guideway  
Contract No.: CT-HRT-10H0137

PROJECT OVERSIGHT  
COMMITTEE MEMBERS

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Donald G. Horner  
Ivan M. Lui-Kwan, Esq.

## Overview

This Contract Change Order will compensate Kiewit for costs incurred due to price escalation experienced by Commercial Metals (CMC) for reinforcing steel material and installation cost, including, but not limited to, wage rate increases for craft and staff labor, ocean freight and trucking, and material escalation costs resulting from the Archeological Inventory Survey (AIS) delay and the Notice To Proceed (NTP) delays which affected the project schedule.

## Recommendation

HART Board of Directors to approve a Lump Sum Change Order in the amount of \$ 6,228,445.00.

## Justification

The project schedule incurred a 13-month delay resulting from litigation-related AIS work. Additionally, the project schedule incurred a 20-month extension due to the NTP delays. The Contractor, Kiewit Infrastructure West Co. (Kiewit) submitted a

request seeking compensation for the cost escalation experienced by their Subcontractor CMC resulting from these delays. This Contract Change Order provides funds to compensate Kiewit's Subcontractor CMC for actual and anticipated costs which have been and will be incurred as a result of price escalation, related to the AIS delay and the NTP delays to the Contract.

**Fiscal Impact**

There is not sufficient contract allocated contingency budget remaining. The cost will be covered as a budget transfer from unallocated contingency to the Contract's contingency. Remaining balance for unallocated contingency is \$6,228,445.00.

# **HART**

HONOLULU AUTHORITY for RAPID TRANSPORTATION

## **Evaluation of WOFH Commercial Metals Escalation Proposal August 27, 2015**

# Proposed Action

- Authorizes the Chief Executive Officer to execute Change Order 00068 with Kiewit Infrastructure West Co. under the West Oahu/Farrington Highway Guideway contract for the settlement of Commercial Metal Companies Escalation Costs due to the delay in issuing Notice To Proceed 2, 3, and 4 and the delay due to the Archeological Investigative Survey all totaling Thirty Three (33) months in the amount of \$6,228,324.

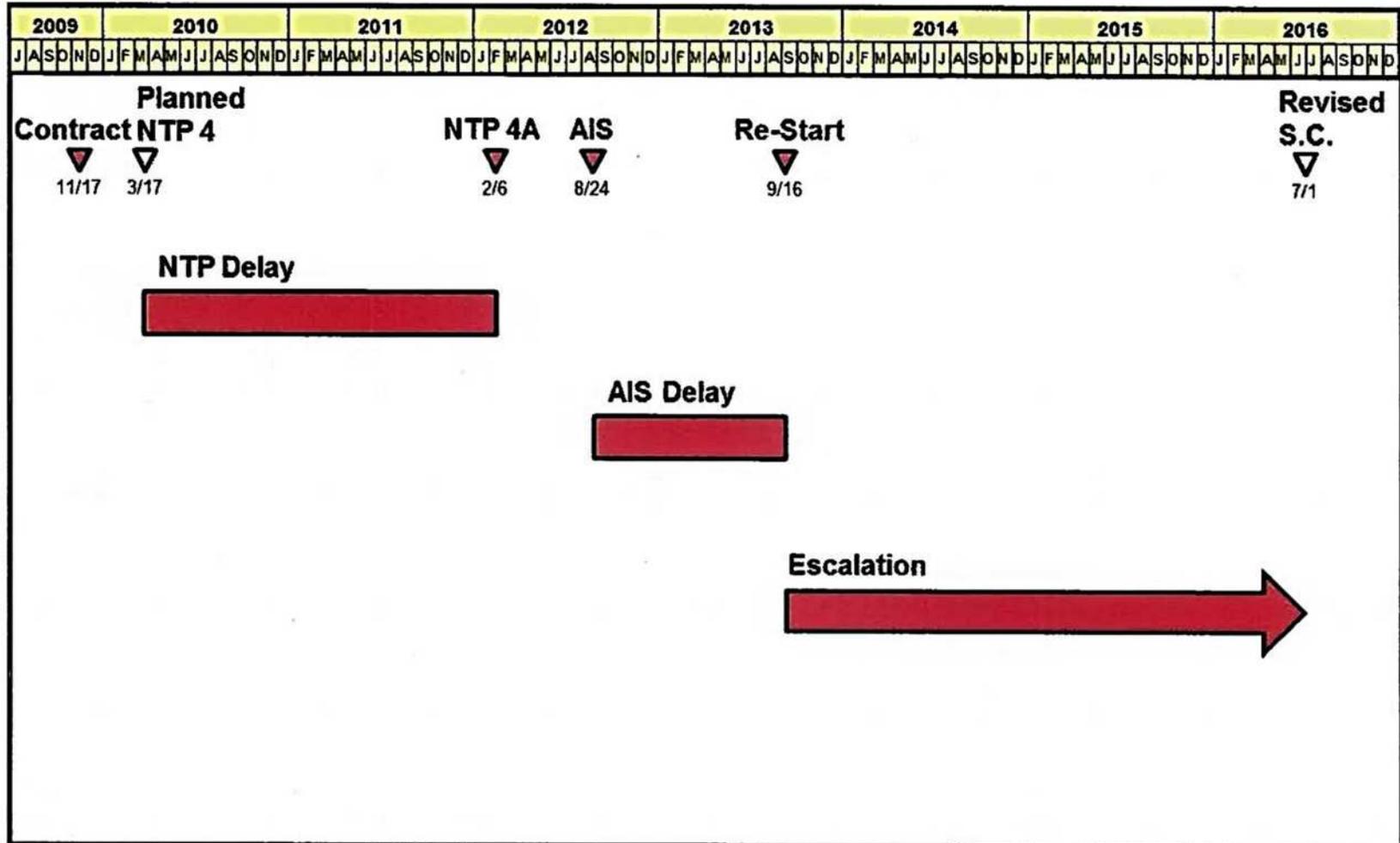
# NTP Delay and AIS Suspension Schedule Impact

NTP Schedule Delay Impact	20 months
AIS Suspension Delay	13 months
Total Time impact to West Oahu/Farrington Highway Contract (WOFH)	33 months
Change to Substantial Completion Date	Changed date from Oct. 1, 2013 to July 1, 2016
<b>Escalation is being calculated from September 1, 2013</b>	

# WOFH Contract Delay

- The following events delayed the WOFH DB Contract:
  - The delayed issuance of NTP 2, 3, & 4
  - Program's construction was halted due to court ruling requiring completion of the Archeological Investigative Survey (AIS)
- Resolution of the cost with KIWC due to delay were stagnated. A path forward was developed to come to an equitable adjustment with KIWC. It consisted of:
  - Complete the AIS Audit, Develop Provisional Sum Change Orders, Individual Item Evaluation
  - All other issues with WOFH contract are resolved with change orders issued
  - KIWC subcontractor, Commercial Metals (CMC) was broken out and settled directly
- Initial Claim submitted on September, 2013 and settled July, 2015

# WOFH Contract Delay Overview



# Delay Change Order Summary

Category	Requested Amount	Settled Amount
Craft	\$ 1,061,418	\$ 880,154
Staff	294,965	253,981
Craft Labor Shortage	1,406,400	0
Materials	5,889,562	3,908,114
Freight	<u>762,129</u>	<u>536,872</u>
Total	<u>\$ 9,414,474</u>	<u>\$ 5,579,121</u>

KIWC Mark-up = \$649,324 (10.45%). Original Request = \$1,095,700  
 Total Agreed Amount including KIWC Mark-up = \$6,228,445

A cost difference of \$3,835,353 or 59.2% of the requested amount

# Evaluation of Craft Labor Escalation

Category	Requested Amount	Settled Amount
Shop Labor Associated Steel	\$ 180,357	\$ 172,228
Staff Labor Associated Steel	268,273	122,898
Field Labor Commercial Metals	<u>632,788</u>	<u>585,028</u>
Total	<u>\$ 1,081,418</u>	<u>\$ 880,154</u>

A cost difference of \$201,264 or 81.3% of the requested amount

# Evaluation of CMC Claim for Iron Worker Short Supply Labor

CMC claimed that due to a short supply of qualified journeymen Iron Workers that their labor efficiency was negatively impacted and requested \$1,406,400. CMC's claim was based upon a 40% apprentice usage rate experienced by CMC.

1. HART established a data base created from certified payrolls of journeymen and apprentices provided by CMC and ASW.
2. HART reviewed actual journeymen and apprentice hours realized by both companies from September 2013 through May 2015.
3. The actual hours worked in this time frame was slightly less than the CMC forecasted hours for the required work.
4. HART rejected the short supply request for compensation. The actual hours worked did show a 40% usage of apprentices, however, as the actual hours worked were less than those forecasted by CMC, no negative impact was experienced and it was agreed that the cost was zero dollars.

# Evaluation of CMC Claim for Reinforcing Steel Material

CMC initially based their escalation cost for material by utilizing published announcement letters from a major rolling mill in the western portion of the United States. HART did not accept this approach and suggested utilizing nationally accepted indices for determining escalation cost for reinforcing material. Since neither party could find common ground it was decided to address escalation when it occurred, rather than forward price material costs based upon anticipated escalation which had not yet occurred.

CMC's requested amount based on published letters	\$ 5,889,562	
Settled amount based on actual cost	<u>3,908,114</u>	
Cost difference	<u>\$1,981,448</u>	66.3%

# Evaluation of Staff Labor Escalation

Category	Requested Amount	Settled Amount
Staff Labor Associated Steel	\$ 80,587	\$ 65,859
Staff Labor Commercial Metals	<u>214,378</u>	<u>188,132</u>
Total	<u>\$ 294,965</u>	<u>\$ 253,981</u>

A cost difference of \$40,964 or 86.1% of the requested amount

# Evaluation of Transportation Escalation

CMC originally planned to manufacture the reinforcing steel in their new mini-mill located in Nevada. Their transportation costs were based upon rail shipping to the State of Washington, ocean freight to Hawaii, and trucking to the local fabrication sites on Oahu. Their original requested cost of \$762,129 was based upon these three factors.

1. HART determined in reviewing actual bills of lading that CMC had elected to not manufacture the rebar but to purchase bulk rebar from a small mill in the State of Washington, eliminating the need for rail freight. The amount of \$159,277 was removed from the requested cost.
2. HART reviewed actual ocean freight bills and agreed to \$380,210 prior to mark up
3. HART accepted the cost for trucking on Oahu which was \$105,339 prior to mark up

Total requested freight	\$ 762,129	
Total settled freight	<u>536,872</u>	
Cost difference	<u>\$ 225,257</u>	70.4%

# Questions

Mahalo!