



IN REPLY REFER TO:
HRT6/12-473642R

HONOLULU AUTHORITY for RAPID TRANSPORTATION

RECEIVED

Daniel A. Grabauskas
EXECUTIVE DIRECTOR AND CEO

2012 JUL 23 P 3: 50

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July 20, 2012

CITY COUNCIL
HONOLULU, HAWAII

The Honorable Tom Berg
Honolulu City Council
530 South King Street, Room 202
Honolulu, Hawaii 96813

Dear Councilmember Berg:

Per your letter dated June 26, 2012, attached are copies of the contracts of the public involvement individuals, companies, consultants, and subconsultants hired or contracted by the Honolulu Authority for Rapid Transportation or its program management and general engineering consultants.

There are no employment contracts for direct employees of Parsons Brinckerhoff, Inc. and InfraConsult, LLC, the general engineering and program management consultants, respectively. All Parsons Brinckerhoff, Inc. and InfraConsult, LLC direct employees serve at-will without individual contracts. Therefore, although these employees are included in the following list, there are no contracts for them in the attachment.

An index of attached contracts and notations of direct employees is listed below:

Name	Comment
William Brennan	HART Public Information - Information Specialist III <i>Personal Services Contract</i>
Scott Ishikawa	HART Public Information - Information Specialist II <i>Personal Services Contract</i>
Lena Kamae	HART Public Information - Secretary II <i>Personal Services Contract</i>
Robert Reynolds	HART Public Information - Multimedia Administrator <i>Personal Services Contract</i>
Lois Hamaguchi	HART Public Information - Information Specialist II <i>Personal Services Contract</i>
Jeanne Mariani-Belding	InfraConsult, LLC - Public Information Officer <i>(direct employee)</i>
John Williamson, LLC	InfraConsult, LLC Subcontractor <i>Subcontract Agreement</i>
Rocio Batarse	Parsons Brinckerhoff - Public Involvement Field Operations Manager <i>(direct employee)</i>
Nalani Dahl	Parsons Brinckerhoff - Public Involvement Director <i>(direct employee)</i>
Matthew Derby	Parsons Brinckerhoff - Public Involvement Marketing & Communications Manager <i>(direct employee)</i>

Sean Egdamin	Parsons Brinckerhoff Subcontractor/Graphic Artist <i>LKG-CMC Subcontract Agreement</i>
Shenrika Glasco	Parsons Brinckerhoff Subcontractor/Events Coordinator <i>LKG-CMC Subcontract Agreement</i>
Pat Lee & Associates, LLC	Parsons Brinckerhoff Subcontractor <i>Subcontract Agreement</i>
Gary K. Omori, LLC	Parsons Brinckerhoff Subcontractor <i>Subcontract Agreement</i>
Artelene Lum	Parsons Brinckerhoff - Public Involvement Administrative Assistant Temporary Service <i>(direct employee)</i>
P. Douglas Carlson d/b/a Carlson Communications	Parsons Brinckerhoff Subcontractor <i>Subcontract Agreement</i>
Community Outreach Associates LLC	Parsons Brinckerhoff Subcontractor <i>Subcontract Agreement</i>
Global Teach, Inc.	Parsons Brinckerhoff Subcontractor <i>Subcontract Agreement</i>
John F. DeSoto	Parsons Brinckerhoff Subcontractor <i>Subcontract Agreement</i>
Lychee Productions, Inc.	Parsons Brinckerhoff Subcontractor - <i>Subcontract Agreement</i>
MM Pictures, LLC	Parsons Brinckerhoff Subcontractor <i>Subcontract Agreement</i>
Red Monarch Strategies Inc.	Parsons Brinckerhoff Subcontractor <i>Subcontract Agreement</i>

Please note that certain personal information and confidential business information has been redacted in the attached materials.

Do not hesitate to contact me should you have any further questions.

Sincerely,



Daniel A. Grabauskas
Executive Director and CEO

Attachments

cc: All Councilmembers
HART Board of Directors
Mr. Douglas S. Chin, Managing Director

PERSONAL SERVICES
BASIC CONTRACT
EMPLOYER-EMPLOYEE

THIS AGREEMENT made this 1st day of July 2012, by and between the HONOLULU AUTHORITY FOR RAPID TRANSPORTATION, a semi-autonomous agency of the City and County of Honolulu, hereinafter called the "EMPLOYER" and William Brennan hereinafter called the "EMPLOYEE";

WITNESSETH THAT:

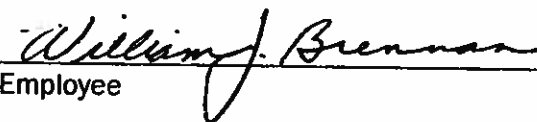
For and in consideration of the payment of a monthly salary of \$6844 per month, the EMPLOYEE will provide services as a Information Specialist III to the EMPLOYER, commencing as of July 1, 2012, and terminating as of June 30, 2013; provided that in no event shall the total amount of salary exceed the sum of \$ 80867, subject to the additional terms, conditions, and covenants which are attached hereto and made a part hereof. This contract, including the provisions governing the contract terms and salary, are subject to budgetary appropriation.

The employee understands and agrees that during the period of this contract, the monthly salary and total salary may be modified due to the terms of the collective bargaining agreement or provisions in a Mayor's Directive, as applicable to the employee.


IN WITNESS WHEREOF, the parties hereto have caused their hands to be set on the day and year first written above.

HONOLULU AUTHORITY FOR RAPID
TRANSPORTATION

By 
for Executive Director & CEO


Employee

APPROVED AS TO FORM AND LEGALITY:


Deputy Corporation Counsel

JUL 10 2012
HONOLULU AUTHORITY FOR RAPID TRANSPORTATION

STATEMENT OF DUTIES AND RESPONSIBILITIES

Information Specialist III
Job Title

William Brennan
Employee's Name

Duties and Responsibilities:

1. Assist in planning, directing, and coordinating the public information and community outreach programs for HART.
2. Work with staff to execute complex and sensitive informational assignments concerning the Rapid Transit Division, particularly the Honolulu High-Capacity Transit Corridor Project.
3. Description of Duties and Responsibilities as stated in the Position Description for Position No. TR-489
4. Other duties as required


for Executive Director & CEO

6/27/2012
Date

EMPLOYER-EMPLOYEE CONTRACT

**ADDITIONAL TERMS, CONDITIONS, AND
COVENANTS OF EMPLOYMENT:**

For and in consideration of the wages to be paid to the employee by the City, the employee further agrees and understands that:

1. This employment is temporary and this employment is made under the provisions of subsection (e), (f), (g), or (h) of Section 6-1103 of the Revised Charter of the City and County of Honolulu.
2. The employee shall be entitled to no fringe benefits except as provided by applicable law, rule, or executive order;
3. The wages will be paid on payment schedules applicable to regular employees;
4. The employee shall perform all of the work under the supervision of an immediate supervisor or any other person who is to supervise the activities;
5. This contract is for personal services and cannot be assigned or delegated;
6. The employee shall perform all the duties and responsibilities set forth in the Statement of Duties and Responsibilities which is attached hereto and made part hereof, and such other duties as may be assigned by the appointing authority or authorized subordinate;
7. This employment may be terminated by either the employee or the employer provided that written notice of such termination be sent to either the employee or the employer within 15 days before such termination;
8. This employment will be subject to all laws, ordinances, and rules and regulations having the effect of law governing employment of public employees; and
9. The employee is to carry out and observe all lawful instructions and orders issued by the immediate supervisors or appointing authority relative to employment; and if the employee fails so to do, the employee shall be subject to disciplinary action or termination of this contract.

I HAVE READ THE ABOVE AND I UNDERSTAND
THE CONTENTS THEREIN:

William F. Brennan
Employee

Date: 27 June 12

PERSONAL SERVICES
BASIC CONTRACT
EMPLOYER-EMPLOYEE

THIS AGREEMENT made this 1st day of July 2012, by and between the HONOLULU AUTHORITY FOR RAPID TRANSPORTATION, a semi-autonomous agency of the City and County of Honolulu, hereinafter called the "EMPLOYER" and Scott Ishikawa hereinafter called the "EMPLOYEE";

WITNESSETH THAT:

For and in consideration of the payment of a monthly salary of \$6330 per month, the EMPLOYEE will provide services as a Information Specialist II to the EMPLOYER, commencing as of July 1, 2012, and terminating as of June 30, 2013; provided that in no event shall the total amount of salary exceed the sum of \$ 77427, subject to the additional terms, conditions, and covenants which are attached hereto and made a part hereof. This contract, including the provisions governing the contract terms and salary, are subject to budgetary appropriation.

The employee understands and agrees that during the period of this contract, the monthly salary and total salary may be modified due to the terms of the collective bargaining agreement or provisions in a Mayor's Directive, as applicable to the employee.

IN WITNESS WHEREOF, the parties hereto have caused their hands to be set on the day and year first written above.

HONOLULU AUTHORITY FOR RAPID
TRANSPORTATION

By 
for Executive Director & CEO


Employee

APPROVED AS TO FORM AND LEGALITY:


Deputy Corporation Counsel

STAMPED AREA

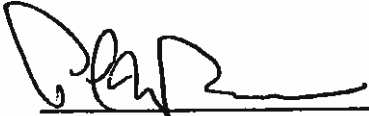
STATEMENT OF DUTIES AND RESPONSIBILITIES

Information Specialist II
Job Title

Scott Ishikawa
Employee's Name

Duties and Responsibilities:

1. Plans and executes a wide range of public informational activities encompassing all aspects of the Honolulu High-Capacity Transit Corridor Project.
2. Serves as project spokesperson.
3. Maintains effective working relationships with members of the media, community groups, and key individuals in the public and private sectors.
4. Coordinates and prepares informational materials and reports.
5. Represents the City and project office at public and community meetings.


for Executive Director & CEO
6/29/2022
Date

EMPLOYER-EMPLOYEE CONTRACT

ADDITIONAL TERMS, CONDITIONS, AND
COVENANTS OF EMPLOYMENT:

For and in consideration of the wages to be paid to the employee by the City, the employee further agrees and understands that:

1. This employment is temporary and this employment is made under the provisions of subsection (e), (f), (g), or (h) of Section 6-1103 of the Revised Charter of the City and County of Honolulu.

2. The employee shall be entitled to no fringe benefits except as provided by applicable law, rule, or executive order;

3. The wages will be paid on payment schedules applicable to regular employees;

4. The employee shall perform all of the work under the supervision of an immediate supervisor or any other person who is to supervise the activities;

5. This contract is for personal services and cannot be assigned or delegated;

6. The employee shall perform all the duties and responsibilities set forth in the Statement of Duties and Responsibilities which is attached hereto and made part hereof, and such other duties as may be assigned by the appointing authority or authorized subordinate;

7. This employment may be terminated by either the employee or the employer provided that written notice of such termination be sent to either the employee or the employer within 15 days before such termination;

8. This employment will be subject to all laws, ordinances, and rules and regulations having the effect of law governing employment of public employees; and

9. The employee is to carry out and observe all lawful instructions and orders issued by the immediate supervisors or appointing authority relative to employment; and if the employee fails so to do, the employee shall be subject to disciplinary action or termination of this contract.

I HAVE READ THE ABOVE AND I UNDERSTAND
THE CONTENTS THEREIN:



Employee

Date: 6/28/2012

PERSONAL SERVICES
BASIC CONTRACT
EMPLOYER-EMPLOYEE

THIS AGREEMENT made this 1st day of July 2012, by and between the HONOLULU AUTHORITY FOR RAPID TRANSPORTATION, a semi-autonomous agency of the City and County of Honolulu, hereinafter called the "EMPLOYER" and Lena Kamae hereinafter called the "EMPLOYEE";

WITNESSETH THAT:


For and in consideration of the payment of a monthly salary of \$4004 per month, the EMPLOYEE will provide services as a Secretary II to the EMPLOYER, commencing as of July 1, 2012, and terminating as of June 30, 2013; provided that in no event shall the total amount of salary exceed the sum of \$ 48974, subject to the additional terms, conditions, and covenants which are attached hereto and made a part hereof. This contract, including the provisions governing the contract terms and salary, are subject to budgetary appropriation.

The employee understands and agrees that during the period of this contract, the monthly salary and total salary may be modified due to the terms of the collective bargaining agreement or provisions in a Mayor's Directive, as applicable to the employee.

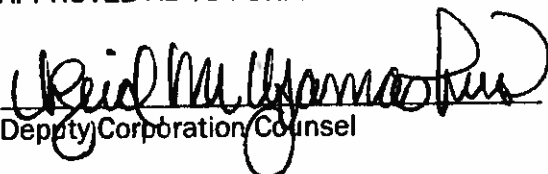
IN WITNESS WHEREOF, the parties hereto have caused their hands to be set on the day and year first written above.

HONOLULU AUTHORITY FOR RAPID
TRANSPORTATION

By 
for Executive Director & CEO


Employee

APPROVED AS TO FORM AND LEGALITY:


Deputy Corporation Counsel

STATEMENT OF DUTIES AND RESPONSIBILITIES

Secretary II
Job Title


Lena M. Kamae
Employee's Name

Duties and Responsibilities:

Provide secretarial services to the Public Information Branch of the Rapid Transit Division. Support and assist the Branch Chief as well as the staff members with their work. Organize and coordinate a variety of staff activities, administrative and clerical duties necessary to run the Branch efficiently.

Specific duties include but are not limited to:

1. Organize and coordinate matters that require executive attention.
2. Set up, maintain and revise filing systems and data base for the Public Information Branch, including computer stored electronic as well as hard copy files.
3. Search files and assemble background materials and information for the executive's action or decisions.
4. Arrange and confirm appointments, maintain schedules and calendars for the Branch Chief.
5. Organize, coordinate and schedule date and place for meetings and notify members who are to attend.
6. Give information to the public or others based upon knowledge of division functions and the Honolulu High Capacity Transit Corridor Project.
7. Prepare correspondence and reports for management staff and review outgoing communication for consistency with division objectives, policies, and procedures.
8. Take and transcribe notes of meetings and conferences and prepare summary minutes.
9. Performs full range of word processing tasks to store, retrieve, modify, format and revise letters, memoranda, reports, documents, spreadsheets and other materials.
10. Draft responses to elected officials, private organizations, government agencies, or the general public on behalf of the Chief Public Information Officer.
11. Set up and maintain files of confidential correspondence, reports, minutes and other materials.
12. Screens callers and visitors.
13. May handle travel and guest arrangements.
14. Answer telephone calls and route to appropriate staff or relay messages.
15. Makes confidential contacts related to Branch functions.
16. Read incoming mail, DARTS and RISRS and answer routine correspondence independently or distribute as appropriate.
17. Draft letters from general and oral or written instructions.
18. Other duties as assigned.

for 
Executive Director & CEO
6/29/2012
Date

EMPLOYER-EMPLOYEE CONTRACT

**ADDITIONAL TERMS, CONDITIONS, AND
COVENANTS OF EMPLOYMENT:**

For and in consideration of the wages to be paid to the employee by the City, the employee further agrees and understands that:

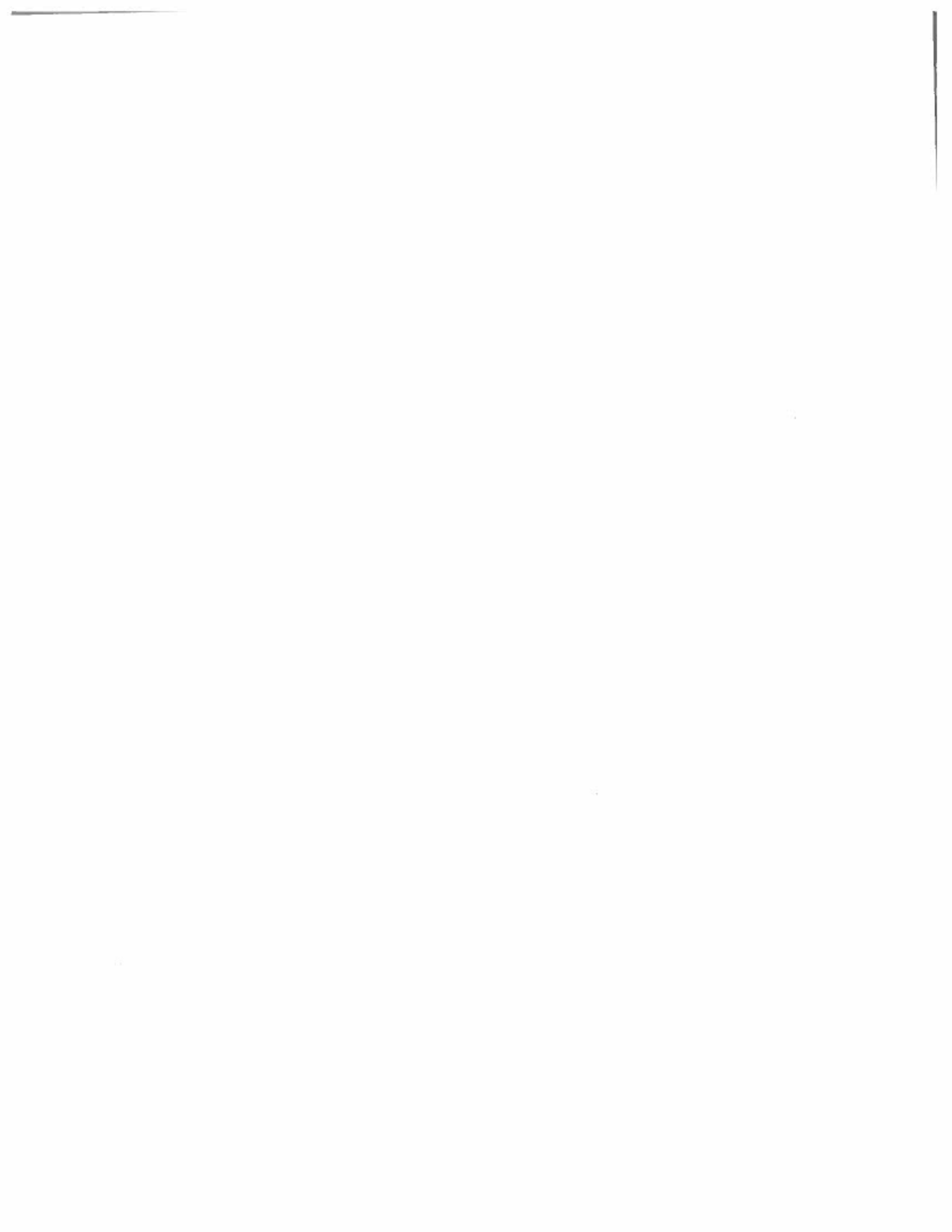
1. This employment is temporary and this employment is made under the provisions of subsection (e), (f), (g), or (h) of Section 6-1103 of the Revised Charter of the City and County of Honolulu.
2. The employee shall be entitled to no fringe benefits except as provided by applicable law, rule, or executive order;
3. The wages will be paid on payment schedules applicable to regular employees;
4. The employee shall perform all of the work under the supervision of an immediate supervisor or any other person who is to supervise the activities;
5. This contract is for personal services and cannot be assigned or delegated;
6. The employee shall perform all the duties and responsibilities set forth in the Statement of Duties and Responsibilities which is attached hereto and made part hereof, and such other duties as may be assigned by the appointing authority or authorized subordinate;
7. This employment may be terminated by either the employee or the employer provided that written notice of such termination be sent to either the employee or the employer within 15 days before such termination;
8. This employment will be subject to all laws, ordinances, and rules and regulations having the effect of law governing employment of public employees; and
9. The employee is to carry out and observe all lawful instructions and orders issued by the immediate supervisors or appointing authority relative to employment; and if the employee fails so to do, the employee shall be subject to disciplinary action or termination of this contract.

I HAVE READ THE ABOVE AND I UNDERSTAND
THE CONTENTS THEREIN:



Employee

Date: 6/28/12



Corp. Counsel
APPD:OC
12-05506
KMM

PERSONAL SERVICES
BASIC CONTRACT
EMPLOYER-EMPLOYEE

THIS AGREEMENT made this 1st day of July 2012, by and between the HONOLULU AUTHORITY FOR RAPID TRANSPORTATION, a semi-autonomous agency of the City and County of Honolulu, hereinafter called the "EMPLOYER" and Robert Reynolds, hereinafter called the "EMPLOYEE";

WITNESSETH THAT:

For and in consideration of the payment of a monthly salary of \$6844 per month, the EMPLOYEE will provide services as an Information Specialist III to the EMPLOYER, commencing as of July 1, 2012, and terminating as of June 30, 2013; provided that in no event shall the total amount of salary exceed the sum of \$ 80867, subject to the additional terms, conditions, and covenants which are attached hereto and made a part hereof. This contract, including the provisions governing the contract terms and salary, are subject to budgetary appropriation.

The employee understands and agrees that during the period of this contract, the monthly salary and total salary may be modified due to the terms of the collective bargaining agreement or provisions in a Mayor's Directive, as applicable to the employee.

IN WITNESS WHEREOF, the parties hereto have caused their hands to be set on the day and year first written above.

HONOLULU AUTHORITY FOR RAPID
TRANSPORTATION

By 
for Executive Director & CEO


Employee

APPROVED AS TO FORM AND LEGALITY:


Deputy Corporation Counsel

STATEMENT OF DUTIES AND RESPONSIBILITIES


Information Specialist III
Job Title

ROBERT DUSTIN REYNOLDS
Employee

Duties and Responsibilities:

This position generates and oversees the content for the HART website, ensuring a robust online presence that includes effective use of social media tools, video, online polls, etc. to maximize the Project's public information outreach efforts. Clear, concise, and timely communication through the use of all forms of media is essential for successful public involvement and interaction.

1. Develop the multimedia strategy in support of the project's overall public information and outreach efforts.
2. Generate and oversee the development of content for the project's website, which is undergoing a major redesign. Incorporate existing content with new material, including social media and video.
3. Utilize the agency's online presence to educate and engage the public in all aspects of the rail project throughout its various phases of construction and operation. Takes proactive steps to educate the public to reduce complaints or other concerns regarding the project.
4. Write and edit articles and other informational content related to the rail project.
5. Produce and edit video content for the website.
6. Develop online polls and other feedback mechanisms to allow for public input and to assess public perceptions and concerns regarding the project.
7. Evaluate the overall effectiveness of the Project's online presence and develop strategies to address issues and enhance public understanding of the project.
8. Work with HART and contracted program managers in the development of online content.
9. Performs other community relations and public involvement duties for the Project.


for Executive Director & CEO
6/27/2012
Date

EMPLOYER-EMPLOYEE CONTRACT
ADDITIONAL TERMS, CONDITIONS, AND
COVENANTS OF EMPLOYMENT:

For and in consideration of the wages to be paid to the employee by the City, the employee further agrees and understands that:

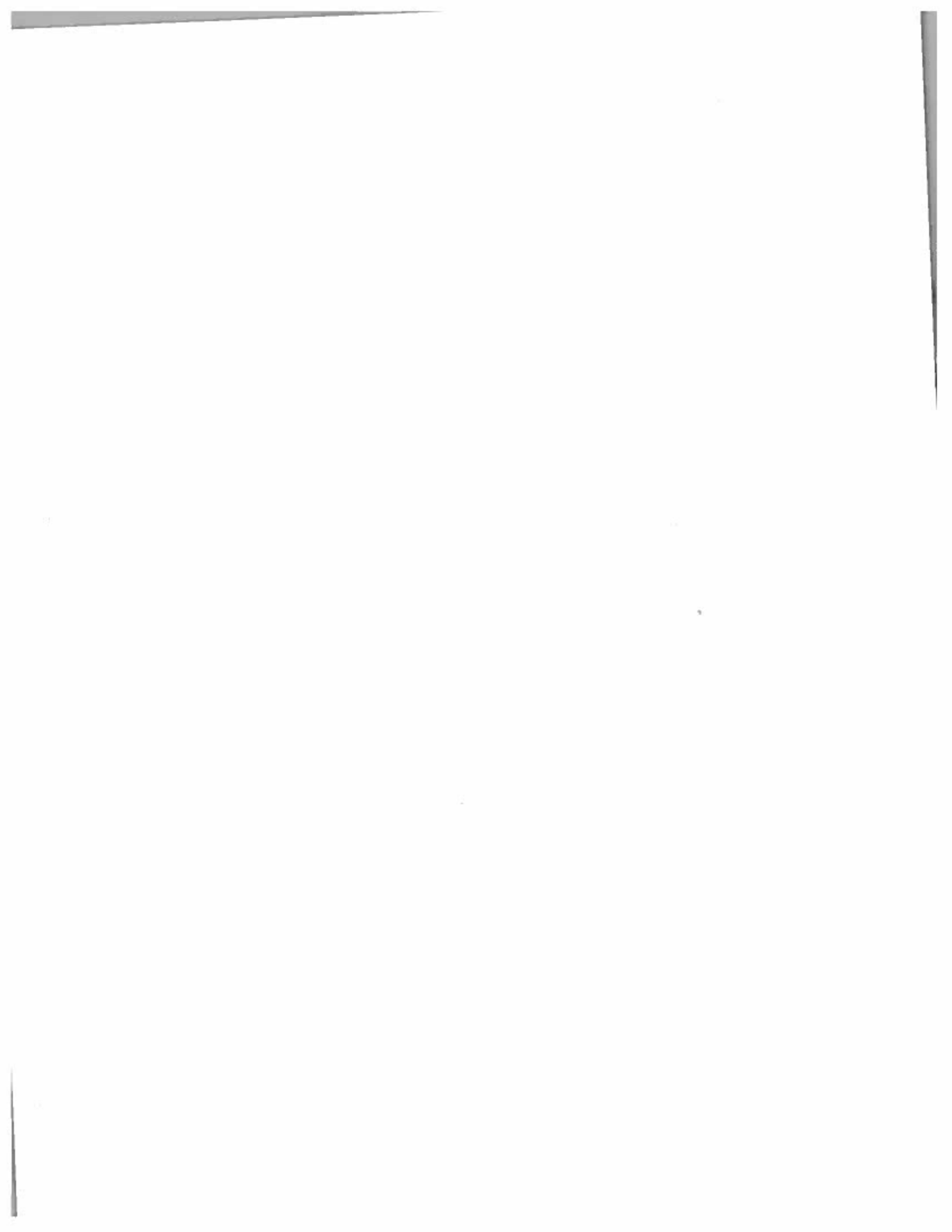
1. This employment is temporary and this employment is made under the provisions of subsection (e), (f), (g), or (h) of Section 6-1103 of the Revised Charter of the City and County of Honolulu.
2. The employee shall be entitled to no fringe benefits except as provided by applicable law, rule, or executive order;
3. The wages will be paid on payment schedules applicable to regular employees;
4. The employee shall perform all of the work under the supervision of an immediate supervisor or any other person who is to supervise the activities;
5. This contract is for personal services and cannot be assigned or delegated;
6. The employee shall perform all the duties and responsibilities set forth in the Statement of Duties and Responsibilities which is attached hereto and made part hereof, and such other duties as may be assigned by the appointing authority or authorized subordinate;
7. This employment may be terminated by either the employee or the employer provided that written notice of such termination be sent to either the employee or the employer within 15 days before such termination;
8. This employment will be subject to all laws, ordinances, and rules and regulations having the effect of law governing employment of public employees; and
9. The employee is to carry out and observe all lawful instructions and orders issued by the immediate supervisors or appointing authority relative to employment; and if the employee fails so to do, the employee shall be subject to disciplinary action or termination of this contract.

I HAVE READ THE ABOVE AND I UNDERSTAND
THE CONTENTS THEREIN:



Employee

Date: 6/27/12



PERSONAL SERVICES
BASIC CONTRACT
EMPLOYER-EMPLOYEE

THIS AGREEMENT made this 1st day of July 2012, by and between the HONOLULU AUTHORITY FOR RAPID TRANSPORTATION, a semi-autonomous agency of the City and County of Honolulu, hereinafter called the "EMPLOYER" and Lois Hamaguchi hereinafter called the "EMPLOYEE";

WITNESSETH THAT:

For and in consideration of the payment of a monthly salary of \$6330 per month, the EMPLOYEE will provide services as a Information Specialist II to the EMPLOYER, commencing as of July 1, 2012, and terminating as of June 30, 2013; provided that in no event shall the total amount of salary exceed the sum of \$ 77427, subject to the additional terms, conditions, and covenants which are attached hereto and made a part hereof. This contract, including the provisions governing the contract terms and salary, are subject to budgetary appropriation.

The employee understands and agrees that during the period of this contract, the monthly salary and total salary may be modified due to the terms of the collective bargaining agreement or provisions in a Mayor's Directive, as applicable to the employee.

IN WITNESS WHEREOF, the parties hereto have caused their hands to be set on the day and year first written above.

HONOLULU AUTHORITY FOR RAPID
TRANSPORTATION

By [Signature]
for Executive Director & CEO

Lois Hamaguchi
Employee

APPROVED AS TO FORM AND LEGALITY:

[Signature]
Deputy Corporation Counsel

STATEMENT OF DUTIES AND RESPONSIBILITIES


Information Specialist II
Job Title

Lois Hamaguchi
Employee's Name

Duties and Responsibilities:

Under the direction of the HART Public Information Officer, this position plans and executes a wide range of public information activities, with primary responsibility for public engagement programs to foster a climate of support for the Rail Project.

1. Develops community engagement programs and partnerships in support of the Rail Project.
2. Plans and coordinates community outreach efforts, including preparing for public involvement meetings, board and community association meetings, and other public events.
3. Develops strategies for communicating Project goals and information to diverse groups of people.
4. Develops materials, presentations and programs to promote understanding of the Rail Project and its goals throughout its various phases of construction and operation. Originates or adapts written and graphic materials to be appropriate for various community groups.
5. Establishes and maintains effective working relationships with the media, community leaders, and public and private sector partners.
6. Represents the City and HART at public and community meetings.


for Executive Director & CEO
6/29/2012
Date

EMPLOYER-EMPLOYEE CONTRACT
ADDITIONAL TERMS, CONDITIONS, AND
COVENANTS OF EMPLOYMENT:

For and in consideration of the wages to be paid to the employee by the City, the employee further agrees and understands that:

1. This employment is temporary and this employment is made under the provisions of subsection (e), (f), (g), or (h) of Section 6-1103 of the Revised Charter of the City and County of Honolulu.
2. The employee shall be entitled to no fringe benefits except as provided by applicable law, rule, or executive order;
3. The wages will be paid on payment schedules applicable to regular employees;
4. The employee shall perform all of the work under the supervision of an immediate supervisor or any other person who is to supervise the activities;
5. This contract is for personal services and cannot be assigned or delegated;
6. The employee shall perform all the duties and responsibilities set forth in the Statement of Duties and Responsibilities which is attached hereto and made part hereof, and such other duties as may be assigned by the appointing authority or authorized subordinate;
7. This employment may be terminated by either the employee or the employer provided that written notice of such termination be sent to either the employee or the employer within 15 days before such termination;
8. This employment will be subject to all laws, ordinances, and rules and regulations having the effect of law governing employment of public employees; and
9. The employee is to carry out and observe all lawful instructions and orders issued by the immediate supervisors or appointing authority relative to employment; and if the employee fails so to do, the employee shall be subject to disciplinary action or termination of this contract.

I HAVE READ THE ABOVE AND I UNDERSTAND
THE CONTENTS THEREIN:

Doni Hamae
Employee

Date: 6/28/12

HONOLULU RAIL TRANSIT PROJECT
SUBCONTRACT AGREEMENT
BETWEEN
INFRACONSULT LLC
AND
JOHN WILLIAMSON, LLC
FOR THE
HONOLULU RAIL TRANSIT PROJECT

This Agreement is made and entered into this 28 day of February, 2012 by and between InfraConsult LLC (hereinafter referred to as IC), a Delaware Limited Liability Company authorized to conduct business under the laws of the State of Hawaii, with a place of business at 1099 Alakea Street, Suite 2110, Honolulu, Hawaii 96813 (the PROJECT OFFICE), and John Williamson, LLC with a place of business at (hereinafter called the "SUBCONSULTANT").

WHEREAS, IC has entered into a written agreement (the PRIME AGREEMENT) with the Honolulu Authority for Rapid Transportation (HART) to provide Project Management Support Services for the Honolulu Rail Transit Project (the PROJECT) as described in the contract dated February 28, 2012. IC and the SUBCONSULTANT have agreed that the SUBCONSULTANT will perform the following services (the SERVICES) which are part of the PRIME AGREEMENT identified above.

For the consideration hereinafter set forth, the parties hereto do mutually agree as follows:

IC retains the SUBCONSULTANT to perform the SERVICES, subject to the terms, conditions, and stipulations as hereinafter stated.

The PRIME AGREEMENT is hereby incorporated into and made a part of this Agreement by this reference. With respect to the PROJECT, SUBCONSULTANT agrees to be bound to IC in the same manner and to the same extent as IC is bound to HART under the PRIME AGREEMENT, except as otherwise expressly provided herein. In the event of any conflict between the terms of the PRIME AGREEMENT and this Agreement, the terms of this Agreement shall control.

The PRIME AGREEMENT includes the following documents, which are attached hereto and incorporated herein by reference:

- A. Agreement for Professional Services, between the Honolulu Authority for Rapid Transportation and InfraConsult LLC. (Attachment A)
- B. Special Provisions to the Contract between the Honolulu Authority for Rapid Transportation and InfraConsult LLC. (Attachment B)

- C. General Terms and Conditions for Contracts for Professional Services for the City and County of Honolulu, dated (8/2000) (Attachment C).

PROVISIONS

1. SCOPE OF SERVICES

It is agreed that IC will provide a work station located in the PROJECT OFFICE for use by SUBCONSULTANT in the performance of SERVICES under this Agreement.

SUBCONSULTANT will provide public information and communication services with external and internal stakeholders.

2. COMPENSATION

IC shall compensate the SUBCONSULTANT at a rate of _____ per hour plus applicable Hawaii General Excise and Use Tax thereon at a rate of 4.5%. The rate shall be full compensation for all direct labor, employee benefits, overhead, general and administrative expenses, and fixed fees. The total amount of compensation, including general excise and use tax, shall not exceed FIFTY THOUSAND AND 00/100 DOLLARS (\$50,000.00), unless amended as provided herein.

3. SCHEDULE

This Agreement shall become effective on March 8, 2012 and shall end on November 30, 2012 (the TERM) unless extended or terminated as provided herein.

4. INVOICING

The SUBCONSULTANT shall invoice IC for services on a monthly basis. Invoices received by IC by the 5th day of the month will be included in IC's next invoice to HART.

5. PAYMENT

Within ten (10) days following receipt of reimbursement from HART payment will be made by IC to the SUBCONSULTANT.

6. ACCEPTANCE OF FINAL PAYMENT CONSTITUTES RELEASE

The acceptance by SUBCONSULTANT of the final payment made under this Agreement shall operate as and be a release of IC from all claims and liabilities for compensation to SUBCONSULTANT for anything done, furnished, or relating to SUBCONSULTANT's work or services. Acceptance of payment shall be any negotiation of IC's check or the failure to make a written extra compensation claim within 10 calendar days of the receipt of that check.

7. DATA TO BE FURNISHED BY IC

Data to be furnished by IC to the SUBCONSULTANT includes all data provided to IC by HART, which is applicable to the PROJECT and to the SUBCONSULTANT's performance of the SERVICES.

8. INDEPENDENT CONSULTANT

The SUBCONSULTANT represents that it has, or will secure, at its own expense, all personnel required in performing the SERVICES under this Agreement. Such personnel shall not be employees of, nor have any contractual relationship with IC or HART. The SUBCONSULTANT, consistent with its status as an independent contractor, further agrees that its personnel will not hold themselves out as, nor claim to be, officers or employees of IC or HART by reason of this Agreement.

9. INSURANCE

SUBCONSULTANT shall procure and maintain at its own expense insurance of the kinds and in the amounts needed for performance of the SERVICES.

10. INDEMNITY

The SUBCONSULTANT shall indemnify, defend, and hold harmless IC and HART from and against any and all claims, suits, actions, judgments, demands, losses, costs, expenses, damages, and liability caused by, resulting from, or arising out of the negligent acts, errors, or omissions of the SUBCONSULTANT, its officers, employees, agents, or representatives in the performance of SERVICES under this Agreement. IC shall indemnify, defend, and hold harmless the SUBCONSULTANT from and against any and all claims, suits, actions, judgments, demands, losses, costs, expenses, damages, and liability caused by, resulting from, or arising out of the negligent acts, errors, or omissions of IC, its managers, employees, agents, or representatives in regard to the PROJECT.

11. CHANGES AND EXTRA SERVICES

IC may make changes within the general scope of this Agreement. If the SUBCONSULTANT is of the opinion that any proposed change causes an increase or decrease in the cost and/or the time period required for performance of this Agreement, the SUBCONSULTANT shall so notify IC of that fact. An agreed-upon change will be reduced to writing signed by the parties hereto and will modify this Agreement accordingly, whereon SUBCONSULTANT shall proceed to perform the requested change.

Any notification by the SUBCONSULTANT must be provided within fourteen (14) days from the date of receipt by the SUBCONSULTANT of IC's written notification of a proposed change.

IC may request the SUBCONSULTANT to perform extra services not covered by the SCOPE OF SERVICES. When such extra services are reduced to writing and mutually agreed to by IC and SUBCONSULTANT, SUBCONSULTANT shall perform such extra services in accordance with such Agreement. IC shall not be liable for payment of any extra services except upon such written amendment, and SUBCONSULTANT shall not be obligated to provide any extra services except upon such written Agreement.

12. DELAYS

The SUBCONSULTANT shall perform its services with due diligence upon receipt of a written Notice-to-Proceed from IC. In the event that performance of its SERVICES is delayed by causes beyond the reasonable control of the SUBCONSULTANT, and without the fault or negligence of the SUBCONSULTANT, the time for the performance of the SERVICES shall be equitably

adjusted by written amendment to reflect the extent of such delay. The SUBCONSULTANT shall provide IC with written notice of delay, including therein a description of the delay and the steps contemplated or actually taken by the SUBCONSULTANT to mitigate the effect of such delay.

13. DISPUTES

Disagreements between IC and SUBCONSULTANT concerning the meaning, requirements, or performance of this Agreement shall be subject to determination in accordance with the applicable procedures in the PRIME AGREEMENT. Dispute resolutions hereunder shall not be joined or consolidated with any other proceedings without both parties' express written agreement to such joinder or consolidation.

Except as otherwise provided in this Agreement, the pendency of a dispute will not excuse IC or SUBCONSULTANT from full and timely performance in accordance with terms of this Agreement.

14. TERMINATION

This Agreement may be terminated by IC upon seven (7) days written notice in the event of failure by the SUBCONSULTANT to perform in accordance with the terms of this Agreement. This Agreement may also be terminated by IC for its convenience upon ten (10) days written notice to the SUBCONSULTANT.

In the event of termination, the SUBCONSULTANT shall be compensated for all SERVICES performed up to the effective date of termination for which the SUBCONSULTANT has not been previously compensated.

Upon receipt of notice of termination from IC, the SUBCONSULTANT shall discontinue the SERVICES unless otherwise directed and deliver to IC all data, drawings, reports, estimates, summaries, and such other information and materials as may have been accumulated by the SUBCONSULTANT in the performance of the SERVICES under this Agreement, whether completed or in process.

This Agreement may be terminated by SUBCONSULTANT upon seven (7) days written notice in the event of failure by IC to perform in accordance with the terms of this Agreement.

15. OWNERSHIP OF DOCUMENTS

The parties hereto agree that all drawings, specifications, and other documents of the SUBCONSULTANT furnished hereunder to IC become the property of HART. The SUBCONSULTANT shall be permitted to retain reproducible copies of drawings, specifications, and other documents for its files.

16. SUCCESSORS AND ASSIGNS

The SUBCONSULTANT shall not assign, sublet, sell, transfer, or otherwise dispose of any interest in this Agreement without the prior written approval of IC. Any unauthorized attempt thereat shall be void and unenforceable.

17. NONWAIVER

No failure or waiver or successive failures or waivers on the part of either party (or their respective successors or permitted assigns), in the enforcement of any condition, covenant, or article of this Agreement shall operate as a discharge of any such condition, covenant, or article nor render the same invalid, nor impair the right of either party (or their successors or permitted assigns) to enforce the same in the event of any subsequent breaches.

18. NOTIFICATION

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if delivered by Registered mail or hand delivered addressed as follows:

TO IC : InfraConsult LLC.
 1099 Alakea Street, Suite 2110
 Honolulu, HI 96813
 Attention: Simon Zweighaft

TO SUBCONSULTANT: John Williamson. LLC

 Attention: John Williamson

19. APPLICABLE LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of Hawaii.

20. SEVERABILITY

In the event that any of the provisions or portions or applications thereof of this Agreement are held to be unenforceable or invalid by any court or competent jurisdiction, IC and SUBCONSULTANT shall negotiate an equitable adjustment in the provisions of the Agreement with a view toward effecting the purpose of this Agreement, and the validity and enforceability of the remaining provisions or portions of applications thereof, shall not be affected thereby.

21. EXTENT OF AGREEMENT

This Agreement represents the entire and integrated agreement between IC and the SUBCONSULTANT and supersedes and replaces all terms and conditions of any prior agreements, arrangements, negotiations, or representations, written or oral, with respect to this PROJECT.

IN WITNESS WHEREOF, this Agreement has been executed by IC and the
SUBCONSULTANT, effective from the day and year first written above.

INFRACONSULT LLC

BY: *Traci W. Mott*

JOHN WILLIAMSON, LLC

BY: *John Williamson*

**PROFESSIONAL SERVICES SUBCONTRACT
BETWEEN
PARSONS BRINCKERHOFF, INC.
AND
LKG-CMC, INC.
(#PB-16590E-LK0)**

This Subcontract, effective as of August 2, 2011, is made and entered into by and between PARSONS BRINCKERHOFF, INC. ("PB"), a New York corporation with offices at Alii Place, 17th Floor, 1099 Alakea Street, Honolulu, HI 96813, and LKG-CMC, INC. ("Subcontractor"), a California corporation, with offices at [REDACTED].

RECITALS

PB (formerly known as "PB Americas, Inc.") entered into General Engineering Consultant Contract (GEC II) No. SC-DTS-1100131 dated June 30, 2011 (the "Prime Agreement") between PB Americas, Inc. ("PB") and the Honolulu Authority for Rapid Transportation, hereinafter referred to as "HART" ("Client"), to provide general engineering, planning, construction management and other consultant services for the Honolulu High-Capacity Transit Corridor Project, which includes the 28-mile Locally Preferred Alternative and the 20-mile Airport Alignment, as more particularly defined in Prime Agreement Special Provisions VII(A) ("HHCTCP" or the "Project").

PB has determined the need to subcontract certain of the services required under the Prime Agreement, and Subcontractor has agreed to provide the same in accordance with the terms and conditions contained herein.

Therefore, for the consideration hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which the parties by their signatures below affirm, the parties do mutually agree as follows.

TERMS

The foregoing recitals are incorporated herein for all purposes as if fully set forth.

ARTICLE I: PRIME AGREEMENT TERMS AND CONDITIONS

Except as noted below, or where in their application the context clearly requires otherwise, all the terms and conditions of the Prime Agreement, including all exhibits thereto and other documents incorporated by reference therein, that pertain to the subcontracted services or to the Subcontractor, or that by their express terms are required to be incorporated into each subcontract (the "Prime Agreement Terms and Conditions"), labeled Attachment 1, are by this reference incorporated herein and made a part hereof for all purposes. By the signature below of its authorized representative, Subcontractor affirms that it has been provided a copy of Attachment 1 on CD.

With regard to the services to be performed by it, Subcontractor assumes toward PB all of the obligations and responsibilities that PB assumes toward the Client under the Prime Agreement Terms and Conditions, and Subcontractor shall be bound by all of the Prime Agreement Terms and Conditions to the same extent as PB is bound thereby. In the event of any conflicts or ambiguities between or among the provisions of this Subcontract and the Prime Agreement Terms and Conditions, the provision that imposes the more stringent requirement on Subcontractor shall take precedence.

Subcontractor shall include in all lower-tier subcontracts those provisions of the Prime Agreement that are required to be so included, and shall require all lower-tier subcontractors to comply with such provisions for the duration of their respective subcontracts. Subcontractor shall require each lower-tier subcontractor to make such disclosures and execute such attestations as may be required under the Prime Agreement Terms and Conditions, including but not limited to those required by state or federal statute associated with source of funding. Failure to comply with the terms of this paragraph shall constitute a material default.

ARTICLE 2: SCOPE OF SERVICES; UNAUTHORIZED AND EXTRA WORK

a. **Services.** Subcontractor shall perform, consistent with the standard of care stipulated herein and other terms and conditions of this Subcontract, those services set forth in the Scope of Services annexed hereto as Attachment 2 and by this reference incorporated herein and made a part hereof for all purposes (the "Services").

The Services include all tasks and components, whether or not expressly set forth herein, that are manifestly necessary to carry out the intent of this Subcontract, or that are customarily performed in conjunction with, as a component of, or in order to accomplish, the Services, and such tasks and components shall be performed as if fully set forth in the description of the Services.

b. **Unauthorized and Extra Work.** Subcontractor shall not proceed with performance of any Services or incur any costs, or be entitled to compensation or reimbursement for any Services performed or costs incurred, prior to the effective date of this Subcontract and issuance of Notice to Proceed ("NTP"). Nor shall Subcontractor proceed with performance of any work in addition to that stipulated in this Subcontract ("Extra Work"), or be entitled to compensation therefor, or to reimbursement for costs incurred in connection therewith, prior to full and proper execution of a Subcontract amendment executed by both parties describing the work to be performed, the schedule for performance, and the compensation to be paid. Any work performed prior to the effective date of this Subcontract or an amendment authorizing same, is done solely as a volunteer and at no cost to PB.

ARTICLE 3: KEY PERSONNEL

If any Subcontractor key personnel have been designated for this Project, they are listed below. Subcontractor's key personnel shall not be replaced without PB's or Client's prior written consent. In the event any key personnel become unavailable due to separation from employment with Subcontractor, long-term illness/disability, or death, Subcontractor shall nominate a replacement with equivalent qualifications for PB's approval, which shall not be unreasonably withheld. In the event Subcontractor fails to provide a suitable replacement, PB shall have the right to terminate this Subcontract.

Key Personnel: NONE

ARTICLE 4: COMPENSATION

Subcontractor shall be compensated on a cost plus fixed fee (CPFF) basis, and shall perform the Services for an amount not to exceed **THREE MILLION FOUR HUNDRED FORTY-FOUR THOUSAND SEVEN HUNDRED TWENTY-TWO AND NO/100 DOLLARS (\$3,444,722.00)** (the "Total Price"), in accordance with the budget/fee schedule annexed hereto as Attachment 3 and by this reference incorporated herein and made a part hereof for all purposes ("Fee Schedule"), and subject to any applicable mandates of Prime Agreement Part 2, Special Provisions Exhibit 2B(2)(a), (b), (c) and (e). The fixed fee component is only due and payable for Services for which PB has given notice to proceed

and which the Subcontractor has completed in accordance with the terms of this Subcontract. PB may permit an increase in the fixed fee only due to "Extra Work," as that term is defined herein.

Provisional overhead rates in effect at Subcontract inception may be modified at the end of each subsequent fiscal year only upon submittal and approval of a detailed "Schedule of Overhead," accompanied by Subcontractor's most recent report of independent auditors ("Independent Auditor Report"). Subcontractor shall submit its Schedule of Overhead and Independent Auditor Report no later than six (6) months after the end of each fiscal year.

ARTICLE 5: INVOICING; PAYMENT

- a. **Electronic Reporting.** PB has implemented a web-based time collection/reporting system for the Project. Utilizing software provided by PB, Subcontractor shall submit bi-weekly timesheets electronically to PB's Project Control Office. All timesheets must be reviewed by PB's Project lead or manager for compliance with Subcontract invoicing requirements, including but not limited to compliance with Exhibit 2B mandates, and authorized prior to invoice submittal ("Authorized Time"). Amounts invoiced must correspond to the hours of Authorized Time entered on the electronic reporting system for the invoice period.
- b. **Invoice Periods; Submittal Deadlines.** Invoicing for the Project is structured on a 12-period annual cycle. Subcontractor shall prepare invoices for Services performed during each invoice period in a format acceptable to PB, and shall submit its invoices monthly, no later than 15 days following the end of the applicable invoice period. Any invoice delivered to PB after the submittal deadline will be processed with the next succeeding invoice period submittals.
- c. **Invoice Submittal Requirements.** Invoices shall include all labor costs incurred during the invoice period for Authorized Time, and all Reimbursable Costs incurred and booked during the invoice period, together with back-up documentation. The bill-through date on each monthly invoice must match the last actual expenditure date shown on the back-up documentation. In addition, Subcontractor shall include with each invoice a **progress report** that documents, in bulleted detail, the Services completed during the invoice period, including items of work accomplished and milestones reached, as well as problems/issues/concerns; and work planned for the next invoice period. The signed invoice, backup documentation, and progress report shall be sent to LaRhonda Sayles, Accounting Manager, at rsayles@hawaii.gov, hard copy to be delivered to the address for notice stipulated in Article 22.
- d. **Payment.** Contingent upon Subcontractor's timely submittal of a proper invoice and progress report, PB shall pay those undisputed amounts due and owing within 10 days of the date of payment by Client to PB for the Services covered by the invoice, less any amounts PB may be authorized or required to withhold or deduct under the terms of this Subcontract, applicable law, or court order. The fixed fee will be prorated and paid each invoice period in proportion to Subcontractor's direct labor and overhead costs incurred in performance of Services satisfactorily completed during the invoice period. Final payment shall include any portion of the fixed fee due and owing but not previously paid. In the event of non-payment by Client, both parties shall cooperate in seeking payment from Client.
- e. **Right to Withhold.** It is expressly agreed that PB shall be entitled to withhold payment pending correction of non-conforming Services and/or other performance deficiencies.
- f. **Audits.** All payments hereunder are subject to the audits, adjustments and limitations that apply to PB under the Prime Agreement.

ARTICLE 6: TERM; PERFORMANCE SCHEDULE; DELAYS

a. Term. The term of this Subcontract shall be for a period commencing with the effective date hereof and ending on the earlier of: (1) the date the Prime Agreement expires; (2) the date stated in any Notice of Termination issued pursuant to Article 15; or (3) the date the Prime Agreement is terminated, if the Prime Agreement Terms and Conditions so provide.

b. Performance Schedule. Time is of the essence in Subcontractor's performance of the Services under this Subcontract, and Subcontractor shall promptly commence performance of the Services as instructed in the NTP, and perform the same diligently and without interruption until completed in accordance with the performance schedule established in Attachment 2, or if none, in the Prime Agreement (the "Performance Schedule"). Provided, if the Performance Schedule applicable to the Services is derived from the Prime Agreement, Subcontractor shall submit all deliverables to PB no later than twenty-one (21) business days prior to the completion/submittal deadline for such work applicable to PB.

c. Delays. Subcontractor shall notify PB in writing within five (5) business days of any event or condition impacting its ability to meet the performance schedule, together with the steps contemplated or taken by Subcontractor to mitigate the effect of such delay

Delays caused by *force majeure* events such as war, civil insurrection, riot, acts of public authority, strike, explosion, fire, earthquake, flood and like catastrophic events, shall be excusable to the extent they could not reasonably be anticipated, mitigated, or avoided by Subcontractor, and did not result in whole or in part from Subcontractor's fault or neglect, but shall be compensable only if additional compensation is obtained by PB from Client for such delays.

ARTICLE 7: STANDARD OF CARE; QUALIFICATIONS/LICENSES

a. Standard of Care. Subcontractor shall perform the Services in a manner consistent with that degree of skill and care ordinarily exercised by members of the same profession performing the same or similar work under the same or similar circumstances in the city and county of Honolulu. The parties acknowledge that PB is relying upon Subcontractor's expertise, and that neither PB's review, approval, acceptance, or payment for the Services is intended, nor shall it, constitute a waiver, release, or discharge of Subcontractor's responsibility for the proper performance of the Services or liability for defects in same, or an assumption by PB of such responsibility or liability.

b. Qualifications and Licenses. Subcontractor represents and warrants that all personnel performing Services or conducting activities in furtherance of this Subcontract shall be properly qualified, and that personnel performing Services or conducting activities for which a license or certification is required under local, state, or federal regulations shall be duly licensed and/or certified. All licenses and certifications shall be current at the time the work is performed.

ARTICLE 8: INDEPENDENT CONTRACTOR

The parties affirm that Subcontractor is an independent contractor under subcontract to PB, and is not in a joint venture, partnership, agent-principal or employer-employee relationship with PB. Subcontractor shall, at its own expense, provide all equipment, materials, services, and personnel required to perform the Services. Subcontractor, consistent with its status as an independent contractor, shall maintain complete control and direction over and responsibility for its employees, lower-tier subcontractors, and agents, and shall be solely responsible for the means, methods, sequences and techniques for carrying out the Services, and for the safety of its employees, lower-tier subcontractors, agents and invitees. Subcontractor affirms that it shall not represent itself to be an agent of PB or Client, or as having any

authority to bind PB or Client, and further affirms that it shall instruct its personnel that they are not, and are prohibited from representing themselves to be, officers, agents, or employees of PB or Client, and have no authority to bind PB or Client.

Subcontractor shall indemnify, defend, and hold PB and Client harmless from any claims, and pay all damages, costs and judgments related to any claims made against PB or Client by Subcontractor's and/or its lower tier subcontractors' employees, agents, and representatives, for wages, salaries or any other form of compensation; for benefits, including but not limited to Workers' Compensation insurance benefits, health, disability, medical, vacation, retirement, and sick leave; and/or any other benefit or assistance that may be available to employees of PB or Client or otherwise associated with an employer/employee relationship, such as training, counseling, or promotion. Subcontractor shall be responsible for all payroll and unemployment taxes associated with workers it provides to perform Services, and for withholding of social security and state and federal income taxes for such individuals, and shall indemnify, defend and hold PB and Client harmless from, and shall pay, all taxes and costs, fines, penalties and assessments associated therewith.

ARTICLE 9: CLAUSES APPLICABLE TO FEDERALLY-FUNDED CONTRACTS

All clauses set forth in Prime Agreement Special Provisions Article VIII are by this reference expressly incorporated into and made a part of this Subcontract for all purposes as if set forth in full, and shall control in accordance with their terms in the event of conflict with any other terms and conditions of this Subcontract. Subcontractor shall comply with, and ensure that its lower-tier subcontractors comply with, all provisions of this Article 9.

ARTICLE 10: DISADVANTAGED BUSINESS ENTERPRISES

a. With regard to the performance of this Subcontract and in provision of the Services, Subcontractor shall fully cooperate with PB in meeting PB's commitments and goals, if any, with regard to the maximum utilization of disadvantaged business enterprises, minority business enterprises, small business enterprises, women-owned business enterprises, emerging business enterprises, and historically underutilized businesses (collectively, "DBEs"), and Subcontractor, if requested in writing by PB, shall provide the maximum practicable opportunity for DBEs to compete for any lower-tier subagreements available pursuant to this Subcontract.

b. If Subcontractor is a DBE, upon written request by PB Subcontractor shall provide certificates or other acceptable testament to such DBE status.

c. Subcontractor shall promptly provide attesting documentation when requested by PB, that proves that all lower-tier DBEs have received the revenue paid to Subcontractor by PB on behalf of the DBEs for services provided pursuant to the provisions of this Subcontract.

ARTICLE 11: INDEMNIFICATION

To the maximum extent permitted by law, Subcontractor shall indemnify, defend, and hold harmless PB and Client, their successors and assigns, and each of their respective officers, agents, servants and employees, from and against any and all claims, suits, actions, judgments, orders, demands, losses, damages, and liability of whatsoever nature, and costs and expenses including but not limited to (a) administrative or statutory assessments, sanctions, fines, and penalties, and (b) reasonable attorneys' fees, witness fees, costs of discovery and investigation, and court costs, whether incurred in relation to administrative, pre-trial, trial, post-trial, or appellate proceedings; caused by, resulting from, or arising out of (a) breach of this Subcontract; (b) the negligent acts, errors, or omissions, or the intentional, willful, or

reckless misconduct of Subcontractor, its officers, employees, servants, agents, subcontractors, or representatives in the performance of this Subcontract; (c) infringement of patents or copyrights, or unauthorized disclosure of trade secrets or Confidential Information, as defined in Article 19; or (d) violation of applicable codes and regulations, including but not limited to laws relating to health and safety, compensation and conditions of employment, and payment of subcontractors, vendors, and materialmen.

Notwithstanding any other provision to the contrary, in the event of litigation between the parties to enforce the provisions of this Article or any other indemnification obligation owed to PB under the terms of this Subcontract, the prevailing party shall be entitled to recover costs incurred and reasonable attorneys' fees.

The indemnification afforded under this Article shall not be limited in any manner whatsoever by insurance required under this Subcontract or the Prime Agreement, or by any other insurance carried by Subcontractor, PB or the Client. Nor shall the terms of this indemnification provision operate to limit or modify any of the insurance required of Subcontractor hereunder, or the scope or terms of such coverage. Nothing herein is intended to require Subcontractor to indemnify PB from liability for PB's negligence.

ARTICLE 12: PROMPT PAYMENT OBLIGATIONS; RELEASE OF LIENS AND CLAIMS

Subject to Subcontractor's right to withhold payment in a good-faith dispute, Subcontractor shall promptly pay for all services, equipment and materials furnished in performing the Services hereunder. PB may at any time require Subcontractor to submit lien releases satisfactory to PB and Client evidencing payment and release of claims for payment. Upon evidence of unpaid undisputed claims for payment, PB may pay and discharge same and deduct the amount paid, together with incurred costs and attorneys' fees, from compensation due or to become due to Subcontractor hereunder. Acceptance of final payment by Subcontractor shall operate as a full and final release of Client and PB, its affiliates, successors, and assigns, from liability for any and all claims by Subcontractor, its affiliates, successors, and assigns, for additional compensation or payment for Services rendered, costs incurred, or work performed by Subcontractor under this Subcontract.

ARTICLE 13: INSURANCE

a. Coverage. Subcontractor shall maintain at its own cost and expense for the duration of this Subcontract the following insurance coverages issued by companies licensed to do business in the State of Hawaii, with an AM Best rating of A-VIII or better, and otherwise acceptable to PB and Client.

(1) Workers' Compensation and Employer's Liability Insurance

Coverage to include all Statutory Workers' Compensation benefits to the employees of Subcontractor who may sustain work-related injury, death, or disease, and coverage, if applicable, commensurate with the requirements of the U.S. Longshore and Harbor Workers' Compensation Act (USL&H) or any other maritime law or similar act (e.g., Outer Continental Shelf Lands Act (OSCLA), Federal Employers Liability Act (FELA). Such insurance shall include a waiver of subrogation in favor of PB and Client, unless prohibited under applicable state law. Employer's Liability coverage with a limit of not less than \$1,000,000 each accident/disease shall also be maintained.

(2) Commercial General Liability and Contractual Liability ("CGL") Insurance, including contractual liability cover, with a limit of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate

Coverage to include premises operations, independent contractors, products and completed operations, and broad-form contractual, personal injury, advertising injury and property damage, and XCU (explosion, collapse, and underground hazard) coverage. If Subcontractor's work is within 50 feet of a railroad right of way, the policy must also be endorsed to cover work within 50 feet of a railroad. Contractual liability shall not exclude the indemnification provisions of this Subcontract. PB and Client, and their respective officers, directors, agents, and employees must be named as additional insureds, for both ongoing and completed operations, on a primary and non-contributory basis. Such policy shall contain a severability of interests provision or cross-liability clause, and shall provide that the general aggregate limit applies on a per-project basis. Such insurance shall include a waiver of subrogation in favor of PB and Client.

- (3) Business Automobile Liability with a combined single limit of not less than \$1,000,000 each accident

The policy must be written on an "any auto" basis. PB and Client, and their respective officers, directors, agents, and employees must be named as additional insureds, on a primary and non-contributory basis. Such insurance shall include a waiver of subrogation in favor of PB and Client unless prohibited under applicable state law.

- (4) Professional Liability with a limit of not less than \$1,000,000 per claim and annual aggregate

Coverage to include Subcontractor's legal liability for damages arising out of Subcontractor's performance of professional services pursuant to this Subcontract or relating to the Project.

Neither PB nor Client shall be liable for any deductibles on additional insured coverage, and any coverage maintained by PB and Client shall be excess and noncontributory. The required insurance shall apply separately to each insured against whom claim is made or suit brought, except with respect to the limits of liability. Coverage shall contain no special limitations on the scope of protection afforded to PB, Client and their respective officers, directors, agents, and employees.

CGL insurance shall be written on ISO occurrence form CG 00 01 or a substitute form providing equivalent liability coverage. Additional insured endorsements shall be written on CG 20 10 or equivalent. Business auto coverage shall be written on ISO for CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing equivalent liability coverage. With the exception of professional liability insurance, all insurance shall be written on an occurrence basis. Notwithstanding any other provision to the contrary, professional liability insurance shall be maintained in full force and effect continuously from the effective date of this Subcontract until the expiration of one (1) year following substantial completion of the Project.

All insurance policies must contain a provision that provides thirty (30) days' prior written notice to PB of cancellation (ten (10) days' prior written notice for failure to pay premium). Such notice of cancellation must be provided to PB via the following address: Parsons Brinckerhoff, Inc., Attn: Risk Management, One Penn Plaza, New York, NY 10119.

b. Certificates and Endorsements. Subcontractor shall, prior to commencing performance of any Services or entering onto the Project site or other field location, furnish PB with certificates of insurance and endorsements referencing the Project name and Project number, and evidencing (a) the required coverages, including but not limited to the additional insured and waiver of subrogation requirements, (b) the limits, and (c) the notice of cancellation provisions. Certificates and endorsements shall be provided annually, not more than 10 days after renewal or replacement of each policy, and shall restate the effective value of the coverage provided.

Subcontractor shall deliver the certificates of insurance and endorsements, each evidencing the required coverage and Project name and number, to: (1) PB Project Management, Diane Cook at dcook@pbworld.com, and (2) to Parsons Brinckerhoff, Inc. at:

- E-mail: PBCertificateTracking@lockton.com (mailto:PBCertificateTracking@lockton.com) (preferred method); or
- Fax: Attn: Parsons Brinckerhoff, Inc. Certificate Tracking at Fax 816-783-2276; or
- Mail: Parsons Brinckerhoff, Inc. Certificate Tracking 444, W. 47th Street, Kansas City, MO. 64112.

Failure of PB to demand such certificate or other evidence of full compliance with these insurance requirements, or failure of PB to identify a deficiency from evidence that is provided, shall not be construed as a waiver of Subcontractor's obligation to maintain such insurance.

c. Lower-Tier Subcontractors. Subcontractor shall require that each of its lower-tier subcontractors, if any, have in place the insurance required herein, with the coverages and limits required herein, and provide Subcontractor with certificates of insurance and endorsements evidencing such coverage prior to commencement of subcontracted work. Subcontractor shall also require that PB and Client be named as additional insureds on all lower-tier subcontractor CGL, automobile, and (if required) aircraft liability policies, and that CGL, auto, aircraft (if required), and workers' compensation coverages be endorsed to provide for a waiver of subrogation in favor of PB and Client.

Subcontractor shall also comply with all other requirements set forth in Subsection 4.3.2 of the Prime Agreement General Terms and Conditions.

ARTICLE 14: SUSPENSION OF SERVICES

PB may, at any time, and with or without cause, suspend performance of the Services or any portion thereof for a period of up to 90 days by notice in writing to Subcontractor, and Subcontractor shall resume its Services promptly after being notified by PB to do so. Subcontractor may be allowed additional compensation or an extension of time, or both, provided same is granted by Client.

PB may immediately suspend Services performed at the Project site or other field locations without notice for violation of any safety rules, regulations, or requirements, for code violations, for failure to obtain or comply with the terms of any permits, orders, or required authorizations, or upon discovery of any unsafe working conditions. In such case, Subcontractor shall immediately cure the violation or remedy the unsafe working condition. Failure to do so shall constitute a material default.

ARTICLE 15: TERMINATION

PB may terminate this Subcontract, in whole or in part, for cause, upon seven (7) days' written notice. PB may terminate this Subcontract, in whole or in part, for its convenience, upon 10 days' written notice.

In the event of termination for cause, Subcontractor shall be entitled to compensation for the value of all Services performed in accordance with contract requirements up to the effective date of termination, less allowable deductions, which include, but are not limited to, all costs in excess of the compensation established in Article 4 reasonably incurred by PB to complete the Services. To the extent allowable deductions exceed amounts remaining due to Subcontractor, Subcontractor shall be and remain liable to PB upon demand for the amount of such excess.

In the event of termination for PB's convenience and without default on the part of Subcontractor, Subcontractor shall be entitled to compensation for all Services performed in accordance with contract requirements up to the effective date of termination, less allowable deductions. To the extent allowable deductions exceed amounts remaining due to Subcontractor, Subcontractor shall be and remain liable to PB upon demand for the amount of such excess.

Upon receipt of notice of termination, Subcontractor shall discontinue the Services unless otherwise directed and deliver to PB all Work Product. In the event of termination, PB shall have the right to conduct a financial audit, as well as a performance audit to ascertain the quality, timeliness and compensability of Subcontractor's Services. If, after issuance of notice of termination for cause, it is determined for any reason that Subcontractor was not in default, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to termination for convenience.

ARTICLE 16: REMEDIES

In the event Subcontractor fails to timely perform Services, fails to perform Services in accordance with contract requirements, or is otherwise in default, PB shall be entitled to withhold payment until the default is corrected. Subcontractor shall, upon notice from PB, correct the designated performance deficiencies without additional compensation. If such performance deficiencies are not corrected within the time period specified in the notice, PB may cause same to be corrected and deduct costs incurred by reason of such failure from Subcontractor's compensation and, if Subcontractor's remaining compensation is not sufficient to reimburse PB for such costs, recover the same from Subcontractor upon demand. These remedies shall be in addition to all other remedies available to PB.

With the exception of attorneys' fees to enforce indemnification obligations, neither party hereto shall be entitled to recover from the other for breach of this Subcontract (a) incidental, nominal, special, indirect, exemplary or consequential damages, or damages that in their nature or amount constitute a penalty, or (b) attorneys fees or costs. Notwithstanding the foregoing, however, PB shall be entitled to seek, recover, and recoup from Subcontractor those types of damages, of whatever nature, as PB may be held accountable to the Client under the terms of the Prime Agreement, or to third parties, that were caused by or attributable to Subcontractor, its agents, lower-tier subcontractors, servants, or employees, or for which Subcontractor is otherwise legally responsible.

Neither the pendency of a dispute nor consideration of claims by PB pertaining to this Subcontract shall excuse Subcontractor from full and timely performance in accordance with the terms hereof.

ARTICLE 17: WORK PRODUCT

All drawings, plans, designs, specifications, photographs, models, schematics, surveys, maps, reports, studies, analyses, estimates, minutes, diaries, field notes, training manuals and materials, data bases, electronic files, file formats, templates, procedures, scripts, links, specifically-created key commands, source code documentation, software programs, calculations, summaries and other compilations of information to be developed, produced, or provided by Subcontractor as part of the Services, including but not limited to all deliverables identified herein, whether completed or in process, and all supporting documents and data, whether in hard copy or electronic or digital format or capable of being converted to such format, constitute "Work Product."

Work Product shall be the property of PB and shall be furnished to PB promptly upon request and as a condition to issuance of payment, although Subcontractor shall be permitted to retain reproducible copies. Subcontractor shall not be liable for loss, damage, or injury resulting from PB's use of Work Product for purposes other than as intended or contemplated herein.

The parties intend that Work Product shall be "work made for hire," of which PB shall be deemed the author. If for any reason such Work Product does not constitute "work made for hire," Subcontractor hereby (a) waives all rights in such Work Product, and any other rights of authorship, identification, or approval, restriction or limitation on use or subsequent modification, and (b) irrevocably assigns to PB all right, title, and interest in and to the Work Product, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Subcontractor shall obtain such interest and execute and deliver such instruments and take such other actions as may be necessary to vest and perfect such rights in PB.

To the extent any Work Product includes Subcontractor's previously-developed intellectual property that is or could be protected by federal copyright, patent, or trademark laws, or state trade secret laws, Subcontractor hereby grants to PB and Client a perpetual, royalty-free, fully-paid up, non-exclusive and irrevocable license to copy, reproduce, perform, dispose of, and use and re-use, in whole or in part, such intellectual property, and to authorize others to do so. Such previously-developed intellectual property may constitute but is not limited to, data bases, software programs, templates, file formats, specifically-created key commands, scripts, links, procedures, training manuals and other training materials, designs, prototypes, plans, and other works provided or delivered to PB or Client by Subcontractor.

ARTICLE 18: PROJECT RECORDS; RECORD RETENTION PERIOD; AUDITS

a. **Project Records.** All records pertaining to this Subcontract and the Services performed hereunder, including but not limited to (a) timesheets and accounting and financial records; (b) Work Product; (c) drawings, maps, surveys, models, photographs, schematics, plans, designs, specifications, reports, studies, summaries, analyses, diaries, field notes, estimates, calculations, and other compilations of information obtained by or provided to Subcontractor in performance of the Services; and (d) correspondence, whether in hard copy or electronic or digital format, or capable of being converted to such format, constitute "Project Records."

b. **Accounting and Financial Records; Audits.** Subcontractor shall preserve all Project Records in such detail as shall properly substantiate contract performance and claims for payment under this Subcontract, and shall comply with the accounting and audit requirements of the Prime Agreement Terms and Conditions. In the event the Project is subject to the Federal Acquisition Regulations ("FAR"), Subcontractor shall comply with all applicable sections of the FAR. Subcontractor shall immediately repay to PB upon demand any compensation disallowed as a result of an audit conducted hereunder, or PB may elect to deduct disallowed amounts from monies due or to become due under this Subcontract.

c. **Record-Retention Period; Review and Reproduction.** Subcontractor shall retain all Project Records at a secure location reasonably accessible to the parties hereto for the longer of (a) six (6) years from the date of final payment or (b) until all disputes, audits, claims, legal proceedings, and other actions involving this Subcontract and the Services performed hereunder have been resolved or concluded (the "Record Retention Period"). During the Record Retention Period Subcontractor shall make all Project Records available to PB and Client for review and reproduction during normal business hours or at such other times as PB or Client may reasonably require.

Subcontractor shall include the requirements of this Article in all lower-tier subcontracts.

ARTICLE 19: CONFIDENTIAL INFORMATION; NON-DISCLOSURE

Unless required by law or Court order to do to, or unless prior written authorization is received from the PB or the Client, Subcontractor shall not disclose any (1) information concerning the Project that is not already in the public domain; (2) data, information, processes, or documents provided by or on behalf of

PB or the Client, including but not limited to Electric Utility Infrastructure Information ("EUII"), as that term has been defined in Prime Agreement Special Provisions, Section VII (K); (3) Work Product, or (4) other information generated by Subcontractor in the course of performing this Subcontract (collectively, "Confidential Information") to anyone other than PB, and at PB's direction, the Client. Nor shall Subcontractor use such Confidential Information for any purpose other than the performance of Services under this Subcontract. Subcontractor shall instruct its employees and lower-tier subcontractors to treat all information obtained or generated in performance of the Subcontract as confidential, and shall obtain from its lower-tier subcontractors equivalent agreements to withhold and protect from disclosure all Confidential Information covered under this Article.

ARTICLE 20: COMPLIANCE WITH LAWS

Subcontractor shall comply with all federal, state and local laws, codes, ordinances and regulations applicable to Subcontractor, this Subcontract, the Project and its work sites, and the Services to be performed hereunder, including but not limited to those regulating conditions of employment and workplace safety and health. Subcontractor shall be liable to PB for all losses, costs, and expenses PB may incur resulting from or attributable to Subcontractor's, its employees', lower-tier subcontractors', and/or agents' failure to so comply, including but not limited to orders, judgments, fines, penalties, and required corrective measures.

During the performance of this Subcontract, Subcontractor shall not unlawfully discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, sexual preference, disability, age (40+), marital status, or public assistance status. Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and the selection for training, including apprenticeship. Subcontractor agrees to post in conspicuous places, available to employees and applicants for employment, notices which set forth the provisions of this non-discrimination Article.

ARTICLE 21: HEALTH AND SAFETY

Subcontractor agrees that the prevention of accidents to workers engaged by Subcontractor is the responsibility of Subcontractor. To that end, Subcontractor shall comply with all Project safety policies/protocols/program, and all federal, state and local health and safety laws, codes, ordinances and regulations applicable to the Project, the Project site and other work locations, Subcontractor, this Subcontract and the performance of the Services hereunder, including, but not limited to, the Occupational Safety and Health Act of 1970. If Services are to be performed or activities conducted on-site or at other field locations, Subcontractor shall also implement and enforce a safety program for all workers, including those of lower-tier subcontractors, if any, engaged in performing the Services, and shall ensure such workers' participation in appropriate safety training. Subcontractor's safety and training program shall comply at a minimum with such safety policies and programs as may be established or mandated under the Prime Agreement. Subcontractor shall also be responsible for the safety and conduct of persons on property under Subcontractor's control, including Subcontractor's employees, agents, invitees, and lower-tier subcontractors.

ARTICLE 22: NOTICES

All notices required or permitted under this Subcontract shall be given in writing and delivered either personally, by delivery service, by first-class, certified, or registered mail, or by e-mail, to the authorized representative of the other party at the address set forth below, or as may be designated by notice delivered in accordance with the requirements of this Article. If notice is delivered by e-mail, the notice

must be signed by the party giving notice and sent as a pdf attachment to the e-mail at the address stipulated herein. Electronic or digital signatures shall not be allowed.

TO PB: Parsons Brinckerhoff, Inc.
Alii Place, 17th Floor
1099 Alakea Street
Honolulu, Hawaii 96813
E-mail: 16590FHHCTCPNotices@pbworld.com
Attention: Mr. James Van Epps

TO SUBCONTRACTOR: LKG-CMC, Inc.
[REDACTED]
E-mail: [REDACTED]
Attention: Ms. Claudia Elliott

Notice shall be effective upon delivery when delivered in person, by courier service providing receipt of delivery, or by registered or certified mail, return receipt requested. Notices properly addressed and stamped, and deposited into the US postal system as first-class mail, shall be deemed received two (2) business days after date of postmark. Notice delivered by e-mail shall be deemed received by the date and time stated on the transmitter's copy.

ARTICLE 23: STANDARDS; QUALITY PROGRAM

All Services shall be performed in compliance with the standards, specifications, manuals of instruction, policies, protocols, and procedures established by the Client and such other regulatory agencies as may have jurisdiction over the work.

Subcontractor shall maintain a quality program for the duration of this Subcontract that at a minimum complies with any requirements established in the Prime Agreement. Upon request by PB, Subcontractor shall provide a copy of its quality program to PB. The program must ensure that the Services performed by Subcontractor conform to the requirements of this Subcontract and the Prime Agreement Terms and Conditions. Subcontractor shall provide for a flow down of all applicable quality requirements to its lower-tier subcontracts.

As part of its quality program, Subcontractor shall maintain and implement a Quality Control and Quality Assurance Plan ("QA/QC Plan"). At a minimum, the Plan shall ensure (i) Work Product review (the Work Product is accurate and complete) by suitably-qualified parties independent from the personnel performing the Services or delivering the Work Product, and (ii) periodic process audit and review of the overall quality control activities contained in the Plan. Subcontractor shall document all of its quality program activities performed in connection with this Subcontract. If any deviations are identified in any of the performed Services, corrective actions shall be developed, implemented, and documented by Subcontractor. PB has the right to audit Subcontractor's quality program and its Project-related quality activities required by the Plan at any time. The results of any internal reviews specified in the Plan shall be submitted to PB.

If Subcontractor fails to properly implement and maintain a quality program or QA/QC Plan, and such failure continues following notification to Subcontractor by PB, then PB may, in addition to any other remedies permitted herein or by law, terminate this Subcontract, withhold payment for Services until Subcontractor is in compliance with the requirements of this Article, or remedy such failure at

Subcontractor's expense. Subcontractor agrees to indemnify and hold PB harmless for all costs incurred by PB to correct work adversely affected by such failure.

ARTICLE 24: APPLICABLE LAW; JURISDICTION; VENUE

This Subcontract, its validity, interpretation, and performance, and any disputes between the parties arising out of or relating to this Subcontract, shall be governed by and construed in accordance with the laws of the state of Hawaii, without regard to conflict of laws principles. In the event the parties are first unable to resolve their disputes through good-faith negotiations or through mutually-agreed nonbinding mediation, legal proceedings may be brought. Any such legal proceedings shall be brought in a court of competent jurisdiction in the city and county of Honolulu, and Subcontractor by its signature below consents to the *in personam* jurisdiction of said courts and waives and covenants not to seek change of venue based upon *forum non conveniens*. Notwithstanding the foregoing, legal proceedings may be brought at any time to preserve equitable or legal remedies, obtain equitable or extraordinary relief, preserve evidence, prevent irreparable harm, preserve the status quo pending proceedings on the merits, or preserve claims that might otherwise be barred by applicable statutes of limitations, or lost or impaired on other legal or procedural grounds.

ARTICLE 25: SEVERABILITY

If any provision of this Subcontract is prohibited by law, invalid, or otherwise unenforceable, the remainder of this Subcontract shall remain in full force and effect; provided that in such event the parties hereto shall in good faith attempt to replace the invalid or unenforceable provision with one that is valid and enforceable, and comes as close as reasonably possible to expressing or achieving the intent of the parties with regard to the original provision. Upon agreement, this Subcontract shall be amended to incorporate the substitute language.

ARTICLE 26: SURVIVAL

The parties acknowledge that all terms and conditions of this Subcontract which by their nature are intended to survive the termination or expiration of this Subcontract, including non-disclosure, indemnification, insurance, retention and production of Project Records, and other obligations Subcontractor has a continuing duty to observe, as well as all provisions applicable to disputes and legal proceedings, and Article 22 notices, shall survive and be enforceable by PB according to the terms hereof

ARTICLE 27: SUCCESSORS AND ASSIGNS

Subcontractor shall not assign, sell, transfer, or otherwise dispose of any of its interest in this Subcontract, or delegate any of its duties under this Subcontract, without the prior written approval of PB. Any unauthorized attempt thereat shall be void and unenforceable.

ARTICLE 28: THIRD-PARTY BENEFICIARIES

This Subcontract shall be binding upon and inure to the benefit of the parties hereto, their successors and permitted assigns, only. PB and Subcontractor are the only beneficiaries of this Subcontract and are solely entitled to enforce its terms. It is the express intent of PB and Subcontractor that should any persons or entities other than the parties hereto receive a benefit under this Subcontract, they shall do so as incidental beneficiaries only.

ARTICLE 29: INTERPRETATION

This Subcontract shall not be construed in favor of or against either party based upon authorship, the parties being of equal bargaining stature. Headings are solely for the convenience of the parties and shall have no bearing on interpretation of text. Unless established as a term of art, with a well-understood and unequivocal technical or trade meaning, words are used in their common and ordinary meaning. Defined terms are capitalized, and when capitalized, shall carry their defined meaning. Wherever the term "day" or "days" is used, it shall mean singular or consecutive calendar days, respectively. "Business day" shall mean any weekday other than Saturday, Sunday or a holiday recognized and observed by the state of Hawaii.

ARTICLE 30: NONWAIVER

No failure or successive failures on the part of PB to enforce any provision of this Subcontract, or custom or practice that may evolve between the parties in the administration of this Subcontract, shall operate as a waiver or discharge of that or any other provision, or render the same invalid, or impair PB's right to enforce the same in the event of any subsequent breach by Subcontractor. Any waiver, if given, shall be in writing, signed by the party making the waiver and addressed to the other party, and shall be limited to the particular instance and for the purposes stipulated therein.

ARTICLE 31: ENTIRE AGREEMENT

This Subcontract represents the entire and integrated agreement between PB and Subcontractor, and supersedes and replaces all prior and contemporaneous understandings, agreements, arrangements, negotiations, and representations, whether written or oral, with respect to the subject matter hereof. This Subcontract may not be modified except in writing, by an amendment signed by the parties hereto.

IN WITNESS WHEREOF, PB and Subcontractor have duly executed this Subcontract, effective from the date first written above.

PARSONS BRINCKERHOFF, INC.

BY: James R. Van Epps
Signature

James R. Van Epps, Sr. Vice President
and Project Manager

LKG-CMC, INC.

BY: Kathryn McNamee
Signature

Kathryn McNamee
Printed Name

President
Printed Title

ATTACHMENT 1
PRIME AGREEMENT TERMS AND CONDITIONS

Copy provided to Subcontractor on CD.

ATTACHMENT 2

SCOPE OF SERVICES

Subcontractor shall perform the following Services.

Subcontractor shall provide administrative and technical staff to perform subcontract administration, document control, graphic art, and public involvement related services. PB and Subcontractor shall jointly prepare position descriptions and job requirements for each full-time position to be provided by Subcontractor.

Task 01 Subcontract Administration Services

Subcontractor will provide a Contract Administrator to assist PB in establishing and administering subcontract document control procedures. Duties will include the preparation of draft and final subcontract documents for internal review and approvals using PB's ProjectSolve software application, preparing and providing correspondence for the Project Manager's signature, preparing status reports and tracking systems, attending meetings, and serving as a point of contact for general questions from PB subcontractors regarding contract-related questions. Personnel provided will be assigned to and located in the Project's central offices in downtown Honolulu.

Task 02 Document Control Services

Subcontractor will provide document control staff to assist PB in the implementation and administration of the Project's document control policies, procedures and activities. Personnel provided may be assigned to and located in the Project's central offices in downtown Honolulu or in "field" offices co-located with design-build contractor offices.

When requested by PB, Subcontractor shall provide technical review, input and guidance in the development of Project document control policies and procedures developed by PB or Client. Subcontractor shall participate in reviews of document control processes to assist PB in determining the effectiveness of the document control processes and procedures, as well as the level of compliance.

Task 03 Public Involvement Program Activities – Administrative Support and Event Coordination

Subcontractor will provide administrative support staff to assist PB in the implementation, coordination and administration of the Project's public involvement activities, including event coordination. Personnel provided will be assigned to and located in the Project's central offices in downtown Honolulu, but may also be required to participate in public involvement activities, such as meetings, presentations and community events at off-site locations and during non-normal work hours.

Task 04 Graphic Artist Services


Subcontractor will provide a graphic artist to assist PB in the preparation and production of graphic art materials in support of the Project's public involvement activities, environmental planning and general planning services, and archaeological inventory survey activities. Personnel provided will be assigned to and located in the Project's central offices in downtown Honolulu.

ATTACHMENT 3

FEE SCHEDULE/BUDGET

Exhibit 2A - Cost Estimate
Summary

LKG-CMC, INC.

	Item	Amount
1	Direct Labor (1)	
2	Overhead	
3	Other Direct Costs (2)	
4	Subcontractor Costs (3)	
5	Fixed Fee (9% of Direct Labor + Overhead)	
6	General Excise and Use Tax (4.5 %)	
	TOTAL	\$3,444,722
(1)	<i>Schedule A - Direct Labor Detail</i>	
(2)	<i>Schedule B - Other Direct Costs Detail</i>	
(3)	<i>Schedule C - 2nd Tier Subcontractor Detail - N/A</i>	

SPECIAL PROVISIONS
Honolulu High-Capacity Transit Corridor Project

Exhibit 2A – Cost Estimate

Schedule A – Direct Labor and Overhead Detail

Title	Rate	Hours	Direct Labor	OH Rate	Overhead
Technical Advisor, DC					
Graphic Artist					
Admin. Asst.-Events					
Contracts Admin. I					
Doc. Ctrl. Lead, MSF DB					
Doc. Ctrl. Lead, CSDBOM					
Doc. Ctrl. Lead, KIIG DB					
Doc. Ctrl. Lead, Central					
Doc. Ctrl. Lead, WOFH DB					
Total					

Schedule B – Other Direct Costs Detail

Description	Unit Cost	Units	Amount
Travel			
Event Parking			
Premium on Overtime			
Total			

SPECIAL PROVISIONS
 Honolulu High-Capacity Transit Corridor Project

**PROFESSIONAL SERVICES SUBCONTRACT
BETWEEN
PARSONS BRINCKERHOFF, INC.
AND
PAT LEE & ASSOCIATES, LLC
(#PB-16590E-PL0)**

This Subcontract, effective as of the 2nd day of August, 2011, is made and entered into by and between **PARSONS BRINCKERHOFF, INC.** ("PB"), a New York corporation with offices at Alii Place, 17th Floor, 1099 Alakea Street, Honolulu, HI 96813, and **PAT LEE & ASSOCIATES, LLC** ("Subcontractor"), a Hawaii limited liability company with offices at [REDACTED].

RECITALS

PB (formerly known as "PB Americas, Inc.") entered into General Engineering Consultant Contract (GEC II) No. SC-DTS-1100131 dated June 30, 2011 (the "Prime Agreement") between PB Americas, Inc. and the Honolulu Authority for Rapid Transportation, hereinafter referred to as "HART" ("Client"), to provide general engineering, planning, construction management and other consultant services for the Honolulu High-Capacity Transit Corridor Project, which includes the 28-mile Locally Preferred Alternative and the 20-mile Airport Alignment, as more particularly defined in Prime Agreement Special Provisions VII(A) ("HHCTCP" or the "Project").

PB has determined the need to subcontract certain of the public involvement services required under the Prime Agreement, and Subcontractor has agreed to provide the same for the duration of the Prime Agreement in accordance with the terms and conditions contained herein.

Therefore, for the consideration hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which the parties by their signatures below affirm, the parties do mutually agree as follows.

TERMS

The foregoing recitals are incorporated herein for all purposes as if fully set forth.

ARTICLE 1: PRIME AGREEMENT TERMS AND CONDITIONS

Except as noted below, or where in their application the context clearly requires otherwise, all the terms and conditions of the Prime Agreement, including all exhibits thereto and other documents incorporated by reference therein, that pertain to the subcontracted services or to the Subcontractor, or that by their express terms are required to be incorporated into each subcontract (the "Prime Agreement Terms and Conditions"), labeled **Attachment I**, are by this reference incorporated herein and made a part hereof for all purposes. By the signature below of its authorized representative, Subcontractor affirms that it has been provided a copy of Attachment I on CD.

With regard to the services to be performed by it, Subcontractor assumes toward PB all of the obligations and responsibilities that PB assumes toward the Client under the Prime Agreement Terms and Conditions, and Subcontractor shall be bound by all of the Prime Agreement Terms and Conditions to the same extent as PB is bound thereby. In the event of any conflicts or ambiguities between or among the provisions of this Subcontract and the Prime Agreement Terms and Conditions, the provision that imposes the more stringent requirement on Subcontractor shall take precedence.

Subcontractor shall include in all lower-tier subcontracts those provisions of the Prime Agreement that are required to be so included, and shall require all lower-tier subcontractors to comply with such provisions for the duration of their respective subcontracts. Subcontractor shall require each lower-tier subcontractor to make such disclosures and execute such attestations as may be required under the Prime Agreement Terms and Conditions, including but not limited to those required by state or federal statute associated with source of funding. Failure to comply with the terms of this paragraph shall constitute a material default.

ARTICLE 2: SCOPE OF SERVICES; UNAUTHORIZED AND EXTRA WORK

a. **Services.** Subcontractor shall perform, consistent with the standard of care stipulated herein and other terms and conditions of this Subcontract, those services set forth in the Scope of Services annexed hereto as **Attachment 2** and by this reference incorporated herein and made a part hereof for all purposes (the "Services") as may be required during the term of the Prime Agreement to complete the Project. The Services include all tasks and components, whether or not expressly set forth herein, that are manifestly necessary to carry out the intent of this Subcontract, or that are customarily performed in conjunction with, as a component of, or in order to accomplish, the Services, and such tasks and components shall be performed as if fully set forth in the description of the Services.

b. **Unauthorized and Extra Work.** Subcontractor shall not proceed with performance of any Services or incur any costs, or be entitled to compensation or reimbursement for any Services performed or costs incurred, prior to the effective date of this Subcontract and issuance of Notice to Proceed ("NTP"). Nor shall Subcontractor proceed with performance of any work in addition to that stipulated in this Subcontract ("Extra Work"), or be entitled to compensation therefor, or to reimbursement for costs incurred in connection therewith, prior to full and proper execution of a Subcontract amendment executed by both parties describing the work to be performed, the schedule for performance, and the compensation to be paid. Any work performed prior to the effective date of this Subcontract or an amendment authorizing same, is done solely as a volunteer and at no cost to PB.

ARTICLE 3: KEY PERSONNEL

If any Subcontractor key personnel have been designated for this Project, they are listed below. Subcontractor's key personnel shall not be replaced without PB's or Client's prior written consent. In the event any key personnel become unavailable due to separation from employment with Subcontractor, long-term illness/disability, or death, Subcontractor shall nominate a replacement with equivalent qualifications for PB's approval, which shall not be unreasonably withheld. In the event Subcontractor fails to provide a suitable replacement, PB shall have the right to terminate this Subcontract.

Key Personnel: Pat Lee

ARTICLE 4: COMPENSATION

a. **Total Contract Amount.** Subcontractor shall be compensated on a Bill Rate basis, and shall perform the Services for an amount not to exceed **FOUR HUNDRED THIRTY THOUSAND FIVE HUNDRED FORTY AND NO/100 DOLLARS (\$430,540.00)** (the "Total Price"), in accordance with the Fee Schedule/Budget annexed hereto as **Attachment 3** and by this reference incorporated herein and made a part hereof for all purposes ("Fee Schedule. Reimbursable costs shall include only those authorized in Prime Agreement Part 2, Special Provisions Exhibit 2B(2)(a), (b), (c) and (e) ("Reimbursable Costs"), as further delineated in Attachment 3.

b. **Notifications Required.** Subcontractor shall notify PB promptly in writing at the point at which (a) Subcontractor exceeds the estimated monthly level of effort by 25%, or (b) Subcontractor has expended 75% of the Total Price. Subcontractor shall not under any circumstances incur fees in excess of the Total Price.

ARTICLE 5: INVOICING; PAYMENT

a. **Electronic Reporting.** PB has implemented a web-based time collection/reporting system for the Project. Utilizing software provided by PB, Subcontractor shall submit bi-weekly timesheets electronically to PB's Project Control Office. All timesheets must be reviewed by PB's Project lead or manager for compliance with Subcontract invoicing requirements, including but not limited to compliance with Exhibit 2B mandates, and authorized prior to invoice submittal ("Authorized Time"). Amounts invoiced must correspond to the hours of Authorized Time entered on the electronic reporting system for the invoice period.

b. **Invoice Periods; Submittal Deadlines.** Invoicing for the Project is structured on a 12-period annual cycle. Subcontractor shall prepare invoices for Services performed during each invoice period in a format acceptable to PB, and shall submit its invoices monthly, no later than 15 days following the end of the applicable invoice period. Any invoice delivered to PB after the submittal deadline will be processed with the next succeeding invoice period submittals.

c. **Invoice Submittal Requirements.** Invoices shall include all labor costs incurred during the invoice period for Authorized Time, and all Reimbursable Costs incurred and booked during the invoice period, together with back-up documentation. The bill-through date on each monthly invoice must match the last actual expenditure date shown on the back-up documentation. In addition, Subcontractor shall include with each invoice a **progress report** that documents, in bulleted detail, the Services completed during the invoice period, including items of work accomplished and milestones reached, as well as problems/issues/concerns, and work planned for the next invoice period. The signed invoice, backup documentation, and progress report shall be sent to LaRhonda Sayles, Accounting Manager, at sayles@pbworld.com; hard copy to be delivered to the address for notice stipulated in Article 22.

d. **Payment.** Contingent upon Subcontractor's timely submittal of a proper invoice and progress report, PB shall pay those undisputed amounts due and owing within 10 days of the date of payment by Client to PB for the Services covered by the invoice, less any amounts PB may be authorized or required to withhold or deduct under the terms of this Subcontract, applicable law, or court order. In the event of non-payment by Client, both parties shall cooperate in seeking payment from Client.

e. **Right to Withhold.** It is expressly agreed that PB shall be entitled to withhold payment pending correction of non-conforming Services and/or other performance deficiencies.

f. **Audits.** All payments hereunder are subject to the audits, adjustments and limitations that apply to PB under the Prime Agreement.

ARTICLE 6: TERM; PERFORMANCE SCHEDULE; DELAYS

a. **Term.** The term of this Subcontract shall be for a period commencing with the effective date hereof and ending on the earlier of: (1) the date the Prime Agreement expires; (2) the date stated in any Notice of Termination issued pursuant to Article 15; or (3) the date the Prime Agreement is terminated, if the Prime Agreement Terms and Conditions so provide.

b. Performance Schedule. Time is of the essence in Subcontractor's performance of the Services under this Subcontract, and Subcontractor shall promptly commence performance of the Services as instructed in the NTP, and perform the same diligently and without interruption until completed in accordance with the performance schedule established in Attachment 2, or if none, in the Prime Agreement (the "Performance Schedule"). Provided, if the Performance Schedule applicable to the Services is derived from the Prime Agreement, Subcontractor shall submit all deliverables to PB no later than twenty-one (21) business days prior to the completion/submittal deadline for such work applicable to PB.

c. Delays. Subcontractor shall notify PB in writing within five (5) business days of any event or condition impacting its ability to meet the performance schedule, together with the steps contemplated or taken by Subcontractor to mitigate the effect of such delay.

Delays caused by *force majeure* events such as war, civil insurrection, riot, acts of public authority, strike, explosion, fire, earthquake, flood and like catastrophic events, shall be excusable to the extent they could not reasonably be anticipated, mitigated, or avoided by Subcontractor, and did not result in whole or in part from Subcontractor's fault or neglect, but shall be compensable only if additional compensation is obtained by PB from Client for such delays.

ARTICLE 7: STANDARD OF CARE; QUALIFICATIONS/LICENSES

a. Standard of Care. Subcontractor shall perform the Services in a manner consistent with that degree of skill and care ordinarily exercised by members of the same profession performing the same or similar work under the same or similar circumstances in the city and county of Honolulu. The parties acknowledge that PB is relying upon Subcontractor's expertise, and that neither PB's review, approval, acceptance, or payment for the Services is intended, nor shall it, constitute a waiver, release, or discharge of Subcontractor's responsibility for the proper performance of the Services or liability for defects in same, or an assumption by PB of such responsibility or liability.

b. Qualifications and Licenses. Subcontractor represents and warrants that all personnel performing Services or conducting activities in furtherance of this Subcontract shall be properly qualified, and that personnel performing Services or conducting activities for which a license or certification is required under local, state, or federal regulations shall be duly licensed and/or certified. All licenses and certifications shall be current at the time the work is performed.

ARTICLE 8: INDEPENDENT CONTRACTOR

The parties affirm that Subcontractor is an independent contractor under subcontract to PB, and is not in a joint venture, partnership, agent-principal or employer-employee relationship with PB. Subcontractor shall, at its own expense, provide all equipment, materials, services, and personnel required to perform the Services. Subcontractor, consistent with its status as an independent contractor, shall maintain complete control and direction over and responsibility for its employees, lower-tier subcontractors, and agents, and shall be solely responsible for the means, methods, sequences and techniques for carrying out the Services, and for the safety of its employees, lower-tier subcontractors, agents and invitees. Subcontractor affirms that it shall not represent itself to be an agent of PB or Client, or as having any authority to bind PB or Client, and further affirms that it shall instruct its personnel that they are not, and are prohibited from representing themselves to be, officers, agents, or employees of PB or Client, and have no authority to bind PB or Client.

Subcontractor shall indemnify, defend, and hold PB and Client harmless from any claims, and pay all damages, costs and judgments related to any claims made against PB or Client by Subcontractor's and/or its lower tier subcontractors' employees, agents, and representatives, for wages, salaries or any other form of compensation; for benefits, including but not limited to Workers' Compensation insurance benefits,

health, disability, medical, vacation, retirement, and sick leave; and/or any other benefit or assistance that may be available to employees of PB or Client or otherwise associated with an employer/employee relationship, such as training, counseling, or promotion. Subcontractor shall be responsible for all payroll and unemployment taxes associated with workers it provides to perform Services, and for withholding of social security and state and federal income taxes for such individuals, and shall indemnify, defend and hold PB and Client harmless from, and shall pay, all taxes and costs, fines, penalties and assessments associated therewith.

ARTICLE 9: CLAUSES APPLICABLE TO FEDERALLY-FUNDED CONTRACTS

All clauses set forth in Prime Agreement Special Provisions Article VIII are by this reference expressly incorporated into and made a part of this Subcontract for all purposes as if set forth in full, and shall control in accordance with their terms in the event of conflict with any other terms and conditions of this Subcontract. Subcontractor shall comply with, and ensure that its lower-tier subcontractors comply with, all provisions of this Article 9.

ARTICLE 10: DISADVANTAGED BUSINESS ENTERPRISES

a. With regard to the performance of this Subcontract and in provision of the Services, Subcontractor shall fully cooperate with PB in meeting PB's commitments and goals, if any, with regard to the maximum utilization of disadvantaged business enterprises, minority business enterprises, small business enterprises, women-owned business enterprises, emerging business enterprises, and historically underutilized businesses (collectively, "DBEs"), and Subcontractor, if requested in writing by PB, shall provide the maximum practicable opportunity for DBEs to compete for any lower-tier subagreements available pursuant to this Subcontract.

b. If Subcontractor is a DBE, upon written request by PB Subcontractor shall provide certificates or other acceptable testament to such DBE status.

c. Subcontractor shall promptly provide attesting documentation when requested by PB, that proves that all lower-tier DBEs have received the revenue paid to Subcontractor by PB on behalf of the DBEs for services provided pursuant to the provisions of this Subcontract.

ARTICLE 11: INDEMNIFICATION

To the maximum extent permitted by law, Subcontractor shall indemnify, defend, and hold harmless PB and Client, their successors and assigns, and each of their respective officers, agents, servants and employees, from and against any and all claims, suits, actions, judgments, orders, demands, losses, damages, and liability of whatsoever nature, and costs and expenses including but not limited to (a) administrative or statutory assessments, sanctions, fines, and penalties, and (b) reasonable attorneys' fees, witness fees, costs of discovery and investigation, and court costs, whether incurred in relation to administrative, pre-trial, trial, post-trial, or appellate proceedings; caused by, resulting from, or arising out of (a) breach of this Subcontract; (b) the negligent acts, errors, or omissions, or the intentional, willful, or reckless misconduct of Subcontractor, its officers, employees, servants, agents, subcontractors, or representatives in the performance of this Subcontract; (c) infringement of patents or copyrights, or unauthorized disclosure of trade secrets or Confidential Information, as defined in Article 19; or (d) violation of applicable codes and regulations, including but not limited to laws relating to health and safety, compensation and conditions of employment, and payment of subcontractors, vendors, and materialmen.

Notwithstanding any other provision to the contrary, in the event of litigation between the parties to enforce the provisions of this Article or any other indemnification obligation owed to PB under the terms

of this Subcontract, the prevailing party shall be entitled to recover costs incurred and reasonable attorneys' fees.

The indemnification afforded under this Article shall not be limited in any manner whatsoever by insurance required under this Subcontract or the Prime Agreement, or by any other insurance carried by Subcontractor, PB or the Client. Nor shall the terms of this indemnification provision operate to limit or modify any of the insurance required of Subcontractor hereunder, or the scope or terms of such coverage. Nothing herein is intended to require Subcontractor to indemnify PB from liability for PB's negligence.

ARTICLE 12: PROMPT PAYMENT OBLIGATIONS; RELEASE OF LIENS AND CLAIMS

Subject to Subcontractor's right to withhold payment in a good-faith dispute, Subcontractor shall promptly pay for all services, equipment and materials furnished in performing the Services hereunder. PB may at any time require Subcontractor to submit lien releases satisfactory to PB and Client evidencing payment and release of claims for payment. Upon evidence of unpaid undisputed claims for payment, PB may pay and discharge same and deduct the amount paid, together with incurred costs and attorneys' fees, from compensation due or to become due to Subcontractor hereunder. Acceptance of final payment by Subcontractor shall operate as a full and final release of Client and PB, its affiliates, successors, and assigns, from liability for any and all claims by Subcontractor, its affiliates, successors, and assigns, for additional compensation or payment for Services rendered, costs incurred, or work performed by Subcontractor under this Subcontract.

ARTICLE 13: INSURANCE

a. Coverage. Subcontractor shall maintain at its own cost and expense for the duration of this Subcontract the following insurance coverages issued by companies licensed to do business in the State of Hawaii, with an AM Best rating of A-VIII or better, and otherwise acceptable to PB and Client.

(1) Workers' Compensation and Employer's Liability Insurance

Coverage to include all Statutory Workers' Compensation benefits to the employees of Subcontractor who may sustain work-related injury, death, or disease, and coverage, if applicable, commensurate with the requirements of the U.S. Longshore and Harbor Workers' Compensation Act (USL&H) or any other maritime law or similar act (e.g., Outer Continental Shelf Lands Act (OSCLA), Federal Employers Liability Act (FELA). Such insurance shall include a waiver of subrogation in favor of PB and Client, unless prohibited under applicable state law. Employer's Liability coverage with a limit of not less than \$1,000,000 each accident/disease shall also be maintained.

(2) Commercial General Liability and Contractual Liability ("CGL") Insurance, including contractual liability cover, with a limit of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate

Coverage to include premises operations, independent contractors, products and completed operations, and broad-form contractual, personal injury, advertising injury and property damage, and XCU (explosion, collapse, and underground hazard) coverage. If Subcontractor's work is within 50 feet of a railroad right of way, the policy must also be endorsed to cover work within 50 feet of a railroad. Contractual liability shall not exclude the indemnification provisions of this Subcontract. PB and Client, and their respective officers, directors, agents, and employees must be named as additional insureds, for both ongoing and completed operations, on a primary and non-contributory basis. Such policy shall contain a severability of interests provision or cross-liability clause, and shall provide that the general aggregate limit applies on a per-project basis. Such insurance shall include a waiver of subrogation in favor of PB and Client.

(3) Business Automobile Liability with a combined single limit of not less than \$1,000,000 each accident

The policy must be written on an "any auto" basis. PB and Client, and their respective officers, directors, agents, and employees must be named as additional insureds on a primary and non-contributory basis. Such insurance shall include a waiver of subrogation in favor of PB and Client unless prohibited under applicable state law.

(4) Professional Liability with a limit of not less than \$1,000,000 per claim and annual aggregate

Coverage to include Subcontractor's legal liability for damages arising out of Subcontractor's performance of professional services pursuant to this Subcontract or relating to the Project.

Neither PB nor Client shall be liable for any deductibles on additional insured coverage, and any coverage maintained by PB and Client shall be excess and noncontributory. The required insurance shall apply separately to each insured against whom claim is made or suit brought, except with respect to the limits of liability. Coverage shall contain no special limitations on the scope of protection afforded to PB, Client and their respective officers, directors, agents, and employees.

CGL insurance shall be written on ISO occurrence form CG 00 01 or a substitute form providing equivalent liability coverage. Additional insured endorsements shall be written on CG 20 10 or equivalent. Business auto coverage shall be written on ISO for CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing equivalent liability coverage. With the exception of professional liability insurance, all insurance shall be written on an occurrence basis. Notwithstanding any other provision to the contrary, professional liability insurance shall be maintained in full force and effect continuously from the effective date of this Subcontract until the expiration of one (1) year following substantial completion of the Project.

All insurance policies must contain a provision that provides thirty (30) days' prior written notice to PB of cancellation (ten (10) days' prior written notice for failure to pay premium). Such notice of cancellation must be provided to PB via the following address: Parsons Brinckerhoff, Inc., Attn: Risk Management, One Penn Plaza, New York, NY 10119.

b. Certificates and Endorsements. Subcontractor shall, prior to commencing performance of any Services or entering onto the Project site or other field location, furnish PB with certificates of insurance and endorsements referencing the Project name and Project number, and evidencing (a) the required coverages, including but not limited to the additional insured and waiver of subrogation requirements, (b) the limits, and (c) the notice of cancellation provisions. Certificates and endorsements shall be provided annually, not more than 10 days after renewal or replacement of each policy, and shall restate the effective value of the coverage provided.

Subcontractor shall deliver the certificates of insurance and endorsements, each evidencing the required coverage and Project name and number, to: (1) PB Project Management, Diane Cook at cook@pbworld.com, and (2) to Parsons Brinckerhoff, Inc. at:

- E-mail: PBCertificateTracking@lockton.com <<mailto:PBCertificateTracking@lockton.com>> (preferred method); or
- Fax: Attn: Parsons Brinckerhoff, Inc. Certificate Tracking at Fax 816-783-2276; or
- Mail: Parsons Brinckerhoff, Inc, Certificate Tracking 444, W. 47th Street, Kansas City, MO, 64112.

Failure of PB to demand such certificate or other evidence of full compliance with these insurance requirements, or failure of PB to identify a deficiency from evidence that is provided, shall not be construed as a waiver of Subcontractor's obligation to maintain such insurance.

c. Lower-Tier Subcontractors. Subcontractor shall require that each of its lower-tier subcontractors, if any, have in place the insurance required herein, with the coverages and limits required herein, and provide Subcontractor with certificates of insurance and endorsements evidencing such coverage prior to commencement of subcontracted work. Subcontractor shall also require that PB and Client be named as additional insureds on all lower-tier subcontractor CGL, automobile, and (if required) aircraft liability policies, and that CGL, auto, aircraft (if required), and workers' compensation coverages be endorsed to provide for a waiver of subrogation in favor of PB and Client.

Subcontractor shall also comply with all other requirements set forth in Subsection 4.3.2 of the Prime Agreement General Terms and Conditions.

ARTICLE 14: SUSPENSION OF SERVICES

PB may, at any time, and with or without cause, suspend performance of the Services or any portion thereof for a period of up to 90 days by notice in writing to Subcontractor, and Subcontractor shall resume its Services promptly after being notified by PB to do so. Subcontractor may be allowed additional compensation or an extension of time, or both, provided same is granted by Client.

PB may immediately suspend Services performed at the Project site or other field locations without notice for violation of any safety rules, regulations, or requirements, for code violations, for failure to obtain or comply with the terms of any permits, orders, or required authorizations, or upon discovery of any unsafe working conditions. In such case, Subcontractor shall immediately cure the violation or remedy the unsafe working condition. Failure to do so shall constitute a material default.

ARTICLE 15: TERMINATION

PB may terminate this Subcontract, in whole or in part, for cause, upon seven (7) days' written notice. PB may terminate this Subcontract, in whole or in part, for its convenience, upon 10 days' written notice.

In the event of termination for cause, Subcontractor shall be entitled to compensation for the value of all Services performed in accordance with contract requirements up to the effective date of termination, less allowable deductions, which include, but are not limited to, all costs in excess of the compensation established in Article 4 reasonably incurred by PB to complete the Services. To the extent allowable deductions exceed amounts remaining due to Subcontractor, Subcontractor shall be and remain liable to PB upon demand for the amount of such excess.

In the event of termination for PB's convenience and without default on the part of Subcontractor, Subcontractor shall be entitled to compensation for all Services performed in accordance with contract requirements up to the effective date of termination, less allowable deductions. To the extent allowable deductions exceed amounts remaining due to Subcontractor, Subcontractor shall be and remain liable to PB upon demand for the amount of such excess.

Upon receipt of notice of termination, Subcontractor shall discontinue the Services unless otherwise directed and deliver to PB all Work Product. In the event of termination, PB shall have the right to conduct a financial audit, as well as a performance audit to ascertain the quality, timeliness and compensability of Subcontractor's Services. If, after issuance of notice of termination for cause, it is

determined for any reason that Subcontractor was not in default, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to termination for convenience.

ARTICLE 16: REMEDIES

In the event Subcontractor fails to timely perform Services, fails to perform Services in accordance with contract requirements, or is otherwise in default, PB shall be entitled to withhold payment until the default is corrected. Subcontractor shall, upon notice from PB, correct the designated performance deficiencies without additional compensation. If such performance deficiencies are not corrected within the time period specified in the notice, PB may cause same to be corrected and deduct costs incurred by reason of such failure from Subcontractor's compensation and, if Subcontractor's remaining compensation is not sufficient to reimburse PB for such costs, recover the same from Subcontractor upon demand. These remedies shall be in addition to all other remedies available to PB.

With the exception of attorneys' fees to enforce indemnification obligations, neither party hereto shall be entitled to recover from the other for breach of this Subcontract (a) incidental, nominal, special, indirect, exemplary or consequential damages, or damages that in their nature or amount constitute a penalty, or (b) attorneys fees or costs. Notwithstanding the foregoing, however, PB shall be entitled to seek, recover, and recoup from Subcontractor those types of damages, of whatever nature, as PB may be held accountable to the Client under the terms of the Prime Agreement, or to third parties, that were caused by or attributable to Subcontractor, its agents, lower-tier subcontractors, servants, or employees, or for which Subcontractor is otherwise legally responsible.

Neither the pendency of a dispute nor consideration of claims by PB pertaining to this Subcontract shall excuse Subcontractor from full and timely performance in accordance with the terms hereof.

ARTICLE 17: WORK PRODUCT

All drawings, plans, designs, specifications, photographs, models, schematics, surveys, maps, reports, studies, analyses, estimates, minutes, diaries, field notes, training manuals and materials, data bases, electronic files, file formats, templates, procedures, scripts, links, specifically-created key commands, source code documentation, software programs, calculations, summaries and other compilations of information to be developed, produced, or provided by Subcontractor as part of the Services, including but not limited to all deliverables identified herein, whether completed or in process, and all supporting documents and data, whether in hard copy or electronic or digital format or capable of being converted to such format, constitute "Work Product."

Work Product shall be the property of PB and shall be furnished to PB promptly upon request and as a condition to issuance of payment, although Subcontractor shall be permitted to retain reproducible copies. Subcontractor shall not be liable for loss, damage, or injury resulting from PB's use of Work Product for purposes other than as intended or contemplated herein.

The parties intend that Work Product shall be "work made for hire," of which PB shall be deemed the author. If for any reason such Work Product does not constitute "work made for hire," Subcontractor hereby (a) waives all rights in such Work Product, and any other rights of authorship, identification, or approval, restriction or limitation on use or subsequent modification, and (b) irrevocably assigns to PB all right, title, and interest in and to the Work Product, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Subcontractor shall obtain such interest and execute and deliver such instruments and take such other actions as may be necessary to vest and perfect such rights in PB.

To the extent any Work Product includes Subcontractor's previously-developed intellectual property that is or could be protected by federal copyright, patent, or trademark laws, or state trade secret laws, Subcontractor hereby grants to PB and Client a perpetual, royalty-free, fully-paid up, non-exclusive and irrevocable license to copy, reproduce, perform, dispose of, and use and re-use, in whole or in part, such intellectual property, and to authorize others to do so. Such previously-developed intellectual property may constitute but is not limited to, data bases, software programs, templates, file formats, specifically-created key commands, scripts, links, procedures, training manuals and other training materials, designs, prototypes, plans, and other works provided or delivered to PB or Client by Subcontractor.

ARTICLE 18: PROJECT RECORDS; RECORD RETENTION PERIOD; AUDITS

a. **Project Records.** All records pertaining to this Subcontract and the Services performed hereunder, including but not limited to (a) timesheets and accounting and financial records; (b) Work Product; (c) drawings, maps, surveys, models, photographs, schematics, plans, designs, specifications, reports, studies, summaries, analyses, diaries, field notes, estimates, calculations, and other compilations of information obtained by or provided to Subcontractor in performance of the Services; and (d) correspondence; whether in hard copy or electronic or digital format, or capable of being converted to such format, constitute "Project Records."

b. **Accounting and Financial Records; Audits.** Subcontractor shall preserve all Project Records in such detail as shall properly substantiate contract performance and claims for payment under this Subcontract, and shall comply with the accounting and audit requirements of the Prime Agreement Terms and Conditions. In the event the Project is subject to the Federal Acquisition Regulations ("FAR"), Subcontractor shall comply with all applicable sections of the FAR. Subcontractor shall immediately repay to PB upon demand any compensation disallowed as a result of an audit conducted hereunder, or PB may elect to deduct disallowed amounts from monies due or to become due under this Subcontract.

c. **Record-Retention Period; Review and Reproduction.** Subcontractor shall retain all Project Records at a secure location reasonably accessible to the parties hereto for the longer of (a) six (6) years from the date of final payment or (b) until all disputes, audits, claims, legal proceedings, and other actions involving this Subcontract and the Services performed hereunder have been resolved or concluded (the "Record Retention Period"). During the Record Retention Period Subcontractor shall make all Project Records available to PB and Client for review and reproduction during normal business hours or at such other times as PB or Client may reasonably require.

Subcontractor shall include the requirements of this Article in all lower-tier subcontracts.

ARTICLE 19: CONFIDENTIAL INFORMATION; NON-DISCLOSURE

Unless required by law or Court order to do to, or unless prior written authorization is received from the PB or the Client, Subcontractor shall not disclose any (1) information concerning the Project that is not already in the public domain; (2) data, information, processes, or documents provided by or on behalf of PB or the Client, including but not limited to Electric Utility Infrastructure Information ("EUII"), as that term has been defined in Prime Agreement Special Provisions, Section VII (K); (3) Work Product; or (4) other information generated by Subcontractor in the course of performing this Subcontract (collectively, "Confidential Information") to anyone other than PB, and at PB's direction, the Client. Nor shall Subcontractor use such Confidential Information for any purpose other than the performance of Services under this Subcontract. Subcontractor shall instruct its employees and lower-tier subcontractors to treat all information obtained or generated in performance of the Subcontract as confidential, and shall obtain from its lower-tier subcontractors equivalent agreements to withhold and protect from disclosure all Confidential Information covered under this Article.

ARTICLE 20: COMPLIANCE WITH LAWS

Subcontractor shall comply with all federal, state and local laws, codes, ordinances and regulations applicable to Subcontractor, this Subcontract, the Project and its work sites, and the Services to be performed hereunder, including but not limited to those regulating conditions of employment and workplace safety and health. Subcontractor shall be liable to PB for all losses, costs, and expenses PB may incur resulting from or attributable to Subcontractor's, its employees', lower-tier subcontractors', and/or agents' failure to so comply, including but not limited to orders, judgments, fines, penalties, and required corrective measures.

During the performance of this Subcontract, Subcontractor shall not unlawfully discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, sexual preference, disability, age (40+), marital status, or public assistance status. Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and the selection for training, including apprenticeship. Subcontractor agrees to post in conspicuous places, available to employees and applicants for employment, notices which set forth the provisions of this non-discrimination Article.

ARTICLE 21: HEALTH AND SAFETY

Subcontractor agrees that the prevention of accidents to workers engaged by Subcontractor is the responsibility of Subcontractor. To that end, Subcontractor shall comply with all Project safety policies/protocols/program, and all federal, state and local health and safety laws, codes, ordinances and regulations applicable to the Project, the Project site and other work locations, Subcontractor, this Subcontract and the performance of the Services hereunder, including, but not limited to, the Occupational Safety and Health Act of 1970. If Services are to be performed or activities conducted on-site or at other field locations, Subcontractor shall also implement and enforce a safety program for all workers, including those of lower-tier subcontractors, if any, engaged in performing the Services, and shall ensure such workers' participation in appropriate safety training. Subcontractor's safety and training program shall comply at a minimum with such safety policies and programs as may be established or mandated under the Prime Agreement. Subcontractor shall also be responsible for the safety and conduct of persons on property under Subcontractor's control, including Subcontractor's employees, agents, invitees, and lower-tier subcontractors.

ARTICLE 22: NOTICES

All notices required or permitted under this Subcontract shall be given in writing and delivered either personally, by delivery service, by first-class, certified, or registered mail, or by e-mail, to the authorized representative of the other party at the address set forth below, or as may be designated by notice delivered in accordance with the requirements of this Article. If notice is delivered by e-mail, the notice must be signed by the party giving notice and sent as a pdf attachment to the e-mail at the address stipulated herein. Electronic or digital signatures shall not be allowed.

TO PB:

Parsons Brinckerhoff, Inc.
Alii Place, 17th Floor
1099 Alakea Street
Honolulu, Hawaii 96813
E-mail: 16590EHHCTCPNotices@pbworld.com
Attention: Mr. James Van Epps

TO SUBCONTRACTOR: Pat Lee & Associates, LLC
[REDACTED]
E-mail: [REDACTED]
Attention: Mr. Pat Lee

Notice shall be effective upon delivery when delivered in person, by courier service providing receipt of delivery, or by registered or certified mail, return receipt requested. Notices properly addressed and stamped, and deposited into the US postal system as first-class mail, shall be deemed received two (2) business days after date of postmark. Notice delivered by e-mail shall be deemed received by the date and time stated on the transmitter's copy.

ARTICLE 23: STANDARDS; QUALITY PROGRAM

All Services shall be performed in compliance with the standards, specifications, manuals of instruction, policies, protocols, and procedures established by the Client and such other regulatory agencies as may have jurisdiction over the work.

Subcontractor shall maintain a quality program for the duration of this Subcontract that at a minimum complies with any requirements established in the Prime Agreement. Upon request by PB, Subcontractor shall provide a copy of its quality program to PB. The program must ensure that the Services performed by Subcontractor conform to the requirements of this Subcontract and the Prime Agreement Terms and Conditions. Subcontractor shall provide for a flow down of all applicable quality requirements to its lower-tier subcontracts.

As part of its quality program, Subcontractor shall maintain and implement a Quality Control and Quality Assurance Plan ("QA/QC Plan"). At a minimum, the Plan shall ensure (i) Work Product review (the Work Product is accurate and complete) by suitably-qualified parties independent from the personnel performing the Services or delivering the Work Product, and (ii) periodic process audit and review of the overall quality control activities contained in the Plan. Subcontractor shall document all of its quality program activities performed in connection with this Subcontract. If any deviations are identified in any of the performed Services, corrective actions shall be developed, implemented, and documented by Subcontractor. PB has the right to audit Subcontractor's quality program and its Project-related quality activities required by the Plan at any time. The results of any internal reviews specified in the Plan shall be submitted to PB.

If Subcontractor fails to properly implement and maintain a quality program or QA/QC Plan, and such failure continues following notification to Subcontractor by PB, then PB may, in addition to any other remedies permitted herein or by law, terminate this Subcontract, withhold payment for Services until Subcontractor is in compliance with the requirements of this Article, or remedy such failure at Subcontractor's expense. Subcontractor agrees to indemnify and hold PB harmless for all costs incurred by PB to correct work adversely affected by such failure.

ARTICLE 24: APPLICABLE LAW; JURISDICTION; VENUE

This Subcontract, its validity, interpretation, and performance, and any disputes between the parties arising out of or relating to this Subcontract, shall be governed by and construed in accordance with the laws of the state of Hawaii, without regard to conflict of laws principles. In the event the parties are first unable to resolve their disputes through good-faith negotiations or through mutually-agreed nonbinding mediation, legal proceedings may be brought. Any such legal proceedings shall be brought in a court of competent jurisdiction in the city and county of Honolulu, and Subcontractor by its signature below

consents to the *in personam* jurisdiction of said courts and waives and covenants not to seek change of venue based upon *forum non conveniens*. Notwithstanding the foregoing, legal proceedings may be brought at any time to preserve equitable or legal remedies, obtain equitable or extraordinary relief, preserve evidence, prevent irreparable harm, preserve the status quo pending proceedings on the merits, or preserve claims that might otherwise be barred by applicable statutes of limitations, or lost or impaired on other legal or procedural grounds.

ARTICLE 25: SEVERABILITY

If any provision of this Subcontract is prohibited by law, invalid, or otherwise unenforceable, the remainder of this Subcontract shall remain in full force and effect; provided that in such event the parties hereto shall in good faith attempt to replace the invalid or unenforceable provision with one that is valid and enforceable, and comes as close as reasonably possible to expressing or achieving the intent of the parties with regard to the original provision. Upon agreement, this Subcontract shall be amended to incorporate the substitute language.

ARTICLE 26: SURVIVAL

The parties acknowledge that all terms and conditions of this Subcontract which by their nature are intended to survive the termination or expiration of this Subcontract, including non-disclosure, indemnification, insurance, retention and production of Project Records, and other obligations Subcontractor has a continuing duty to observe, as well as all provisions applicable to disputes and legal proceedings, and Article 22 notices, shall survive and be enforceable by PB according to the terms hereof.

ARTICLE 27: SUCCESSORS AND ASSIGNS

Subcontractor shall not assign, sell, transfer, or otherwise dispose of any of its interest in this Subcontract, or delegate any of its duties under this Subcontract, without the prior written approval of PB. Any unauthorized attempt thereat shall be void and unenforceable.

ARTICLE 28: THIRD-PARTY BENEFICIARIES

This Subcontract shall be binding upon and inure to the benefit of the parties hereto, their successors and permitted assigns, only. PB and Subcontractor are the only beneficiaries of this Subcontract and are solely entitled to enforce its terms. It is the express intent of PB and Subcontractor that should any persons or entities other than the parties hereto receive a benefit under this Subcontract, they shall do so as incidental beneficiaries only.

ARTICLE 29: INTERPRETATION

This Subcontract shall not be construed in favor of or against either party based upon authorship, the parties being of equal bargaining stature. Headings are solely for the convenience of the parties and shall have no bearing on interpretation of text. Unless established as a term of art, with a well-understood and unequivocal technical or trade meaning, words are used in their common and ordinary meaning. Defined terms are capitalized, and when capitalized, shall carry their defined meaning. Wherever the term "day" or "days" is used, it shall mean singular or consecutive calendar days, respectively. "Business day" shall mean any weekday other than Saturday, Sunday or a holiday recognized and observed by the state of Hawaii.

ARTICLE 30: NONWAIVER

No failure or successive failures on the part of PB to enforce any provision of this Subcontract, or custom or practice that may evolve between the parties in the administration of this Subcontract, shall operate as a waiver or discharge of that or any other provision, or render the same invalid, or impair PB's right to enforce the same in the event of any subsequent breach by Subcontractor. Any waiver, if given, shall be in writing, signed by the party making the waiver and addressed to the other party, and shall be limited to the particular instance and for the purposes stipulated therein.

ARTICLE 31: ENTIRE AGREEMENT

This Subcontract represents the entire and integrated agreement between PB and Subcontractor, and supersedes and replaces all prior and contemporaneous understandings, agreements, arrangements, negotiations, and representations, whether written or oral, with respect to the subject matter hereof. This Subcontract may not be modified except in writing, by an amendment signed by the parties hereto.

IN WITNESS WHEREOF, PB and Subcontractor have duly executed this Subcontract, effective from the date first written above.

PARSONS BRINCKERHOFF, INC.

PAT LEE & ASSOCIATES, LLC

BY: James R. Van Epps
Signature

BY: Pat Lee
Signature

James R. Van Epps, Sr. Vice President
and Project Manager

PAT LEE
Printed Name

PRINCIPAL
Printed Title

ATTACHMENT 1
PRIME AGREEMENT TERMS AND CONDITIONS

Copy provided to Subcontractor on CD.

ATTACHMENT 2
SCOPE OF SERVICES

Task numbering corresponds to that used in the Prime Agreement Special Provisions, Exhibit I, Scope of Services.

Subcontractor shall perform the following services:

Task 09 Design Management and Services

09.01 Design

09.01.09 Sustainability Initiatives

Serve on Project Sustainability Committee

Task 13 Public Involvement

13.01 Public Involvement Program Activities

- Provide community and general public outreach
- Provide government monitoring and coordination services
- Participate in weekly Public Involvement meetings
- Attend additional Public Involvement meetings, as requested
- Attend and respond to public input at public meetings, interest groups, and through personal outreach
- Provide community general public outreach for the Archaeological Inventory Survey (AIS) for the Airport and City Center sections
- Inform Public Involvement Manager promptly of information and developments that may affect the Project

13.01.01 Participate in Community Events

- Attend trade shows, workshops and seminars, and disseminate Project information
- Attend meetings with various groups, such as community, business, residential, ethnic, special trade organizations, and unions, and disseminate Project information

13.01.02 Facilitate Project Public Involvement Meetings

Attend public hearings, workshops and seminars, and disseminate Project information

13.01.04 Develop and Produce Presentations and Manage Presentation/Schedule (i.e., "Speakers Bureau")

- Attend meetings with organizations, associations and other stakeholders, and disseminate Project information
- Participate in and solicit Speakers Bureau meetings and informational presentations

13.01.05 Maintain Existing and Develop New Contacts with Local Groups and Organizations, Including City Council and Neighborhood Boards

- Maintain existing, as well as develop new, contacts with groups, organizations and individuals
- Attend meetings with neighborhood boards and outreach groups, including consulting parties and ethnic organizations, and disseminate Project information
- Update and maintain Public Involvement database, as requested

13.01.07 Develop, Produce, and Distribute Public Information Documents and Electronic Media

Distribute approved public information documents and materials

13.01.08 Respond to Public Inquiries about the Project

Respond to public inquiries during various public outreach activities

13.01.09 Present Community Feedback to the Project Team

Convey community feedback to the Project team at the weekly Public Involvement meetings, on behalf of the general public and specialty groups

13.01.10 Effectiveness of the Program

Compile market research surveys

13.02 Support Construction Management (CM) in Oversight of Contractor Public Outreach Teams

13.02.01 Oversee Public Contact

- Attend construction mitigation and contractors task force meetings
- Participate in construction mitigation efforts through neighborhoods along the alignment by attending various public outreach events and/or disseminating Project information

13.02.03 Weekly Travel Advisory to Support Construction Impact Mitigation

Promote and attend contractors outreach programs

13.03 Support the City in Media and Agency Coordination as Needed

Perform media monitoring and rapid response

13.04 Documentation

Prepare and submit monthly progress report

Task 23 Archaeological Services


23.01 Archaeological Inventory Survey (AIS) Coordination

- Provide community and general public outreach for the AIS for the Airport and City Center sections
- Provide communication conduit for business owners and residential property owners to maintain communications during AIS work in roadways
- Participate in weekly AIS coordination meetings

ATTACHMENT 3
FEE SCHEDULE/BUDGET

Exhibit 2A – Cost Estimate

PAT LEE & ASSOCIATES, LLC

Item	Amount
Total Labor (1) Other Direct Costs (2) Lower-tier Subcontractor Costs (3) General Excise and Use Tax (4.5 %)	
TOTAL (1) Schedule A – Labor Details (2) Schedule B – Other Direct Cost Details (3) Schedule C – Lower-tier Subcontractor Details – N/A	\$430,540

SPECIAL PROVISIONS
Honolulu High-Capacity Transit Corridor Project

Exhibit 2A – Cost Estimate

Schedule A – Labor Details

Title/Name	Estimated Hours per Month	Total Hours ¹	Bill Rate ²	Total Labor
Principal – Pat Lee	█	█	█	█
Total				█

(1) Total hours are based upon a period of performance of twenty-four (24) months from Notice-to-Proceed.

(2) The Bill Rate is inclusive of all direct and indirect costs associated with the performance of the Services, including but not limited to direct labor, overhead, general and administrative expenses, other direct costs not identified in Schedule B below, and operating margin (profit). The Bill Rate does not include the General Excise and Use Tax.

Schedule B – Other Direct Cost Details

Description	Unit Cost	Units	Total
Seminar and Event Registration Fees			█
Total			█

SPECIAL PROVISIONS
 Honolulu High-Capacity Transit Corridor Project

**PROFESSIONAL SERVICES SUBCONTRACT
BETWEEN
PARSONS BRINCKERHOFF, INC.
AND
GARY K. OMORI, LLC
(#PB-16590E-G00)**

This Subcontract, effective as of the 2nd day of August, 2011, is made and entered into by and between **PARSONS BRINCKERHOFF, INC.** ("PB"), a New York corporation with offices at Alii Place, 17th Floor, 1099 Alakea Street, Honolulu, HI 96813, and **GARY K. OMORI, LLC** ("Subcontractor"), a Hawaii limited liability company with offices at [REDACTED].

RECITALS

PB (formerly known as "PB Americas, Inc.") entered into General Engineering Consultant Contract (GEC II) No. SC-DTS-1100131 dated June 30, 2011 (the "Prime Agreement") between PB Americas, Inc. and the Honolulu Authority for Rapid Transportation, hereinafter referred to as "HART" ("Client"), to provide general engineering, planning, construction management and other consultant services for the Honolulu High-Capacity Transit Corridor Project, which includes the 28-mile Locally Preferred Alternative and the 20-mile Airport Alignment, as more particularly defined in Prime Agreement Special Provisions VII(A) ("HHCTCP" or the "Project").

PB has determined the need to subcontract certain of the public involvement services required under the Prime Agreement, and Subcontractor has agreed to provide the same for the duration of the Prime Agreement in accordance with the terms and conditions contained herein.

Therefore, for the consideration hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which the parties by their signatures below affirm, the parties do mutually agree as follows:

TERMS

The foregoing recitals are incorporated herein for all purposes as if fully set forth.

ARTICLE 1: PRIME AGREEMENT TERMS AND CONDITIONS

Except as noted below, or where in their application the context clearly requires otherwise, all the terms and conditions of the Prime Agreement, including all exhibits thereto and other documents incorporated by reference therein, that pertain to the subcontracted services or to the Subcontractor, or that by their express terms are required to be incorporated into each subcontract (the "Prime Agreement Terms and Conditions"), labeled **Attachment 1**, are by this reference incorporated herein and made a part hereof for all purposes. By the signature below of its authorized representative, Subcontractor affirms that it has been provided a copy of Attachment 1 on CD.

With regard to the services to be performed by it, Subcontractor assumes toward PB all of the obligations and responsibilities that PB assumes toward the Client under the Prime Agreement Terms and Conditions, and Subcontractor shall be bound by all of the Prime Agreement Terms and Conditions to the same extent as PB is bound thereby. In the event of any conflicts or ambiguities between or among the provisions of this Subcontract and the Prime Agreement Terms and Conditions, the provision that imposes the more stringent requirement on Subcontractor shall take precedence.

Subcontractor shall include in all lower-tier subcontracts those provisions of the Prime Agreement that are required to be so included, and shall require all lower-tier subcontractors to comply with such provisions for the duration of their respective subcontracts. Subcontractor shall require each lower-tier subcontractor to make such disclosures and execute such attestations as may be required under the Prime Agreement Terms and Conditions, including but not limited to those required by state or federal statute associated with source of funding. Failure to comply with the terms of this paragraph shall constitute a material default.

ARTICLE 2: SCOPE OF SERVICES; UNAUTHORIZED AND EXTRA WORK

a. **Services.** Subcontractor shall perform, consistent with the standard of care stipulated herein and other terms and conditions of this Subcontract, those services set forth in the Scope of Services annexed hereto as Attachment 2 and by this reference incorporated herein and made a part hereof for all purposes (the "Services") as may be required during the term of the Prime Agreement to complete the Project. The Services include all tasks and components, whether or not expressly set forth herein, that are manifestly necessary to carry out the intent of this Subcontract, or that are customarily performed in conjunction with, as a component of, or in order to accomplish, the Services, and such tasks and components shall be performed as if fully set forth in the description of the Services.

b. **Unauthorized and Extra Work.** Subcontractor shall not proceed with performance of any Services or incur any costs, or be entitled to compensation or reimbursement for any Services performed or costs incurred, prior to the effective date of this Subcontract and issuance of Notice to Proceed ("NTP"). Nor shall Subcontractor proceed with performance of any work in addition to that stipulated in this Subcontract ("Extra Work"), or be entitled to compensation therefor, or to reimbursement for costs incurred in connection therewith, prior to full and proper execution of a Subcontract amendment executed by both parties describing the work to be performed, the schedule for performance, and the compensation to be paid. Any work performed prior to the effective date of this Subcontract or an amendment authorizing same, is done solely as a volunteer and at no cost to PB.

ARTICLE 3: KEY PERSONNEL

If any Subcontractor key personnel have been designated for this Project, they are listed below. Subcontractor's key personnel shall not be replaced without PB's or Client's prior written consent. In the event any key personnel become unavailable due to separation from employment with Subcontractor, long-term illness/disability, or death, Subcontractor shall nominate a replacement with equivalent qualifications for PB's approval, which shall not be unreasonably withheld. In the event Subcontractor fails to provide a suitable replacement, PB shall have the right to terminate this Subcontract.

Key Personnel: Gary Omori

ARTICLE 4: COMPENSATION

a. **Total Contract Amount.** Subcontractor shall be compensated on a Bill Rate basis, and shall perform the Services for an amount not to exceed **THREE HUNDRED SEVENTY-SIX THOUSAND EIGHT HUNDRED TWENTY-SEVEN AND NO/100 DOLLARS (\$376,827.00)** (the "Total Price"), in accordance with the Fee Schedule/Budget annexed hereto as Attachment 3 and by this reference incorporated herein and made a part hereof for all purposes ("Fee Schedule. Reimbursable costs shall include only those authorized in Prime Agreement Part 2, Special Provisions Exhibit 2B(2)(a), (b), (c) and (e) ("Reimbursable Costs"), as further delineated in Attachment 3.

b. **Notifications Required.** Subcontractor shall notify PB promptly in writing at the point at which (a) Subcontractor exceeds the estimated monthly level of effort by 25%, or (b) Subcontractor has expended 75% of the Total Price. Subcontractor shall not under any circumstances incur fees in excess of the Total Price.

ARTICLE 5: INVOICING; PAYMENT

a. **Electronic Reporting.** PB has implemented a web-based time collection/reporting system for the Project. Utilizing software provided by PB, Subcontractor shall submit bi-weekly timesheets electronically to PB's Project Control Office. All timesheets must be reviewed by PB's Project lead or manager for compliance with Subcontract invoicing requirements, including but not limited to compliance with Exhibit 2B mandates, and authorized prior to invoice submittal ("Authorized Time"). Amounts invoiced must correspond to the hours of Authorized Time entered on the electronic reporting system for the invoice period.

b. **Invoice Periods; Submittal Deadlines.** Invoicing for the Project is structured on a 12-period annual cycle. Subcontractor shall prepare invoices for Services performed during each invoice period in a format acceptable to PB, and shall submit its invoices monthly, no later than 15 days following the end of the applicable invoice period. Any invoice delivered to PB after the submittal deadline will be processed with the next succeeding invoice period submittals.

c. **Invoice Submittal Requirements.** Invoices shall include all labor costs incurred during the invoice period for Authorized Time, and all Reimbursable Costs incurred and booked during the invoice period, together with back-up documentation. The bill-through date on each monthly invoice must match the last actual expenditure date shown on the back-up documentation. In addition, Subcontractor shall include with each invoice a **progress report** that documents, in bulleted detail, the Services completed during the invoice period, including items of work accomplished and milestones reached, as well as problems/issues/concerns, and work planned for the next invoice period. The signed invoice, backup documentation, and progress report shall be sent to LaRhonda Sayles, Accounting Manager, at sayles@pbworld.com; hard copy to be delivered to the address for notice stipulated in Article 22.

d. **Payment.** Contingent upon Subcontractor's timely submittal of a proper invoice and progress report, PB shall pay those undisputed amounts due and owing within 10 days of the date of payment by Client to PB for the Services covered by the invoice, less any amounts PB may be authorized or required to withhold or deduct under the terms of this Subcontract, applicable law, or court order. In the event of non-payment by Client, both parties shall cooperate in seeking payment from Client.

e. **Right to Withhold.** It is expressly agreed that PB shall be entitled to withhold payment pending correction of non-conforming Services and/or other performance deficiencies.

f. **Audits.** All payments hereunder are subject to the audits, adjustments and limitations that apply to PB under the Prime Agreement.

ARTICLE 6: TERM; PERFORMANCE SCHEDULE; DELAYS

a. **Term.** The term of this Subcontract shall be for a period commencing with the effective date hereof and ending on the earlier of: (1) the date the Prime Agreement expires; (2) the date stated in any Notice of Termination issued pursuant to Article 15; or (3) the date the Prime Agreement is terminated, if the Prime Agreement Terms and Conditions so provide.

b. Performance Schedule. Time is of the essence in Subcontractor's performance of the Services under this Subcontract, and Subcontractor shall promptly commence performance of the Services as instructed in the NTP, and perform the same diligently and without interruption until completed in accordance with the performance schedule established in Attachment 2, or if none, in the Prime Agreement (the "Performance Schedule"). Provided, if the Performance Schedule applicable to the Services is derived from the Prime Agreement, Subcontractor shall submit all deliverables to PB no later than twenty-one (21) business days prior to the completion/submittal deadline for such work applicable to PB.

c. Delays. Subcontractor shall notify PB in writing within five (5) business days of any event or condition impacting its ability to meet the performance schedule, together with the steps contemplated or taken by Subcontractor to mitigate the effect of such delay.

Delays caused by *force majeure* events such as war, civil insurrection, riot, acts of public authority, strike, explosion, fire, earthquake, flood and like catastrophic events, shall be excusable to the extent they could not reasonably be anticipated, mitigated, or avoided by Subcontractor, and did not result in whole or in part from Subcontractor's fault or neglect, but shall be compensable only if additional compensation is obtained by PB from Client for such delays.

ARTICLE 7: STANDARD OF CARE; QUALIFICATIONS/LICENSES

a. Standard of Care. Subcontractor shall perform the Services in a manner consistent with that degree of skill and care ordinarily exercised by members of the same profession performing the same or similar work under the same or similar circumstances in the city and county of Honolulu. The parties acknowledge that PB is relying upon Subcontractor's expertise, and that neither PB's review, approval, acceptance, or payment for the Services is intended, nor shall it, constitute a waiver, release, or discharge of Subcontractor's responsibility for the proper performance of the Services or liability for defects in same, or an assumption by PB of such responsibility or liability.

b. Qualifications and Licenses. Subcontractor represents and warrants that all personnel performing Services or conducting activities in furtherance of this Subcontract shall be properly qualified, and that personnel performing Services or conducting activities for which a license or certification is required under local, state, or federal regulations shall be duly licensed and/or certified. All licenses and certifications shall be current at the time the work is performed.

ARTICLE 8: INDEPENDENT CONTRACTOR

The parties affirm that Subcontractor is an independent contractor under subcontract to PB, and is not in a joint venture, partnership, agent-principal or employer-employee relationship with PB. Subcontractor shall, at its own expense, provide all equipment, materials, services, and personnel required to perform the Services. Subcontractor, consistent with its status as an independent contractor, shall maintain complete control and direction over and responsibility for its employees, lower-tier subcontractors, and agents, and shall be solely responsible for the means, methods, sequences and techniques for carrying out the Services, and for the safety of its employees, lower-tier subcontractors, agents and invitees. Subcontractor affirms that it shall not represent itself to be an agent of PB or Client, or as having any authority to bind PB or Client, and further affirms that it shall instruct its personnel that they are not, and are prohibited from representing themselves to be, officers, agents, or employees of PB or Client, and have no authority to bind PB or Client.

Subcontractor shall indemnify, defend, and hold PB and Client harmless from any claims, and pay all damages, costs and judgments related to any claims made against PB or Client by Subcontractor's and/or its lower tier subcontractors' employees, agents, and representatives, for wages, salaries or any other form of compensation; for benefits, including but not limited to Workers' Compensation insurance benefits,

health, disability, medical, vacation, retirement, and sick leave; and/or any other benefit or assistance that may be available to employees of PB or Client or otherwise associated with an employer/employee relationship, such as training, counseling, or promotion. Subcontractor shall be responsible for all payroll and unemployment taxes associated with workers it provides to perform Services, and for withholding of social security and state and federal income taxes for such individuals, and shall indemnify, defend and hold PB and Client harmless from, and shall pay, all taxes and costs, fines, penalties and assessments associated therewith.

ARTICLE 9: CLAUSES APPLICABLE TO FEDERALLY-FUNDED CONTRACTS

All clauses set forth in Prime Agreement Special Provisions Article VIII are by this reference expressly incorporated into and made a part of this Subcontract for all purposes as if set forth in full, and shall control in accordance with their terms in the event of conflict with any other terms and conditions of this Subcontract. Subcontractor shall comply with, and ensure that its lower-tier subcontractors comply with, all provisions of this Article 9.

ARTICLE 10: DISADVANTAGED BUSINESS ENTERPRISES

a. With regard to the performance of this Subcontract and in provision of the Services, Subcontractor shall fully cooperate with PB in meeting PB's commitments and goals, if any, with regard to the maximum utilization of disadvantaged business enterprises, minority business enterprises, small business enterprises, women-owned business enterprises, emerging business enterprises, and historically underutilized businesses (collectively, "DBEs"), and Subcontractor, if requested in writing by PB, shall provide the maximum practicable opportunity for DBEs to compete for any lower-tier subagreements available pursuant to this Subcontract.

b. If Subcontractor is a DBE, upon written request by PB Subcontractor shall provide certificates or other acceptable testament to such DBE status.

c. Subcontractor shall promptly provide attesting documentation when requested by PB, that proves that all lower-tier DBEs have received the revenue paid to Subcontractor by PB on behalf of the DBEs for services provided pursuant to the provisions of this Subcontract.

ARTICLE 11: INDEMNIFICATION

To the maximum extent permitted by law, Subcontractor shall indemnify, defend, and hold harmless PB and Client, their successors and assigns, and each of their respective officers, agents, servants and employees, from and against any and all claims, suits, actions, judgments, orders, demands, losses, damages, and liability of whatsoever nature, and costs and expenses including but not limited to (a) administrative or statutory assessments, sanctions, fines, and penalties, and (b) reasonable attorneys' fees, witness fees, costs of discovery and investigation, and court costs, whether incurred in relation to administrative, pre-trial, trial, post-trial, or appellate proceedings; caused by, resulting from, or arising out of (a) breach of this Subcontract; (b) the negligent acts, errors, or omissions, or the intentional, willful, or reckless misconduct of Subcontractor, its officers, employees, servants, agents, subcontractors, or representatives in the performance of this Subcontract; (c) infringement of patents or copyrights, or unauthorized disclosure of trade secrets or Confidential Information, as defined in Article 19; or (d) violation of applicable codes and regulations, including but not limited to laws relating to health and safety, compensation and conditions of employment, and payment of subcontractors, vendors, and materialmen.

Notwithstanding any other provision to the contrary, in the event of litigation between the parties to enforce the provisions of this Article or any other indemnification obligation owed to PB under the terms

of this Subcontract, the prevailing party shall be entitled to recover costs incurred and reasonable attorneys' fees.

The indemnification afforded under this Article shall not be limited in any manner whatsoever by insurance required under this Subcontract or the Prime Agreement, or by any other insurance carried by Subcontractor, PB or the Client. Nor shall the terms of this indemnification provision operate to limit or modify any of the insurance required of Subcontractor hereunder, or the scope or terms of such coverage. Nothing herein is intended to require Subcontractor to indemnify PB from liability for PB's negligence.

ARTICLE 12: PROMPT PAYMENT OBLIGATIONS; RELEASE OF LIENS AND CLAIMS

Subject to Subcontractor's right to withhold payment in a good-faith dispute, Subcontractor shall promptly pay for all services, equipment and materials furnished in performing the Services hereunder. PB may at any time require Subcontractor to submit lien releases satisfactory to PB and Client evidencing payment and release of claims for payment. Upon evidence of unpaid undisputed claims for payment, PB may pay and discharge same and deduct the amount paid, together with incurred costs and attorneys' fees, from compensation due or to become due to Subcontractor hereunder. Acceptance of final payment by Subcontractor shall operate as a full and final release of Client and PB, its affiliates, successors, and assigns, from liability for any and all claims by Subcontractor, its affiliates, successors, and assigns, for additional compensation or payment for Services rendered, costs incurred, or work performed by Subcontractor under this Subcontract.

ARTICLE 13: INSURANCE

a. Coverage. Subcontractor shall maintain at its own cost and expense for the duration of this Subcontract the following insurance coverages issued by companies licensed to do business in the State of Hawaii, with an AM Best rating of A-VIII or better, and otherwise acceptable to PB and Client.

(1) Workers' Compensation and Employer's Liability Insurance

Coverage to include all Statutory Workers' Compensation benefits to the employees of Subcontractor who may sustain work-related injury, death, or disease, and coverage, if applicable, commensurate with the requirements of the U.S. Longshore and Harbor Workers' Compensation Act (USL&H) or any other maritime law or similar act (e.g., Outer Continental Shelf Lands Act (OSCLA), Federal Employers Liability Act (FELA). Such insurance shall include a waiver of subrogation in favor of PB and Client, unless prohibited under applicable state law. Employer's Liability coverage with a limit of not less than \$1,000,000 each accident/disease shall also be maintained.

(2) Commercial General Liability and Contractual Liability ("CGL") Insurance, including contractual liability cover, with a limit of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate

Coverage to include premises operations, independent contractors, products and completed operations, and broad-form contractual, personal injury, advertising injury and property damage, and XCU (explosion, collapse, and underground hazard) coverage. If Subcontractor's work is within 50 feet of a railroad right of way, the policy must also be endorsed to cover work within 50 feet of a railroad. Contractual liability shall not exclude the indemnification provisions of this Subcontract. PB and Client, and their respective officers, directors, agents, and employees must be named as additional insureds, for both ongoing and completed operations, on a primary and non-contributory basis. Such policy shall contain a severability of interests provision or cross-liability clause, and shall provide that the general aggregate limit applies on a per-project basis. Such insurance shall include a waiver of subrogation in favor of PB and Client.

(3) Business Automobile Liability with a combined single limit of not less than \$1,000,000 each accident

The policy must be written on an "any auto" basis. PB and Client, and their respective officers, directors, agents, and employees must be named as additional insureds, on a primary and non-contributory basis. Such insurance shall include a waiver of subrogation in favor of PB and Client unless prohibited under applicable state law.

(4) Professional Liability with a limit of not less than \$1,000,000 per claim and annual aggregate

Coverage to include Subcontractor's legal liability for damages arising out of Subcontractor's performance of professional services pursuant to this Subcontract or relating to the Project.

Neither PB nor Client shall be liable for any deductibles on additional insured coverage, and any coverage maintained by PB and Client shall be excess and noncontributory. The required insurance shall apply separately to each insured against whom claim is made or suit brought, except with respect to the limits of liability. Coverage shall contain no special limitations on the scope of protection afforded to PB, Client and their respective officers, directors, agents, and employees.

CGL insurance shall be written on ISO occurrence form CG 00 01 or a substitute form providing equivalent liability coverage. Additional insured endorsements shall be written on CG 20 10 or equivalent. Business auto coverage shall be written on ISO for CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing equivalent liability coverage. With the exception of professional liability insurance, all insurance shall be written on an occurrence basis. Notwithstanding any other provision to the contrary, professional liability insurance shall be maintained in full force and effect continuously from the effective date of this Subcontract until the expiration of one (1) year following substantial completion of the Project.

All insurance policies must contain a provision that provides thirty (30) days' prior written notice to PB of cancellation (ten (10) days' prior written notice for failure to pay premium). Such notice of cancellation must be provided to PB via the following address: Parsons Brinckerhoff, Inc., Attn: Risk Management, One Penn Plaza, New York, NY 10119.

b. **Certificates and Endorsements.** Subcontractor shall, prior to commencing performance of any Services or entering onto the Project site or other field location, furnish PB with certificates of insurance and endorsements referencing the Project name and Project number, and evidencing (a) the required coverages, including but not limited to the additional insured and waiver of subrogation requirements, (b) the limits, and (c) the notice of cancellation provisions. Certificates and endorsements shall be provided annually, not more than 10 days after renewal or replacement of each policy, and shall restate the effective value of the coverage provided.

Subcontractor shall deliver the certificates of insurance and endorsements, each evidencing the required coverage and Project name and number, to: (1) PB Project Management, Diane Cook at cook@pbworld.com, and (2) to Parsons Brinckerhoff, Inc. at:

- E-mail: PBCertificateTracking@lockton.com <<mailto:PBCertificateTracking@lockton.com>> (preferred method); or
- Fax: Attn: Parsons Brinckerhoff, Inc. Certificate Tracking at Fax 816-783-2276; or
- Mail: Parsons Brinckerhoff, Inc. Certificate Tracking 444, W. 47th Street, Kansas City, MO, 64112.

Failure of PB to demand such certificate or other evidence of full compliance with these insurance requirements, or failure of PB to identify a deficiency from evidence that is provided, shall not be construed as a waiver of Subcontractor's obligation to maintain such insurance.

c. Lower-Tier Subcontractors. Subcontractor shall require that each of its lower-tier subcontractors, if any, have in place the insurance required herein, with the coverages and limits required herein, and provide Subcontractor with certificates of insurance and endorsements evidencing such coverage prior to commencement of subcontracted work. Subcontractor shall also require that PB and Client be named as additional insureds on all lower-tier subcontractor CGL, automobile, and (if required) aircraft liability policies, and that CGL, auto, aircraft (if required), and workers' compensation coverages be endorsed to provide for a waiver of subrogation in favor of PB and Client.

Subcontractor shall also comply with all other requirements set forth in Subsection 4.3.2 of the Prime Agreement General Terms and Conditions.

ARTICLE 14: SUSPENSION OF SERVICES

PB may, at any time, and with or without cause, suspend performance of the Services or any portion thereof for a period of up to 90 days by notice in writing to Subcontractor, and Subcontractor shall resume its Services promptly after being notified by PB to do so. Subcontractor may be allowed additional compensation or an extension of time, or both, provided same is granted by Client.

PB may immediately suspend Services performed at the Project site or other field locations without notice for violation of any safety rules, regulations, or requirements, for code violations, for failure to obtain or comply with the terms of any permits, orders, or required authorizations, or upon discovery of any unsafe working conditions. In such case, Subcontractor shall immediately cure the violation or remedy the unsafe working condition. Failure to do so shall constitute a material default.

ARTICLE 15: TERMINATION

PB may terminate this Subcontract, in whole or in part, for cause, upon seven (7) days' written notice. PB may terminate this Subcontract, in whole or in part, for its convenience, upon 10 days' written notice.

In the event of termination for cause, Subcontractor shall be entitled to compensation for the value of all Services performed in accordance with contract requirements up to the effective date of termination, less allowable deductions, which include, but are not limited to, all costs in excess of the compensation established in Article 4 reasonably incurred by PB to complete the Services. To the extent allowable deductions exceed amounts remaining due to Subcontractor, Subcontractor shall be and remain liable to PB upon demand for the amount of such excess.

In the event of termination for PB's convenience and without default on the part of Subcontractor, Subcontractor shall be entitled to compensation for all Services performed in accordance with contract requirements up to the effective date of termination, less allowable deductions. To the extent allowable deductions exceed amounts remaining due to Subcontractor, Subcontractor shall be and remain liable to PB upon demand for the amount of such excess.

Upon receipt of notice of termination, Subcontractor shall discontinue the Services unless otherwise directed and deliver to PB all Work Product. In the event of termination, PB shall have the right to conduct a financial audit, as well as a performance audit to ascertain the quality, timeliness and compensability of Subcontractor's Services. If, after issuance of notice of termination for cause, it is

determined for any reason that Subcontractor was not in default, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to termination for convenience.

ARTICLE 16: REMEDIES

In the event Subcontractor fails to timely perform Services, fails to perform Services in accordance with contract requirements, or is otherwise in default, PB shall be entitled to withhold payment until the default is corrected. Subcontractor shall, upon notice from PB, correct the designated performance deficiencies without additional compensation. If such performance deficiencies are not corrected within the time period specified in the notice, PB may cause same to be corrected and deduct costs incurred by reason of such failure from Subcontractor's compensation and, if Subcontractor's remaining compensation is not sufficient to reimburse PB for such costs, recover the same from Subcontractor upon demand. These remedies shall be in addition to all other remedies available to PB.

With the exception of attorneys' fees to enforce indemnification obligations, neither party hereto shall be entitled to recover from the other for breach of this Subcontract (a) incidental, nominal, special, indirect, exemplary or consequential damages, or damages that in their nature or amount constitute a penalty, or (b) attorneys fees or costs. Notwithstanding the foregoing, however, PB shall be entitled to seek, recover, and recoup from Subcontractor those types of damages, of whatever nature, as PB may be held accountable to the Client under the terms of the Prime Agreement, or to third parties, that were caused by or attributable to Subcontractor, its agents, lower-tier subcontractors, servants, or employees, or for which Subcontractor is otherwise legally responsible.

Neither the pendency of a dispute nor consideration of claims by PB pertaining to this Subcontract shall excuse Subcontractor from full and timely performance in accordance with the terms hereof.

ARTICLE 17: WORK PRODUCT

All drawings, plans, designs, specifications, photographs, models, schematics, surveys, maps, reports, studies, analyses, estimates, minutes, diaries, field notes, training manuals and materials, data bases, electronic files, file formats, templates, procedures, scripts, links, specifically-created key commands, source code documentation, software programs, calculations, summaries and other compilations of information to be developed, produced, or provided by Subcontractor as part of the Services, including but not limited to all deliverables identified herein, whether completed or in process, and all supporting documents and data, whether in hard copy or electronic or digital format or capable of being converted to such format, constitute "Work Product."

Work Product shall be the property of PB and shall be furnished to PB promptly upon request and as a condition to issuance of payment, although Subcontractor shall be permitted to retain reproducible copies. Subcontractor shall not be liable for loss, damage, or injury resulting from PB's use of Work Product for purposes other than as intended or contemplated herein.

The parties intend that Work Product shall be "work made for hire," of which PB shall be deemed the author. If for any reason such Work Product does not constitute "work made for hire," Subcontractor hereby (a) waives all rights in such Work Product, and any other rights of authorship, identification, or approval, restriction or limitation on use or subsequent modification, and (b) irrevocably assigns to PB all right, title, and interest in and to the Work Product, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Subcontractor shall obtain such interest and execute and deliver such instruments and take such other actions as may be necessary to vest and perfect such rights in PB.

To the extent any Work Product includes Subcontractor's previously-developed intellectual property that is or could be protected by federal copyright, patent, or trademark laws, or state trade secret laws, Subcontractor hereby grants to PB and Client a perpetual, royalty-free, fully-paid up, non-exclusive and irrevocable license to copy, reproduce, perform, dispose of, and use and re-use, in whole or in part, such intellectual property, and to authorize others to do so. Such previously-developed intellectual property may constitute but is not limited to, data bases, software programs, templates, file formats, specifically-created key commands, scripts, links, procedures, training manuals and other training materials, designs, prototypes, plans, and other works provided or delivered to PB or Client by Subcontractor.

ARTICLE 18: PROJECT RECORDS; RECORD RETENTION PERIOD; AUDITS

a. **Project Records.** All records pertaining to this Subcontract and the Services performed hereunder, including but not limited to (a) timesheets and accounting and financial records; (b) Work Product; (c) drawings, maps, surveys, models, photographs, schematics, plans, designs, specifications, reports, studies, summaries, analyses, diaries, field notes, estimates, calculations, and other compilations of information obtained by or provided to Subcontractor in performance of the Services; and (d) correspondence; whether in hard copy or electronic or digital format, or capable of being converted to such format, constitute "Project Records."

b. **Accounting and Financial Records; Audits.** Subcontractor shall preserve all Project Records in such detail as shall properly substantiate contract performance and claims for payment under this Subcontract, and shall comply with the accounting and audit requirements of the Prime Agreement Terms and Conditions. In the event the Project is subject to the Federal Acquisition Regulations ("FAR"), Subcontractor shall comply with all applicable sections of the FAR. Subcontractor shall immediately repay to PB upon demand any compensation disallowed as a result of an audit conducted hereunder, or PB may elect to deduct disallowed amounts from monies due or to become due under this Subcontract.

c. **Record-Retention Period; Review and Reproduction.** Subcontractor shall retain all Project Records at a secure location reasonably accessible to the parties hereto for the longer of (a) six (6) years from the date of final payment or (b) until all disputes, audits, claims, legal proceedings, and other actions involving this Subcontract and the Services performed hereunder have been resolved or concluded (the "Record Retention Period"). During the Record Retention Period Subcontractor shall make all Project Records available to PB and Client for review and reproduction during normal business hours or at such other times as PB or Client may reasonably require.

Subcontractor shall include the requirements of this Article in all lower-tier subcontracts.

ARTICLE 19: CONFIDENTIAL INFORMATION; NON-DISCLOSURE

Unless required by law or Court order to do so, or unless prior written authorization is received from the PB or the Client, Subcontractor shall not disclose any (1) information concerning the Project that is not already in the public domain; (2) data, information, processes, or documents provided by or on behalf of PB or the Client, including but not limited to Electric Utility Infrastructure Information ("EUII"), as that term has been defined in Prime Agreement Special Provisions, Section VII (K); (3) Work Product; or (4) other information generated by Subcontractor in the course of performing this Subcontract (collectively, "Confidential Information") to anyone other than PB, and at PB's direction, the Client. Nor shall Subcontractor use such Confidential Information for any purpose other than the performance of Services under this Subcontract. Subcontractor shall instruct its employees and lower-tier subcontractors to treat all information obtained or generated in performance of the Subcontract as confidential, and shall obtain from its lower-tier subcontractors equivalent agreements to withhold and protect from disclosure all Confidential Information covered under this Article.

ARTICLE 20: COMPLIANCE WITH LAWS

Subcontractor shall comply with all federal, state and local laws, codes, ordinances and regulations applicable to Subcontractor, this Subcontract, the Project and its work sites, and the Services to be performed hereunder, including but not limited to those regulating conditions of employment and workplace safety and health. Subcontractor shall be liable to PB for all losses, costs, and expenses PB may incur resulting from or attributable to Subcontractor's, its employees', lower-tier subcontractors', and/or agents' failure to so comply, including but not limited to orders, judgments, fines, penalties, and required corrective measures.

During the performance of this Subcontract, Subcontractor shall not unlawfully discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, sexual preference, disability, age (40+), marital status, or public assistance status. Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and the selection for training, including apprenticeship. Subcontractor agrees to post in conspicuous places, available to employees and applicants for employment, notices which set forth the provisions of this non-discrimination Article.

ARTICLE 21: HEALTH AND SAFETY

Subcontractor agrees that the prevention of accidents to workers engaged by Subcontractor is the responsibility of Subcontractor. To that end, Subcontractor shall comply with all Project safety policies/protocols/program, and all federal, state and local health and safety laws, codes, ordinances and regulations applicable to the Project, the Project site and other work locations. Subcontractor, this Subcontract and the performance of the Services hereunder, including, but not limited to, the Occupational Safety and Health Act of 1970. If Services are to be performed or activities conducted on-site or at other field locations, Subcontractor shall also implement and enforce a safety program for all workers, including those of lower-tier subcontractors, if any, engaged in performing the Services, and shall ensure such workers' participation in appropriate safety training. Subcontractor's safety and training program shall comply at a minimum with such safety policies and programs as may be established or mandated under the Prime Agreement. Subcontractor shall also be responsible for the safety and conduct of persons on property under Subcontractor's control, including Subcontractor's employees, agents, invitees, and lower-tier subcontractors.

ARTICLE 22: NOTICES

All notices required or permitted under this Subcontract shall be given in writing and delivered either personally, by delivery service, by first-class, certified, or registered mail, or by e-mail, to the authorized representative of the other party at the address set forth below, or as may be designated by notice delivered in accordance with the requirements of this Article. If notice is delivered by e-mail, the notice must be signed by the party giving notice and sent as a pdf attachment to the e-mail at the address stipulated herein. Electronic or digital signatures shall not be allowed.

TO PB:

Parsons Brinckerhoff, Inc.
Alii Place, 17th Floor
1099 Alakea Street
Honolulu, Hawaii 96813
E-mail: 16590EHHCTCPNotices@pbworld.com
Attention: Mr. James Van Epps

TO SUBCONTRACTOR: Gary K. Omori, LLC
[REDACTED]
E-mail: [REDACTED]
Attention: Mr. Gary Omori

Notice shall be effective upon delivery when delivered in person, by courier service providing receipt of delivery, or by registered or certified mail, return receipt requested. Notices properly addressed and stamped, and deposited into the US postal system as first-class mail, shall be deemed received two (2) business days after date of postmark. Notice delivered by e-mail shall be deemed received by the date and time stated on the transmitter's copy.

ARTICLE 23: STANDARDS; QUALITY PROGRAM

All Services shall be performed in compliance with the standards, specifications, manuals of instruction, policies, protocols, and procedures established by the Client and such other regulatory agencies as may have jurisdiction over the work.

Subcontractor shall maintain a quality program for the duration of this Subcontract that at a minimum complies with any requirements established in the Prime Agreement. Upon request by PB, Subcontractor shall provide a copy of its quality program to PB. The program must ensure that the Services performed by Subcontractor conform to the requirements of this Subcontract and the Prime Agreement Terms and Conditions. Subcontractor shall provide for a flow down of all applicable quality requirements to its lower-tier subcontracts.

As part of its quality program, Subcontractor shall maintain and implement a Quality Control and Quality Assurance Plan ("QA/QC Plan"). At a minimum, the Plan shall ensure (i) Work Product review (the Work Product is accurate and complete) by suitably-qualified parties independent from the personnel performing the Services or delivering the Work Product, and (ii) periodic process audit and review of the overall quality control activities contained in the Plan. Subcontractor shall document all of its quality program activities performed in connection with this Subcontract. If any deviations are identified in any of the performed Services, corrective actions shall be developed, implemented, and documented by Subcontractor. PB has the right to audit Subcontractor's quality program and its Project-related quality activities required by the Plan at any time. The results of any internal reviews specified in the Plan shall be submitted to PB.

If Subcontractor fails to properly implement and maintain a quality program or QA/QC Plan, and such failure continues following notification to Subcontractor by PB, then PB may, in addition to any other remedies permitted herein or by law, terminate this Subcontract, withhold payment for Services until Subcontractor is in compliance with the requirements of this Article, or remedy such failure at Subcontractor's expense. Subcontractor agrees to indemnify and hold PB harmless for all costs incurred by PB to correct work adversely affected by such failure.

ARTICLE 24: APPLICABLE LAW; JURISDICTION; VENUE

This Subcontract, its validity, interpretation, and performance, and any disputes between the parties arising out of or relating to this Subcontract, shall be governed by and construed in accordance with the laws of the state of Hawaii, without regard to conflict of laws principles. In the event the parties are first unable to resolve their disputes through good-faith negotiations or through mutually-agreed nonbinding mediation, legal proceedings may be brought. Any such legal proceedings shall be brought in a court of competent jurisdiction in the city and county of Honolulu, and Subcontractor by its signature below

consents to the *in personam* jurisdiction of said courts and waives and covenants not to seek change of venue based upon *forum non conveniens*. Notwithstanding the foregoing, legal proceedings may be brought at any time to preserve equitable or legal remedies, obtain equitable or extraordinary relief, preserve evidence, prevent irreparable harm, preserve the status quo pending proceedings on the merits, or preserve claims that might otherwise be barred by applicable statutes of limitations, or lost or impaired on other legal or procedural grounds.

ARTICLE 25: SEVERABILITY

If any provision of this Subcontract is prohibited by law, invalid, or otherwise unenforceable, the remainder of this Subcontract shall remain in full force and effect: provided that in such event the parties hereto shall in good faith attempt to replace the invalid or unenforceable provision with one that is valid and enforceable, and comes as close as reasonably possible to expressing or achieving the intent of the parties with regard to the original provision. Upon agreement, this Subcontract shall be amended to incorporate the substitute language.

ARTICLE 26: SURVIVAL

The parties acknowledge that all terms and conditions of this Subcontract which by their nature are intended to survive the termination or expiration of this Subcontract, including non-disclosure, indemnification, insurance, retention and production of Project Records, and other obligations Subcontractor has a continuing duty to observe, as well as all provisions applicable to disputes and legal proceedings, and Article 22 notices, shall survive and be enforceable by PB according to the terms hereof.

ARTICLE 27: SUCCESSORS AND ASSIGNS

Subcontractor shall not assign, sell, transfer, or otherwise dispose of any of its interest in this Subcontract, or delegate any of its duties under this Subcontract, without the prior written approval of PB. Any unauthorized attempt thereat shall be void and unenforceable.

ARTICLE 28: THIRD-PARTY BENEFICIARIES

This Subcontract shall be binding upon and inure to the benefit of the parties hereto, their successors and permitted assigns, only. PB and Subcontractor are the only beneficiaries of this Subcontract and are solely entitled to enforce its terms. It is the express intent of PB and Subcontractor that should any persons or entities other than the parties hereto receive a benefit under this Subcontract, they shall do so as incidental beneficiaries only.

ARTICLE 29: INTERPRETATION

This Subcontract shall not be construed in favor of or against either party based upon authorship, the parties being of equal bargaining stature. Headings are solely for the convenience of the parties and shall have no bearing on interpretation of text. Unless established as a term of art, with a well-understood and unequivocal technical or trade meaning, words are used in their common and ordinary meaning. Defined terms are capitalized, and when capitalized, shall carry their defined meaning. Wherever the term "day" or "days" is used, it shall mean singular or consecutive calendar days, respectively. "Business day" shall mean any weekday other than Saturday, Sunday or a holiday recognized and observed by the state of Hawaii.

ARTICLE 30: NONWAIVER

No failure or successive failures on the part of PB to enforce any provision of this Subcontract, or custom or practice that may evolve between the parties in the administration of this Subcontract, shall operate as a waiver or discharge of that or any other provision, or render the same invalid, or impair PB's right to enforce the same in the event of any subsequent breach by Subcontractor. Any waiver, if given, shall be in writing, signed by the party making the waiver and addressed to the other party, and shall be limited to the particular instance and for the purposes stipulated therein.

ARTICLE 31: ENTIRE AGREEMENT

This Subcontract represents the entire and integrated agreement between PB and Subcontractor, and supersedes and replaces all prior and contemporaneous understandings, agreements, arrangements, negotiations, and representations, whether written or oral, with respect to the subject matter hereof. This Subcontract may not be modified except in writing, by an amendment signed by the parties hereto.

IN WITNESS WHEREOF, PB and Subcontractor have duly executed this Subcontract, effective from the date first written above.

PARSONS BRINCKERHOFF, INC.

BY: *Mark H. Scheibe*
Signature

for

James R. Van Epps, Sr. Vice President
and Project Manager

GARY K. OMORI, LLC

BY: *Gary K. Omori*
Signature

GARY K. OMORI
Printed Name

Member Only.
Printed Title

Honolulu High-Capacity Transit Corridor Project, GFC II (# 16390L)

ATTACHMENT I
PRIME AGREEMENT TERMS AND CONDITIONS

Copy provided to Subcontractor on CD.

ATTACHMENT 2

SCOPE OF SERVICES

Task numbering corresponds to that used in the Prime Agreement Special Provisions, Exhibit 1, Scope of Services.

Subcontractor shall perform the following services:

Task 13 Public Involvement

13.01 Public Involvement Program Activities

- Provide community and general public outreach
- Provide government monitoring and coordination services
- Participate in weekly Public Involvement meetings
- Attend additional Public Involvement meetings, as requested
- Attend and respond to public input at public meetings, interest groups, and through personal outreach
- Provide community general public outreach for the Archaeological Inventory Survey (AIS) for the Airport and City Center sections
- Inform Public Involvement Manager promptly of information and development that may affect the Project

13.01.01 Participate in Community Events

- Attend trade shows, workshops, and/or seminars and disseminate Project information
- Attend meetings with various groups such as community, business, residential, ethnic, and special trade organizations, and disseminate Project information

13.01.02 Facilitate Project Public Involvement Meetings

Attend public hearings, workshops, and/or seminars and disseminate Project information

13.01.04 Develop and Produce Presentations and Manage Presentation/Schedule (i.e., "Speaker's Bureau")

- Attend meetings with organizations, associations, and other stakeholders and disseminate Project information
- Participate in and solicit Speaker's Bureau meetings and informational presentations

13.01.05 Maintain Existing and Develop New Contacts with Local Groups and Organizations, including City Council and Neighborhood Boards

- Maintain existing, as well as develop new, contacts with groups, organizations, and individuals

- Attend meetings with neighborhood boards and outreach groups, including consulting parties and ethnic organizations, and disseminate Project information
- Update and maintain Public Involvement database, as requested

13.01.07 Develop, Produce, and Distribute Public Information Documents and Electronic Media

Distribute approved public information documents and materials

13.01.08 Respond to Public Inquiries about the Project

Respond to public inquiries during various public outreach activities

13.01.09 Present Community Feedback to the Project Team

Convey community feedback to the Project team at the weekly Public Involvement meetings, on behalf of the general public and specialty groups

13.02 Support Construction Management (CM) in Oversight of Contractor Public Outreach Teams

13.02.01 Oversee Public Contact

- Attend construction mitigation and contractor's task force meetings
- Participate in construction mitigation efforts throughout neighborhoods along the alignment by attending various public outreach events and/or disseminating Project information

13.03 Support the City in Media and Agency Coordination as Needed

Perform media monitoring and rapid response

13.04 Documentation

Prepare and submit monthly progress reports

Task 16 Real Estate Program

16.01 Support City in Real Estate Program

Participate in real estate program activities and disseminate Project information as requested

Task 23 Archaeological Services


23.01 Archaeological Inventory Survey (AIS) Coordination

- Provide community and general public outreach for the AIS for the Airport and City Center sections
- Provide communication conduit for business owners and residential property owners to maintain communication during AIS work in roadways
- Participate in weekly AIS coordination meetings

ATTACHMENT 3
FEE SCHEDULE/BUDGET

Exhibit 2A – Cost Estimate

GARY K. OMORI, LLC

Item	Amount
Total Labor (1) Other Direct Costs (2) Lower-tier Subcontractor Costs (3) General Excise and Use Tax (4.5 %)	
TOTAL	\$376,827
(1) Schedule A – Labor Details (2) Schedule B – Other Direct Cost Details (3) Schedule C – Lower-tier Subcontractor Details – N/A	

SPECIAL PROVISIONS
Honolulu High-Capacity Transit Corridor Project

Exhibit 2A – Cost Estimate

Schedule A – Labor Details

Title/Name	Estimated Hours per Month	Total Hours ¹	Bill Rate ²	Total Labor
Principal – Gary Omori	█	█	█	█
Total				█

(1) Total hours are based upon a period of performance of twenty-four (24) months from Notice-to-Proceed.

(2) The Bill Rate is inclusive of all direct and indirect costs associated with the performance of the Services, including but not limited to direct labor, overhead, general and administrative expenses, other direct costs not identified in Schedule B below, and operating margin (profit). The Bill Rate does not include the General Excise and Use Tax.

Schedule B – Other Direct Cost Details

Description	Unit Cost	Units	Total
Seminar and Event Registration Fees			█
Total			█

SPECIAL PROVISIONS
 Honolulu High-Capacity Transit Corridor Project

**PROFESSIONAL SERVICES SUBCONTRACT
BETWEEN
PB AMERICAS, INC.
AND
P. DOUGLAS CARLSON d/b/a CARLSON COMMUNICATIONS
(#PB-16590E-CC0)**

This Subcontract, effective as of the 2nd day of August, 2011, is made and entered into by and between **PB AMERICAS, INC.** ("PB"), a New York corporation with offices at Alii Place, 17th Floor, 1099 Alakea Street, Honolulu, HI 96813, and **P. DOUGLAS CARLSON d/b/a CARLSON COMMUNICATIONS** ("Subcontractor"), a Hawaii sole proprietorship d/b/a Carlson Communications with offices at [REDACTED].

RECITALS

PB entered into General Engineering Consultant Contract (GEC II) No. SC-DTS-1100131 dated June 30, 2011 (the "Prime Agreement") between PB Americas, Inc. ("PB") and the Honolulu Authority for Rapid Transportation, hereinafter referred to as "HART" ("Client"), to provide general engineering, planning, construction management and other consultant services for the Honolulu High-Capacity Transit Corridor Project, which includes the 28-mile Locally Preferred Alternative and the 20-mile Airport Alignment, as more particularly defined in Prime Agreement Special Provisions VII(A) ("HHCTCP" or the "Project").

PB has determined the need to subcontract certain of the public involvement services required under the Prime Agreement, and Subcontractor has agreed to provide the same for the duration of the Prime Agreement in accordance with the terms and conditions contained herein.

Therefore, for the consideration hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which the parties by their signatures below affirm, the parties do mutually agree as follows.

TERMS

The foregoing recitals are incorporated herein for all purposes as if fully set forth.

ARTICLE 1: PRIME AGREEMENT TERMS AND CONDITIONS

Except as noted below, or where in their application the context clearly requires otherwise, all the terms and conditions of the Prime Agreement, including all exhibits thereto and other documents incorporated by reference therein, that pertain to the subcontracted services or to the Subcontractor, or that by their express terms are required to be incorporated into each subcontract (the "Prime Agreement Terms and Conditions"), labeled **Attachment I**, are by this reference incorporated herein and made a part hereof for all purposes. By the signature below of its authorized representative, Subcontractor affirms that it has been provided a copy of Attachment I on CD.

With regard to the services to be performed by it, Subcontractor assumes toward PB all of the obligations and responsibilities that PB assumes toward the Client under the Prime Agreement Terms and Conditions, and Subcontractor shall be bound by all of the Prime Agreement Terms and Conditions to the same extent as PB is bound thereby. In the event of any conflicts or ambiguities between or among the provisions of this Subcontract and the Prime Agreement Terms and Conditions, the provision that imposes the more stringent requirement on Subcontractor shall take precedence.

Subcontractor shall include in all lower-tier subcontracts those provisions of the Prime Agreement that are required to be so included, and shall require all lower-tier subcontractors to comply with such provisions for the duration of their respective subcontracts. Subcontractor shall require each lower-tier subcontractor to make such disclosures and execute such attestations as may be required under the Prime Agreement Terms and Conditions, including but not limited to those required by state or federal statute associated with source of funding. Failure to comply with the terms of this paragraph shall constitute a material default.

ARTICLE 2: SCOPE OF SERVICES; UNAUTHORIZED AND EXTRA WORK

a. **Services.** Subcontractor shall perform, consistent with the standard of care stipulated herein and other terms and conditions of this Subcontract, those services set forth in the Scope of Services annexed hereto as **Attachment 2** and by this reference incorporated herein and made a part hereof for all purposes (the "Services") as may be required during the term of the Prime Agreement to complete the Project. The Services include all tasks and components, whether or not expressly set forth herein, that are manifestly necessary to carry out the intent of this Subcontract, or that are customarily performed in conjunction with, as a component of, or in order to accomplish, the Services, and such tasks and components shall be performed as if fully set forth in the description of the Services.

b. **Unauthorized and Extra Work.** Subcontractor shall not proceed with performance of any Services or incur any costs, or be entitled to compensation or reimbursement for any Services performed or costs incurred, prior to the effective date of this Subcontract and issuance of Notice to Proceed ("NTP"). Nor shall Subcontractor proceed with performance of any work in addition to that stipulated in this Subcontract ("Extra Work"), or be entitled to compensation therefor, or to reimbursement for costs incurred in connection therewith, prior to full and proper execution of a Subcontract amendment executed by both parties describing the work to be performed, the schedule for performance, and the compensation to be paid. Any work performed prior to the effective date of this Subcontract or an amendment authorizing same, is done solely as a volunteer and at no cost to PB.

ARTICLE 3: KEY PERSONNEL

If any Subcontractor key personnel have been designated for this Project, they are listed below. Subcontractor's key personnel shall not be replaced without PB's or Client's prior written consent. In the event any key personnel become unavailable due to separation from employment with Subcontractor, long-term illness/disability, or death, Subcontractor shall nominate a replacement with equivalent qualifications for PB's approval, which shall not be unreasonably withheld. In the event Subcontractor fails to provide a suitable replacement, PB shall have the right to terminate this Subcontract.

Key Personnel: None

ARTICLE 4: COMPENSATION

a. **Total Contract Amount.** Subcontractor shall be compensated on a Bill Rate basis, and shall perform the Services for an amount not to exceed **THREE HUNDRED FIFTY-ONE THOUSAND FIVE HUNDRED THIRTY-EIGHT AND NO/100 DOLLARS (\$351,538.00)** (the "Total Price"), in accordance with the Fee Schedule/Budget annexed hereto as **Attachment 3** and by this reference incorporated herein and made a part hereof for all purposes ("Fee Schedule). Reimbursable costs shall include only those authorized in Prime Agreement Part 2, Special Provisions Exhibit 2B(2)(a), (b), (c) and (e) ("Reimbursable Costs"), as further delineated in Attachment 3

b. **Notifications Required.** Subcontractor shall notify PB promptly in writing at the point at which (a) Subcontractor exceeds the estimated monthly level of effort by 25%, or (b) Subcontractor has expended 75% of the Total Price. Subcontractor shall not under any circumstances incur fees in excess of the Total Price.

ARTICLE 5: INVOICING; PAYMENT

a. **Electronic Reporting.** PB has implemented a web-based time collection/reporting system for the Project. Utilizing software provided by PB, Subcontractor shall submit bi-weekly timesheets electronically to PB's Project Control Office. All timesheets must be reviewed by PB's Project lead or manager for compliance with Subcontract invoicing requirements, including but not limited to compliance with Exhibit 2B mandates, and authorized prior to invoice submittal ("Authorized Time"). Amounts invoiced must correspond to the hours of Authorized Time entered on the electronic reporting system for the invoice period.

b. **Invoice Periods; Submittal Deadlines.** Invoicing for the Project is structured on a 12-period annual cycle. Subcontractor shall prepare invoices for Services performed during each invoice period in a format acceptable to PB, and shall submit its invoices monthly, no later than 15 days following the end of the applicable invoice period. Any invoice delivered to PB after the submittal deadline will be processed with the next succeeding invoice period submittals.

c. **Invoice Submittal Requirements.** Invoices shall include all labor costs incurred during the invoice period for Authorized Time, and all Reimbursable Costs incurred and booked during the invoice period, together with back-up documentation. The bill-through date on each monthly invoice must match the last actual expenditure date shown on the back-up documentation. In addition, Subcontractor shall include with each invoice a progress report that documents, in bulleted detail, the Services completed during the invoice period, including items of work accomplished and milestones reached, as well as problems/issues/concerns, and work planned for the next invoice period. The signed invoice, backup documentation, and progress report shall be sent to LaRhonda Sayles, Accounting Manager, at sayles@pbworld.com; hard copy to be delivered to the address for notice stipulated in Article 22.

d. **Payment.** Contingent upon Subcontractor's timely submittal of a proper invoice and progress report, PB shall pay those undisputed amounts due and owing within 10 days of the date of payment by Client to PB for the Services covered by the invoice, less any amounts PB may be authorized or required to withhold or deduct under the terms of this Subcontract, applicable law, or court order. In the event of non-payment by Client, both parties shall cooperate in seeking payment from Client.

e. **Right to Withhold.** It is expressly agreed that PB shall be entitled to withhold payment pending correction of non-conforming Services and/or other performance deficiencies.

f. **Audits.** All payments hereunder are subject to the audits, adjustments and limitations that apply to PB under the Prime Agreement.

ARTICLE 6: TERM; PERFORMANCE SCHEDULE; DELAYS

a. **Term.** The term of this Subcontract shall be for a period commencing with the effective date hereof and ending on the earlier of: (1) the date the Prime Agreement expires; (2) the date stated in any Notice of Termination issued pursuant to Article 15; or (3) the date the Prime Agreement is terminated, if the Prime Agreement Terms and Conditions so provide.

b. **Performance Schedule.** Time is of the essence in Subcontractor's performance of the Services under this Subcontract, and Subcontractor shall promptly commence performance of the Services as instructed in the NTP, and perform the same diligently and without interruption until completed in accordance with the performance schedule established in Attachment 2, or if none, in the Prime Agreement (the "Performance Schedule"). Provided, if the Performance Schedule applicable to the Services is derived from the Prime Agreement, Subcontractor shall submit all deliverables to PB no later than twenty-one (21) business days prior to the completion/submittal deadline for such work applicable to PB.

c. **Delays.** Subcontractor shall notify PB in writing within five (5) business days of any event or condition impacting its ability to meet the performance schedule, together with the steps contemplated or taken by Subcontractor to mitigate the effect of such delay.

Delays caused by *force majeure* events such as war, civil insurrection, riot, acts of public authority, strike, explosion, fire, earthquake, flood and like catastrophic events, shall be excusable to the extent they could not reasonably be anticipated, mitigated, or avoided by Subcontractor, and did not result in whole or in part from Subcontractor's fault or neglect, but shall be compensable only if additional compensation is obtained by PB from Client for such delays.

ARTICLE 7: STANDARD OF CARE; QUALIFICATIONS/LICENSES

a. **Standard of Care.** Subcontractor shall perform the Services in a manner consistent with that degree of skill and care ordinarily exercised by members of the same profession performing the same or similar work under the same or similar circumstances in the city and county of Honolulu. The parties acknowledge that PB is relying upon Subcontractor's expertise, and that neither PB's review, approval, acceptance, or payment for the Services is intended, nor shall it, constitute a waiver, release, or discharge of Subcontractor's responsibility for the proper performance of the Services or liability for defects in same, or an assumption by PB of such responsibility or liability.

b. **Qualifications and Licenses.** Subcontractor represents and warrants that all personnel performing Services or conducting activities in furtherance of this Subcontract shall be properly qualified, and that personnel performing Services or conducting activities for which a license or certification is required under local, state, or federal regulations shall be duly licensed and/or certified. All licenses and certifications shall be current at the time the work is performed.

ARTICLE 8: INDEPENDENT CONTRACTOR

The parties affirm that Subcontractor is an independent contractor under subcontract to PB, and is not in a joint venture, partnership, agent-principal or employer-employee relationship with PB. Subcontractor shall, at its own expense, provide all equipment, materials, services, and personnel required to perform the Services. Subcontractor, consistent with its status as an independent contractor, shall maintain complete control and direction over and responsibility for its employees, lower-tier subcontractors, and agents, and shall be solely responsible for the means, methods, sequences and techniques for carrying out the Services, and for the safety of its employees, lower-tier subcontractors, agents and invitees. Subcontractor affirms that it shall not represent itself to be an agent of PB or Client, or as having any authority to bind PB or Client, and further affirms that it shall instruct its personnel that they are not, and are prohibited from representing themselves to be, officers, agents, or employees of PB or Client, and have no authority to bind PB or Client.

Subcontractor shall indemnify, defend, and hold PB and Client harmless from any claims, and pay all damages, costs and judgments related to any claims made against PB or Client by Subcontractor's and/or its lower tier subcontractors' employees, agents, and representatives, for wages, salaries or any other form of compensation; for benefits, including but not limited to Workers' Compensation insurance benefits,

health, disability, medical, vacation, retirement, and sick leave; and/or any other benefit or assistance that may be available to employees of PB or Client or otherwise associated with an employer/employee relationship, such as training, counseling, or promotion. Subcontractor shall be responsible for all payroll and unemployment taxes associated with workers it provides to perform Services, and for withholding of social security and state and federal income taxes for such individuals, and shall indemnify, defend and hold PB and Client harmless from, and shall pay, all taxes and costs, fines, penalties and assessments associated therewith.

ARTICLE 9: CLAUSES APPLICABLE TO FEDERALLY-FUNDED CONTRACTS

All clauses set forth in Prime Agreement Special Provisions Article VIII are by this reference expressly incorporated into and made a part of this Subcontract for all purposes as if set forth in full, and shall control in accordance with their terms in the event of conflict with any other terms and conditions of this Subcontract. Subcontractor shall comply with, and ensure that its lower-tier subcontractors comply with, all provisions of this Article 9.

ARTICLE 10: DISADVANTAGED BUSINESS ENTERPRISES

a. With regard to the performance of this Subcontract and in provision of the Services, Subcontractor shall fully cooperate with PB in meeting PB's commitments and goals, if any, with regard to the maximum utilization of disadvantaged business enterprises, minority business enterprises, small business enterprises, women-owned business enterprises, emerging business enterprises, and historically underutilized businesses (collectively, "DBEs"), and Subcontractor, if requested in writing by PB, shall provide the maximum practicable opportunity for DBEs to compete for any lower-tier subagreements available pursuant to this Subcontract.

b. If Subcontractor is a DBE, upon written request by PB Subcontractor shall provide certificates or other acceptable testament to such DBE status.

c. Subcontractor shall promptly provide attesting documentation when requested by PB, that proves that all lower-tier DBEs have received the revenue paid to Subcontractor by PB on behalf of the DBEs for services provided pursuant to the provisions of this Subcontract.

ARTICLE 11: INDEMNIFICATION

To the maximum extent permitted by law, Subcontractor shall indemnify, defend, and hold harmless PB and Client, their successors and assigns, and each of their respective officers, agents, servants and employees, from and against any and all claims, suits, actions, judgments, orders, demands, losses, damages, and liability of whatsoever nature, and costs and expenses including but not limited to (a) administrative or statutory assessments, sanctions, fines, and penalties, and (b) reasonable attorneys' fees, witness fees, costs of discovery and investigation, and court costs, whether incurred in relation to administrative, pre-trial, trial, post-trial, or appellate proceedings; caused by, resulting from, or arising out of (a) breach of this Subcontract; (b) the negligent acts, errors, or omissions, or the intentional, willful, or reckless misconduct of Subcontractor, its officers, employees, servants, agents, subcontractors, or representatives in the performance of this Subcontract; (c) infringement of patents or copyrights, or unauthorized disclosure of trade secrets or Confidential Information, as defined in Article 19; or (d) violation of applicable codes and regulations, including but not limited to laws relating to health and safety, compensation and conditions of employment, and payment of subcontractors, vendors, and materialmen.

Notwithstanding any other provision to the contrary, in the event of litigation between the parties to enforce the provisions of this Article or any other indemnification obligation owed to PB under the terms

of this Subcontract, the prevailing party shall be entitled to recover costs incurred and reasonable attorneys' fees.

The indemnification afforded under this Article shall not be limited in any manner whatsoever by insurance required under this Subcontract or the Prime Agreement, or by any other insurance carried by Subcontractor, PB or the Client. Nor shall the terms of this indemnification provision operate to limit or modify any of the insurance required of Subcontractor hereunder, or the scope or terms of such coverage. Nothing herein is intended to require Subcontractor to indemnify PB from liability for PB's negligence.

ARTICLE 12: PROMPT PAYMENT OBLIGATIONS; RELEASE OF LIENS AND CLAIMS

Subject to Subcontractor's right to withhold payment in a good-faith dispute, Subcontractor shall promptly pay for all services, equipment and materials furnished in performing the Services hereunder. PB may at any time require Subcontractor to submit lien releases satisfactory to PB and Client evidencing payment and release of claims for payment. Upon evidence of unpaid undisputed claims for payment, PB may pay and discharge same and deduct the amount paid, together with incurred costs and attorneys' fees, from compensation due or to become due to Subcontractor hereunder. Acceptance of final payment by Subcontractor shall operate as a full and final release of Client and PB, its affiliates, successors, and assigns, from liability for any and all claims by Subcontractor, its affiliates, successors, and assigns, for additional compensation or payment for Services rendered, costs incurred, or work performed by Subcontractor under this Subcontract.

ARTICLE 13: INSURANCE

a. Coverage. Subcontractor shall maintain at its own cost and expense for the duration of this Subcontract the following insurance coverages issued by companies licensed to do business in the State of Hawaii, with an AM Best rating of A-VIII or better, and otherwise acceptable to PB and Client.

(1) Workers' Compensation and Employer's Liability Insurance

Coverage to include all Statutory Workers' Compensation benefits to the employees of Subcontractor who may sustain work-related injury, death, or disease, and coverage, if applicable, commensurate with the requirements of the U.S. Longshore and Harbor Workers' Compensation Act (USL&H) or any other maritime law or similar act (e.g., Outer Continental Shelf Lands Act (OSCLA), Federal Employers Liability Act (FELA). Such insurance shall include a waiver of subrogation in favor of PB and Client, unless prohibited under applicable state law. Employer's Liability coverage with a limit of not less than \$1,000,000 each accident/disease shall also be maintained.

(2) Commercial General Liability and Contractual Liability ("CGL") Insurance, including contractual liability cover, with a limit of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate

Coverage to include premises operations, independent contractors, products and completed operations, and broad-form contractual, personal injury, advertising injury and property damage, and XCU (explosion, collapse, and underground hazard coverage) If Subcontractor's work is within 50 feet of a railroad right of way, the policy must also be endorsed to cover work within 50 feet of a railroad. Contractual liability shall not exclude the indemnification provisions of this Subcontract. PB and Client, and their respective officers, directors, agents, and employees must be named as additional insureds, for both ongoing and completed operations, on a primary and non-contributory basis. Such policy shall contain a severability of interests provision or cross-liability clause, and shall provide that the general aggregate limit applies on a per-project basis. Such insurance shall include a waiver of subrogation in favor of PB and Client.

(3) **Business Automobile Liability** with a combined single limit of not less than \$1,000,000 each accident

The policy must be written on an "any auto" basis. PB and Client, and their respective officers, directors, agents, and employees must be named as additional insureds, on a primary and non-contributory basis. Such insurance shall include a waiver of subrogation in favor of PB and Client unless prohibited under applicable state law.

(4) **Professional Liability** with a limit of not less than \$1,000,000 per claim and annual aggregate

Coverage to include Subcontractor's legal liability for damages arising out of Subcontractor's performance of professional services pursuant to this Subcontract or relating to the Project.

Neither PB nor Client shall be liable for any deductibles on additional insured coverage, and any coverage maintained by PB and Client shall be excess and noncontributory. The required insurance shall apply separately to each insured against whom claim is made or suit brought, except with respect to the limits of liability. Coverage shall contain no special limitations on the scope of protection afforded to PB, Client and their respective officers, directors, agents, and employees.

CGL insurance shall be written on ISO occurrence form CG 00 01 or a substitute form providing equivalent liability coverage. Additional insured endorsements shall be written on CG 20 10 or equivalent. Business auto coverage shall be written on ISO for CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing equivalent liability coverage. With the exception of professional liability insurance, all insurance shall be written on an occurrence basis. Notwithstanding any other provision to the contrary, professional liability insurance shall be maintained in full force and effect continuously from the effective date of this Subcontract until the expiration of one (1) year following substantial completion of the Project.

All insurance policies must contain a provision that provides thirty (30) days' prior written notice to PB of cancellation (ten (10) days' prior written notice for failure to pay premium). Such notice of cancellation must be provided to PB via the following address: PB Americas, Inc., Attn: Risk Management, One Penn Plaza, New York, NY 10119.

b. **Certificates and Endorsements.** Subcontractor shall, prior to commencing performance of any Services or entering onto the Project site or other field location, furnish PB with certificates of insurance and endorsements referencing the Project name and Project number, and evidencing (a) the required coverages, including but not limited to the additional insured and waiver of subrogation requirements, (b) the limits, and (c) the notice of cancellation provisions. Certificates and endorsements shall be provided annually, not more than 10 days after renewal or replacement of each policy, and shall restate the effective value of the coverage provided.

Subcontractor shall deliver the certificates of insurance and endorsements, each evidencing the required coverage and Project name and number, to: (1) PB Project Management, Diane Cook at cook@pbworld.com, and (2) to PB Americas, Inc. at:

- E-mail: PBCertificateTracking@lockton.com <<mailto:PBCertificateTracking@lockton.com>> (preferred method); or
- Fax: Attn: PB Americas, Inc. Certificate Tracking at Fax 816-783-2276; or
- Mail: PB Americas, Inc. Certificate Tracking 444, W. 47th Street, Kansas City, MO, 64112.

Failure of PB to demand such certificate or other evidence of full compliance with these insurance requirements, or failure of PB to identify a deficiency from evidence that is provided, shall not be construed as a waiver of Subcontractor's obligation to maintain such insurance.

c. Lower-Tier Subcontractors. Subcontractor shall require that each of its lower-tier subcontractors, if any, have in place the insurance required herein, with the coverages and limits required herein, and provide Subcontractor with certificates of insurance and endorsements evidencing such coverage prior to commencement of subcontracted work. Subcontractor shall also require that PB and Client be named as additional insureds on all lower-tier subcontractor CGL, automobile, and (if required) aircraft liability policies, and that CGL, auto, aircraft (if required), and workers' compensation coverages be endorsed to provide for a waiver of subrogation in favor of PB and Client.

Subcontractor shall also comply with all other requirements set forth in Subsection 4.3.2 of the Prime Agreement General Terms and Conditions.

ARTICLE 14: SUSPENSION OF SERVICES

PB may, at any time, and with or without cause, suspend performance of the Services or any portion thereof for a period of up to 90 days by notice in writing to Subcontractor, and Subcontractor shall resume its Services promptly after being notified by PB to do so. Subcontractor may be allowed additional compensation or an extension of time, or both, provided same is granted by Client.

PB may immediately suspend Services performed at the Project site or other field locations without notice for violation of any safety rules, regulations, or requirements, for code violations, for failure to obtain or comply with the terms of any permits, orders, or required authorizations, or upon discovery of any unsafe working conditions. In such case, Subcontractor shall immediately cure the violation or remedy the unsafe working condition. Failure to do so shall constitute a material default.

ARTICLE 15: TERMINATION

PB may terminate this Subcontract, in whole or in part, for cause, upon seven (7) days' written notice. PB may terminate this Subcontract, in whole or in part, for its convenience, upon 10 days' written notice.

In the event of termination for cause, Subcontractor shall be entitled to compensation for the value of all Services performed in accordance with contract requirements up to the effective date of termination, less allowable deductions, which include, but are not limited to, all costs in excess of the compensation established in Article 4 reasonably incurred by PB to complete the Services. To the extent allowable deductions exceed amounts remaining due to Subcontractor, Subcontractor shall be and remain liable to PB upon demand for the amount of such excess.

In the event of termination for PB's convenience and without default on the part of Subcontractor, Subcontractor shall be entitled to compensation for all Services performed in accordance with contract requirements up to the effective date of termination, less allowable deductions. To the extent allowable deductions exceed amounts remaining due to Subcontractor, Subcontractor shall be and remain liable to PB upon demand for the amount of such excess.

Upon receipt of notice of termination, Subcontractor shall discontinue the Services unless otherwise directed and deliver to PB all Work Product. In the event of termination, PB shall have the right to conduct a financial audit, as well as a performance audit to ascertain the quality, timeliness and compensability of Subcontractor's Services. If, after issuance of notice of termination for cause, it is

determined for any reason that Subcontractor was not in default, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to termination for convenience.

ARTICLE 16: REMEDIES

In the event Subcontractor fails to timely perform Services, fails to perform Services in accordance with contract requirements, or is otherwise in default, PB shall be entitled to withhold payment until the default is corrected. Subcontractor shall, upon notice from PB, correct the designated performance deficiencies without additional compensation. If such performance deficiencies are not corrected within the time period specified in the notice, PB may cause same to be corrected and deduct costs incurred by reason of such failure from Subcontractor's compensation and, if Subcontractor's remaining compensation is not sufficient to reimburse PB for such costs, recover the same from Subcontractor upon demand. These remedies shall be in addition to all other remedies available to PB.

With the exception of attorneys' fees to enforce indemnification obligations, neither party hereto shall be entitled to recover from the other for breach of this Subcontract (a) incidental, nominal, special, indirect, exemplary or consequential damages, or damages that in their nature or amount constitute a penalty, or (b) attorneys fees or costs. Notwithstanding the foregoing, however, PB shall be entitled to seek, recover, and recoup from Subcontractor those types of damages, of whatever nature, as PB may be held accountable to the Client under the terms of the Prime Agreement, or to third parties, that were caused by or attributable to Subcontractor, its agents, lower-tier subcontractors, servants, or employees, or for which Subcontractor is otherwise legally responsible.

Neither the pendency of a dispute nor consideration of claims by PB pertaining to this Subcontract shall excuse Subcontractor from full and timely performance in accordance with the terms hereof.

ARTICLE 17: WORK PRODUCT

All drawings, plans, designs, specifications, photographs, models, schematics, surveys, maps, reports, studies, analyses, estimates, minutes, diaries, field notes, training manuals and materials, data bases, electronic files, file formats, templates, procedures, scripts, links, specifically-created key commands, source code documentation, software programs, calculations, summaries and other compilations of information to be developed, produced, or provided by Subcontractor as part of the Services, including but not limited to all deliverables identified herein, whether completed or in process, and all supporting documents and data, whether in hard copy or electronic or digital format or capable of being converted to such format, constitute "Work Product."

Work Product shall be the property of PB and shall be furnished to PB promptly upon request and as a condition to issuance of payment, although Subcontractor shall be permitted to retain reproducible copies. Subcontractor shall not be liable for loss, damage, or injury resulting from PB's use of Work Product for purposes other than as intended or contemplated herein.

The parties intend that Work Product shall be "work made for hire," of which PB shall be deemed the author. If for any reason such Work Product does not constitute "work made for hire," Subcontractor hereby (a) waives all rights in such Work Product, and any other rights of authorship, identification, or approval, restriction or limitation on use or subsequent modification, and (b) irrevocably assigns to PB all right, title, and interest in and to the Work Product, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Subcontractor shall obtain such interest and execute and deliver such instruments and take such other actions as may be necessary to vest and perfect such rights in PB.

To the extent any Work Product includes Subcontractor's previously-developed intellectual property that is or could be protected by federal copyright, patent, or trademark laws, or state trade secret laws, Subcontractor hereby grants to PB and Client a perpetual, royalty-free, fully-paid up, non-exclusive and irrevocable license to copy, reproduce, perform, dispose of, and use and re-use, in whole or in part, such intellectual property, and to authorize others to do so. Such previously-developed intellectual property may constitute but is not limited to, data bases, software programs, templates, file formats, specifically-created key commands, scripts, links, procedures, training manuals and other training materials, designs, prototypes, plans, and other works provided or delivered to PB or Client by Subcontractor.

ARTICLE 18: PROJECT RECORDS; RECORD RETENTION PERIOD; AUDITS

a. **Project Records.** All records pertaining to this Subcontract and the Services performed hereunder, including but not limited to (a) timesheets and accounting and financial records; (b) Work Product; (c) drawings, maps, surveys, models, photographs, schematics, plans, designs, specifications, reports, studies, summaries, analyses, diaries, field notes, estimates, calculations, and other compilations of information obtained by or provided to Subcontractor in performance of the Services; and (d) correspondence; whether in hard copy or electronic or digital format, or capable of being converted to such format, constitute "Project Records."

b. **Accounting and Financial Records; Audits.** Subcontractor shall preserve all Project Records in such detail as shall properly substantiate contract performance and claims for payment under this Subcontract, and shall comply with the accounting and audit requirements of the Prime Agreement Terms and Conditions. In the event the Project is subject to the Federal Acquisition Regulations ("FAR"), Subcontractor shall comply with all applicable sections of the FAR. Subcontractor shall immediately repay to PB upon demand any compensation disallowed as a result of an audit conducted hereunder, or PB may elect to deduct disallowed amounts from monies due or to become due under this Subcontract.

c. **Record-Retention Period; Review and Reproduction.** Subcontractor shall retain all Project Records at a secure location reasonably accessible to the parties hereto for the longer of (a) six (6) years from the date of final payment or (b) until all disputes, audits, claims, legal proceedings, and other actions involving this Subcontract and the Services performed hereunder have been resolved or concluded (the "Record Retention Period"). During the Record Retention Period Subcontractor shall make all Project Records available to PB and Client for review and reproduction during normal business hours or at such other times as PB or Client may reasonably require.

Subcontractor shall include the requirements of this Article in all lower-tier subcontracts.

ARTICLE 19: CONFIDENTIAL INFORMATION; NON-DISCLOSURE

Unless required by law or Court order to do to, or unless prior written authorization is received from the PB or the Client, Subcontractor shall not disclose any (1) information concerning the Project that is not already in the public domain; (2) data, information, processes, or documents provided by or on behalf of PB or the Client, including but not limited to Electric Utility Infrastructure Information ("EUII"), as that term has been defined in Prime Agreement Special Provisions, Section VII (K); (3) Work Product; or (4) other information generated by Subcontractor in the course of performing this Subcontract (collectively, "Confidential Information") to anyone other than PB, and at PB's direction, the Client. Nor shall Subcontractor use such Confidential Information for any purpose other than the performance of Services under this Subcontract. Subcontractor shall instruct its employees and lower-tier subcontractors to treat all information obtained or generated in performance of the Subcontract as confidential, and shall obtain from its lower-tier subcontractors equivalent agreements to withhold and protect from disclosure all Confidential Information covered under this Article.

ARTICLE 20: COMPLIANCE WITH LAWS

Subcontractor shall comply with all federal, state and local laws, codes, ordinances and regulations applicable to Subcontractor, this Subcontract, the Project and its work sites, and the Services to be performed hereunder, including but not limited to those regulating conditions of employment and workplace safety and health. Subcontractor shall be liable to PB for all losses, costs, and expenses PB may incur resulting from or attributable to Subcontractor's, its employees', lower-tier subcontractors', and/or agents' failure to so comply, including but not limited to orders, judgments, fines, penalties, and required corrective measures.

During the performance of this Subcontract, Subcontractor shall not unlawfully discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, sexual preference, disability, age (40+), marital status, or public assistance status. Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and the selection for training, including apprenticeship. Subcontractor agrees to post in conspicuous places, available to employees and applicants for employment, notices which set forth the provisions of this non-discrimination Article.

ARTICLE 21: HEALTH AND SAFETY

Subcontractor agrees that the prevention of accidents to workers engaged by Subcontractor is the responsibility of Subcontractor. To that end, Subcontractor shall comply with all Project safety policies/protocols/program, and all federal, state and local health and safety laws, codes, ordinances and regulations applicable to the Project, the Project site and other work locations, Subcontractor, this Subcontract and the performance of the Services hereunder, including, but not limited to, the Occupational Safety and Health Act of 1970. If Services are to be performed or activities conducted on-site or at other field locations, Subcontractor shall also implement and enforce a safety program for all workers, including those of lower-tier subcontractors, if any, engaged in performing the Services, and shall ensure such workers' participation in appropriate safety training. Subcontractor's safety and training program shall comply at a minimum with such safety policies and programs as may be established or mandated under the Prime Agreement. Subcontractor shall also be responsible for the safety and conduct of persons on property under Subcontractor's control, including Subcontractor's employees, agents, invitees, and lower-tier subcontractors.

ARTICLE 22: NOTICES

All notices required or permitted under this Subcontract shall be given in writing and delivered either personally, by delivery service, by first-class, certified, or registered mail, or by e-mail, to the authorized representative of the other party at the address set forth below, or as may be designated by notice delivered in accordance with the requirements of this Article. If notice is delivered by e-mail, the notice must be signed by the party giving notice and sent as a pdf attachment to the e-mail at the address stipulated herein. Electronic or digital signatures shall not be allowed.

TO PB:

PB Americas, Inc.
Alii Place, 17th Floor
1099 Alakea Street
Honolulu, Hawaii 96813
E-mail: 16590EHHCTCPNotices@pbworld.com
Attention: Mr. James Van Epps

TO SUBCONTRACTOR: Carlson Communications
[REDACTED]
E-mail: [REDACTED]
Attention: Mr. P. Douglas Carlson

Notice shall be effective upon delivery when delivered in person, by courier service providing receipt of delivery, or by registered or certified mail, return receipt requested. Notices properly addressed and stamped, and deposited into the US postal system as first-class mail, shall be deemed received two (2) business days after date of postmark. Notice delivered by e-mail shall be deemed received by the date and time stated on the transmitter's copy

ARTICLE 23: STANDARDS; QUALITY PROGRAM

All Services shall be performed in compliance with the standards, specifications, manuals of instruction, policies, protocols, and procedures established by the Client and such other regulatory agencies as may have jurisdiction over the work.

Subcontractor shall maintain a quality program for the duration of this Subcontract that at a minimum complies with any requirements established in the Prime Agreement. Upon request by PB, Subcontractor shall provide a copy of its quality program to PB. The program must ensure that the Services performed by Subcontractor conform to the requirements of this Subcontract and the Prime Agreement Terms and Conditions. Subcontractor shall provide for a flow down of all applicable quality requirements to its lower-tier subcontracts.

As part of its quality program, Subcontractor shall maintain and implement a Quality Control and Quality Assurance Plan ("QA/QC Plan"). At a minimum, the Plan shall ensure (i) Work Product review (the Work Product is accurate and complete) by suitably-qualified parties independent from the personnel performing the Services or delivering the Work Product, and (ii) periodic process audit and review of the overall quality control activities contained in the Plan. Subcontractor shall document all of its quality program activities performed in connection with this Subcontract. If any deviations are identified in any of the performed Services, corrective actions shall be developed, implemented, and documented by Subcontractor. PB has the right to audit Subcontractor's quality program and its Project-related quality activities required by the Plan at any time. The results of any internal reviews specified in the Plan shall be submitted to PB.

If Subcontractor fails to properly implement and maintain a quality program or QA/QC Plan, and such failure continues following notification to Subcontractor by PB, then PB may, in addition to any other remedies permitted herein or by law, terminate this Subcontract, withhold payment for Services until Subcontractor is in compliance with the requirements of this Article, or remedy such failure at Subcontractor's expense. Subcontractor agrees to indemnify and hold PB harmless for all costs incurred by PB to correct work adversely affected by such failure.

ARTICLE 24: APPLICABLE LAW; JURISDICTION; VENUE

This Subcontract, its validity, interpretation, and performance, and any disputes between the parties arising out of or relating to this Subcontract, shall be governed by and construed in accordance with the laws of the state of Hawaii, without regard to conflict of laws principles. In the event the parties are first unable to resolve their disputes through good-faith negotiations or through mutually-agreed nonbinding mediation, legal proceedings may be brought. Any such legal proceedings shall be brought in a court of competent jurisdiction in the city and county of Honolulu, and Subcontractor by its signature below

consents to the *in personam* jurisdiction of said courts and waives and covenants not to seek change of venue based upon *forum non conveniens*. Notwithstanding the foregoing, legal proceedings may be brought at any time to preserve equitable or legal remedies, obtain equitable or extraordinary relief, preserve evidence, prevent irreparable harm, preserve the status quo pending proceedings on the merits, or preserve claims that might otherwise be barred by applicable statutes of limitations, or lost or impaired on other legal or procedural grounds.

ARTICLE 25: SEVERABILITY

If any provision of this Subcontract is prohibited by law, invalid, or otherwise unenforceable, the remainder of this Subcontract shall remain in full force and effect; provided that in such event the parties hereto shall in good faith attempt to replace the invalid or unenforceable provision with one that is valid and enforceable, and comes as close as reasonably possible to expressing or achieving the intent of the parties with regard to the original provision. Upon agreement, this Subcontract shall be amended to incorporate the substitute language.

ARTICLE 26: SURVIVAL

The parties acknowledge that all terms and conditions of this Subcontract which by their nature are intended to survive the termination or expiration of this Subcontract, including non-disclosure, indemnification, insurance, retention and production of Project Records, and other obligations Subcontractor has a continuing duty to observe, as well as all provisions applicable to disputes and legal proceedings, and Article 22 notices, shall survive and be enforceable by PB according to the terms hereof.

ARTICLE 27: SUCCESSORS AND ASSIGNS

Subcontractor shall not assign, sell, transfer, or otherwise dispose of any of its interest in this Subcontract, or delegate any of its duties under this Subcontract, without the prior written approval of PB. Any unauthorized attempt thereat shall be void and unenforceable.

ARTICLE 28: THIRD-PARTY BENEFICIARIES

This Subcontract shall be binding upon and inure to the benefit of the parties hereto, their successors and permitted assigns, only. PB and Subcontractor are the only beneficiaries of this Subcontract and are solely entitled to enforce its terms. It is the express intent of PB and Subcontractor that should any persons or entities other than the parties hereto receive a benefit under this Subcontract, they shall do so as incidental beneficiaries only.

ARTICLE 29: INTERPRETATION

This Subcontract shall not be construed in favor of or against either party based upon authorship, the parties being of equal bargaining stature. Headings are solely for the convenience of the parties and shall have no bearing on interpretation of text. Unless established as a term of art, with a well-understood and unequivocal technical or trade meaning, words are used in their common and ordinary meaning. Defined terms are capitalized, and when capitalized, shall carry their defined meaning. Wherever the term "day" or "days" is used, it shall mean singular or consecutive calendar days, respectively. "Business day" shall mean any weekday other than Saturday, Sunday or a holiday recognized and observed by the state of Hawaii.

ARTICLE 30: NONWAIVER

No failure or successive failures on the part of PB to enforce any provision of this Subcontract, or custom or practice that may evolve between the parties in the administration of this Subcontract, shall operate as a waiver or discharge of that or any other provision, or render the same invalid, or impair PB's right to enforce the same in the event of any subsequent breach by Subcontractor. Any waiver, if given, shall be in writing, signed by the party making the waiver and addressed to the other party, and shall be limited to the particular instance and for the purposes stipulated therein.

ARTICLE 31: ENTIRE AGREEMENT

This Subcontract represents the entire and integrated agreement between PB and Subcontractor, and supersedes and replaces all prior and contemporaneous understandings, agreements, arrangements, negotiations, and representations, whether written or oral, with respect to the subject matter hereof. This Subcontract may not be modified except in writing, by an amendment signed by the parties hereto.

IN WITNESS WHEREOF, PB and Subcontractor have duly executed this Subcontract, effective from the date first written above.

PB AMERICAS, INC.

BY: James R. Van Epps
Signature

James R. Van Epps, Sr. Vice President
and Project Manager

**P. DOUGLAS CARLSON d/b/a
CARLSON COMMUNICATIONS**

BY: P. Douglas Carlson
Signature

P. Douglas Carlson
Printed Name

Owner
Printed Title

ATTACHMENT 1
PRIME AGREEMENT TERMS AND CONDITIONS

Copy provided to Subcontractor on CD.

ATTACHMENT 2
SCOPE OF SERVICES

Task numbering corresponds to that used in the Prime Agreement Special Provisions, Exhibit I, Scope of Services.

Subcontractor shall perform the following services.

Task 09 Design Management and Services

09.01 Design

09.01.09 Sustainability Initiatives

Serve on Project Sustainability Committee

Task 13 Public Involvement

13.01 Public Involvement Program Activities

- Provide community and general public outreach
- Participate in weekly Public Involvement meetings
- Attend additional Public Involvement meetings
- Attend and respond to public input at public meetings, interest groups, and through personal outreach
- Inform Public Involvement Manager promptly of information and developments that may affect the Project
- Serve on Project Sustainability Committee

13.01.01 Participate in Community Events

- Attend trade shows, workshops, and/or seminars, and disseminate Project information
- Attend meetings with various groups, such as community, business, residential, ethnic, special trade organizations, and sustainability groups, and disseminate Project information

13.01.02 Facilitate Project Public Involvement Meetings

- Attend public hearings, workshops, and/or seminars, and disseminate Project information
- Facilitate workshops/charrettes to solicit design input

13.01.04 Develop and Produce Presentations and Manage Presentation/Schedule (i.e., "Speakers Bureau")

- Attend meetings with organizations, associations, and other stakeholders, and disseminate Project information
- Solicit Speakers Bureau meetings and informational presentations

- Provide presentation slides and materials updates
- 13.01.05 Maintain Existing and Develop New Contacts with Local Groups and Organizations, including City Council and Neighborhood Boards**
 - Maintain existing, as well as develop new, contacts with groups, organizations, and individuals
 - Attend meetings with outreach groups, including businesses, sustainability groups, professional development groups (i.e., Rotary Club), and community organizations and disseminate Project information
 - Update and maintain Public Involvement database, as requested
- 13.01.06 Maintain the Project Mailing List, Internet Outreach, and Telephone Hotline**

Provide content development of Project website and other internet outreach venues
- 13.01.07 Develop, Produce, and Distribute Public Information Documents and Electronic Media**

Distribute approved public information documents and materials
- 13.01.08 Respond to Public Inquiries about the Project**

Respond to public inquiries during various public outreach activities
- 13.01.09 Present Community Feedback to the Project Team**

Convey community feedback to the Project team at the weekly Public Involvement meetings on behalf of the general public and specialty groups
- 13.01.10 Effectiveness of the Program**

Compile market research surveys
- 13.02 Support Construction Management (CM) in Oversight of Contractor Public Outreach Teams**
 - 13.02.01 Oversee Public Contact**

Participate in construction mitigation efforts through neighborhoods along the alignment by attending various public outreach events and/or disseminating Project information
- 13.03 Support the City in Media and Agency Coordination as Needed**
 - Perform media monitoring and rapid response
 - Prepare editorial boards, press conferences, media releases, and media appearances as requested
- 13.04 Documentation**

Prepare and submit monthly progress report

Task 23 Archaeological Services

23.01 Archaeological Inventory Survey (AIS) Coordination

- Provide community and general public outreach for the AIS for the Airport and City Center sections
- Provide communication conduit for business owners and residential property owners to maintain communications during AIS work in roadways
- Participate in weekly AIS coordination meetings


CHARGE CODES

Task No.	Description	Charge Code
LABOR		
09.01.09	Sustainability Initiatives	13.01.00.A.00.CC0
13.01	Projectwide – Public Involvement Program Activities	13.01.00.A.00.CC0
13.02	Projectwide – Public Involvement CM Support	13.02.00.A.00.CC0
13.03	Projectwide – Public Involvement Media & Agency Coordination	13.03.00.A.00.CC0
13.04	Projectwide – Documentation/Monthly Progress Report	13.04.00.A.00.CC0
23.01	AIS Coordination – Airport Segment	23.01.00.F.F1.CC0
23.01	AIS Coordination – City Center Segment	23.01.00.G.F1.CC0
OTHER DIRECT COSTS (ODCs)		
13	PI Activities – Carlson Communications	13.50.01.A.00.CC0
GET	General Excise and Use Tax – Carlson Communications	01.99.00.A.00.CC0

ATTACHMENT 3
FEE SCHEDULE/BUDGET

Exhibit 2A – Cost Estimate

P. DOUGLAS CARLSON d/b/a CARLSON COMMUNICATIONS

Item	Amount
Total Labor (1) Other Direct Costs (2) Lower-tier Subcontractor Costs (3) General Excise and Use Tax (4.5 %)	
Total (1) Schedule A – Labor Details (2) Schedule B – Other Direct Cost Details (3) Schedule C – Lower-tier Subcontractor Details – N/A	\$351,538

SPECIAL PROVISIONS
Honolulu High-Capacity Transit Corridor Project

Exhibit 2A - Cost Estimate

Schedule A - Labor Details

TITLE/NAME	Estimated Hours per Month	Total Hours ¹	Bill Rate ²	Total Labor
Principal - D. Carlson	█	█	█	█
TOTAL				█

(1) Total hours are based upon a period of performance of twenty-four (24) months from Notice-to-Proceed.

(2) The Bill Rate is inclusive of all direct and indirect costs associated with the performance of the Services, including but not limited to direct labor, overhead, general and administrative expenses, other direct costs not identified in Schedule B below, and operating margin (profit). The Bill Rate does not include the General Excise and Use Tax.

Schedule B - Other Direct Cost Details

Description	Unit Cost	Units	Total
Seminar and Event Registration Fees			█
TOTAL			█

SPECIAL PROVISIONS
Honolulu High-Capacity Transit Corridor Project

**PROFESSIONAL SERVICES SUBCONTRACT
BETWEEN
PARSONS BRINCKERHOFF, INC.
AND
COMMUNITY OUTREACH ASSOCIATES LLC
(#PB-16590E-C00)**

This Subcontract, effective as of the 2nd day of August, 2011, is made and entered into by and between **PARSONS BRINCKERHOFF, INC.** ("PB"), a New York corporation with offices at Alii Place, 17th Floor, 1099 Alakea Street, Honolulu, HI 96813, and **COMMUNITY OUTREACH ASSOCIATES LLC** ("Subcontractor"), a Hawaii limited liability company with offices at [REDACTED].

RECITALS

PB (formerly known as "PB Americas, Inc.") entered into General Engineering Consultant Contract (GEC II) No. SC-DTS-1100131 dated June 30, 2011 (the "Prime Agreement") between PB Americas, Inc. ("PB") and the Honolulu Authority for Rapid Transportation, hereinafter referred to as "HART" ("Client"), to provide general engineering, planning, construction management and other consultant services for the Honolulu High-Capacity Transit Corridor Project, which includes the 28-mile Locally Preferred Alternative and the 20-mile Airport Alignment, as more particularly defined in Prime Agreement Special Provisions VII(A) ("HHCTCP" or the "Project").

PB has determined the need to subcontract certain of the public involvement services required under the Prime Agreement, and Subcontractor has agreed to provide the same for the duration of the Prime Agreement in accordance with the terms and conditions contained herein.

Therefore, for the consideration hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which the parties by their signatures below affirm, the parties do mutually agree as follows.

TERMS

The foregoing recitals are incorporated herein for all purposes as if fully set forth.

ARTICLE 1: PRIME AGREEMENT TERMS AND CONDITIONS

Except as noted below, or where in their application the context clearly requires otherwise, all the terms and conditions of the Prime Agreement, including all exhibits thereto and other documents incorporated by reference therein, that pertain to the subcontracted services or to the Subcontractor, or that by their express terms are required to be incorporated into each subcontract (the "Prime Agreement Terms and Conditions"), labeled **Attachment 1**, are by this reference incorporated herein and made a part hereof for all purposes. By the signature below of its authorized representative, Subcontractor affirms that it has been provided a copy of Attachment 1 on CD.

With regard to the services to be performed by it, Subcontractor assumes toward PB all of the obligations and responsibilities that PB assumes toward the Client under the Prime Agreement Terms and Conditions, and Subcontractor shall be bound by all of the Prime Agreement Terms and Conditions to the same extent as PB is bound thereby. In the event of any conflicts or ambiguities between or among the provisions of this Subcontract and the Prime Agreement Terms and Conditions, the provision that imposes the more stringent requirement on Subcontractor shall take precedence.

Subcontractor shall include in all lower-tier subcontracts those provisions of the Prime Agreement that are required to be so included, and shall require all lower-tier subcontractors to comply with such provisions for the duration of their respective subcontracts. Subcontractor shall require each lower-tier subcontractor to make such disclosures and execute such attestations as may be required under the Prime Agreement Terms and Conditions, including but not limited to those required by state or federal statute associated with source of funding. Failure to comply with the terms of this paragraph shall constitute a material default.

ARTICLE 2: SCOPE OF SERVICES; UNAUTHORIZED AND EXTRA WORK

a. **Services.** Subcontractor shall perform, consistent with the standard of care stipulated herein and other terms and conditions of this Subcontract, those services set forth in the Scope of Services annexed hereto as Attachment 2 and by this reference incorporated herein and made a part hereof for all purposes (the "Services") as may be required during the term of the Prime Agreement to complete the Project. The Services include all tasks and components, whether or not expressly set forth herein, that are manifestly necessary to carry out the intent of this Subcontract, or that are customarily performed in conjunction with, as a component of, or in order to accomplish, the Services, and such tasks and components shall be performed as if fully set forth in the description of the Services.

b. **Unauthorized and Extra Work.** Subcontractor shall not proceed with performance of any Services or incur any costs, or be entitled to compensation or reimbursement for any Services performed or costs incurred, prior to the effective date of this Subcontract and issuance of Notice to Proceed ("NTP"). Nor shall Subcontractor proceed with performance of any work in addition to that stipulated in this Subcontract ("Extra Work"), or be entitled to compensation therefor, or to reimbursement for costs incurred in connection therewith, prior to full and proper execution of a Subcontract amendment executed by both parties describing the work to be performed, the schedule for performance, and the compensation to be paid. Any work performed prior to the effective date of this Subcontract or an amendment authorizing same, is done solely as a volunteer and at no cost to PB.

ARTICLE 3: KEY PERSONNEL

If any Subcontractor key personnel have been designated for this Project, they are listed below. Subcontractor's key personnel shall not be replaced without PB's or Client's prior written consent. In the event any key personnel become unavailable due to separation from employment with Subcontractor, long-term illness/disability, or death, Subcontractor shall nominate a replacement with equivalent qualifications for PB's approval, which shall not be unreasonably withheld. In the event Subcontractor fails to provide a suitable replacement, PB shall have the right to terminate this Subcontract.

Key Personnel: Jonn Serikawa, Principal

ARTICLE 4: COMPENSATION

a. **Total Contract Amount.** Subcontractor shall be compensated on a Bill Rate basis, and shall perform the Services for an amount not to exceed **THREE HUNDRED SEVENTY-FIVE THOUSAND FOUR HUNDRED SIXTY-NINE AND NO/100 DOLLARS (\$375,469.00)** (the "Total Price"), in accordance with the Fee Schedule/Budget annexed hereto as Attachment 3 and by this reference incorporated herein and made a part hereof for all purposes ("Fee Schedule. Reimbursable costs shall include only those authorized in Prime Agreement Part 2, Special Provisions Exhibit 2B(2)(a), (b), (c) and (e) ("Reimbursable Costs"), as further delineated in Attachment 3.

b. **Notifications Required.** Subcontractor shall notify PB promptly in writing at the point at which (a) Subcontractor exceeds the estimated monthly level of effort by 25%, or (b) Subcontractor has expended 75% of the Total Price. Subcontractor shall not under any circumstances incur fees in excess of the Total Price.

ARTICLE 5: INVOICING; PAYMENT

a. **Electronic Reporting.** PB has implemented a web-based time collection/reporting system for the Project. Utilizing software provided by PB, Subcontractor shall submit bi-weekly timesheets electronically to PB's Project Control Office. All timesheets must be reviewed by PB's Project lead or manager for compliance with Subcontract invoicing requirements, including but not limited to compliance with Exhibit 2B mandates, and authorized prior to invoice submittal ("Authorized Time"). Amounts invoiced must correspond to the hours of Authorized Time entered on the electronic reporting system for the invoice period.

b. **Invoice Periods; Submittal Deadlines.** Invoicing for the Project is structured on a 12-period annual cycle. Subcontractor shall prepare invoices for Services performed during each invoice period in a format acceptable to PB, and shall submit its invoices monthly, no later than 15 days following the end of the applicable invoice period. Any invoice delivered to PB after the submittal deadline will be processed with the next succeeding invoice period submittals.

c. **Invoice Submittal Requirements.** Invoices shall include all labor costs incurred during the invoice period for Authorized Time, and all Reimbursable Costs incurred and booked during the invoice period, together with back-up documentation. The bill-through date on each monthly invoice must match the last actual expenditure date shown on the back-up documentation. In addition, Subcontractor shall include with each invoice a **progress report** that documents, in bulleted detail, the Services completed during the invoice period, including items of work accomplished and milestones reached, as well as problems/issues/concerns, and work planned for the next invoice period. The signed invoice, backup documentation, and progress report shall be sent to LaRhonda Sayles, Accounting Manager, at sayles@pbworld.com; hard copy to be delivered to the address for notice stipulated in Article 22.

d. **Payment.** Contingent upon Subcontractor's timely submittal of a proper invoice and progress report, PB shall pay those undisputed amounts due and owing within 10 days of the date of payment by Client to PB for the Services covered by the invoice, less any amounts PB may be authorized or required to withhold or deduct under the terms of this Subcontract, applicable law, or court order. In the event of non-payment by Client, both parties shall cooperate in seeking payment from Client.

e. **Right to Withhold.** It is expressly agreed that PB shall be entitled to withhold payment pending correction of non-conforming Services and/or other performance deficiencies.

f. **Audits.** All payments hereunder are subject to the audits, adjustments and limitations that apply to PB under the Prime Agreement.

ARTICLE 6: TERM; PERFORMANCE SCHEDULE; DELAYS

a. **Term.** The term of this Subcontract shall be for a period commencing with the effective date hereof and ending on the earlier of: (1) the date the Prime Agreement expires; (2) the date stated in any Notice of Termination issued pursuant to Article 15; or (3) the date the Prime Agreement is terminated, if the Prime Agreement Terms and Conditions so provide.

b. Performance Schedule. Time is of the essence in Subcontractor's performance of the Services under this Subcontract, and Subcontractor shall promptly commence performance of the Services as instructed in the NTP, and perform the same diligently and without interruption until completed in accordance with the performance schedule established in Attachment 2, or if none, in the Prime Agreement (the "Performance Schedule"). Provided, if the Performance Schedule applicable to the Services is derived from the Prime Agreement, Subcontractor shall submit all deliverables to PB no later than twenty-one (21) business days prior to the completion/submittal deadline for such work applicable to PB.

c. Delays. Subcontractor shall notify PB in writing within five (5) business days of any event or condition impacting its ability to meet the performance schedule, together with the steps contemplated or taken by Subcontractor to mitigate the effect of such delay.

Delays caused by *force majeure* events such as war, civil insurrection, riot, acts of public authority, strike, explosion, fire, earthquake, flood and like catastrophic events, shall be excusable to the extent they could not reasonably be anticipated, mitigated, or avoided by Subcontractor, and did not result in whole or in part from Subcontractor's fault or neglect, but shall be compensable only if additional compensation is obtained by PB from Client for such delays.

ARTICLE 7: STANDARD OF CARE; QUALIFICATIONS/LICENSES

a. Standard of Care. Subcontractor shall perform the Services in a manner consistent with that degree of skill and care ordinarily exercised by members of the same profession performing the same or similar work under the same or similar circumstances in the city and county of Honolulu. The parties acknowledge that PB is relying upon Subcontractor's expertise, and that neither PB's review, approval, acceptance, or payment for the Services is intended, nor shall it, constitute a waiver, release, or discharge of Subcontractor's responsibility for the proper performance of the Services or liability for defects in same, or an assumption by PB of such responsibility or liability.

b. Qualifications and Licenses. Subcontractor represents and warrants that all personnel performing Services or conducting activities in furtherance of this Subcontract shall be properly qualified, and that personnel performing Services or conducting activities for which a license or certification is required under local, state, or federal regulations shall be duly licensed and/or certified. All licenses and certifications shall be current at the time the work is performed.

ARTICLE 8: INDEPENDENT CONTRACTOR

The parties affirm that Subcontractor is an independent contractor under subcontract to PB, and is not in a joint venture, partnership, agent-principal or employer-employee relationship with PB. Subcontractor shall, at its own expense, provide all equipment, materials, services, and personnel required to perform the Services. Subcontractor, consistent with its status as an independent contractor, shall maintain complete control and direction over and responsibility for its employees, lower-tier subcontractors, and agents, and shall be solely responsible for the means, methods, sequences and techniques for carrying out the Services, and for the safety of its employees, lower-tier subcontractors, agents and invitees. Subcontractor affirms that it shall not represent itself to be an agent of PB or Client, or as having any authority to bind PB or Client, and further affirms that it shall instruct its personnel that they are not, and are prohibited from representing themselves to be, officers, agents, or employees of PB or Client, and have no authority to bind PB or Client.

Subcontractor shall indemnify, defend, and hold PB and Client harmless from any claims, and pay all damages, costs and judgments related to any claims made against PB or Client by Subcontractor's and/or its lower tier subcontractors' employees, agents, and representatives, for wages, salaries or any other form of compensation; for benefits, including but not limited to Workers' Compensation insurance benefits.

health, disability, medical, vacation, retirement, and sick leave; and/or any other benefit or assistance that may be available to employees of PB or Client or otherwise associated with an employer/employee relationship, such as training, counseling, or promotion. Subcontractor shall be responsible for all payroll and unemployment taxes associated with workers it provides to perform Services, and for withholding of social security and state and federal income taxes for such individuals, and shall indemnify, defend and hold PB and Client harmless from, and shall pay, all taxes and costs, fines, penalties and assessments associated therewith.

ARTICLE 9: CLAUSES APPLICABLE TO FEDERALLY-FUNDED CONTRACTS

All clauses set forth in Prime Agreement Special Provisions Article VIII are by this reference expressly incorporated into and made a part of this Subcontract for all purposes as if set forth in full, and shall control in accordance with their terms in the event of conflict with any other terms and conditions of this Subcontract. Subcontractor shall comply with, and ensure that its lower-tier subcontractors comply with, all provisions of this Article 9.

ARTICLE 10: DISADVANTAGED BUSINESS ENTERPRISES

- a. With regard to the performance of this Subcontract and in provision of the Services. Subcontractor shall fully cooperate with PB in meeting PB's commitments and goals, if any, with regard to the maximum utilization of disadvantaged business enterprises, minority business enterprises, small business enterprises, women-owned business enterprises, emerging business enterprises, and historically underutilized businesses (collectively, "DBEs"). and Subcontractor, if requested in writing by PB, shall provide the maximum practicable opportunity for DBEs to compete for any lower-tier subagreements available pursuant to this Subcontract.
- b. If Subcontractor is a DBE, upon written request by PB Subcontractor shall provide certificates or other acceptable testament to such DBE status.
- c. Subcontractor shall promptly provide attesting documentation when requested by PB, that proves that all lower-tier DBEs have received the revenue paid to Subcontractor by PB on behalf of the DBEs for services provided pursuant to the provisions of this Subcontract.

ARTICLE 11: INDEMNIFICATION

To the maximum extent permitted by law, Subcontractor shall indemnify, defend, and hold harmless PB and Client, their successors and assigns, and each of their respective officers, agents, servants and employees, from and against any and all claims, suits, actions, judgments, orders, demands, losses, damages, and liability of whatsoever nature, and costs and expenses including but not limited to (a) administrative or statutory assessments, sanctions, fines, and penalties, and (b) reasonable attorneys' fees, witness fees, costs of discovery and investigation, and court costs, whether incurred in relation to administrative, pre-trial, trial, post-trial, or appellate proceedings; caused by, resulting from, or arising out of (a) breach of this Subcontract; (b) the negligent acts, errors, or omissions, or the intentional, willful, or reckless misconduct of Subcontractor, its officers, employees, servants, agents, subcontractors, or representatives in the performance of this Subcontract; (c) infringement of patents or copyrights, or unauthorized disclosure of trade secrets or Confidential Information, as defined in Article 19; or (d) violation of applicable codes and regulations, including but not limited to laws relating to health and safety, compensation and conditions of employment, and payment of subcontractors, vendors, and materialmen.

Notwithstanding any other provision to the contrary, in the event of litigation between the parties to enforce the provisions of this Article or any other indemnification obligation owed to PB under the terms

of this Subcontract, the prevailing party shall be entitled to recover costs incurred and reasonable attorneys' fees.

The indemnification afforded under this Article shall not be limited in any manner whatsoever by insurance required under this Subcontract or the Prime Agreement, or by any other insurance carried by Subcontractor, PB or the Client. Nor shall the terms of this indemnification provision operate to limit or modify any of the insurance required of Subcontractor hereunder, or the scope or terms of such coverage. Nothing herein is intended to require Subcontractor to indemnify PB from liability for PB's negligence.

ARTICLE 12: PROMPT PAYMENT OBLIGATIONS; RELEASE OF LIENS AND CLAIMS

Subject to Subcontractor's right to withhold payment in a good-faith dispute, Subcontractor shall promptly pay for all services, equipment and materials furnished in performing the Services hereunder. PB may at any time require Subcontractor to submit lien releases satisfactory to PB and Client evidencing payment and release of claims for payment. Upon evidence of unpaid undisputed claims for payment, PB may pay and discharge same and deduct the amount paid, together with incurred costs and attorneys' fees, from compensation due or to become due to Subcontractor hereunder. Acceptance of final payment by Subcontractor shall operate as a full and final release of Client and PB, its affiliates, successors, and assigns, from liability for any and all claims by Subcontractor, its affiliates, successors, and assigns, for additional compensation or payment for Services rendered, costs incurred, or work performed by Subcontractor under this Subcontract.

ARTICLE 13: INSURANCE

a. Coverage. Subcontractor shall maintain at its own cost and expense for the duration of this Subcontract the following insurance coverages issued by companies licensed to do business in the State of Hawaii, with an AM Best rating of A-VIII or better, and otherwise acceptable to PB and Client.

(1) Workers' Compensation and Employer's Liability Insurance

Coverage to include all Statutory Workers' Compensation benefits to the employees of Subcontractor who may sustain work-related injury, death, or disease, and coverage, if applicable, commensurate with the requirements of the U.S. Longshore and Harbor Workers' Compensation Act (USL&H) or any other maritime law or similar act (e.g., Outer Continental Shelf Lands Act (OSCLA), Federal Employers Liability Act (FELA)). Such insurance shall include a waiver of subrogation in favor of PB and Client, unless prohibited under applicable state law. Employer's Liability coverage with a limit of not less than \$1,000,000 each accident/disease shall also be maintained.

(2) Commercial General Liability and Contractual Liability ("CGL") Insurance, including contractual liability cover, with a limit of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate

Coverage to include premises operations, independent contractors, products and completed operations, and broad-form contractual, personal injury, advertising injury and property damage, and XCU (explosion, collapse, and underground hazard) coverage. If Subcontractor's work is within 50 feet of a railroad right of way, the policy must also be endorsed to cover work within 50 feet of a railroad. Contractual liability shall not exclude the indemnification provisions of this Subcontract. PB and Client, and their respective officers, directors, agents, and employees must be named as additional insureds, for both ongoing and completed operations, on a primary and non-contributory basis. Such policy shall contain a severability of interests provision or cross-liability clause, and shall provide that the general aggregate limit applies on a per-project basis. Such insurance shall include a waiver of subrogation in favor of PB and Client.

(3) Business Automobile Liability with a combined single limit of not less than \$1,000,000 each accident

The policy must be written on an "any auto" basis. PB and Client, and their respective officers, directors, agents, and employees must be named as additional insureds, on a primary and non-contributory basis. Such insurance shall include a waiver of subrogation in favor of PB and Client unless prohibited under applicable state law.

(4) Professional Liability with a limit of not less than \$1,000,000 per claim and annual aggregate

Coverage to include Subcontractor's legal liability for damages arising out of Subcontractor's performance of professional services pursuant to this Subcontract or relating to the Project.

Neither PB nor Client shall be liable for any deductibles on additional insured coverage, and any coverage maintained by PB and Client shall be excess and noncontributory. The required insurance shall apply separately to each insured against whom claim is made or suit brought, except with respect to the limits of liability. Coverage shall contain no special limitations on the scope of protection afforded to PB, Client and their respective officers, directors, agents, and employees.

CGL insurance shall be written on ISO occurrence form CG 00 01 or a substitute form providing equivalent liability coverage. Additional insured endorsements shall be written on CG 20 10 or equivalent. Business auto coverage shall be written on ISO for CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing equivalent liability coverage. With the exception of professional liability insurance, all insurance shall be written on an occurrence basis. Notwithstanding any other provision to the contrary, professional liability insurance shall be maintained in full force and effect continuously from the effective date of this Subcontract until the expiration of one (1) year following substantial completion of the Project.

All insurance policies must contain a provision that provides thirty (30) days' prior written notice to PB of cancellation (ten (10) days' prior written notice for failure to pay premium). Such notice of cancellation must be provided to PB via the following address: PB Americas, Inc., Attn: Risk Management, One Penn Plaza, New York, NY 10119.

b. Certificates and Endorsements. Subcontractor shall, prior to commencing performance of any Services or entering onto the Project site or other field location, furnish PB with certificates of insurance and endorsements referencing the Project name and Project number, and evidencing (a) the required coverages, including but not limited to the additional insured and waiver of subrogation requirements, (b) the limits, and (c) the notice of cancellation provisions. Certificates and endorsements shall be provided annually, not more than 10 days after renewal or replacement of each policy, and shall restate the effective value of the coverage provided.

Subcontractor shall deliver the certificates of insurance and endorsements, each evidencing the required coverage and Project name and number, to: (1) PB Project Management, Diane Cook at cook@pbworld.com, and (2) to Parsons Brinckerhoff, Inc. at:

- E-mail: PBCertificateTracking@lockton.com <<mailto:PBCertificateTracking@lockton.com>> (preferred method); or
- Fax: Attn: Parsons Brinckerhoff, Inc. Certificate Tracking at Fax 816-783-2276; or
- Mail: Parsons Brinckerhoff, Inc. Certificate Tracking 444, W. 47th Street, Kansas City, MO. 64112.

Failure of PB to demand such certificate or other evidence of full compliance with these insurance requirements, or failure of PB to identify a deficiency from evidence that is provided, shall not be construed as a waiver of Subcontractor's obligation to maintain such insurance.

c. Lower-Tier Subcontractors. Subcontractor shall require that each of its lower-tier subcontractors, if any, have in place the insurance required herein, with the coverages and limits required herein, and provide Subcontractor with certificates of insurance and endorsements evidencing such coverage prior to commencement of subcontracted work. Subcontractor shall also require that PB and Client be named as additional insureds on all lower-tier subcontractor CGL, automobile, and (if required) aircraft liability policies, and that CGL, auto, aircraft (if required), and workers' compensation coverages be endorsed to provide for a waiver of subrogation in favor of PB and Client.

Subcontractor shall also comply with all other requirements set forth in Subsection 4.3.2 of the Prime Agreement General Terms and Conditions.

ARTICLE 14: SUSPENSION OF SERVICES

PB may, at any time, and with or without cause, suspend performance of the Services or any portion thereof for a period of up to 90 days by notice in writing to Subcontractor, and Subcontractor shall resume its Services promptly after being notified by PB to do so. Subcontractor may be allowed additional compensation or an extension of time, or both, provided same is granted by Client.

PB may immediately suspend Services performed at the Project site or other field locations without notice for violation of any safety rules, regulations, or requirements, for code violations, for failure to obtain or comply with the terms of any permits, orders, or required authorizations, or upon discovery of any unsafe working conditions. In such case, Subcontractor shall immediately cure the violation or remedy the unsafe working condition. Failure to do so shall constitute a material default.

ARTICLE 15: TERMINATION

PB may terminate this Subcontract, in whole or in part, for cause, upon seven (7) days' written notice. PB may terminate this Subcontract, in whole or in part, for its convenience, upon 10 days' written notice.

In the event of termination for cause, Subcontractor shall be entitled to compensation for the value of all Services performed in accordance with contract requirements up to the effective date of termination, less allowable deductions, which include, but are not limited to, all costs in excess of the compensation established in Article 4 reasonably incurred by PB to complete the Services. To the extent allowable deductions exceed amounts remaining due to Subcontractor, Subcontractor shall be and remain liable to PB upon demand for the amount of such excess.

In the event of termination for PB's convenience and without default on the part of Subcontractor, Subcontractor shall be entitled to compensation for all Services performed in accordance with contract requirements up to the effective date of termination, less allowable deductions. To the extent allowable deductions exceed amounts remaining due to Subcontractor, Subcontractor shall be and remain liable to PB upon demand for the amount of such excess.

Upon receipt of notice of termination, Subcontractor shall discontinue the Services unless otherwise directed and deliver to PB all Work Product. In the event of termination, PB shall have the right to conduct a financial audit, as well as a performance audit to ascertain the quality, timeliness and compensability of Subcontractor's Services. If, after issuance of notice of termination for cause, it is

determined for any reason that Subcontractor was not in default, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to termination for convenience.

ARTICLE 16: REMEDIES

In the event Subcontractor fails to timely perform Services, fails to perform Services in accordance with contract requirements, or is otherwise in default, PB shall be entitled to withhold payment until the default is corrected. Subcontractor shall, upon notice from PB, correct the designated performance deficiencies without additional compensation. If such performance deficiencies are not corrected within the time period specified in the notice, PB may cause same to be corrected and deduct costs incurred by reason of such failure from Subcontractor's compensation and, if Subcontractor's remaining compensation is not sufficient to reimburse PB for such costs, recover the same from Subcontractor upon demand. These remedies shall be in addition to all other remedies available to PB.

With the exception of attorneys' fees to enforce indemnification obligations, neither party hereto shall be entitled to recover from the other for breach of this Subcontract (a) incidental, nominal, special, indirect, exemplary or consequential damages, or damages that in their nature or amount constitute a penalty, or (b) attorneys fees or costs. Notwithstanding the foregoing, however, PB shall be entitled to seek, recover, and recoup from Subcontractor those types of damages, of whatever nature, as PB may be held accountable to the Client under the terms of the Prime Agreement, or to third parties, that were caused by or attributable to Subcontractor, its agents, lower-tier subcontractors, servants, or employees, or for which Subcontractor is otherwise legally responsible.

Neither the pendency of a dispute nor consideration of claims by PB pertaining to this Subcontract shall excuse Subcontractor from full and timely performance in accordance with the terms hereof.

ARTICLE 17: WORK PRODUCT

All drawings, plans, designs, specifications, photographs, models, schematics, surveys, maps, reports, studies, analyses, estimates, minutes, diaries, field notes, training manuals and materials, data bases, electronic files, file formats, templates, procedures, scripts, links, specifically-created key commands, source code documentation, software programs, calculations, summaries and other compilations of information to be developed, produced, or provided by Subcontractor as part of the Services, including but not limited to all deliverables identified herein, whether completed or in process, and all supporting documents and data, whether in hard copy or electronic or digital format or capable of being converted to such format, constitute "Work Product."

Work Product shall be the property of PB and shall be furnished to PB promptly upon request and as a condition to issuance of payment, although Subcontractor shall be permitted to retain reproducible copies. Subcontractor shall not be liable for loss, damage, or injury resulting from PB's use of Work Product for purposes other than as intended or contemplated herein.

The parties intend that Work Product shall be "work made for hire," of which PB shall be deemed the author. If for any reason such Work Product does not constitute "work made for hire," Subcontractor hereby (a) waives all rights in such Work Product, and any other rights of authorship, identification, or approval, restriction or limitation on use or subsequent modification, and (b) irrevocably assigns to PB all right, title, and interest in and to the Work Product, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Subcontractor shall obtain such interest and execute and deliver such instruments and take such other actions as may be necessary to vest and perfect such rights in PB.

To the extent any Work Product includes Subcontractor's previously-developed intellectual property that is or could be protected by federal copyright, patent, or trademark laws, or state trade secret laws, Subcontractor hereby grants to PB and Client a perpetual, royalty-free, fully-paid up, non-exclusive and irrevocable license to copy, reproduce, perform, dispose of, and use and re-use, in whole or in part, such intellectual property, and to authorize others to do so. Such previously-developed intellectual property may constitute but is not limited to, data bases, software programs, templates, file formats, specifically-created key commands, scripts, links, procedures, training manuals and other training materials, designs, prototypes, plans, and other works provided or delivered to PB or Client by Subcontractor.

ARTICLE 18: PROJECT RECORDS; RECORD RETENTION PERIOD; AUDITS

- a. **Project Records.** All records pertaining to this Subcontract and the Services performed hereunder, including but not limited to (a) timesheets and accounting and financial records; (b) Work Product; (c) drawings, maps, surveys, models, photographs, schematics, plans, designs, specifications, reports, studies, summaries, analyses, diaries, field notes, estimates, calculations, and other compilations of information obtained by or provided to Subcontractor in performance of the Services; and (d) correspondence; whether in hard copy or electronic or digital format, or capable of being converted to such format, constitute "Project Records."
- b. **Accounting and Financial Records: Audits.** Subcontractor shall preserve all Project Records in such detail as shall properly substantiate contract performance and claims for payment under this Subcontract, and shall comply with the accounting and audit requirements of the Prime Agreement Terms and Conditions. In the event the Project is subject to the Federal Acquisition Regulations ("FAR"), Subcontractor shall comply with all applicable sections of the FAR. Subcontractor shall immediately repay to PB upon demand any compensation disallowed as a result of an audit conducted hereunder, or PB may elect to deduct disallowed amounts from monies due or to become due under this Subcontract.
- c. **Record-Retention Period; Review and Reproduction.** Subcontractor shall retain all Project Records at a secure location reasonably accessible to the parties hereto for the longer of (a) six (6) years from the date of final payment or (b) until all disputes, audits, claims, legal proceedings, and other actions involving this Subcontract and the Services performed hereunder have been resolved or concluded (the "Record Retention Period"). During the Record Retention Period Subcontractor shall make all Project Records available to PB and Client for review and reproduction during normal business hours or at such other times as PB or Client may reasonably require.

Subcontractor shall include the requirements of this Article in all lower-tier subcontracts.

ARTICLE 19: CONFIDENTIAL INFORMATION; NON-DISCLOSURE

Unless required by law or Court order to do so, or unless prior written authorization is received from the PB or the Client, Subcontractor shall not disclose any (1) information concerning the Project that is not already in the public domain; (2) data, information, processes, or documents provided by or on behalf of PB or the Client, including but not limited to Electric Utility Infrastructure Information ("EUII"), as that term has been defined in Prime Agreement Special Provisions, Section VII (K); (3) Work Product; or (4) other information generated by Subcontractor in the course of performing this Subcontract (collectively, "Confidential Information") to anyone other than PB, and at PB's direction, the Client. Nor shall Subcontractor use such Confidential Information for any purpose other than the performance of Services under this Subcontract. Subcontractor shall instruct its employees and lower-tier subcontractors to treat all information obtained or generated in performance of the Subcontract as confidential, and shall obtain from its lower-tier subcontractors equivalent agreements to withhold and protect from disclosure all Confidential Information covered under this Article.

ARTICLE 20: COMPLIANCE WITH LAWS

Subcontractor shall comply with all federal, state and local laws, codes, ordinances and regulations applicable to Subcontractor, this Subcontract, the Project and its work sites, and the Services to be performed hereunder, including but not limited to those regulating conditions of employment and workplace safety and health. Subcontractor shall be liable to PB for all losses, costs, and expenses PB may incur resulting from or attributable to Subcontractor's, its employees', lower-tier subcontractors', and/or agents' failure to so comply, including but not limited to orders, judgments, fines, penalties, and required corrective measures.

During the performance of this Subcontract, Subcontractor shall not unlawfully discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, sexual preference, disability, age (40+), marital status, or public assistance status. Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and the selection for training, including apprenticeship. Subcontractor agrees to post in conspicuous places, available to employees and applicants for employment, notices which set forth the provisions of this non-discrimination Article.

ARTICLE 21: HEALTH AND SAFETY

Subcontractor agrees that the prevention of accidents to workers engaged by Subcontractor is the responsibility of Subcontractor. To that end, Subcontractor shall comply with all Project safety policies/protocols/program, and all federal, state and local health and safety laws, codes, ordinances and regulations applicable to the Project, the Project site and other work locations, Subcontractor, this Subcontract and the performance of the Services hereunder, including, but not limited to, the Occupational Safety and Health Act of 1970. If Services are to be performed or activities conducted on-site or at other field locations, Subcontractor shall also implement and enforce a safety program for all workers, including those of lower-tier subcontractors, if any, engaged in performing the Services, and shall ensure such workers' participation in appropriate safety training. Subcontractor's safety and training program shall comply at a minimum with such safety policies and programs as may be established or mandated under the Prime Agreement. Subcontractor shall also be responsible for the safety and conduct of persons on property under Subcontractor's control, including Subcontractor's employees, agents, invitees, and lower-tier subcontractors.

ARTICLE 22: NOTICES

All notices required or permitted under this Subcontract shall be given in writing and delivered either personally, by delivery service, by first-class, certified, or registered mail, or by e-mail, to the authorized representative of the other party at the address set forth below, or as may be designated by notice delivered in accordance with the requirements of this Article. If notice is delivered by e-mail, the notice must be signed by the party giving notice and sent as a pdf attachment to the e-mail at the address stipulated herein. Electronic or digital signatures shall not be allowed.

TO PB:

Parsons Brinckerhoff, Inc.
Alii Place, 17th Floor
1099 Alakea Street
Honolulu, Hawaii 96813
E-mail: 16590EHHC1CPNotices@pbworld.com
Attention: Mr. James Van Epps

TO SUBCONTRACTOR: Community Outreach Associates LLC
[REDACTED]
E-mail: [REDACTED]
Attention: Mr. Jonn Serikawa

Notice shall be effective upon delivery when delivered in person, by courier service providing receipt of delivery, or by registered or certified mail, return receipt requested. Notices properly addressed and stamped, and deposited into the US postal system as first-class mail, shall be deemed received two (2) business days after date of postmark. Notice delivered by e-mail shall be deemed received by the date and time stated on the transmitter's copy.

ARTICLE 23: STANDARDS; QUALITY PROGRAM

All Services shall be performed in compliance with the standards, specifications, manuals of instruction, policies, protocols, and procedures established by the Client and such other regulatory agencies as may have jurisdiction over the work.

Subcontractor shall maintain a quality program for the duration of this Subcontract that at a minimum complies with any requirements established in the Prime Agreement. Upon request by PB, Subcontractor shall provide a copy of its quality program to PB. The program must ensure that the Services performed by Subcontractor conform to the requirements of this Subcontract and the Prime Agreement Terms and Conditions. Subcontractor shall provide for a flow down of all applicable quality requirements to its lower-tier subcontracts.

As part of its quality program, Subcontractor shall maintain and implement a Quality Control and Quality Assurance Plan ("QA/QC Plan"). At a minimum, the Plan shall ensure (i) Work Product review (the Work Product is accurate and complete) by suitably-qualified parties independent from the personnel performing the Services or delivering the Work Product, and (ii) periodic process audit and review of the overall quality control activities contained in the Plan. Subcontractor shall document all of its quality program activities performed in connection with this Subcontract. If any deviations are identified in any of the performed Services, corrective actions shall be developed, implemented, and documented by Subcontractor. PB has the right to audit Subcontractor's quality program and its Project-related quality activities required by the Plan at any time. The results of any internal reviews specified in the Plan shall be submitted to PB.

If Subcontractor fails to properly implement and maintain a quality program or QA/QC Plan, and such failure continues following notification to Subcontractor by PB, then PB may, in addition to any other remedies permitted herein or by law, terminate this Subcontract, withhold payment for Services until Subcontractor is in compliance with the requirements of this Article, or remedy such failure at Subcontractor's expense. Subcontractor agrees to indemnify and hold PB harmless for all costs incurred by PB to correct work adversely affected by such failure.

ARTICLE 24: APPLICABLE LAW; JURISDICTION; VENUE

This Subcontract, its validity, interpretation, and performance, and any disputes between the parties arising out of or relating to this Subcontract, shall be governed by and construed in accordance with the laws of the state of Hawaii, without regard to conflict of laws principles. In the event the parties are first unable to resolve their disputes through good-faith negotiations or through mutually-agreed nonbinding mediation, legal proceedings may be brought. Any such legal proceedings shall be brought in a court of competent jurisdiction in the city and county of Honolulu, and Subcontractor by its signature below

consents to the *in personam* jurisdiction of said courts and waives and covenants not to seek change of venue based upon *forum non conveniens*. Notwithstanding the foregoing, legal proceedings may be brought at any time to preserve equitable or legal remedies, obtain equitable or extraordinary relief, preserve evidence, prevent irreparable harm, preserve the status quo pending proceedings on the merits, or preserve claims that might otherwise be barred by applicable statutes of limitations, or lost or impaired on other legal or procedural grounds.

ARTICLE 25: SEVERABILITY

If any provision of this Subcontract is prohibited by law, invalid, or otherwise unenforceable, the remainder of this Subcontract shall remain in full force and effect; provided that in such event the parties hereto shall in good faith attempt to replace the invalid or unenforceable provision with one that is valid and enforceable, and comes as close as reasonably possible to expressing or achieving the intent of the parties with regard to the original provision. Upon agreement, this Subcontract shall be amended to incorporate the substitute language.

ARTICLE 26: SURVIVAL

The parties acknowledge that all terms and conditions of this Subcontract which by their nature are intended to survive the termination or expiration of this Subcontract, including non-disclosure, indemnification, insurance, retention and production of Project Records, and other obligations Subcontractor has a continuing duty to observe, as well as all provisions applicable to disputes and legal proceedings, and Article 22 notices, shall survive and be enforceable by PB according to the terms hereof.

ARTICLE 27: SUCCESSORS AND ASSIGNS

Subcontractor shall not assign, sell, transfer, or otherwise dispose of any of its interest in this Subcontract, or delegate any of its duties under this Subcontract, without the prior written approval of PB. Any unauthorized attempt thereat shall be void and unenforceable.

ARTICLE 28: THIRD-PARTY BENEFICIARIES

This Subcontract shall be binding upon and inure to the benefit of the parties hereto, their successors and permitted assigns, only. PB and Subcontractor are the only beneficiaries of this Subcontract and are solely entitled to enforce its terms. It is the express intent of PB and Subcontractor that should any persons or entities other than the parties hereto receive a benefit under this Subcontract, they shall do so as incidental beneficiaries only.

ARTICLE 29: INTERPRETATION

This Subcontract shall not be construed in favor of or against either party based upon authorship, the parties being of equal bargaining stature. Headings are solely for the convenience of the parties and shall have no bearing on interpretation of text. Unless established as a term of art, with a well-understood and unequivocal technical or trade meaning, words are used in their common and ordinary meaning. Defined terms are capitalized, and when capitalized, shall carry their defined meaning. Wherever the term "day" or "days" is used, it shall mean singular or consecutive calendar days, respectively. "Business day" shall mean any weekday other than Saturday, Sunday or a holiday recognized and observed by the state of Hawaii.

ARTICLE 30: NONWAIVER

No failure or successive failures on the part of PB to enforce any provision of this Subcontract, or custom or practice that may evolve between the parties in the administration of this Subcontract, shall operate as a waiver or discharge of that or any other provision, or render the same invalid, or impair PB's right to enforce the same in the event of any subsequent breach by Subcontractor. Any waiver, if given, shall be in writing, signed by the party making the waiver and addressed to the other party, and shall be limited to the particular instance and for the purposes stipulated therein.

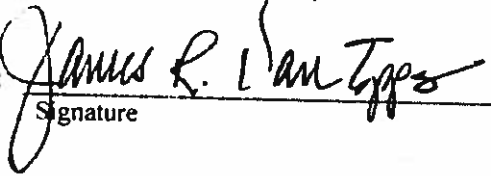
ARTICLE 31: ENTIRE AGREEMENT

This Subcontract represents the entire and integrated agreement between PB and Subcontractor, and supersedes and replaces all prior and contemporaneous understandings, agreements, arrangements, negotiations, and representations, whether written or oral, with respect to the subject matter hereof. This Subcontract may not be modified except in writing, by an amendment signed by the parties hereto.

IN WITNESS WHEREOF, PB and Subcontractor have duly executed this Subcontract, effective from the date first written above.

PARSONS BRINCKERHOFF, INC.


BY:


Signature

James R. Van Epps, Sr. Vice President
and Project Manager

**COMMUNITY OUTREACH
ASSOCIATES LLC**

BY:


Signature

JOHN SERIKAWA

Printed Name

Principal

Printed Title

ATTACHMENT 1
PRIME AGREEMENT TERMS AND CONDITIONS

Copy provided to Subcontractor on CD.

ATTACHMENT 2
SCOPE OF SERVICES

Task numbering corresponds to that used in the Prime Agreement Special Provisions, Exhibit I. Scope of Services.

Subcontractor shall perform the following services:

Task 13 Public Involvement

13.01 Public Involvement Program Activities

- Attend additional Public Involvement meetings as needed
- Attend and respond to public input at public meetings, interest groups, and through personal outreach
- Inform Public Involvement Manager promptly of information and development that may affect the Project

13.01.01 Participate in Community Events

- Attend trade shows, workshops, and/or seminars and disseminate Project information
- Attend meetings with various groups such as community, business, residential, ethnic, and special trade organizations, and disseminate Project information

13.01.02 Facilitate Project Public Involvement Meetings

- Attend public hearings, workshops, and/or seminars and disseminate Project information
- Participate in the set up and clean up of event equipment and activities

13.01.05 Maintain Existing and Develop New Contacts with Local Groups and Organizations, Including City Council and Neighborhood Boards

- Maintain existing, as well as develop new, contacts with groups, organizations, and individuals
- Attend meetings with neighborhood boards and outreach groups, as requested, and disseminate Project information
- Update and maintain Public Involvement database, as requested

13.01.08 Respond to Public Inquiries about the Project

Respond to public inquiries during various public outreach activities

13.01.09 Present Community Feedback to the Project Team

Convey community feedback to the Project team at the weekly Public Involvement meetings on behalf of the general public and specialty groups

13.02 Support Construction Management (CM) in Oversight of Contractor Public Outreach Teams

13.02.01 Oversee Public Contact

Participate in construction mitigation efforts throughout neighborhoods along the alignment by attending various public outreach events and/or disseminating Project information

13.03 Support the City in Media and Agency Coordination as Needed

- Perform media monitoring and rapid response
- Maintain, distribute, and archive documentation provided by the Project's clipping services

13.04 Documentation

Prepare and submit monthly progress reports

Task 23 Archaeological Services

23.01 Archaeological Inventory Survey (AIS) Coordination


- Provide community and general public outreach for the AIS for the Airport and City Center sections
- Provide communication conduit for business owners and residential property owners to maintain communications during AIS work in roadways
- Participate in weekly AIS coordination meetings

ATTACHMENT 3

FEE SCHEDULE/BUDGET

Exhibit 2A – Cost Estimate

COMMUNITY OUTREACH ASSOCIATES LLC

Item	Amount
Total Labor (1) Other Direct Costs (2) Lower-tier Subcontractor Costs (3) General Excise and Use Tax (4.5 %)	
TOTAL (1) Schedule A – Labor Details (2) Schedule B – Other Direct Cost Details (3) Schedule C – Lower-tier Subcontractor Details – N/A	\$375,469

SPECIAL PROVISIONS
Honolulu High-Capacity Transit Corridor Project

Exhibit 2A - Cost Estimate

Schedule A - Labor Details

Title/Name	Estimated Hours per Month	Total Hours ¹	Bill Rate ²	Total Labor
Principal - J. Serikawa	████	████	████	████████
Total				████████

(1) Total hours are based upon a period of performance of sixteen (16) months from Notice-to-Proceed.

(2) The Bill Rate is inclusive of all direct and indirect costs associated with the performance of the Services, including but not limited to direct labor, overhead, general and administrative expenses, other direct costs not identified in Schedule B below, and operating margin (profit). The Bill Rate does not include the General Excise and Use Tax.

Schedule B - Other Direct Cost Details

Description	Unit Cost	Units	Total
Event Set-up and Prep	████	████	████
Canvassing Crews	████	████	████
Clipping Service and Archive	████	████	████
Mail, Copies, and Office Supplies	████	████	████
Seminar and Registration Fees	████	████	████
Total			████

SPECIAL PROVISIONS
 Honolulu High-Capacity Transit Corridor Project



**PROFESSIONAL SERVICES SUBCONTRACT
BETWEEN
PARSONS BRINCKERHOFF, INC.
AND
GLOBAL TEACH, INC.
(#PB-16590E-GT0)**

This Subcontract, effective as of the 2nd day of August, 2011, is made and entered into by and between **PARSONS BRINCKERHOFF, INC.** ("PB"), a New York corporation with offices at Alii Place, 17th Floor, 1099 Alakea Street, Honolulu, HI 96813, and **GLOBAL TEACH, INC.** ("Subcontractor"), a Hawaii corporation with offices at [REDACTED].

RECITALS

PB (formerly known as "PB Americas, Inc.") entered into General Engineering Consultant Contract (GEC II) No. SC-DTS-1100131 dated June 30, 2011 (the "Prime Agreement") between PB Americas, Inc. and the Honolulu Authority for Rapid Transportation, hereinafter referred to as "HART" ("Client"), to provide general engineering, planning, construction management and other consultant services for the Honolulu High-Capacity Transit Corridor Project, which includes the 28-mile Locally Preferred Alternative and the 20-mile Airport Alignment, as more particularly defined in Prime Agreement Special Provisions VII(A) ("HHCTCP" or the "Project").

PB has determined the need to subcontract certain of the public involvement services required under the Prime Agreement, and Subcontractor has agreed to provide the same for the duration of the Prime Agreement in accordance with the terms and conditions contained herein.

Therefore, for the consideration hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which the parties by their signatures below affirm, the parties do mutually agree as follows.

TERMS

The foregoing recitals are incorporated herein for all purposes as if fully set forth.

ARTICLE 1: PRIME AGREEMENT TERMS AND CONDITIONS

Except as noted below, or where in their application the context clearly requires otherwise, all the terms and conditions of the Prime Agreement, including all exhibits thereto and other documents incorporated by reference therein, that pertain to the subcontracted services or to the Subcontractor, or that by their express terms are required to be incorporated into each subcontract (the "Prime Agreement Terms and Conditions"), labeled **Attachment 1**, are by this reference incorporated herein and made a part hereof for all purposes. By the signature below of its authorized representative, Subcontractor affirms that it has been provided a copy of Attachment 1 on CD.

With regard to the services to be performed by it, Subcontractor assumes toward PB all of the obligations and responsibilities that PB assumes toward the Client under the Prime Agreement Terms and Conditions, and Subcontractor shall be bound by all of the Prime Agreement Terms and Conditions to the same extent as PB is bound thereby. In the event of any conflicts or ambiguities between or among the provisions of this Subcontract and the Prime Agreement Terms and Conditions, the provision that imposes the more stringent requirement on Subcontractor shall take precedence.

Subcontractor shall include in all lower-tier subcontracts those provisions of the Prime Agreement that are required to be so included, and shall require all lower-tier subcontractors to comply with such provisions for the duration of their respective subcontracts. Subcontractor shall require each lower-tier subcontractor to make such disclosures and execute such attestations as may be required under the Prime Agreement Terms and Conditions, including but not limited to those required by state or federal statute associated with source of funding. Failure to comply with the terms of this paragraph shall constitute a material default.

ARTICLE 2: SCOPE OF SERVICES; UNAUTHORIZED AND EXTRA WORK

a. Services. Subcontractor shall perform, consistent with the standard of care stipulated herein and other terms and conditions of this Subcontract, those services set forth in the Scope of Services annexed hereto as **Attachment 2** and by this reference incorporated herein and made a part hereof for all purposes (the "Services") as may be required during the term of the Prime Agreement to complete the Project. The Services include all tasks and components, whether or not expressly set forth herein, that are manifestly necessary to carry out the intent of this Subcontract, or that are customarily performed in conjunction with, as a component of, or in order to accomplish, the Services, and such tasks and components shall be performed as if fully set forth in the description of the Services.

b. Unauthorized and Extra Work. Subcontractor shall not proceed with performance of any Services or incur any costs, or be entitled to compensation or reimbursement for any Services performed or costs incurred, prior to the effective date of this Subcontract and issuance of Notice to Proceed ("NTP"). Nor shall Subcontractor proceed with performance of any work in addition to that stipulated in this Subcontract ("Extra Work"), or be entitled to compensation therefor, or to reimbursement for costs incurred in connection therewith, prior to full and proper execution of a Subcontract amendment executed by both parties describing the work to be performed, the schedule for performance, and the compensation to be paid. **Any work performed prior to the effective date of this Subcontract or an amendment authorizing same, is done solely as a volunteer and at no cost to PB.**

ARTICLE 3: KEY PERSONNEL

If any Subcontractor key personnel have been designated for this Project, they are listed below. Subcontractor's key personnel shall not be replaced without PB's or Client's prior written consent. In the event any key personnel become unavailable due to separation from employment with Subcontractor, long-term illness/disability, or death, Subcontractor shall nominate a replacement with equivalent qualifications for PB's approval, which shall not be unreasonably withheld. In the event Subcontractor fails to provide a suitable replacement, PB shall have the right to terminate this Subcontract.

Key Personnel: A.J. Halagao

ARTICLE 4: COMPENSATION

a. Total Contract Amount. Subcontractor shall be compensated on a Bill Rate basis, and shall perform the Services for an amount not to exceed **SEVENTY-EIGHT THOUSAND FIVE HUNDRED EIGHTY-FOUR AND NO/100 DOLLARS (\$78,584.00)** (the "Total Price"), in accordance with the Fee Schedule/Budget annexed hereto as **Attachment 3** and by this reference incorporated herein and made a part hereof for all purposes ("Fee Schedule. Reimbursable costs shall include only those authorized in Prime Agreement Part 2, Special Provisions Exhibit 2B(2)(a), (b), (c) and (e) ("Reimbursable Costs"), as further delineated in Attachment 3.

b. **Notifications Required.** Subcontractor shall notify PB promptly in writing at the point at which (a) Subcontractor exceeds the estimated monthly level of effort by 25%, or (b) Subcontractor has expended 75% of the Total Price. Subcontractor shall not under any circumstances incur fees in excess of the Total Price.

ARTICLE 5: INVOICING; PAYMENT

a. **Electronic Reporting.** PB has implemented a web-based time collection/reporting system for the Project. Utilizing software provided by PB, Subcontractor shall submit bi-weekly timesheets electronically to PB's Project Control Office. All timesheets must be reviewed by PB's Project lead or manager for compliance with Subcontract invoicing requirements, including but not limited to compliance with Exhibit 2B mandates, and authorized prior to invoice submittal ("Authorized Time"). Amounts invoiced must correspond to the hours of Authorized Time entered on the electronic reporting system for the invoice period.

b. **Invoice Periods; Submittal Deadlines.** Invoicing for the Project is structured on a 12-period annual cycle. Subcontractor shall prepare invoices for Services performed during each invoice period in a format acceptable to PB, and shall submit its invoices monthly, no later than 15 days following the end of the applicable invoice period. Any invoice delivered to PB after the submittal deadline will be processed with the next succeeding invoice period submittals.

c. **Invoice Submittal Requirements.** Invoices shall include all labor costs incurred during the invoice period for Authorized Time, and all Reimbursable Costs incurred and booked during the invoice period, together with back-up documentation. The bill-through date on each monthly invoice must match the last actual expenditure date shown on the back-up documentation. In addition, Subcontractor shall include with each invoice a **progress report** that documents, in bulleted detail, the Services completed during the invoice period, including items of work accomplished and milestones reached, as well as problems/issues/concerns, and work planned for the next invoice period. The signed invoice, backup documentation, and progress report shall be sent to LaRhonda Sayles, Accounting Manager, at sayles@pbworld.com; hard copy to be delivered to the address for notice stipulated in Article 22.

d. **Payment.** Contingent upon Subcontractor's timely submittal of a proper invoice and progress report, PB shall pay those undisputed amounts due and owing within 10 days of the date of payment by Client to PB for the Services covered by the invoice, less any amounts PB may be authorized or required to withhold or deduct under the terms of this Subcontract, applicable law, or court order. In the event of non-payment by Client, both parties shall cooperate in seeking payment from Client.

e. **Right to Withhold.** It is expressly agreed that PB shall be entitled to withhold payment pending correction of non-conforming Services and/or other performance deficiencies.

f. **Audits.** All payments hereunder are subject to the audits, adjustments and limitations that apply to PB under the Prime Agreement.

ARTICLE 6: TERM; PERFORMANCE SCHEDULE; DELAYS

a. **Term.** The term of this Subcontract shall be for a period commencing with the effective date hereof and ending on the earlier of: (1) the date the Prime Agreement expires; (2) the date stated in any Notice of Termination issued pursuant to Article 15; or (3) the date the Prime Agreement is terminated, if the Prime Agreement Terms and Conditions so provide.

b. Performance Schedule. Time is of the essence in Subcontractor's performance of the Services under this Subcontract, and Subcontractor shall promptly commence performance of the Services as instructed in the NTP, and perform the same diligently and without interruption until completed in accordance with the performance schedule established in Attachment 2, or if none, in the Prime Agreement (the "Performance Schedule"). Provided, if the Performance Schedule applicable to the Services is derived from the Prime Agreement, Subcontractor shall submit all deliverables to PB no later than twenty-one (21) business days prior to the completion/submittal deadline for such work applicable to PB.

c. Delays. Subcontractor shall notify PB in writing within five (5) business days of any event or condition impacting its ability to meet the performance schedule, together with the steps contemplated or taken by Subcontractor to mitigate the effect of such delay.

Delays caused by *force majeure* events such as war, civil insurrection, riot, acts of public authority, strike, explosion, fire, earthquake, flood and like catastrophic events, shall be excusable to the extent they could not reasonably be anticipated, mitigated, or avoided by Subcontractor, and did not result in whole or in part from Subcontractor's fault or neglect, but shall be compensable only if additional compensation is obtained by PB from Client for such delays.

ARTICLE 7: STANDARD OF CARE; QUALIFICATIONS/LICENSES

a. Standard of Care. Subcontractor shall perform the Services in a manner consistent with that degree of skill and care ordinarily exercised by members of the same profession performing the same or similar work under the same or similar circumstances in the city and county of Honolulu. The parties acknowledge that PB is relying upon Subcontractor's expertise, and that neither PB's review, approval, acceptance, or payment for the Services is intended, nor shall it, constitute a waiver, release, or discharge of Subcontractor's responsibility for the proper performance of the Services or liability for defects in same, or an assumption by PB of such responsibility or liability.

b. Qualifications and Licenses. Subcontractor represents and warrants that all personnel performing Services or conducting activities in furtherance of this Subcontract shall be properly qualified, and that personnel performing Services or conducting activities for which a license or certification is required under local, state, or federal regulations shall be duly licensed and/or certified. All licenses and certifications shall be current at the time the work is performed.

ARTICLE 8: INDEPENDENT CONTRACTOR

The parties affirm that Subcontractor is an independent contractor under subcontract to PB, and is not in a joint venture, partnership, agent-principal or employer-employee relationship with PB. Subcontractor shall, at its own expense, provide all equipment, materials, services, and personnel required to perform the Services. Subcontractor, consistent with its status as an independent contractor, shall maintain complete control and direction over and responsibility for its employees, lower-tier subcontractors, and agents, and shall be solely responsible for the means, methods, sequences and techniques for carrying out the Services, and for the safety of its employees, lower-tier subcontractors, agents and invitees. Subcontractor affirms that it shall not represent itself to be an agent of PB or Client, or as having any authority to bind PB or Client, and further affirms that it shall instruct its personnel that they are not, and are prohibited from representing themselves to be, officers, agents, or employees of PB or Client, and have no authority to bind PB or Client.

Subcontractor shall indemnify, defend, and hold PB and Client harmless from any claims, and pay all damages, costs and judgments related to any claims made against PB or Client by Subcontractor's and/or its lower tier subcontractors' employees, agents, and representatives, for wages, salaries or any other form of compensation; for benefits, including but not limited to Workers' Compensation insurance benefits,

health, disability, medical, vacation, retirement, and sick leave; and/or any other benefit or assistance that may be available to employees of PB or Client or otherwise associated with an employer/employee relationship, such as training, counseling, or promotion. Subcontractor shall be responsible for all payroll and unemployment taxes associated with workers it provides to perform Services, and for withholding of social security and state and federal income taxes for such individuals, and shall indemnify, defend and hold PB and Client harmless from, and shall pay, all taxes and costs, fines, penalties and assessments associated therewith.

ARTICLE 9: CLAUSES APPLICABLE TO FEDERALLY-FUNDED CONTRACTS

All clauses set forth in Prime Agreement Special Provisions Article VIII are by this reference expressly incorporated into and made a part of this Subcontract for all purposes as if set forth in full, and shall control in accordance with their terms in the event of conflict with any other terms and conditions of this Subcontract. Subcontractor shall comply with, and ensure that its lower-tier subcontractors comply with, all provisions of this Article 9.

ARTICLE 10: DISADVANTAGED BUSINESS ENTERPRISES

a. With regard to the performance of this Subcontract and in provision of the Services, Subcontractor shall fully cooperate with PB in meeting PB's commitments and goals, if any, with regard to the maximum utilization of disadvantaged business enterprises, minority business enterprises, small business enterprises, women-owned business enterprises, emerging business enterprises, and historically underutilized businesses (collectively, "DBEs"), and Subcontractor, if requested in writing by PB, shall provide the maximum practicable opportunity for DBEs to compete for any lower-tier subagreements available pursuant to this Subcontract.

b. If Subcontractor is a DBE, upon written request by PB Subcontractor shall provide certificates or other acceptable testament to such DBE status.

c. Subcontractor shall promptly provide attesting documentation when requested by PB, that proves that all lower-tier DBEs have received the revenue paid to Subcontractor by PB on behalf of the DBEs for services provided pursuant to the provisions of this Subcontract.

ARTICLE 11: INDEMNIFICATION

To the maximum extent permitted by law, Subcontractor shall indemnify, defend, and hold harmless PB and Client, their successors and assigns, and each of their respective officers, agents, servants and employees, from and against any and all claims, suits, actions, judgments, orders, demands, losses, damages, and liability of whatsoever nature, and costs and expenses including but not limited to (a) administrative or statutory assessments, sanctions, fines, and penalties, and (b) reasonable attorneys' fees, witness fees, costs of discovery and investigation, and court costs, whether incurred in relation to administrative, pre-trial, trial, post-trial, or appellate proceedings; caused by, resulting from, or arising out of (a) breach of this Subcontract; (b) the negligent acts, errors, or omissions, or the intentional, willful, or reckless misconduct of Subcontractor, its officers, employees, servants, agents, subcontractors, or representatives in the performance of this Subcontract; (c) infringement of patents or copyrights, or unauthorized disclosure of trade secrets or Confidential Information, as defined in Article 19; or (d) violation of applicable codes and regulations, including but not limited to laws relating to health and safety, compensation and conditions of employment, and payment of subcontractors, vendors, and materialmen.

Notwithstanding any other provision to the contrary, in the event of litigation between the parties to enforce the provisions of this Article or any other indemnification obligation owed to PB under the terms

of this Subcontract, the prevailing party shall be entitled to recover costs incurred and reasonable attorneys' fees.

The indemnification afforded under this Article shall not be limited in any manner whatsoever by insurance required under this Subcontract or the Prime Agreement, or by any other insurance carried by Subcontractor, PB or the Client. Nor shall the terms of this indemnification provision operate to limit or modify any of the insurance required of Subcontractor hereunder, or the scope or terms of such coverage. Nothing herein is intended to require Subcontractor to indemnify PB from liability for PB's negligence.

ARTICLE 12: PROMPT PAYMENT OBLIGATIONS; RELEASE OF LIENS AND CLAIMS

Subject to Subcontractor's right to withhold payment in a good-faith dispute, Subcontractor shall promptly pay for all services, equipment and materials furnished in performing the Services hereunder. PB may at any time require Subcontractor to submit lien releases satisfactory to PB and Client evidencing payment and release of claims for payment. Upon evidence of unpaid undisputed claims for payment, PB may pay and discharge same and deduct the amount paid, together with incurred costs and attorneys' fees, from compensation due or to become due to Subcontractor hereunder. Acceptance of final payment by Subcontractor shall operate as a full and final release of Client and PB, its affiliates, successors, and assigns, from liability for any and all claims by Subcontractor, its affiliates, successors, and assigns, for additional compensation or payment for Services rendered, costs incurred, or work performed by Subcontractor under this Subcontract.

ARTICLE 13: INSURANCE

a. Coverage. Subcontractor shall maintain at its own cost and expense for the duration of this Subcontract the following insurance coverages issued by companies licensed to do business in the State of Hawaii, with an AM Best rating of A-VIII or better, and otherwise acceptable to PB and Client.

(1) Workers' Compensation and Employer's Liability Insurance

Coverage to include all Statutory Workers' Compensation benefits to the employees of Subcontractor who may sustain work-related injury, death, or disease, and coverage, if applicable, commensurate with the requirements of the U.S. Longshore and Harbor Workers' Compensation Act (USL&H) or any other maritime law or similar act (e.g., Outer Continental Shelf Lands Act (OSCLA), Federal Employers Liability Act (FELA)). Such insurance shall include a waiver of subrogation in favor of PB and Client, unless prohibited under applicable state law. Employer's Liability coverage with a limit of not less than \$1,000,000 each accident/disease shall also be maintained.

(2) Commercial General Liability and Contractual Liability ("CGL") Insurance, including contractual liability cover, with a limit of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate

Coverage to include premises operations, independent contractors, products and completed operations, and broad-form contractual, personal injury, advertising injury and property damage, and XCU (explosion, collapse, and underground hazard) coverage. If Subcontractor's work is within 50 feet of a railroad right of way, the policy must also be endorsed to cover work within 50 feet of a railroad. Contractual liability shall not exclude the indemnification provisions of this Subcontract. PB and Client, and their respective officers, directors, agents, and employees must be named as additional insureds, for both ongoing and completed operations, on a primary and non-contributory basis. Such policy shall contain a severability of interests provision or cross-liability clause, and shall provide that the general aggregate limit applies on a per-project basis. Such insurance shall include a waiver of subrogation in favor of PB and Client.

(3) Business Automobile Liability with a combined single limit of not less than \$1,000,000 each accident

The policy must be written on an "any auto" basis. PB and Client, and their respective officers, directors, agents, and employees must be named as additional insureds, on a primary and non-contributory basis. Such insurance shall include a waiver of subrogation in favor of PB and Client unless prohibited under applicable state law.

(4) Professional Liability with a limit of not less than \$1,000,000 per claim and annual aggregate

Coverage to include Subcontractor's legal liability for damages arising out of Subcontractor's performance of professional services pursuant to this Subcontract or relating to the Project.

Neither PB nor Client shall be liable for any deductibles on additional insured coverage, and any coverage maintained by PB and Client shall be excess and noncontributory. The required insurance shall apply separately to each insured against whom claim is made or suit brought, except with respect to the limits of liability. Coverage shall contain no special limitations on the scope of protection afforded to PB, Client and their respective officers, directors, agents, and employees.

CGL insurance shall be written on ISO occurrence form CG 00 01 or a substitute form providing equivalent liability coverage. Additional insured endorsements shall be written on CG 20 10 or equivalent. Business auto coverage shall be written on ISO for CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing equivalent liability coverage. With the exception of professional liability insurance, all insurance shall be written on an occurrence basis. Notwithstanding any other provision to the contrary, professional liability insurance shall be maintained in full force and effect continuously from the effective date of this Subcontract until the expiration of one (1) year following substantial completion of the Project.

All insurance policies must contain a provision that provides thirty (30) days' prior written notice to PB of cancellation (ten (10) days' prior written notice for failure to pay premium). Such notice of cancellation must be provided to PB via the following address: Parsons Brinckerhoff, Inc., Attn: Risk Management, One Penn Plaza, New York, NY 10119.

b. Certificates and Endorsements. Subcontractor shall, prior to commencing performance of any Services or entering onto the Project site or other field location, furnish PB with certificates of insurance and endorsements referencing the Project name and Project number, and evidencing (a) the required coverages, including but not limited to the additional insured and waiver of subrogation requirements, (b) the limits, and (c) the notice of cancellation provisions. Certificates and endorsements shall be provided annually, not more than 10 days after renewal or replacement of each policy, and shall restate the effective value of the coverage provided.

Subcontractor shall deliver the certificates of insurance and endorsements, each evidencing the required coverage and Project name and number, to: (1) PB Project Management, Diane Cook at cook@pbworld.com, and (2) to Parsons Brinckerhoff, Inc. at:

- E-mail: PBCertificateTracking@lockton.com <<mailto:PBCertificateTracking@lockton.com>> (preferred method); or
- Fax: Attn: Parsons Brinckerhoff, Inc. Certificate Tracking at Fax 816-783-2276; or
- Mail: Parsons Brinckerhoff, Inc, Certificate Tracking 444, W. 47th Street, Kansas City, MO, 64112.

Failure of PB to demand such certificate or other evidence of full compliance with these insurance requirements, or failure of PB to identify a deficiency from evidence that is provided, shall not be construed as a waiver of Subcontractor's obligation to maintain such insurance.

c. Lower-Tier Subcontractors. Subcontractor shall require that each of its lower-tier subcontractors, if any, have in place the insurance required herein, with the coverages and limits required herein, and provide Subcontractor with certificates of insurance and endorsements evidencing such coverage prior to commencement of subcontracted work. Subcontractor shall also require that PB and Client be named as additional insureds on all lower-tier subcontractor CGL, automobile, and (if required) aircraft liability policies, and that CGL, auto, aircraft (if required), and workers' compensation coverages be endorsed to provide for a waiver of subrogation in favor of PB and Client.

Subcontractor shall also comply with all other requirements set forth in Subsection 4.3.2 of the Prime Agreement General Terms and Conditions.

ARTICLE 14: SUSPENSION OF SERVICES

PB may, at any time, and with or without cause, suspend performance of the Services or any portion thereof for a period of up to 90 days by notice in writing to Subcontractor, and Subcontractor shall resume its Services promptly after being notified by PB to do so. Subcontractor may be allowed additional compensation or an extension of time, or both, provided same is granted by Client.

PB may immediately suspend Services performed at the Project site or other field locations without notice for violation of any safety rules, regulations, or requirements, for code violations, for failure to obtain or comply with the terms of any permits, orders, or required authorizations, or upon discovery of any unsafe working conditions. In such case, Subcontractor shall immediately cure the violation or remedy the unsafe working condition. Failure to do so shall constitute a material default.

ARTICLE 15: TERMINATION

PB may terminate this Subcontract, in whole or in part, for cause, upon seven (7) days' written notice. PB may terminate this Subcontract, in whole or in part, for its convenience, upon 10 days' written notice.

In the event of termination for cause, Subcontractor shall be entitled to compensation for the value of all Services performed in accordance with contract requirements up to the effective date of termination, less allowable deductions, which include, but are not limited to, all costs in excess of the compensation established in Article 4 reasonably incurred by PB to complete the Services. To the extent allowable deductions exceed amounts remaining due to Subcontractor, Subcontractor shall be and remain liable to PB upon demand for the amount of such excess.

In the event of termination for PB's convenience and without default on the part of Subcontractor, Subcontractor shall be entitled to compensation for all Services performed in accordance with contract requirements up to the effective date of termination, less allowable deductions. To the extent allowable deductions exceed amounts remaining due to Subcontractor, Subcontractor shall be and remain liable to PB upon demand for the amount of such excess.

Upon receipt of notice of termination, Subcontractor shall discontinue the Services unless otherwise directed and deliver to PB all Work Product. In the event of termination, PB shall have the right to conduct a financial audit, as well as a performance audit to ascertain the quality, timeliness and compensability of Subcontractor's Services. If, after issuance of notice of termination for cause, it is

determined for any reason that Subcontractor was not in default, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to termination for convenience.

ARTICLE 16: REMEDIES

In the event Subcontractor fails to timely perform Services, fails to perform Services in accordance with contract requirements, or is otherwise in default, PB shall be entitled to withhold payment until the default is corrected. Subcontractor shall, upon notice from PB, correct the designated performance deficiencies without additional compensation. If such performance deficiencies are not corrected within the time period specified in the notice, PB may cause same to be corrected and deduct costs incurred by reason of such failure from Subcontractor's compensation and, if Subcontractor's remaining compensation is not sufficient to reimburse PB for such costs, recover the same from Subcontractor upon demand. These remedies shall be in addition to all other remedies available to PB.

With the exception of attorneys' fees to enforce indemnification obligations, neither party hereto shall be entitled to recover from the other for breach of this Subcontract (a) incidental, nominal, special, indirect, exemplary or consequential damages, or damages that in their nature or amount constitute a penalty, or (b) attorneys fees or costs. Notwithstanding the foregoing, however, PB shall be entitled to seek, recover, and recoup from Subcontractor those types of damages, of whatever nature, as PB may be held accountable to the Client under the terms of the Prime Agreement, or to third parties, that were caused by or attributable to Subcontractor, its agents, lower-tier subcontractors, servants, or employees, or for which Subcontractor is otherwise legally responsible.

Neither the pendency of a dispute nor consideration of claims by PB pertaining to this Subcontract shall excuse Subcontractor from full and timely performance in accordance with the terms hereof.

ARTICLE 17: WORK PRODUCT

All drawings, plans, designs, specifications, photographs, models, schematics, surveys, maps, reports, studies, analyses, estimates, minutes, diaries, field notes, training manuals and materials, data bases, electronic files, file formats, templates, procedures, scripts, links, specifically-created key commands, source code documentation, software programs, calculations, summaries and other compilations of information to be developed, produced, or provided by Subcontractor as part of the Services, including but not limited to all deliverables identified herein, whether completed or in process, and all supporting documents and data, whether in hard copy or electronic or digital format or capable of being converted to such format, constitute "Work Product."

Work Product shall be the property of PB and shall be furnished to PB promptly upon request and as a condition to issuance of payment, although Subcontractor shall be permitted to retain reproducible copies. Subcontractor shall not be liable for loss, damage, or injury resulting from PB's use of Work Product for purposes other than as intended or contemplated herein.

The parties intend that Work Product shall be "work made for hire," of which PB shall be deemed the author. If for any reason such Work Product does not constitute "work made for hire," Subcontractor hereby (a) waives all rights in such Work Product, and any other rights of authorship, identification, or approval, restriction or limitation on use or subsequent modification, and (b) irrevocably assigns to PB all right, title, and interest in and to the Work Product, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Subcontractor shall obtain such interest and execute and deliver such instruments and take such other actions as may be necessary to vest and perfect such rights in PB.

To the extent any Work Product includes Subcontractor's previously-developed intellectual property that is or could be protected by federal copyright, patent, or trademark laws, or state trade secret laws, Subcontractor hereby grants to PB and Client a perpetual, royalty-free, fully-paid up, non-exclusive and irrevocable license to copy, reproduce, perform, dispose of, and use and re-use, in whole or in part, such intellectual property, and to authorize others to do so. Such previously-developed intellectual property may constitute but is not limited to, data bases, software programs, templates, file formats, specifically-created key commands, scripts, links, procedures, training manuals and other training materials, designs, prototypes, plans, and other works provided or delivered to PB or Client by Subcontractor.

ARTICLE 18: PROJECT RECORDS; RECORD RETENTION PERIOD; AUDITS

- a. **Project Records.** All records pertaining to this Subcontract and the Services performed hereunder, including but not limited to (a) timesheets and accounting and financial records; (b) Work Product; (c) drawings, maps, surveys, models, photographs, schematics, plans, designs, specifications, reports, studies, summaries, analyses, diaries, field notes, estimates, calculations, and other compilations of information obtained by or provided to Subcontractor in performance of the Services; and (d) correspondence; whether in hard copy or electronic or digital format, or capable of being converted to such format, constitute "Project Records."
- b. **Accounting and Financial Records; Audits.** Subcontractor shall preserve all Project Records in such detail as shall properly substantiate contract performance and claims for payment under this Subcontract, and shall comply with the accounting and audit requirements of the Prime Agreement Terms and Conditions. In the event the Project is subject to the Federal Acquisition Regulations ("FAR"), Subcontractor shall comply with all applicable sections of the FAR. Subcontractor shall immediately repay to PB upon demand any compensation disallowed as a result of an audit conducted hereunder, or PB may elect to deduct disallowed amounts from monies due or to become due under this Subcontract.
- c. **Record-Retention Period; Review and Reproduction.** Subcontractor shall retain all Project Records at a secure location reasonably accessible to the parties hereto for the longer of (a) six (6) years from the date of final payment or (b) until all disputes, audits, claims, legal proceedings, and other actions involving this Subcontract and the Services performed hereunder have been resolved or concluded (the "Record Retention Period"). During the Record Retention Period Subcontractor shall make all Project Records available to PB and Client for review and reproduction during normal business hours or at such other times as PB or Client may reasonably require.

Subcontractor shall include the requirements of this Article in all lower-tier subcontracts.

ARTICLE 19: CONFIDENTIAL INFORMATION; NON-DISCLOSURE

Unless required by law or Court order to do so, or unless prior written authorization is received from the PB or the Client, Subcontractor shall not disclose any (1) information concerning the Project that is not already in the public domain; (2) data, information, processes, or documents provided by or on behalf of PB or the Client, including but not limited to Electric Utility Infrastructure Information ("EUII"), as that term has been defined in Prime Agreement Special Provisions, Section VII (K); (3) Work Product; or (4) other information generated by Subcontractor in the course of performing this Subcontract (collectively, "Confidential Information") to anyone other than PB, and at PB's direction, the Client. Nor shall Subcontractor use such Confidential Information for any purpose other than the performance of Services under this Subcontract. Subcontractor shall instruct its employees and lower-tier subcontractors to treat all information obtained or generated in performance of the Subcontract as confidential, and shall obtain from its lower-tier subcontractors equivalent agreements to withhold and protect from disclosure all Confidential Information covered under this Article.

ARTICLE 20: COMPLIANCE WITH LAWS

Subcontractor shall comply with all federal, state and local laws, codes, ordinances and regulations applicable to Subcontractor, this Subcontract, the Project and its work sites, and the Services to be performed hereunder, including but not limited to those regulating conditions of employment and workplace safety and health. Subcontractor shall be liable to PB for all losses, costs, and expenses PB may incur resulting from or attributable to Subcontractor's, its employees', lower-tier subcontractors', and/or agents' failure to so comply, including but not limited to orders, judgments, fines, penalties, and required corrective measures.

During the performance of this Subcontract, Subcontractor shall not unlawfully discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, sexual preference, disability, age (40+), marital status, or public assistance status. Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and the selection for training, including apprenticeship. Subcontractor agrees to post in conspicuous places, available to employees and applicants for employment, notices which set forth the provisions of this non-discrimination Article.

ARTICLE 21: HEALTH AND SAFETY

Subcontractor agrees that the prevention of accidents to workers engaged by Subcontractor is the responsibility of Subcontractor. To that end, Subcontractor shall comply with all Project safety policies/protocols/program, and all federal, state and local health and safety laws, codes, ordinances and regulations applicable to the Project, the Project site and other work locations, Subcontractor, this Subcontract and the performance of the Services hereunder, including, but not limited to, the Occupational Safety and Health Act of 1970. If Services are to be performed or activities conducted on-site or at other field locations, Subcontractor shall also implement and enforce a safety program for all workers, including those of lower-tier subcontractors, if any, engaged in performing the Services, and shall ensure such workers' participation in appropriate safety training. Subcontractor's safety and training program shall comply at a minimum with such safety policies and programs as may be established or mandated under the Prime Agreement. Subcontractor shall also be responsible for the safety and conduct of persons on property under Subcontractor's control, including Subcontractor's employees, agents, invitees, and lower-tier subcontractors.

ARTICLE 22: NOTICES

All notices required or permitted under this Subcontract shall be given in writing and delivered either personally, by delivery service, by first-class, certified, or registered mail, or by e-mail, to the authorized representative of the other party at the address set forth below, or as may be designated by notice delivered in accordance with the requirements of this Article. If notice is delivered by e-mail, the notice must be signed by the party giving notice and sent as a pdf attachment to the e-mail at the address stipulated herein. Electronic or digital signatures shall not be allowed.

TO PB:

Parsons Brinckerhoff, Inc.
Alii Place, 17th Floor
1099 Alakea Street
Honolulu, Hawaii 96813
E-mail: 16590EHHCTCPNotices@pbworld.com
Attention: Mr. James Van Epps

TO SUBCONTRACTOR:

Global Teach, Inc.

E-mail: [REDACTED]

Attention: Mr. A.J. Halagao

Notice shall be effective upon delivery when delivered in person, by courier service providing receipt of delivery, or by registered or certified mail, return receipt requested. Notices properly addressed and stamped, and deposited into the US postal system as first-class mail, shall be deemed received two (2) business days after date of postmark. Notice delivered by e-mail shall be deemed received by the date and time stated on the transmitter's copy.

ARTICLE 23: STANDARDS; QUALITY PROGRAM

All Services shall be performed in compliance with the standards, specifications, manuals of instruction, policies, protocols, and procedures established by the Client and such other regulatory agencies as may have jurisdiction over the work.

Subcontractor shall maintain a quality program for the duration of this Subcontract that at a minimum complies with any requirements established in the Prime Agreement. Upon request by PB, Subcontractor shall provide a copy of its quality program to PB. The program must ensure that the Services performed by Subcontractor conform to the requirements of this Subcontract and the Prime Agreement Terms and Conditions. Subcontractor shall provide for a flow down of all applicable quality requirements to its lower-tier subcontracts.

As part of its quality program, Subcontractor shall maintain and implement a Quality Control and Quality Assurance Plan ("QA/QC Plan"). At a minimum, the Plan shall ensure (i) Work Product review (the Work Product is accurate and complete) by suitably-qualified parties independent from the personnel performing the Services or delivering the Work Product, and (ii) periodic process audit and review of the overall quality control activities contained in the Plan. Subcontractor shall document all of its quality program activities performed in connection with this Subcontract. If any deviations are identified in any of the performed Services, corrective actions shall be developed, implemented, and documented by Subcontractor. PB has the right to audit Subcontractor's quality program and its Project-related quality activities required by the Plan at any time. The results of any internal reviews specified in the Plan shall be submitted to PB.

If Subcontractor fails to properly implement and maintain a quality program or QA/QC Plan, and such failure continues following notification to Subcontractor by PB, then PB may, in addition to any other remedies permitted herein or by law, terminate this Subcontract, withhold payment for Services until Subcontractor is in compliance with the requirements of this Article, or remedy such failure at Subcontractor's expense. Subcontractor agrees to indemnify and hold PB harmless for all costs incurred by PB to correct work adversely affected by such failure.

ARTICLE 24: APPLICABLE LAW; JURISDICTION; VENUE

This Subcontract, its validity, interpretation, and performance, and any disputes between the parties arising out of or relating to this Subcontract, shall be governed by and construed in accordance with the laws of the state of Hawaii, without regard to conflict of laws principles. In the event the parties are first unable to resolve their disputes through good-faith negotiations or through mutually-agreed nonbinding mediation, legal proceedings may be brought. Any such legal proceedings shall be brought in a court of competent jurisdiction in the city and county of Honolulu, and Subcontractor by its signature below

consents to the *in personam* jurisdiction of said courts and waives and covenants not to seek change of venue based upon *forum non conveniens*. Notwithstanding the foregoing, legal proceedings may be brought at any time to preserve equitable or legal remedies, obtain equitable or extraordinary relief, preserve evidence, prevent irreparable harm, preserve the status quo pending proceedings on the merits, or preserve claims that might otherwise be barred by applicable statutes of limitations, or lost or impaired on other legal or procedural grounds.

ARTICLE 25: SEVERABILITY

If any provision of this Subcontract is prohibited by law, invalid, or otherwise unenforceable, the remainder of this Subcontract shall remain in full force and effect; provided that in such event the parties hereto shall in good faith attempt to replace the invalid or unenforceable provision with one that is valid and enforceable, and comes as close as reasonably possible to expressing or achieving the intent of the parties with regard to the original provision. Upon agreement, this Subcontract shall be amended to incorporate the substitute language.

ARTICLE 26: SURVIVAL

The parties acknowledge that all terms and conditions of this Subcontract which by their nature are intended to survive the termination or expiration of this Subcontract, including non-disclosure, indemnification, insurance, retention and production of Project Records, and other obligations Subcontractor has a continuing duty to observe, as well as all provisions applicable to disputes and legal proceedings, and Article 22 notices, shall survive and be enforceable by PB according to the terms hereof.

ARTICLE 27: SUCCESSORS AND ASSIGNS

Subcontractor shall not assign, sell, transfer, or otherwise dispose of any of its interest in this Subcontract, or delegate any of its duties under this Subcontract, without the prior written approval of PB. Any unauthorized attempt thereat shall be void and unenforceable.

ARTICLE 28: THIRD-PARTY BENEFICIARIES

This Subcontract shall be binding upon and inure to the benefit of the parties hereto, their successors and permitted assigns, only. PB and Subcontractor are the only beneficiaries of this Subcontract and are solely entitled to enforce its terms. It is the express intent of PB and Subcontractor that should any persons or entities other than the parties hereto receive a benefit under this Subcontract, they shall do so as incidental beneficiaries only.

ARTICLE 29: INTERPRETATION

This Subcontract shall not be construed in favor of or against either party based upon authorship, the parties being of equal bargaining stature. Headings are solely for the convenience of the parties and shall have no bearing on interpretation of text. Unless established as a term of art, with a well-understood and unequivocal technical or trade meaning, words are used in their common and ordinary meaning. Defined terms are capitalized, and when capitalized, shall carry their defined meaning. Wherever the term "day" or "days" is used, it shall mean singular or consecutive calendar days, respectively. "Business day" shall mean any weekday other than Saturday, Sunday or a holiday recognized and observed by the state of Hawaii.

ARTICLE 30: NONWAIVER

No failure or successive failures on the part of PB to enforce any provision of this Subcontract, or custom or practice that may evolve between the parties in the administration of this Subcontract, shall operate as a waiver or discharge of that or any other provision, or render the same invalid, or impair PB's right to enforce the same in the event of any subsequent breach by Subcontractor. Any waiver, if given, shall be in writing, signed by the party making the waiver and addressed to the other party, and shall be limited to the particular instance and for the purposes stipulated therein.

ARTICLE 31: ENTIRE AGREEMENT

This Subcontract represents the entire and integrated agreement between PB and Subcontractor, and supersedes and replaces all prior and contemporaneous understandings, agreements, arrangements, negotiations, and representations, whether written or oral, with respect to the subject matter hereof. This Subcontract may not be modified except in writing, by an amendment signed by the parties hereto.

IN WITNESS WHEREOF, PB and Subcontractor have duly executed this Subcontract, effective from the date first written above.

PARSONS BRINCKERHOFF, INC.

GLOBAL TEACH, INC.

BY: *Mark H. Scheibe*
Signature

BY: *[Signature]*
Signature

for
James R. Van Epps, Sr. Vice President
and Project Manager

AVELINO J. HALAGAO
Printed Name

VICE PRESIDENT
Printed Title

ATTACHMENT 1
PRIME AGREEMENT TERMS AND CONDITIONS

Copy provided to Subcontractor on CD.

ATTACHMENT 2

SCOPE OF SERVICES

Task numbering corresponds to that used in the Prime Agreement Special Provisions, Exhibit 1, Scope of Services.

Subcontractor shall perform the following services:

Task 13 Public Involvement

13.01 Public Involvement Program Activities

- Provide community and general public outreach
- Provide government monitoring and coordination services
- Participate in weekly Public Involvement meetings
- Attend additional Public Involvement meetings, as requested
- Attend and respond to public input at public meetings, interest groups, and through personal outreach
- Inform Public Involvement Manager promptly of information and development that may affect the Project

13.01.01 Participate in Community Events

- Attend trade shows, workshops, and/or seminars and disseminate Project information
- Attend meetings with various groups such as community, business, residential, ethnic, and special trade organizations, and disseminate Project information

13.01.02 Facilitate Project Public Involvement Meetings

Attend public hearings, workshops, and/or seminars, and disseminate Project information

13.01.04 Develop and Produce Presentations and Manage Presentation/Schedule (i.e., "Speaker's Bureau")

- Attend meetings with organizations, associations, and other stakeholders, and disseminate Project information
- Participate in and solicit Speaker's Bureau meetings and informational presentations

13.01.05 Maintain Existing and Develop New Contacts with Local Groups and Organizations, including City Council and Neighborhood Boards

- Maintain existing, as well as develop new, contacts with groups, organizations, and individuals

- Attend meetings with outreach groups, including youth groups, education organizations, and business organizations, and disseminate Project information
- Update and maintain Public Involvement database, as requested

13.01.07 Develop, Produce, and Distribute Public Information Documents and Electronic Media

Distribute approved public information documents and materials

13.01.08 Respond to Public Inquiries about the Project

Respond to public inquiries during various public outreach activities

13.01.09 Present Community Feedback to the Project Team

Convey community feedback to the Project team at the weekly Public Involvement meetings, on behalf of the general public and specialty groups

13.02 Support Construction Management (CM) in Oversight of Contractor Public Outreach Teams

13.02.01 Oversee Public Contact

Participate in construction mitigation efforts throughout neighborhoods along the alignment by attending various public outreach events and/or disseminating Project information

13.03 Support the City in Media and Agency Coordination as Needed

Perform media monitoring and rapid response

13.04 Documentation

Prepare and submit monthly progress reports

Task 23 Archaeological Services

23.01 Archaeological Inventory Survey (AIS) Coordination


- Provide community and general public outreach for the AIS for the Airport and City Center sections
- Provide communication conduit for business owners and residential property owners to maintain communication during AIS work in roadways
- Participate in weekly AIS coordination meetings

ATTACHMENT 3

FEE SCHEDULE/BUDGET

Exhibit 2A – Cost Estimate

GLOBAL TEACH, INC.

Item	Amount
Total Labor (1) Other Direct Costs (2) Lower-tier Subcontractor Costs (3) General Excise and Use Tax (4.5 %)	
TOTAL (1) Schedule A – Labor Details (2) Schedule B – Other Direct Cost Details (3) Schedule C – Lower-tier Subcontractor Details – N/A	\$78,584

SPECIAL PROVISIONS
Honolulu High-Capacity Transit Corridor Project

Exhibit 2A – Cost Estimate

Schedule A – Labor Details

Title/Name	Estimated Hours per Month	Total Hours¹	Bill Rate²	Total Labor
Principal – A.J. Halagao	■	■	■	■
Total				■

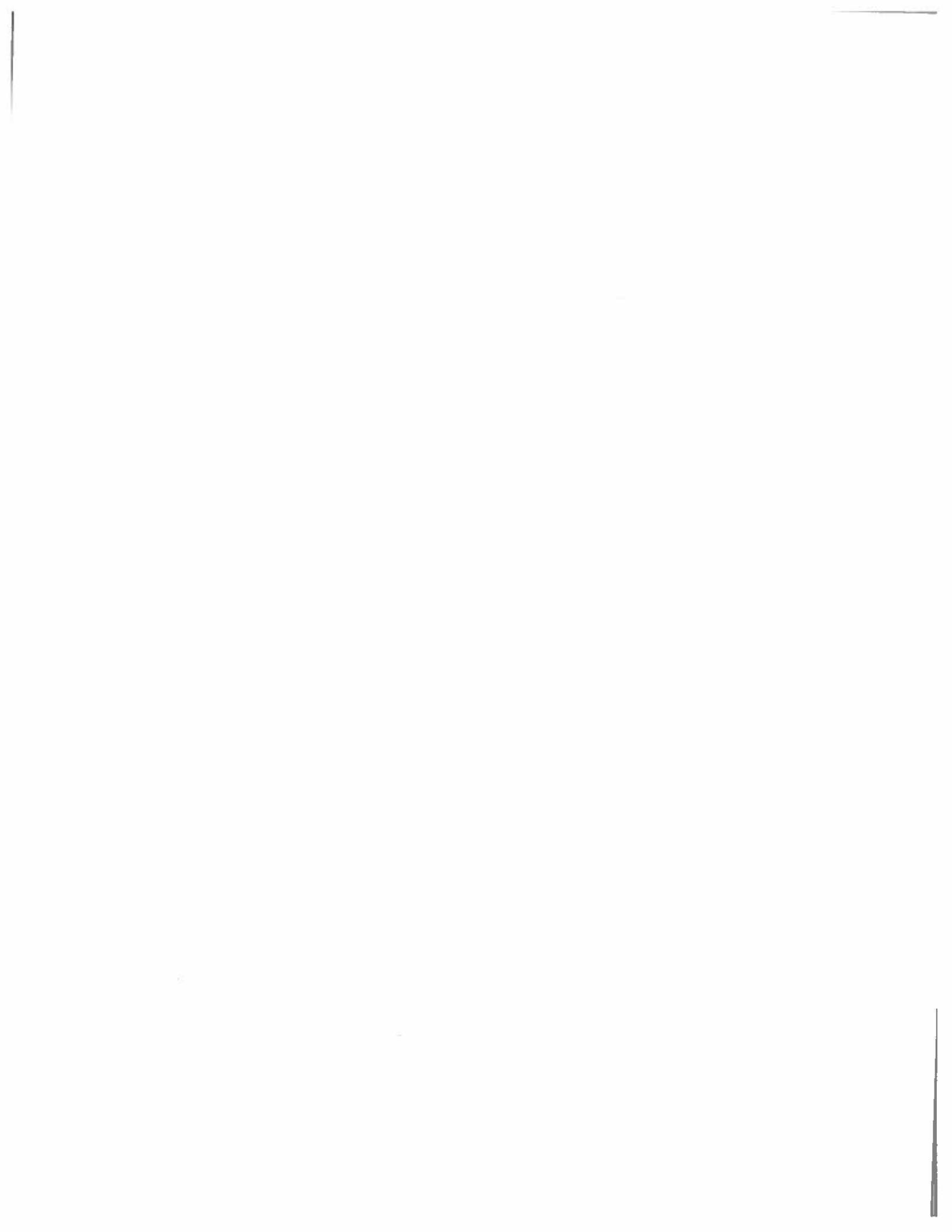
(1) Total hours are based upon a period of performance of twelve (12) months from Notice-to-Proceed.

(2) The Bill Rate is inclusive of all direct and indirect costs associated with the performance of the Services, including but not limited to direct labor, overhead, general and administrative expenses, other direct costs not identified in Schedule B below, and operating margin (profit). The Bill Rate does not include the General Excise and Use Tax.

Schedule B – Other Direct Cost Details

Description	Unit Cost	Units	Total
Seminar and Event Registration Fees			■
Total			■

SPECIAL PROVISIONS
 Honolulu High-Capacity Transit Corridor Project



**PROFESSIONAL SERVICES SUBCONTRACT
BETWEEN
PARSONS BRINCKERHOFF, INC.
AND
JOHN F. DESOTO
(#PB-16590E-JD0)**

This Subcontract, effective as of the 2nd day of August, 2011, is made and entered into by and between **PARSONS BRINCKERHOFF, INC.** ("PB"), a New York corporation with offices at Alii Place, 17th Floor, 1099 Alakea Street, Honolulu, HI 96813, and **JOHN F. DESOTO** ("Subcontractor"), a Hawaii sole proprietor with offices at [REDACTED].

RECITALS

PB (formerly known as "PB Americas, Inc.") entered into General Engineering Consultant Contract (GEC II) No. SC-DTS-1100131 dated June 30, 2011 (the "Prime Agreement") between PB Americas, Inc. and the Honolulu Authority for Rapid Transportation, hereinafter referred to as "HART" ("Client"), to provide general engineering, planning, construction management and other consultant services for the Honolulu High-Capacity Transit Corridor Project, which includes the 28-mile Locally Preferred Alternative and the 20-mile Airport Alignment, as more particularly defined in Prime Agreement Special Provisions VII(A) ("HHCTCP" or the "Project").

PB has determined the need to subcontract certain of the public involvement services required under the Prime Agreement, and Subcontractor has agreed to provide the same for the duration of the Prime Agreement in accordance with the terms and conditions contained herein.

Therefore, for the consideration hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which the parties by their signatures below affirm, the parties do mutually agree as follows.

TERMS

The foregoing recitals are incorporated herein for all purposes as if fully set forth.

ARTICLE 1: PRIME AGREEMENT TERMS AND CONDITIONS

Except as noted below, or where in their application the context clearly requires otherwise, all the terms and conditions of the Prime Agreement, including all exhibits thereto and other documents incorporated by reference therein, that pertain to the subcontracted services or to the Subcontractor, or that by their express terms are required to be incorporated into each subcontract (the "Prime Agreement Terms and Conditions"), labeled **Attachment 1**, are by this reference incorporated herein and made a part hereof for all purposes. By the signature below of its authorized representative, Subcontractor affirms that it has been provided a copy of Attachment 1 on CD.

With regard to the services to be performed by it, Subcontractor assumes toward PB all of the obligations and responsibilities that PB assumes toward the Client under the Prime Agreement Terms and Conditions, and Subcontractor shall be bound by all of the Prime Agreement Terms and Conditions to the same extent as PB is bound thereby. In the event of any conflicts or ambiguities between or among the provisions of this Subcontract and the Prime Agreement Terms and Conditions, the provision that imposes the more stringent requirement on Subcontractor shall take precedence.

Subcontractor shall include in all lower-tier subcontracts those provisions of the Prime Agreement that are required to be so included, and shall require all lower-tier subcontractors to comply with such provisions for the duration of their respective subcontracts. Subcontractor shall require each lower-tier subcontractor to make such disclosures and execute such attestations as may be required under the Prime Agreement Terms and Conditions, including but not limited to those required by state or federal statute associated with source of funding. Failure to comply with the terms of this paragraph shall constitute a material default.

ARTICLE 2: SCOPE OF SERVICES; UNAUTHORIZED AND EXTRA WORK

a. Services. Subcontractor shall perform, consistent with the standard of care stipulated herein and other terms and conditions of this Subcontract, those services set forth in the Scope of Services annexed hereto as Attachment 2 and by this reference incorporated herein and made a part hereof for all purposes (the "Services") as may be required during the term of the Prime Agreement to complete the Project. The Services include all tasks and components, whether or not expressly set forth herein, that are manifestly necessary to carry out the intent of this Subcontract, or that are customarily performed in conjunction with, as a component of, or in order to accomplish, the Services, and such tasks and components shall be performed as if fully set forth in the description of the Services.

b. Unauthorized and Extra Work. Subcontractor shall not proceed with performance of any Services or incur any costs, or be entitled to compensation or reimbursement for any Services performed or costs incurred, prior to the effective date of this Subcontract and issuance of Notice to Proceed ("NTP"). Nor shall Subcontractor proceed with performance of any work in addition to that stipulated in this Subcontract ("Extra Work"), or be entitled to compensation therefor, or to reimbursement for costs incurred in connection therewith, prior to full and proper execution of a Subcontract amendment executed by both parties describing the work to be performed, the schedule for performance, and the compensation to be paid. Any work performed prior to the effective date of this Subcontract or an amendment authorizing same, is done solely as a volunteer and at no cost to PB.

ARTICLE 3: KEY PERSONNEL

If any Subcontractor key personnel have been designated for this Project, they are listed below. Subcontractor's key personnel shall not be replaced without PB's or Client's prior written consent. In the event any key personnel become unavailable due to separation from employment with Subcontractor, long-term illness/disability, or death, Subcontractor shall nominate a replacement with equivalent qualifications for PB's approval, which shall not be unreasonably withheld. In the event Subcontractor fails to provide a suitable replacement, PB shall have the right to terminate this Subcontract.

Key Personnel: None

ARTICLE 4: COMPENSATION

a. Total Contract Amount. Subcontractor shall be compensated on a Bill Rate basis, and shall perform the Services for an amount not to exceed **FIFTY-SEVEN THOUSAND FIFTY-SEVEN AND NO/100 DOLLARS (\$57,057.00)** (the "Total Price"), in accordance with the Fee Schedule/Budget annexed hereto as Attachment 3 and by this reference incorporated herein and made a part hereof for all purposes ("Fee Schedule. Reimbursable costs shall include only those authorized in Prime Agreement Part 2, Special Provisions Exhibit 2B(2)(a), (b), (c) and (e) ("Reimbursable Costs"), as further delineated in Attachment 3.

b. **Notifications Required.** Subcontractor shall notify PB promptly in writing at the point at which (a) Subcontractor exceeds the estimated monthly level of effort by 25%, or (b) Subcontractor has expended 75% of the Total Price. Subcontractor shall not under any circumstances incur fees in excess of the Total Price.

ARTICLE 5: INVOICING; PAYMENT

a. **Electronic Reporting.** PB has implemented a web-based time collection/reporting system for the Project. Utilizing software provided by PB, Subcontractor shall submit bi-weekly timesheets electronically to PB's Project Control Office. All timesheets must be reviewed by PB's Project lead or manager for compliance with Subcontract invoicing requirements, including but not limited to compliance with Exhibit 2B mandates, and authorized prior to invoice submittal ("Authorized Time"). Amounts invoiced must correspond to the hours of Authorized Time entered on the electronic reporting system for the invoice period.

b. **Invoice Periods; Submittal Deadlines.** Invoicing for the Project is structured on a 12-period annual cycle. Subcontractor shall prepare invoices for Services performed during each invoice period in a format acceptable to PB, and shall submit its invoices monthly, no later than 15 days following the end of the applicable invoice period. Any invoice delivered to PB after the submittal deadline will be processed with the next succeeding invoice period submittals.

c. **Invoice Submittal Requirements.** Invoices shall include all labor costs incurred during the invoice period for Authorized Time, and all Reimbursable Costs incurred and booked during the invoice period, together with back-up documentation. The bill-through date on each monthly invoice must match the last actual expenditure date shown on the back-up documentation. In addition, Subcontractor shall include with each invoice a **progress report** that documents, in bulleted detail, the Services completed during the invoice period, including items of work accomplished and milestones reached, as well as problems/issues/concerns, and work planned for the next invoice period. The signed invoice, backup documentation, and progress report shall be sent to LaRhonda Sayles, Accounting Manager, at sayles@pbworld.com; hard copy to be delivered to the address for notice stipulated in Article 22.

d. **Payment.** Contingent upon Subcontractor's timely submittal of a proper invoice and progress report, PB shall pay those undisputed amounts due and owing within 10 days of the date of payment by Client to PB for the Services covered by the invoice, less any amounts PB may be authorized or required to withhold or deduct under the terms of this Subcontract, applicable law, or court order. In the event of non-payment by Client, both parties shall cooperate in seeking payment from Client.

e. **Right to Withhold.** It is expressly agreed that PB shall be entitled to withhold payment pending correction of non-conforming Services and/or other performance deficiencies.

f. **Audits.** All payments hereunder are subject to the audits, adjustments and limitations that apply to PB under the Prime Agreement.

ARTICLE 6: TERM; PERFORMANCE SCHEDULE; DELAYS

a. **Term.** The term of this Subcontract shall be for a period commencing with the effective date hereof and ending on the earlier of: (1) the date the Prime Agreement expires; (2) the date stated in any Notice of Termination issued pursuant to Article 15; or (3) the date the Prime Agreement is terminated, if the Prime Agreement Terms and Conditions so provide

b. Performance Schedule. Time is of the essence in Subcontractor's performance of the Services under this Subcontract, and Subcontractor shall promptly commence performance of the Services as instructed in the NTP, and perform the same diligently and without interruption until completed in accordance with the performance schedule established in Attachment 2, or if none, in the Prime Agreement (the "Performance Schedule"). Provided, if the Performance Schedule applicable to the Services is derived from the Prime Agreement, Subcontractor shall submit all deliverables to PB no later than twenty-one (21) business days prior to the completion/submittal deadline for such work applicable to PB.

c. Delays. Subcontractor shall notify PB in writing within five (5) business days of any event or condition impacting its ability to meet the performance schedule, together with the steps contemplated or taken by Subcontractor to mitigate the effect of such delay.

Delays caused by *force majeure* events such as war, civil insurrection, riot, acts of public authority, strike, explosion, fire, earthquake, flood and like catastrophic events, shall be excusable to the extent they could not reasonably be anticipated, mitigated, or avoided by Subcontractor, and did not result in whole or in part from Subcontractor's fault or neglect, but shall be compensable only if additional compensation is obtained by PB from Client for such delays.

ARTICLE 7: STANDARD OF CARE; QUALIFICATIONS/LICENSES

a. Standard of Care. Subcontractor shall perform the Services in a manner consistent with that degree of skill and care ordinarily exercised by members of the same profession performing the same or similar work under the same or similar circumstances in the city and county of Honolulu. The parties acknowledge that PB is relying upon Subcontractor's expertise, and that neither PB's review, approval, acceptance, or payment for the Services is intended, nor shall it, constitute a waiver, release, or discharge of Subcontractor's responsibility for the proper performance of the Services or liability for defects in same, or an assumption by PB of such responsibility or liability.

b. Qualifications and Licenses. Subcontractor represents and warrants that all personnel performing Services or conducting activities in furtherance of this Subcontract shall be properly qualified, and that personnel performing Services or conducting activities for which a license or certification is required under local, state, or federal regulations shall be duly licensed and/or certified. All licenses and certifications shall be current at the time the work is performed.

ARTICLE 8: INDEPENDENT CONTRACTOR

The parties affirm that Subcontractor is an independent contractor under subcontract to PB, and is not in a joint venture, partnership, agent-principal or employer-employee relationship with PB. Subcontractor shall, at its own expense, provide all equipment, materials, services, and personnel required to perform the Services. Subcontractor, consistent with its status as an independent contractor, shall maintain complete control and direction over and responsibility for its employees, lower-tier subcontractors, and agents, and shall be solely responsible for the means, methods, sequences and techniques for carrying out the Services, and for the safety of its employees, lower-tier subcontractors, agents and invitees. Subcontractor affirms that it shall not represent itself to be an agent of PB or Client, or as having any authority to bind PB or Client, and further affirms that it shall instruct its personnel that they are not, and are prohibited from representing themselves to be, officers, agents, or employees of PB or Client, and have no authority to bind PB or Client.

Subcontractor shall indemnify, defend, and hold PB and Client harmless from any claims, and pay all damages, costs and judgments related to any claims made against PB or Client by Subcontractor's and/or its lower tier subcontractors' employees, agents, and representatives, for wages, salaries or any other form of compensation; for benefits, including but not limited to Workers' Compensation insurance benefits,

health, disability, medical, vacation, retirement, and sick leave; and/or any other benefit or assistance that may be available to employees of PB or Client or otherwise associated with an employer/employee relationship, such as training, counseling, or promotion. Subcontractor shall be responsible for all payroll and unemployment taxes associated with workers it provides to perform Services, and for withholding of social security and state and federal income taxes for such individuals, and shall indemnify, defend and hold PB and Client harmless from, and shall pay, all taxes and costs, fines, penalties and assessments associated therewith.

ARTICLE 9: CLAUSES APPLICABLE TO FEDERALLY-FUNDED CONTRACTS

All clauses set forth in Prime Agreement Special Provisions Article VIII are by this reference expressly incorporated into and made a part of this Subcontract for all purposes as if set forth in full, and shall control in accordance with their terms in the event of conflict with any other terms and conditions of this Subcontract. Subcontractor shall comply with, and ensure that its lower-tier subcontractors comply with, all provisions of this Article 9.

ARTICLE 10: DISADVANTAGED BUSINESS ENTERPRISES

a. With regard to the performance of this Subcontract and in provision of the Services, Subcontractor shall fully cooperate with PB in meeting PB's commitments and goals, if any, with regard to the maximum utilization of disadvantaged business enterprises, minority business enterprises, small business enterprises, women-owned business enterprises, emerging business enterprises, and historically underutilized businesses (collectively, "DBEs"). and Subcontractor, if requested in writing by PB, shall provide the maximum practicable opportunity for DBEs to compete for any lower-tier subagreements available pursuant to this Subcontract.

b. If Subcontractor is a DBE, upon written request by PB Subcontractor shall provide certificates or other acceptable testament to such DBE status.

c. Subcontractor shall promptly provide attesting documentation when requested by PB, that proves that all lower-tier DBEs have received the revenue paid to Subcontractor by PB on behalf of the DBEs for services provided pursuant to the provisions of this Subcontract.

ARTICLE 11: INDEMNIFICATION

To the maximum extent permitted by law, Subcontractor shall indemnify, defend, and hold harmless PB and Client, their successors and assigns, and each of their respective officers, agents, servants and employees, from and against any and all claims, suits, actions, judgments, orders, demands, losses, damages, and liability of whatsoever nature, and costs and expenses including but not limited to (a) administrative or statutory assessments, sanctions, fines, and penalties, and (b) reasonable attorneys' fees, witness fees, costs of discovery and investigation, and court costs, whether incurred in relation to administrative, pre-trial, trial, post-trial, or appellate proceedings; caused by, resulting from, or arising out of (a) breach of this Subcontract; (b) the negligent acts, errors, or omissions, or the intentional, willful, or reckless misconduct of Subcontractor, its officers, employees, servants, agents, subcontractors, or representatives in the performance of this Subcontract; (c) infringement of patents or copyrights, or unauthorized disclosure of trade secrets or Confidential Information, as defined in Article 19; or (d) violation of applicable codes and regulations, including but not limited to laws relating to health and safety, compensation and conditions of employment, and payment of subcontractors, vendors, and materialmen.

Notwithstanding any other provision to the contrary, in the event of litigation between the parties to enforce the provisions of this Article or any other indemnification obligation owed to PB under the terms

of this Subcontract, the prevailing party shall be entitled to recover costs incurred and reasonable attorneys' fees.

The indemnification afforded under this Article shall not be limited in any manner whatsoever by insurance required under this Subcontract or the Prime Agreement, or by any other insurance carried by Subcontractor, PB or the Client. Nor shall the terms of this indemnification provision operate to limit or modify any of the insurance required of Subcontractor hereunder, or the scope or terms of such coverage. Nothing herein is intended to require Subcontractor to indemnify PB from liability for PB's negligence.

ARTICLE 12: PROMPT PAYMENT OBLIGATIONS; RELEASE OF LIENS AND CLAIMS

Subject to Subcontractor's right to withhold payment in a good-faith dispute, Subcontractor shall promptly pay for all services, equipment and materials furnished in performing the Services hereunder. PB may at any time require Subcontractor to submit lien releases satisfactory to PB and Client evidencing payment and release of claims for payment. Upon evidence of unpaid undisputed claims for payment, PB may pay and discharge same and deduct the amount paid, together with incurred costs and attorneys' fees, from compensation due or to become due to Subcontractor hereunder. Acceptance of final payment by Subcontractor shall operate as a full and final release of Client and PB, its affiliates, successors, and assigns, from liability for any and all claims by Subcontractor, its affiliates, successors, and assigns, for additional compensation or payment for Services rendered, costs incurred, or work performed by Subcontractor under this Subcontract.

ARTICLE 13: INSURANCE

a. Coverage. Subcontractor shall maintain at its own cost and expense for the duration of this Subcontract the following insurance coverages issued by companies licensed to do business in the State of Hawaii, with an AM Best rating of A-VIII or better, and otherwise acceptable to PB and Client.

(1) Workers' Compensation and Employer's Liability Insurance

Coverage to include all Statutory Workers' Compensation benefits to the employees of Subcontractor who may sustain work-related injury, death, or disease, and coverage, if applicable, commensurate with the requirements of the U.S. Longshore and Harbor Workers' Compensation Act (USL&H) or any other maritime law or similar act (e.g., Outer Continental Shelf Lands Act (OSCLA), Federal Employers Liability Act (FELA)). Such insurance shall include a waiver of subrogation in favor of PB and Client, unless prohibited under applicable state law. Employer's Liability coverage with a limit of not less than \$1,000,000 each accident/disease shall also be maintained.

(2) Commercial General Liability and Contractual Liability ("CGL") Insurance, including contractual liability cover, with a limit of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate

Coverage to include premises operations, independent contractors, products and completed operations, and broad-form contractual, personal injury, advertising injury and property damage, and XCU (explosion, collapse, and underground hazard) coverage. If Subcontractor's work is within 50 feet of a railroad right of way, the policy must also be endorsed to cover work within 50 feet of a railroad. Contractual liability shall not exclude the indemnification provisions of this Subcontract. PB and Client, and their respective officers, directors, agents, and employees must be named as additional insureds, for both ongoing and completed operations, on a primary and non-contributory basis. Such policy shall contain a severability of interests provision or cross-liability clause, and shall provide that the general aggregate limit applies on a per-project basis. Such insurance shall include a waiver of subrogation in favor of PB and Client.

- (3) Business Automobile Liability with a combined single limit of not less than \$1,000,000 each accident
- The policy must be written on an "any auto" basis. PB and Client, and their respective officers, directors, agents, and employees must be named as additional insureds, on a primary and non-contributory basis. Such insurance shall include a waiver of subrogation in favor of PB and Client unless prohibited under applicable state law.
- (4) Professional Liability with a limit of not less than \$1,000,000 per claim and annual aggregate
- Coverage to include Subcontractor's legal liability for damages arising out of Subcontractor's performance of professional services pursuant to this Subcontract or relating to the Project.

Neither PB nor Client shall be liable for any deductibles on additional insured coverage, and any coverage maintained by PB and Client shall be excess and noncontributory. The required insurance shall apply separately to each insured against whom claim is made or suit brought, except with respect to the limits of liability. Coverage shall contain no special limitations on the scope of protection afforded to PB, Client and their respective officers, directors, agents, and employees.

CGL insurance shall be written on ISO occurrence form CG 00 01 or a substitute form providing equivalent liability coverage. Additional insured endorsements shall be written on CG 20 10 or equivalent. Business auto coverage shall be written on ISO for CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing equivalent liability coverage. With the exception of professional liability insurance, all insurance shall be written on an occurrence basis. Notwithstanding any other provision to the contrary, professional liability insurance shall be maintained in full force and effect continuously from the effective date of this Subcontract until the expiration of one (1) year following substantial completion of the Project.

All insurance policies must contain a provision that provides thirty (30) days' prior written notice to PB of cancellation (ten (10) days' prior written notice for failure to pay premium). Such notice of cancellation must be provided to PB via the following address: Parsons Brinckerhoff, Inc., Attn: Risk Management, One Penn Plaza, New York, NY 10119.

b. Certificates and Endorsements. Subcontractor shall, prior to commencing performance of any Services or entering onto the Project site or other field location, furnish PB with certificates of insurance and endorsements referencing the Project name and Project number, and evidencing (a) the required coverages, including but not limited to the additional insured and waiver of subrogation requirements, (b) the limits, and (c) the notice of cancellation provisions. Certificates and endorsements shall be provided annually, not more than 10 days after renewal or replacement of each policy, and shall restate the effective value of the coverage provided.

Subcontractor shall deliver the certificates of insurance and endorsements, each evidencing the required coverage and Project name and number, to: (1) PB Project Management, Diane Cook at cook@pbworld.com, and (2) to Parsons Brinckerhoff, Inc. at:

- E-mail: PBCertificateTracking@lockton.com <<mailto:PBCertificateTracking@lockton.com>> (preferred method); or
- Fax: Attn: Parsons Brinckerhoff, Inc. Certificate Tracking at Fax 816-783-2276; or
- Mail: Parsons Brinckerhoff, Inc, Certificate Tracking 444, W. 47th Street, Kansas City, MO, 64112.

Failure of PB to demand such certificate or other evidence of full compliance with these insurance requirements, or failure of PB to identify a deficiency from evidence that is provided, shall not be construed as a waiver of Subcontractor's obligation to maintain such insurance.

c. Lower-Tier Subcontractors. Subcontractor shall require that each of its lower-tier subcontractors, if any, have in place the insurance required herein, with the coverages and limits required herein, and provide Subcontractor with certificates of insurance and endorsements evidencing such coverage prior to commencement of subcontracted work. Subcontractor shall also require that PB and Client be named as additional insureds on all lower-tier subcontractor CGL, automobile, and (if required) aircraft liability policies, and that CGL, auto, aircraft (if required), and workers' compensation coverages be endorsed to provide for a waiver of subrogation in favor of PB and Client.

Subcontractor shall also comply with all other requirements set forth in Subsection 4.3.2 of the Prime Agreement General Terms and Conditions.

ARTICLE 14: SUSPENSION OF SERVICES

PB may, at any time, and with or without cause, suspend performance of the Services or any portion thereof for a period of up to 90 days by notice in writing to Subcontractor, and Subcontractor shall resume its Services promptly after being notified by PB to do so. Subcontractor may be allowed additional compensation or an extension of time, or both, provided same is granted by Client.

PB may immediately suspend Services performed at the Project site or other field locations without notice for violation of any safety rules, regulations, or requirements, for code violations, for failure to obtain or comply with the terms of any permits, orders, or required authorizations, or upon discovery of any unsafe working conditions. In such case, Subcontractor shall immediately cure the violation or remedy the unsafe working condition. Failure to do so shall constitute a material default.

ARTICLE 15: TERMINATION

PB may terminate this Subcontract, in whole or in part, for cause, upon seven (7) days' written notice. PB may terminate this Subcontract, in whole or in part, for its convenience, upon 10 days' written notice.

In the event of termination for cause, Subcontractor shall be entitled to compensation for the value of all Services performed in accordance with contract requirements up to the effective date of termination, less allowable deductions, which include, but are not limited to, all costs in excess of the compensation established in Article 4 reasonably incurred by PB to complete the Services. To the extent allowable deductions exceed amounts remaining due to Subcontractor, Subcontractor shall be and remain liable to PB upon demand for the amount of such excess.

In the event of termination for PB's convenience and without default on the part of Subcontractor, Subcontractor shall be entitled to compensation for all Services performed in accordance with contract requirements up to the effective date of termination, less allowable deductions. To the extent allowable deductions exceed amounts remaining due to Subcontractor, Subcontractor shall be and remain liable to PB upon demand for the amount of such excess.

Upon receipt of notice of termination, Subcontractor shall discontinue the Services unless otherwise directed and deliver to PB all Work Product. In the event of termination, PB shall have the right to conduct a financial audit, as well as a performance audit to ascertain the quality, timeliness and compensability of Subcontractor's Services. If, after issuance of notice of termination for cause, it is

determined for any reason that Subcontractor was not in default, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to termination for convenience.

ARTICLE 16: REMEDIES

In the event Subcontractor fails to timely perform Services, fails to perform Services in accordance with contract requirements, or is otherwise in default, PB shall be entitled to withhold payment until the default is corrected. Subcontractor shall, upon notice from PB, correct the designated performance deficiencies without additional compensation. If such performance deficiencies are not corrected within the time period specified in the notice, PB may cause same to be corrected and deduct costs incurred by reason of such failure from Subcontractor's compensation and, if Subcontractor's remaining compensation is not sufficient to reimburse PB for such costs, recover the same from Subcontractor upon demand. These remedies shall be in addition to all other remedies available to PB.

With the exception of attorneys' fees to enforce indemnification obligations, neither party hereto shall be entitled to recover from the other for breach of this Subcontract (a) incidental, nominal, special, indirect, exemplary or consequential damages, or damages that in their nature or amount constitute a penalty, or (b) attorneys fees or costs. Notwithstanding the foregoing, however, PB shall be entitled to seek, recover, and recoup from Subcontractor those types of damages, of whatever nature, as PB may be held accountable to the Client under the terms of the Prime Agreement, or to third parties, that were caused by or attributable to Subcontractor, its agents, lower-tier subcontractors, servants, or employees, or for which Subcontractor is otherwise legally responsible.

Neither the pendency of a dispute nor consideration of claims by PB pertaining to this Subcontract shall excuse Subcontractor from full and timely performance in accordance with the terms hereof.

ARTICLE 17: WORK PRODUCT

All drawings, plans, designs, specifications, photographs, models, schematics, surveys, maps, reports, studies, analyses, estimates, minutes, diaries, field notes, training manuals and materials, data bases, electronic files, file formats, templates, procedures, scripts, links, specifically-created key commands, source code documentation, software programs, calculations, summaries and other compilations of information to be developed, produced, or provided by Subcontractor as part of the Services, including but not limited to all deliverables identified herein, whether completed or in process, and all supporting documents and data, whether in hard copy or electronic or digital format or capable of being converted to such format, constitute "Work Product."

Work Product shall be the property of PB and shall be furnished to PB promptly upon request and as a condition to issuance of payment, although Subcontractor shall be permitted to retain reproducible copies. Subcontractor shall not be liable for loss, damage, or injury resulting from PB's use of Work Product for purposes other than as intended or contemplated herein.

The parties intend that Work Product shall be "work made for hire," of which PB shall be deemed the author. If for any reason such Work Product does not constitute "work made for hire," Subcontractor hereby (a) waives all rights in such Work Product, and any other rights of authorship, identification, or approval, restriction or limitation on use or subsequent modification, and (b) irrevocably assigns to PB all right, title, and interest in and to the Work Product, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Subcontractor shall obtain such interest and execute and deliver such instruments and take such other actions as may be necessary to vest and perfect such rights in PB.

To the extent any Work Product includes Subcontractor's previously-developed intellectual property that is or could be protected by federal copyright, patent, or trademark laws, or state trade secret laws, Subcontractor hereby grants to PB and Client a perpetual, royalty-free, fully-paid up, non-exclusive and irrevocable license to copy, reproduce, perform, dispose of, and use and re-use, in whole or in part, such intellectual property, and to authorize others to do so. Such previously-developed intellectual property may constitute but is not limited to, data bases, software programs, templates, file formats, specifically-created key commands, scripts, links, procedures, training manuals and other training materials, designs, prototypes, plans, and other works provided or delivered to PB or Client by Subcontractor.

ARTICLE 18: PROJECT RECORDS; RECORD RETENTION PERIOD; AUDITS

- a. **Project Records.** All records pertaining to this Subcontract and the Services performed hereunder, including but not limited to (a) timesheets and accounting and financial records; (b) Work Product; (c) drawings, maps, surveys, models, photographs, schematics, plans, designs, specifications, reports, studies, summaries, analyses, diaries, field notes, estimates, calculations, and other compilations of information obtained by or provided to Subcontractor in performance of the Services; and (d) correspondence; whether in hard copy or electronic or digital format, or capable of being converted to such format, constitute "Project Records."
- b. **Accounting and Financial Records; Audits.** Subcontractor shall preserve all Project Records in such detail as shall properly substantiate contract performance and claims for payment under this Subcontract, and shall comply with the accounting and audit requirements of the Prime Agreement Terms and Conditions. In the event the Project is subject to the Federal Acquisition Regulations ("FAR"), Subcontractor shall comply with all applicable sections of the FAR. Subcontractor shall immediately repay to PB upon demand any compensation disallowed as a result of an audit conducted hereunder, or PB may elect to deduct disallowed amounts from monies due or to become due under this Subcontract.
- c. **Record-Retention Period; Review and Reproduction.** Subcontractor shall retain all Project Records at a secure location reasonably accessible to the parties hereto for the longer of (a) six (6) years from the date of final payment or (b) until all disputes, audits, claims, legal proceedings, and other actions involving this Subcontract and the Services performed hereunder have been resolved or concluded (the "Record Retention Period"). During the Record Retention Period Subcontractor shall make all Project Records available to PB and Client for review and reproduction during normal business hours or at such other times as PB or Client may reasonably require.

Subcontractor shall include the requirements of this Article in all lower-tier subcontracts.

ARTICLE 19: CONFIDENTIAL INFORMATION; NON-DISCLOSURE

Unless required by law or Court order to do to, or unless prior written authorization is received from the PB or the Client, Subcontractor shall not disclose any (1) information concerning the Project that is not already in the public domain; (2) data, information, processes, or documents provided by or on behalf of PB or the Client, including but not limited to Electric Utility Infrastructure Information ("EUI"), as that term has been defined in Prime Agreement Special Provisions, Section VII (K); (3) Work Product; or (4) other information generated by Subcontractor in the course of performing this Subcontract (collectively, "Confidential Information") to anyone other than PB, and at PB's direction, the Client. Nor shall Subcontractor use such Confidential Information for any purpose other than the performance of Services under this Subcontract. Subcontractor shall instruct its employees and lower-tier subcontractors to treat all information obtained or generated in performance of the Subcontract as confidential, and shall obtain from its lower-tier subcontractors equivalent agreements to withhold and protect from disclosure all Confidential Information covered under this Article.

ARTICLE 20: COMPLIANCE WITH LAWS

Subcontractor shall comply with all federal, state and local laws, codes, ordinances and regulations applicable to Subcontractor, this Subcontract, the Project and its work sites, and the Services to be performed hereunder, including but not limited to those regulating conditions of employment and workplace safety and health. Subcontractor shall be liable to PB for all losses, costs, and expenses PB may incur resulting from or attributable to Subcontractor's, its employees', lower-tier subcontractors', and/or agents' failure to so comply, including but not limited to orders, judgments, fines, penalties, and required corrective measures.

During the performance of this Subcontract, Subcontractor shall not unlawfully discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, sexual preference, disability, age (40+), marital status, or public assistance status. Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and the selection for training, including apprenticeship. Subcontractor agrees to post in conspicuous places, available to employees and applicants for employment, notices which set forth the provisions of this non-discrimination Article.

ARTICLE 21: HEALTH AND SAFETY

Subcontractor agrees that the prevention of accidents to workers engaged by Subcontractor is the responsibility of Subcontractor. To that end, Subcontractor shall comply with all Project safety policies/protocols/program, and all federal, state and local health and safety laws, codes, ordinances and regulations applicable to the Project, the Project site and other work locations, Subcontractor, this Subcontract and the performance of the Services hereunder, including, but not limited to, the Occupational Safety and Health Act of 1970. If Services are to be performed or activities conducted on-site or at other field locations, Subcontractor shall also implement and enforce a safety program for all workers, including those of lower-tier subcontractors, if any, engaged in performing the Services, and shall ensure such workers' participation in appropriate safety training. Subcontractor's safety and training program shall comply at a minimum with such safety policies and programs as may be established or mandated under the Prime Agreement. Subcontractor shall also be responsible for the safety and conduct of persons on property under Subcontractor's control, including Subcontractor's employees, agents, invitees, and lower-tier subcontractors.

ARTICLE 22: NOTICES

All notices required or permitted under this Subcontract shall be given in writing and delivered either personally, by delivery service, by first-class, certified, or registered mail, or by e-mail, to the authorized representative of the other party at the address set forth below, or as may be designated by notice delivered in accordance with the requirements of this Article. If notice is delivered by e-mail, the notice must be signed by the party giving notice and sent as a pdf attachment to the e-mail at the address stipulated herein. Electronic or digital signatures shall not be allowed.

TO PB:

Parsons Brinckerhoff, Inc.
Alii Place, 17th Floor
1099 Alakea Street
Honolulu, Hawaii 96813
E-mail: 16590ENotices@pbworld.com
Attention: Mr. James Van Epps

TO SUBCONTRACTOR:

John F. DeSoto

E-mail: [REDACTED]

Notice shall be effective upon delivery when delivered in person, by courier service providing receipt of delivery, or by registered or certified mail, return receipt requested. Notices properly addressed and stamped, and deposited into the US postal system as first-class mail, shall be deemed received two (2) business days after date of postmark. Notice delivered by e-mail shall be deemed received by the date and time stated on the transmitter's copy.

ARTICLE 23: STANDARDS; QUALITY PROGRAM

All Services shall be performed in compliance with the standards, specifications, manuals of instruction, policies, protocols, and procedures established by the Client and such other regulatory agencies as may have jurisdiction over the work.

Subcontractor shall maintain a quality program for the duration of this Subcontract that at a minimum complies with any requirements established in the Prime Agreement. Upon request by PB, Subcontractor shall provide a copy of its quality program to PB. The program must ensure that the Services performed by Subcontractor conform to the requirements of this Subcontract and the Prime Agreement Terms and Conditions. Subcontractor shall provide for a flow down of all applicable quality requirements to its lower-tier subcontracts.

As part of its quality program, Subcontractor shall maintain and implement a Quality Control and Quality Assurance Plan ("QA/QC Plan"). At a minimum, the Plan shall ensure (i) Work Product review (the Work Product is accurate and complete) by suitably-qualified parties independent from the personnel performing the Services or delivering the Work Product, and (ii) periodic process audit and review of the overall quality control activities contained in the Plan. Subcontractor shall document all of its quality program activities performed in connection with this Subcontract. If any deviations are identified in any of the performed Services, corrective actions shall be developed, implemented, and documented by Subcontractor. PB has the right to audit Subcontractor's quality program and its Project-related quality activities required by the Plan at any time. The results of any internal reviews specified in the Plan shall be submitted to PB.

If Subcontractor fails to properly implement and maintain a quality program or QA/QC Plan, and such failure continues following notification to Subcontractor by PB, then PB may, in addition to any other remedies permitted herein or by law, terminate this Subcontract, withhold payment for Services until Subcontractor is in compliance with the requirements of this Article, or remedy such failure at Subcontractor's expense. Subcontractor agrees to indemnify and hold PB harmless for all costs incurred by PB to correct work adversely affected by such failure.

ARTICLE 24: APPLICABLE LAW; JURISDICTION; VENUE

This Subcontract, its validity, interpretation, and performance, and any disputes between the parties arising out of or relating to this Subcontract, shall be governed by and construed in accordance with the laws of the state of Hawaii, without regard to conflict of laws principles. In the event the parties are first unable to resolve their disputes through good-faith negotiations or through mutually-agreed nonbinding mediation, legal proceedings may be brought. Any such legal proceedings shall be brought in a court of competent jurisdiction in the city and county of Honolulu, and Subcontractor by its signature below consents to the *in personam* jurisdiction of said courts and waives and covenants not to seek change of

venue based upon *forum non conveniens*. Notwithstanding the foregoing, legal proceedings may be brought at any time to preserve equitable or legal remedies, obtain equitable or extraordinary relief, preserve evidence, prevent irreparable harm, preserve the status quo pending proceedings on the merits, or preserve claims that might otherwise be barred by applicable statutes of limitations, or lost or impaired on other legal or procedural grounds.

ARTICLE 25: SEVERABILITY

If any provision of this Subcontract is prohibited by law, invalid, or otherwise unenforceable, the remainder of this Subcontract shall remain in full force and effect; provided that in such event the parties hereto shall in good faith attempt to replace the invalid or unenforceable provision with one that is valid and enforceable, and comes as close as reasonably possible to expressing or achieving the intent of the parties with regard to the original provision. Upon agreement, this Subcontract shall be amended to incorporate the substitute language.

ARTICLE 26: SURVIVAL

The parties acknowledge that all terms and conditions of this Subcontract which by their nature are intended to survive the termination or expiration of this Subcontract, including non-disclosure, indemnification, insurance, retention and production of Project Records, and other obligations Subcontractor has a continuing duty to observe, as well as all provisions applicable to disputes and legal proceedings, and Article 22 notices, shall survive and be enforceable by PB according to the terms hereof.

ARTICLE 27: SUCCESSORS AND ASSIGNS

Subcontractor shall not assign, sell, transfer, or otherwise dispose of any of its interest in this Subcontract, or delegate any of its duties under this Subcontract, without the prior written approval of PB. Any unauthorized attempt thereat shall be void and unenforceable.

ARTICLE 28: THIRD-PARTY BENEFICIARIES

This Subcontract shall be binding upon and inure to the benefit of the parties hereto, their successors and permitted assigns, only. PB and Subcontractor are the only beneficiaries of this Subcontract and are solely entitled to enforce its terms. It is the express intent of PB and Subcontractor that should any persons or entities other than the parties hereto receive a benefit under this Subcontract, they shall do so as incidental beneficiaries only.

ARTICLE 29: INTERPRETATION

This Subcontract shall not be construed in favor of or against either party based upon authorship, the parties being of equal bargaining stature. Headings are solely for the convenience of the parties and shall have no bearing on interpretation of text. Unless established as a term of art, with a well-understood and unequivocal technical or trade meaning, words are used in their common and ordinary meaning. Defined terms are capitalized, and when capitalized, shall carry their defined meaning. Wherever the term "day" or "days" is used, it shall mean singular or consecutive calendar days, respectively. "Business day" shall mean any weekday other than Saturday, Sunday or a holiday recognized and observed by the state of Hawaii.

ARTICLE 30: NONWAIVER

No failure or successive failures on the part of PB to enforce any provision of this Subcontract, or custom or practice that may evolve between the parties in the administration of this Subcontract, shall operate as a waiver or discharge of that or any other provision, or render the same invalid, or impair PB's right to enforce the same in the event of any subsequent breach by Subcontractor. Any waiver, if given, shall be in writing, signed by the party making the waiver and addressed to the other party, and shall be limited to the particular instance and for the purposes stipulated therein.

ARTICLE 31: ENTIRE AGREEMENT

This Subcontract represents the entire and integrated agreement between PB and Subcontractor, and supersedes and replaces all prior and contemporaneous understandings, agreements, arrangements, negotiations, and representations, whether written or oral, with respect to the subject matter hereof. This Subcontract may not be modified except in writing, by an amendment signed by the parties hereto.

IN WITNESS WHEREOF, PB and Subcontractor have duly executed this Subcontract, effective from the date first written above.

PARSONS BRINCKERHOFF, INC.

BY: James R. Van Epps
Signature

James R. Van Epps, Sr. Vice President
and Project Manager

JOHN F. DESOTO

BY: [Signature]
Signature

John F. Desoto
Printed Name

Consultant
Printed Title

ATTACHMENT I
PRIME AGREEMENT TERMS AND CONDITIONS

Copy provided to Subcontractor on CD.

ATTACHMENT 2
SCOPE OF SERVICES

Task numbering corresponds to that used in the Prime Agreement Special Provisions, Exhibit I, Scope of Services.

Subcontractor shall perform the following services:

Task 13 Public Involvement

13.01 Public Involvement Program Activities

- Provide community and general public outreach
- Provide government monitoring and coordination services
- Participate in weekly Public Involvement meetings
- Attend additional Public Involvement meetings, as requested
- Attend and respond to public input at public meetings, interest groups, and through personal outreach
- Inform Public Involvement Manager promptly of information and developments that may affect the Project

13.01.01 Participate in Community Events

- Attend trade shows, workshops, and/or seminars and disseminate Project information
- Attend meetings with various groups, such as community, business, residential, ethnic, and special trade organizations, and disseminate Project information

13.01.02 Facilitate Project Public Involvement Meetings

Attend public hearings, workshops, and/or seminars and disseminate Project information

13.01.04 Develop and Produce Presentations and Manage Presentation/Schedule (i.e., "Speaker's Bureau")

- Attend meetings with organizations, associations, and other stakeholders, and disseminate Project information
- Participate in and solicit Speaker's Bureau meetings and informational presentations

13.01.05 Maintain Existing and Develop New Contacts with Local Groups and Organizations, including City Council and Neighborhood Boards

- Maintain existing, as well as develop new, contacts with groups, organizations, and individuals
- Attend meetings with neighborhood boards and outreach groups, including consulting parties and ethnic organizations, and disseminate Project information

- Update and maintain Public Involvement database, as requested

13.01.07 Develop, Produce, and Distribute Public Information Documents and Electronic Media

Distribute approved public information documents and materials

13.01.08 Respond to Public Inquiries about the Project

Respond to public inquiries during various public outreach activities

13.01.09 Present Community Feedback to the Project Team

Convey community feedback to the Project team at the weekly Public Involvement meetings, on behalf of the general public and specialty groups

13.02 Support Construction Management (CM) in Oversight of Contractor Public Outreach Teams

13.02.01 Oversee Public Contact

- Attend construction mitigation and contractor's task force meetings
- Participate in construction mitigation efforts throughout neighborhoods along the alignment by attending various public outreach events and/or disseminating Project information

13.03 Support the City in Media and Agency Coordination as Needed

Perform media monitoring and rapid response

13.04 Documentation

Prepare and submit monthly progress reports

Task 23 Archaeological Services

23.01 Archaeological Inventory Survey (AIS) Coordination


Provide community and general public outreach for the AIS for the Airport and City Center sections

ATTACHMENT 3

FEE SCHEDULE/BUDGET

Exhibit 2A – Cost Estimate

JOHN F. DESOTO

Item	Amount
Total Labor (1) Other Direct Costs (2) Lower-tier Subcontractor Costs (3) General Excise and Use Tax (4.5 %)	
TOTAL (1) Schedule A – Labor Details (2) Schedule B – Other Direct Cost Details (3) Schedule C – Lower-tier Subcontractor Details – N/A	\$57,057

SPECIAL PROVISIONS
Honolulu High-Capacity Transit Corridor Project

Exhibit 2A – Cost Estimate

Schedule A – Labor Details

Title/Name	Estimated Hours per Month	Total Hours¹	Bill Rate²	Total Labor
John F. DeSoto	█	█	█	█
Total				█

(1) Total hours are based upon a period of performance of twelve (12) months from Notice-to-Proceed.

(2) The Bill Rate is inclusive of all direct and indirect costs associated with the performance of the Services, including but not limited to direct labor, overhead, general and administrative expenses, other direct costs not identified in Schedule B below, and operating margin (profit). The Bill Rate does not include the General Excise and Use Tax.

Schedule B – Other Direct Cost Details

Description	Unit Cost	Units	Total
Seminar and Event Registration Fees			█
Total			█

SPECIAL PROVISIONS
 Honolulu High-Capacity Transit Corridor Project

**PROFESSIONAL SERVICES SUBCONTRACT
BETWEEN
PARSONS BRINCKERHOFF, INC.
AND
LYCHEE PRODUCTIONS, INC.
(#PB-16590E-LP0)**

This Subcontract, effective as of the 2nd day of August, 2011, is made and entered into by and between **PARSONS BRINCKERHOFF, INC.** ("PB"), a New York corporation with offices at Alii Place, 17th Floor, 1099 Alakea Street, Honolulu, HI 96813, and **LYCHEE PRODUCTIONS, INC.** ("Subcontractor"), a Hawaii corporation with offices at [REDACTED].

RECITALS

PB (formerly known as "PB Americas, Inc.") entered into General Engineering Consultant Contract (GEC II) No. SC-DTS-1100131 dated June 30, 2011 (the "Prime Agreement") between PB Americas, Inc. and the Honolulu Authority for Rapid Transportation, hereinafter referred to as "HART" ("Client"), to provide general engineering, planning, construction management and other consultant services for the Honolulu High-Capacity Transit Corridor Project, which includes the 28-mile Locally Preferred Alternative and the 20-mile Airport Alignment, as more particularly defined in Prime Agreement Special Provisions VII(A) ("HHCTCP" or the "Project").

PB has determined the need to subcontract certain of the public involvement services required under the Prime Agreement, and Subcontractor has agreed to provide the same for the duration of the Prime Agreement in accordance with the terms and conditions contained herein.

Therefore, for the consideration hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which the parties by their signatures below affirm, the parties do mutually agree as follows.

TERMS

The foregoing recitals are incorporated herein for all purposes as if fully set forth.

ARTICLE 1: PRIME AGREEMENT TERMS AND CONDITIONS

Except as noted below, or where in their application the context clearly requires otherwise, all the terms and conditions of the Prime Agreement, including all exhibits thereto and other documents incorporated by reference therein, that pertain to the subcontracted services or to the Subcontractor, or that by their express terms are required to be incorporated into each subcontract (the "Prime Agreement Terms and Conditions"), labeled **Attachment I**, are by this reference incorporated herein and made a part hereof for all purposes. By the signature below of its authorized representative, Subcontractor affirms that it has been provided a copy of Attachment I on CD.

With regard to the services to be performed by it, Subcontractor assumes toward PB all of the obligations and responsibilities that PB assumes toward the Client under the Prime Agreement Terms and Conditions, and Subcontractor shall be bound by all of the Prime Agreement Terms and Conditions to the same extent as PB is bound thereby. In the event of any conflicts or ambiguities between or among the provisions of this Subcontract and the Prime Agreement Terms and Conditions, the provision that imposes the more stringent requirement on Subcontractor shall take precedence.

Subcontractor shall include in all lower-tier subcontracts those provisions of the Prime Agreement that are required to be so included, and shall require all lower-tier subcontractors to comply with such provisions for the duration of their respective subcontracts. Subcontractor shall require each lower-tier subcontractor to make such disclosures and execute such attestations as may be required under the Prime Agreement Terms and Conditions, including but not limited to those required by state or federal statute associated with source of funding. Failure to comply with the terms of this paragraph shall constitute a material default.

ARTICLE 2: SCOPE OF SERVICES; UNAUTHORIZED AND EXTRA WORK

a. **Services.** Subcontractor shall perform, consistent with the standard of care stipulated herein and other terms and conditions of this Subcontract, those services set forth in the Scope of Services annexed hereto as **Attachment 2** and by this reference incorporated herein and made a part hereof for all purposes (the "Services") as may be required during the term of the Prime Agreement to complete the Project. The Services include all tasks and components, whether or not expressly set forth herein, that are manifestly necessary to carry out the intent of this Subcontract, or that are customarily performed in conjunction with, as a component of, or in order to accomplish, the Services, and such tasks and components shall be performed as if fully set forth in the description of the Services.

b. **Unauthorized and Extra Work.** Subcontractor shall not proceed with performance of any Services or incur any costs, or be entitled to compensation or reimbursement for any Services performed or costs incurred, prior to the effective date of this Subcontract and issuance of Notice to Proceed ("NTP"). Nor shall Subcontractor proceed with performance of any work in addition to that stipulated in this Subcontract ("Extra Work"), or be entitled to compensation therefor, or to reimbursement for costs incurred in connection therewith, prior to full and proper execution of a Subcontract amendment executed by both parties describing the work to be performed, the schedule for performance, and the compensation to be paid. Any work performed prior to the effective date of this Subcontract or an amendment authorizing same, is done solely as a volunteer and at no cost to PB.

ARTICLE 3: KEY PERSONNEL

If any Subcontractor key personnel have been designated for this Project, they are listed below. Subcontractor's key personnel shall not be replaced without PB's or Client's prior written consent. In the event any key personnel become unavailable due to separation from employment with Subcontractor, long-term illness/disability, or death, Subcontractor shall nominate a replacement with equivalent qualifications for PB's approval, which shall not be unreasonably withheld. In the event Subcontractor fails to provide a suitable replacement, PB shall have the right to terminate this Subcontract.

Key Personnel: Laura Pennington

ARTICLE 4: COMPENSATION

a. **Total Contract Amount.** Subcontractor shall be compensated on a Bill Rate basis, and shall perform the Services for an amount not to exceed **ONE MILLION ONE HUNDRED SIXTY-NINE THOUSAND ONE HUNDRED FORTY-SIX AND NO/100 DOLLARS (\$1,169,146.00)** (the "Total Price"), in accordance with the Fee Schedule/Budget annexed hereto as **Attachment 3** and by this reference incorporated herein and made a part hereof for all purposes ("Fee Schedule. Reimbursable costs shall include only those authorized in Prime Agreement Part 2, Special Provisions Exhibit 2B(2)(a), (b), (c) and (e) ("Reimbursable Costs"), as further delineated in Attachment 3.

b. **Notifications Required.** Subcontractor shall notify PB promptly in writing at the point at which (a) Subcontractor exceeds the estimated monthly level of effort by 25%, or (b) Subcontractor has expended 75% of the Total Price. Subcontractor shall not under any circumstances incur fees in excess of the Total Price.

ARTICLE 5: INVOICING; PAYMENT

a. **Electronic Reporting.** PB has implemented a web-based time collection/reporting system for the Project. Utilizing software provided by PB, Subcontractor shall submit bi-weekly timesheets electronically to PB's Project Control Office. All timesheets must be reviewed by PB's Project lead or manager for compliance with Subcontract invoicing requirements, including but not limited to compliance with Exhibit 2B mandates, and authorized prior to invoice submittal ("Authorized Time"). Amounts invoiced must correspond to the hours of Authorized Time entered on the electronic reporting system for the invoice period.

b. **Invoice Periods; Submittal Deadlines.** Invoicing for the Project is structured on a 12-period annual cycle. Subcontractor shall prepare invoices for Services performed during each invoice period in a format acceptable to PB, and shall submit its invoices monthly, no later than 15 days following the end of the applicable invoice period. Any invoice delivered to PB after the submittal deadline will be processed with the next succeeding invoice period submittals.

c. **Invoice Submittal Requirements.** Invoices shall include all labor costs incurred during the invoice period for Authorized Time, and all Reimbursable Costs incurred and booked during the invoice period, together with back-up documentation. The bill-through date on each monthly invoice must match the last actual expenditure date shown on the back-up documentation. In addition, Subcontractor shall include with each invoice a **progress report** that documents, in bulleted detail, the Services completed during the invoice period, including items of work accomplished and milestones reached, as well as problems/issues/concerns, and work planned for the next invoice period. The signed invoice, backup documentation, and progress report shall be sent to LaRhonda Sayles, Accounting Manager, at sayles@pbworld.com; hard copy to be delivered to the address for notice stipulated in Article 22.

d. **Payment.** Contingent upon Subcontractor's timely submittal of a proper invoice and progress report, PB shall pay those undisputed amounts due and owing within 10 days of the date of payment by Client to PB for the Services covered by the invoice, less any amounts PB may be authorized or required to withhold or deduct under the terms of this Subcontract, applicable law, or court order. In the event of non-payment by Client, both parties shall cooperate in seeking payment from Client.

e. **Right to Withhold.** It is expressly agreed that PB shall be entitled to withhold payment pending correction of non-conforming Services and/or other performance deficiencies.

f. **Audits.** All payments hereunder are subject to the audits, adjustments and limitations that apply to PB under the Prime Agreement.

ARTICLE 6: TERM; PERFORMANCE SCHEDULE; DELAYS

a. **Term.** The term of this Subcontract shall be for a period commencing with the effective date hereof and ending on the earlier of: (1) the date the Prime Agreement expires; (2) the date stated in any Notice of Termination issued pursuant to Article 15; or (3) the date the Prime Agreement is terminated, if the Prime Agreement Terms and Conditions so provide.

b. Performance Schedule. Time is of the essence in Subcontractor's performance of the Services under this Subcontract, and Subcontractor shall promptly commence performance of the Services as instructed in the NTP, and perform the same diligently and without interruption until completed in accordance with the performance schedule established in Attachment 2, or if none, in the Prime Agreement (the "Performance Schedule"). Provided, if the Performance Schedule applicable to the Services is derived from the Prime Agreement, Subcontractor shall submit all deliverables to PB no later than twenty-one (21) business days prior to the completion/submittal deadline for such work applicable to PB.

c. Delays. Subcontractor shall notify PB in writing within five (5) business days of any event or condition impacting its ability to meet the performance schedule, together with the steps contemplated or taken by Subcontractor to mitigate the effect of such delay.

Delays caused by *force majeure* events such as war, civil insurrection, riot, acts of public authority, strike, explosion, fire, earthquake, flood and like catastrophic events, shall be excusable to the extent they could not reasonably be anticipated, mitigated, or avoided by Subcontractor, and did not result in whole or in part from Subcontractor's fault or neglect, but shall be compensable only if additional compensation is obtained by PB from Client for such delays.

ARTICLE 7: STANDARD OF CARE; QUALIFICATIONS/LICENSES

a. Standard of Care. Subcontractor shall perform the Services in a manner consistent with that degree of skill and care ordinarily exercised by members of the same profession performing the same or similar work under the same or similar circumstances in the city and county of Honolulu. The parties acknowledge that PB is relying upon Subcontractor's expertise, and that neither PB's review, approval, acceptance, or payment for the Services is intended, nor shall it, constitute a waiver, release, or discharge of Subcontractor's responsibility for the proper performance of the Services or liability for defects in same, or an assumption by PB of such responsibility or liability.

b. Qualifications and Licenses. Subcontractor represents and warrants that all personnel performing Services or conducting activities in furtherance of this Subcontract shall be properly qualified, and that personnel performing Services or conducting activities for which a license or certification is required under local, state, or federal regulations shall be duly licensed and/or certified. All licenses and certifications shall be current at the time the work is performed.

ARTICLE 8: INDEPENDENT CONTRACTOR

The parties affirm that Subcontractor is an independent contractor under subcontract to PB, and is not in a joint venture, partnership, agent-principal or employer-employee relationship with PB. Subcontractor shall, at its own expense, provide all equipment, materials, services, and personnel required to perform the Services. Subcontractor, consistent with its status as an independent contractor, shall maintain complete control and direction over and responsibility for its employees, lower-tier subcontractors, and agents, and shall be solely responsible for the means, methods, sequences and techniques for carrying out the Services, and for the safety of its employees, lower-tier subcontractors, agents and invitees. Subcontractor affirms that it shall not represent itself to be an agent of PB or Client, or as having any authority to bind PB or Client, and further affirms that it shall instruct its personnel that they are not, and are prohibited from representing themselves to be, officers, agents, or employees of PB or Client, and have no authority to bind PB or Client.

Subcontractor shall indemnify, defend, and hold PB and Client harmless from any claims, and pay all damages, costs and judgments related to any claims made against PB or Client by Subcontractor's and/or its lower tier subcontractors' employees, agents, and representatives, for wages, salaries or any other form of compensation, for benefits, including but not limited to Workers' Compensation insurance benefits,

health, disability, medical, vacation, retirement, and sick leave; and/or any other benefit or assistance that may be available to employees of PB or Client or otherwise associated with an employer/employee relationship, such as training, counseling, or promotion. Subcontractor shall be responsible for all payroll and unemployment taxes associated with workers it provides to perform Services, and for withholding of social security and state and federal income taxes for such individuals, and shall indemnify, defend and hold PB and Client harmless from, and shall pay, all taxes and costs, fines, penalties and assessments associated therewith.

ARTICLE 9: CLAUSES APPLICABLE TO FEDERALLY-FUNDED CONTRACTS

All clauses set forth in Prime Agreement Special Provisions Article VIII are by this reference expressly incorporated into and made a part of this Subcontract for all purposes as if set forth in full, and shall control in accordance with their terms in the event of conflict with any other terms and conditions of this Subcontract. Subcontractor shall comply with, and ensure that its lower-tier subcontractors comply with, all provisions of this Article 9.

ARTICLE 10: DISADVANTAGED BUSINESS ENTERPRISES

a. With regard to the performance of this Subcontract and in provision of the Services, Subcontractor shall fully cooperate with PB in meeting PB's commitments and goals, if any, with regard to the maximum utilization of disadvantaged business enterprises, minority business enterprises, small business enterprises, women-owned business enterprises, emerging business enterprises, and historically underutilized businesses (collectively, "DBEs"), and Subcontractor, if requested in writing by PB, shall provide the maximum practicable opportunity for DBEs to compete for any lower-tier subagreements available pursuant to this Subcontract.

b. If Subcontractor is a DBE, upon written request by PB Subcontractor shall provide certificates or other acceptable testament to such DBE status.

c. Subcontractor shall promptly provide attesting documentation when requested by PB, that proves that all lower-tier DBEs have received the revenue paid to Subcontractor by PB on behalf of the DBEs for services provided pursuant to the provisions of this Subcontract.

ARTICLE 11: INDEMNIFICATION

To the maximum extent permitted by law, Subcontractor shall indemnify, defend, and hold harmless PB and Client, their successors and assigns, and each of their respective officers, agents, servants and employees, from and against any and all claims, suits, actions, judgments, orders, demands, losses, damages, and liability of whatsoever nature, and costs and expenses including but not limited to (a) administrative or statutory assessments, sanctions, fines, and penalties, and (b) reasonable attorneys' fees, witness fees, costs of discovery and investigation, and court costs, whether incurred in relation to administrative, pre-trial, trial, post-trial, or appellate proceedings; caused by, resulting from, or arising out of (a) breach of this Subcontract; (b) the negligent acts, errors, or omissions, or the intentional, willful, or reckless misconduct of Subcontractor, its officers, employees, servants, agents, subcontractors, or representatives in the performance of this Subcontract; (c) infringement of patents or copyrights, or unauthorized disclosure of trade secrets or Confidential Information, as defined in Article 19; or (d) violation of applicable codes and regulations, including but not limited to laws relating to health and safety, compensation and conditions of employment, and payment of subcontractors, vendors, and materialmen.

Notwithstanding any other provision to the contrary, in the event of litigation between the parties to enforce the provisions of this Article or any other indemnification obligation owed to PB under the terms

of this Subcontract, the prevailing party shall be entitled to recover costs incurred and reasonable attorneys' fees.

The indemnification afforded under this Article shall not be limited in any manner whatsoever by insurance required under this Subcontract or the Prime Agreement, or by any other insurance carried by Subcontractor, PB or the Client. Nor shall the terms of this indemnification provision operate to limit or modify any of the insurance required of Subcontractor hereunder, or the scope or terms of such coverage. Nothing herein is intended to require Subcontractor to indemnify PB from liability for PB's negligence.

ARTICLE 12: PROMPT PAYMENT OBLIGATIONS; RELEASE OF LIENS AND CLAIMS

Subject to Subcontractor's right to withhold payment in a good-faith dispute, Subcontractor shall promptly pay for all services, equipment and materials furnished in performing the Services hereunder. PB may at any time require Subcontractor to submit lien releases satisfactory to PB and Client evidencing payment and release of claims for payment. Upon evidence of unpaid undisputed claims for payment, PB may pay and discharge same and deduct the amount paid, together with incurred costs and attorneys' fees, from compensation due or to become due to Subcontractor hereunder. Acceptance of final payment by Subcontractor shall operate as a full and final release of Client and PB, its affiliates, successors, and assigns, from liability for any and all claims by Subcontractor, its affiliates, successors, and assigns, for additional compensation or payment for Services rendered, costs incurred, or work performed by Subcontractor under this Subcontract.

ARTICLE 13: INSURANCE

a. Coverage. Subcontractor shall maintain at its own cost and expense for the duration of this Subcontract the following insurance coverages issued by companies licensed to do business in the State of Hawaii, with an AM Best rating of A-VIII or better, and otherwise acceptable to PB and Client.

(1) **Workers' Compensation and Employer's Liability Insurance**

Coverage to include all Statutory Workers' Compensation benefits to the employees of Subcontractor who may sustain work-related injury, death, or disease, and coverage, if applicable, commensurate with the requirements of the U.S. Longshore and Harbor Workers' Compensation Act (USL&H) or any other maritime law or similar act (e.g., Outer Continental Shelf Lands Act (OSCLA), Federal Employers Liability Act (FELA). Such insurance shall include a waiver of subrogation in favor of PB and Client, unless prohibited under applicable state law. Employer's Liability coverage with a limit of not less than \$1,000,000 each accident/disease shall also be maintained.

(2) **Commercial General Liability and Contractual Liability ("CGL") Insurance, including contractual liability cover, with a limit of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate**

Coverage to include premises operations, independent contractors, products and completed operations, and broad-form contractual, personal injury, advertising injury and property damage, and XCU (explosion, collapse, and underground hazard) coverage. If Subcontractor's work is within 50 feet of a railroad right of way, the policy must also be endorsed to cover work within 50 feet of a railroad. Contractual liability shall not exclude the indemnification provisions of this Subcontract. PB and Client, and their respective officers, directors, agents, and employees must be named as additional insureds, for both ongoing and completed operations, on a primary and non-contributory basis. Such policy shall contain a severability of interests provision or cross-liability clause, and shall provide that the general aggregate limit applies on a per-project basis. Such insurance shall include a waiver of subrogation in favor of PB and Client.

(3) Business Automobile Liability with a combined single limit of not less than \$1,000,000 each accident

The policy must be written on an "any auto" basis. PB and Client, and their respective officers, directors, agents, and employees must be named as additional insureds, on a primary and non-contributory basis. Such insurance shall include a waiver of subrogation in favor of PB and Client unless prohibited under applicable state law.

(4) Professional Liability with a limit of not less than \$1,000,000 per claim and annual aggregate

Coverage to include Subcontractor's legal liability for damages arising out of Subcontractor's performance of professional services pursuant to this Subcontract or relating to the Project.

Neither PB nor Client shall be liable for any deductibles on additional insured coverage, and any coverage maintained by PB and Client shall be excess and noncontributory. The required insurance shall apply separately to each insured against whom claim is made or suit brought, except with respect to the limits of liability. Coverage shall contain no special limitations on the scope of protection afforded to PB, Client and their respective officers, directors, agents, and employees.

CGL insurance shall be written on ISO occurrence form CG 00 01 or a substitute form providing equivalent liability coverage. Additional insured endorsements shall be written on CG 20 10 or equivalent. Business auto coverage shall be written on ISO for CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing equivalent liability coverage. With the exception of professional liability insurance, all insurance shall be written on an occurrence basis. Notwithstanding any other provision to the contrary, professional liability insurance shall be maintained in full force and effect continuously from the effective date of this Subcontract until the expiration of one (1) year following substantial completion of the Project.

All insurance policies must contain a provision that provides thirty (30) days' prior written notice to PB of cancellation (ten (10) days' prior written notice for failure to pay premium). Such notice of cancellation must be provided to PB via the following address: Parsons Brinckerhoff, Inc., Attn: Risk Management, One Penn Plaza, New York, NY 10119

b. **Certificates and Endorsements.** Subcontractor shall, prior to commencing performance of any Services or entering onto the Project site or other field location, furnish PB with certificates of insurance and endorsements referencing the Project name and Project number, and evidencing (a) the required coverages, including but not limited to the additional insured and waiver of subrogation requirements, (b) the limits, and (c) the notice of cancellation provisions. Certificates and endorsements shall be provided annually, not more than 10 days after renewal or replacement of each policy, and shall restate the effective value of the coverage provided.

Subcontractor shall deliver the certificates of insurance and endorsements, each evidencing the required coverage and Project name and number, to: (1) PB Project Management, Diane Cook at cook@pbworld.com, and (2) to Parsons Brinckerhoff, Inc. at:

- E-mail: PB_Certificate_tracking@lockton.com <mailto:PB_Certificate_tracking@lockton.com> (preferred method); or
- Fax: Attn: Parsons Brinckerhoff, Inc. Certificate Tracking at Fax 816-783-2276; or
- Mail: Parsons Brinckerhoff, Inc. Certificate Tracking 444. W. 47th Street, Kansas City, MO 64112.

Failure of PB to demand such certificate or other evidence of full compliance with these insurance requirements, or failure of PB to identify a deficiency from evidence that is provided, shall not be construed as a waiver of Subcontractor's obligation to maintain such insurance.

c Lower-Tier Subcontractors. Subcontractor shall require that each of its lower-tier subcontractors, if any, have in place the insurance required herein, with the coverages and limits required herein, and provide Subcontractor with certificates of insurance and endorsements evidencing such coverage prior to commencement of subcontracted work. Subcontractor shall also require that PB and Client be named as additional insureds on all lower-tier subcontractor CGL, automobile, and (if required) aircraft liability policies, and that CGL, auto, aircraft (if required), and workers' compensation coverages be endorsed to provide for a waiver of subrogation in favor of PB and Client.

Subcontractor shall also comply with all other requirements set forth in Subsection 4.3.2 of the Prime Agreement General Terms and Conditions.

ARTICLE 14: SUSPENSION OF SERVICES

PB may, at any time, and with or without cause, suspend performance of the Services or any portion thereof for a period of up to 90 days by notice in writing to Subcontractor, and Subcontractor shall resume its Services promptly after being notified by PB to do so. Subcontractor may be allowed additional compensation or an extension of time, or both, provided same is granted by Client.

PB may immediately suspend Services performed at the Project site or other field locations without notice for violation of any safety rules, regulations, or requirements, for code violations, for failure to obtain or comply with the terms of any permits, orders, or required authorizations, or upon discovery of any unsafe working conditions. In such case, Subcontractor shall immediately cure the violation or remedy the unsafe working condition. Failure to do so shall constitute a material default.

ARTICLE 15: TERMINATION

PB may terminate this Subcontract, in whole or in part, for cause, upon seven (7) days' written notice. PB may terminate this Subcontract, in whole or in part, for its convenience, upon 10 days' written notice.

In the event of termination for cause, Subcontractor shall be entitled to compensation for the value of all Services performed in accordance with contract requirements up to the effective date of termination, less allowable deductions, which include, but are not limited to, all costs in excess of the compensation established in Article 4 reasonably incurred by PB to complete the Services. To the extent allowable deductions exceed amounts remaining due to Subcontractor, Subcontractor shall be and remain liable to PB upon demand for the amount of such excess.

In the event of termination for PB's convenience and without default on the part of Subcontractor, Subcontractor shall be entitled to compensation for all Services performed in accordance with contract requirements up to the effective date of termination, less allowable deductions. To the extent allowable deductions exceed amounts remaining due to Subcontractor, Subcontractor shall be and remain liable to PB upon demand for the amount of such excess.

Upon receipt of notice of termination, Subcontractor shall discontinue the Services unless otherwise directed and deliver to PB all Work Product. In the event of termination, PB shall have the right to conduct a financial audit, as well as a performance audit to ascertain the quality, timeliness and compensability of Subcontractor's Services. If, after issuance of notice of termination for cause, it is

determined for any reason that Subcontractor was not in default, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to termination for convenience.

ARTICLE 16: REMEDIES

In the event Subcontractor fails to timely perform Services, fails to perform Services in accordance with contract requirements, or is otherwise in default, PB shall be entitled to withhold payment until the default is corrected. Subcontractor shall, upon notice from PB, correct the designated performance deficiencies without additional compensation. If such performance deficiencies are not corrected within the time period specified in the notice, PB may cause same to be corrected and deduct costs incurred by reason of such failure from Subcontractor's compensation and, if Subcontractor's remaining compensation is not sufficient to reimburse PB for such costs, recover the same from Subcontractor upon demand. These remedies shall be in addition to all other remedies available to PB.

With the exception of attorneys' fees to enforce indemnification obligations, neither party hereto shall be entitled to recover from the other for breach of this Subcontract (a) incidental, nominal, special, indirect, exemplary or consequential damages, or damages that in their nature or amount constitute a penalty, or (b) attorneys fees or costs. Notwithstanding the foregoing, however, PB shall be entitled to seek, recover, and recoup from Subcontractor those types of damages, of whatever nature, as PB may be held accountable to the Client under the terms of the Prime Agreement, or to third parties, that were caused by or attributable to Subcontractor, its agents, lower-tier subcontractors, servants, or employees, or for which Subcontractor is otherwise legally responsible.

Neither the pendency of a dispute nor consideration of claims by PB pertaining to this Subcontract shall excuse Subcontractor from full and timely performance in accordance with the terms hereof.

ARTICLE 17: WORK PRODUCT

All drawings, plans, designs, specifications, photographs, models, schematics, surveys, maps, reports, studies, analyses, estimates, minutes, diaries, field notes, training manuals and materials, data bases, electronic files, file formats, templates, procedures, scripts, links, specifically-created key commands, source code documentation, software programs, calculations, summaries and other compilations of information to be developed, produced, or provided by Subcontractor as part of the Services, including but not limited to all deliverables identified herein, whether completed or in process, and all supporting documents and data, whether in hard copy or electronic or digital format or capable of being converted to such format, constitute "Work Product."

Work Product shall be the property of PB and shall be furnished to PB promptly upon request and as a condition to issuance of payment, although Subcontractor shall be permitted to retain reproducible copies. Subcontractor shall not be liable for loss, damage, or injury resulting from PB's use of Work Product for purposes other than as intended or contemplated herein.

The parties intend that Work Product shall be "work made for hire," of which PB shall be deemed the author. If for any reason such Work Product does not constitute "work made for hire," Subcontractor hereby (a) waives all rights in such Work Product, and any other rights of authorship, identification, or approval, restriction or limitation on use or subsequent modification, and (b) irrevocably assigns to PB all right, title, and interest in and to the Work Product, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Subcontractor shall obtain such interest and execute and deliver such instruments and take such other actions as may be necessary to vest and perfect such rights in PB.

To the extent any Work Product includes Subcontractor's previously-developed intellectual property that is or could be protected by federal copyright, patent, or trademark laws, or state trade secret laws, Subcontractor hereby grants to PB and Client a perpetual, royalty-free, fully-paid up, non-exclusive and irrevocable license to copy, reproduce, perform, dispose of, and use and re-use, in whole or in part, such intellectual property, and to authorize others to do so. Such previously-developed intellectual property may constitute but is not limited to, data bases, software programs, templates, file formats, specifically-created key commands, scripts, links, procedures, training manuals and other training materials, designs, prototypes, plans, and other works provided or delivered to PB or Client by Subcontractor.

ARTICLE 18: PROJECT RECORDS; RECORD RETENTION PERIOD; AUDITS

a. **Project Records.** All records pertaining to this Subcontract and the Services performed hereunder, including but not limited to (a) timesheets and accounting and financial records; (b) Work Product; (c) drawings, maps, surveys, models, photographs, schematics, plans, designs, specifications, reports, studies, summaries, analyses, diaries, field notes, estimates, calculations, and other compilations of information obtained by or provided to Subcontractor in performance of the Services; and (d) correspondence; whether in hard copy or electronic or digital format, or capable of being converted to such format, constitute "Project Records."

b. **Accounting and Financial Records; Audits.** Subcontractor shall preserve all Project Records in such detail as shall properly substantiate contract performance and claims for payment under this Subcontract, and shall comply with the accounting and audit requirements of the Prime Agreement Terms and Conditions. In the event the Project is subject to the Federal Acquisition Regulations ("FAR"), Subcontractor shall comply with all applicable sections of the FAR. Subcontractor shall immediately repay to PB upon demand any compensation disallowed as a result of an audit conducted hereunder, or PB may elect to deduct disallowed amounts from monies due or to become due under this Subcontract.

c. **Record-Retention Period; Review and Reproduction.** Subcontractor shall retain all Project Records at a secure location reasonably accessible to the parties hereto for the longer of (a) six (6) years from the date of final payment or (b) until all disputes, audits, claims, legal proceedings, and other actions involving this Subcontract and the Services performed hereunder have been resolved or concluded (the "Record Retention Period"). During the Record Retention Period Subcontractor shall make all Project Records available to PB and Client for review and reproduction during normal business hours or at such other times as PB or Client may reasonably require.

Subcontractor shall include the requirements of this Article in all lower-tier subcontracts.

ARTICLE 19: CONFIDENTIAL INFORMATION; NON-DISCLOSURE

Unless required by law or Court order to do so, or unless prior written authorization is received from the PB or the Client, Subcontractor shall not disclose any (1) information concerning the Project that is not already in the public domain; (2) data, information, processes, or documents provided by or on behalf of PB or the Client, including but not limited to Electric Utility Infrastructure Information ("EUII"), as that term has been defined in Prime Agreement Special Provisions, Section VII (K); (3) Work Product; or (4) other information generated by Subcontractor in the course of performing this Subcontract (collectively, "Confidential Information") to anyone other than PB, and at PB's direction, the Client. Nor shall Subcontractor use such Confidential Information for any purpose other than the performance of Services under this Subcontract. Subcontractor shall instruct its employees and lower-tier subcontractors to treat all information obtained or generated in performance of the Subcontract as confidential, and shall obtain from its lower-tier subcontractors equivalent agreements to withhold and protect from disclosure all Confidential Information covered under this Article.

ARTICLE 20: COMPLIANCE WITH LAWS

Subcontractor shall comply with all federal, state and local laws, codes, ordinances and regulations applicable to Subcontractor, this Subcontract, the Project and its work sites, and the Services to be performed hereunder, including but not limited to those regulating conditions of employment and workplace safety and health. Subcontractor shall be liable to PB for all losses, costs, and expenses PB may incur resulting from or attributable to Subcontractor's, its employees', lower-tier subcontractors', and/or agents' failure to so comply, including but not limited to orders, judgments, fines, penalties, and required corrective measures.

During the performance of this Subcontract, Subcontractor shall not unlawfully discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, sexual preference, disability, age (40+), marital status, or public assistance status. Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and the selection for training, including apprenticeship. Subcontractor agrees to post in conspicuous places, available to employees and applicants for employment, notices which set forth the provisions of this non-discrimination Article.

ARTICLE 21: HEALTH AND SAFETY

Subcontractor agrees that the prevention of accidents to workers engaged by Subcontractor is the responsibility of Subcontractor. To that end, Subcontractor shall comply with all Project safety policies/protocols/program, and all federal, state and local health and safety laws, codes, ordinances and regulations applicable to the Project, the Project site and other work locations, Subcontractor, this Subcontract and the performance of the Services hereunder, including, but not limited to, the Occupational Safety and Health Act of 1970. If Services are to be performed or activities conducted on-site or at other field locations, Subcontractor shall also implement and enforce a safety program for all workers, including those of lower-tier subcontractors, if any, engaged in performing the Services, and shall ensure such workers' participation in appropriate safety training. Subcontractor's safety and training program shall comply at a minimum with such safety policies and programs as may be established or mandated under the Prime Agreement. Subcontractor shall also be responsible for the safety and conduct of persons on property under Subcontractor's control, including Subcontractor's employees, agents, invitees, and lower-tier subcontractors.

ARTICLE 22: NOTICES

All notices required or permitted under this Subcontract shall be given in writing and delivered either personally, by delivery service, by first-class, certified, or registered mail, or by e-mail, to the authorized representative of the other party at the address set forth below, or as may be designated by notice delivered in accordance with the requirements of this Article. If notice is delivered by e-mail, the notice must be signed by the party giving notice and sent as a pdf attachment to the e-mail at the address stipulated herein. Electronic or digital signatures shall not be allowed.

TO PB: Parsons Brinckerhoff, Inc.
Alii Place, 17th Floor
1099 Alakea Street
Honolulu, Hawaii 96813
E-mail: 16590EHHCTCPNotices@pbworld.com
Attention: Mr. James Van Epps

TO SUBCONTRACTOR:

Lychee Productions, Inc.



E-mail:



Attention: Ms. Laura Pennington

Notice shall be effective upon delivery when delivered in person, by courier service providing receipt of delivery, or by registered or certified mail, return receipt requested. Notices properly addressed and stamped, and deposited into the US postal system as first-class mail, shall be deemed received two (2) business days after date of postmark. Notice delivered by e-mail shall be deemed received by the date and time stated on the transmitter's copy.

ARTICLE 23: STANDARDS; QUALITY PROGRAM

All Services shall be performed in compliance with the standards, specifications, manuals of instruction, policies, protocols, and procedures established by the Client and such other regulatory agencies as may have jurisdiction over the work.

Subcontractor shall maintain a quality program for the duration of this Subcontract that at a minimum complies with any requirements established in the Prime Agreement. Upon request by PB, Subcontractor shall provide a copy of its quality program to PB. The program must ensure that the Services performed by Subcontractor conform to the requirements of this Subcontract and the Prime Agreement Terms and Conditions. Subcontractor shall provide for a flow down of all applicable quality requirements to its lower-tier subcontracts.

As part of its quality program, Subcontractor shall maintain and implement a Quality Control and Quality Assurance Plan ("QA/QC Plan"). At a minimum, the Plan shall ensure (i) Work Product review (the Work Product is accurate and complete) by suitably-qualified parties independent from the personnel performing the Services or delivering the Work Product, and (ii) periodic process audit and review of the overall quality control activities contained in the Plan. Subcontractor shall document all of its quality program activities performed in connection with this Subcontract. If any deviations are identified in any of the performed Services, corrective actions shall be developed, implemented, and documented by Subcontractor. PB has the right to audit Subcontractor's quality program and its Project-related quality activities required by the Plan at any time. The results of any internal reviews specified in the Plan shall be submitted to PB.

If Subcontractor fails to properly implement and maintain a quality program or QA/QC Plan, and such failure continues following notification to Subcontractor by PB, then PB may, in addition to any other remedies permitted herein or by law, terminate this Subcontract, withhold payment for Services until Subcontractor is in compliance with the requirements of this Article, or remedy such failure at Subcontractor's expense. Subcontractor agrees to indemnify and hold PB harmless for all costs incurred by PB to correct work adversely affected by such failure.

ARTICLE 24: APPLICABLE LAW; JURISDICTION; VENUE

This Subcontract, its validity, interpretation, and performance, and any disputes between the parties arising out of or relating to this Subcontract, shall be governed by and construed in accordance with the laws of the state of Hawaii, without regard to conflict of laws principles. In the event the parties are first unable to resolve their disputes through good-faith negotiations or through mutually-agreed nonbinding mediation, legal proceedings may be brought. Any such legal proceedings shall be brought in a court of

competent jurisdiction in the city and county of Honolulu, and Subcontractor by its signature below consents to the *in personam* jurisdiction of said courts and waives and covenants not to seek change of venue based upon *forum non conveniens*. Notwithstanding the foregoing, legal proceedings may be brought at any time to preserve equitable or legal remedies, obtain equitable or extraordinary relief, preserve evidence, prevent irreparable harm, preserve the status quo pending proceedings on the merits, or preserve claims that might otherwise be barred by applicable statutes of limitations, or lost or impaired on other legal or procedural grounds.

ARTICLE 25: SEVERABILITY

If any provision of this Subcontract is prohibited by law, invalid, or otherwise unenforceable, the remainder of this Subcontract shall remain in full force and effect; provided that in such event the parties hereto shall in good faith attempt to replace the invalid or unenforceable provision with one that is valid and enforceable, and comes as close as reasonably possible to expressing or achieving the intent of the parties with regard to the original provision. Upon agreement, this Subcontract shall be amended to incorporate the substitute language.

ARTICLE 26: SURVIVAL

The parties acknowledge that all terms and conditions of this Subcontract which by their nature are intended to survive the termination or expiration of this Subcontract, including non-disclosure, indemnification, insurance, retention and production of Project Records, and other obligations Subcontractor has a continuing duty to observe, as well as all provisions applicable to disputes and legal proceedings, and Article 22 notices, shall survive and be enforceable by PB according to the terms hereof

ARTICLE 27: SUCCESSORS AND ASSIGNS

Subcontractor shall not assign, sell, transfer, or otherwise dispose of any of its interest in this Subcontract, or delegate any of its duties under this Subcontract, without the prior written approval of PB. Any unauthorized attempt thereat shall be void and unenforceable.

ARTICLE 28: THIRD-PARTY BENEFICIARIES

This Subcontract shall be binding upon and inure to the benefit of the parties hereto, their successors and permitted assigns, only. PB and Subcontractor are the only beneficiaries of this Subcontract and are solely entitled to enforce its terms. It is the express intent of PB and Subcontractor that should any persons or entities other than the parties hereto receive a benefit under this Subcontract, they shall do so as incidental beneficiaries only.

ARTICLE 29: INTERPRETATION

This Subcontract shall not be construed in favor of or against either party based upon authorship, the parties being of equal bargaining stature. Headings are solely for the convenience of the parties and shall have no bearing on interpretation of text. Unless established as a term of art, with a well-understood and unequivocal technical or trade meaning, words are used in their common and ordinary meaning. Defined terms are capitalized, and when capitalized, shall carry their defined meaning. Wherever the term "day" or "days" is used, it shall mean singular or consecutive calendar days, respectively. "Business day" shall mean any weekday other than Saturday, Sunday or a holiday recognized and observed by the state of Hawaii.

ARTICLE 30: NONWAIVER

No failure or successive failures on the part of PB to enforce any provision of this Subcontract, or custom or practice that may evolve between the parties in the administration of this Subcontract, shall operate as a waiver or discharge of that or any other provision, or render the same invalid, or impair PB's right to enforce the same in the event of any subsequent breach by Subcontractor. Any waiver, if given, shall be in writing, signed by the party making the waiver and addressed to the other party, and shall be limited to the particular instance and for the purposes stipulated therein.

ARTICLE 31: ENTIRE AGREEMENT

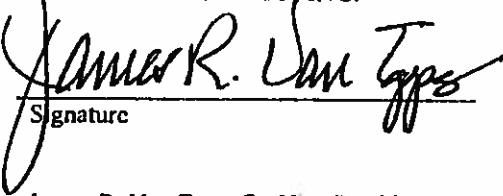
This Subcontract represents the entire and integrated agreement between PB and Subcontractor, and supersedes and replaces all prior and contemporaneous understandings, agreements, arrangements, negotiations, and representations, whether written or oral, with respect to the subject matter hereof. This Subcontract may not be modified except in writing, by an amendment signed by the parties hereto.

IN WITNESS WHEREOF, PB and Subcontractor have duly executed this Subcontract, effective from the date first written above.

PARSONS BRINCKERHOFF, INC.

LYCHEE PRODUCTIONS, INC.

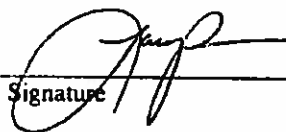
BY:



Signature

James R. Van Epps, Sr. Vice President
and Project Manager

BY:



Signature

Laura Pennington
Printed Name

President
Printed Title

ATTACHMENT 1
PRIME AGREEMENT TERMS AND CONDITIONS

Copy provided to Subcontractor on CD.

ATTACHMENT 2
SCOPE OF SERVICES

Task numbering corresponds to that used in the Prime Agreement Special Provisions, Exhibit I, Scope of Services.

Subcontractor shall perform the following services:

Task 13 Public Involvement

13.01 Public Involvement Program Activities

- Provide community and general public outreach
- Provide government monitoring and coordination services
- Participate in weekly Public Involvement meetings
- Attend additional Public Involvement meetings, as requested
- Attend and respond to public input at public meetings, interest groups, and through personal outreach
- Provide community general public outreach for the Archaeological Inventory Survey (AIS) for the Airport and City Center sections
- Initiate submission of industry recognition programs and provide recognition materials
- Inform Public Involvement Manager promptly of information and developments that may affect the Project

13.01.01 Participate in Community Events

- Attend trade shows, workshops, and/or seminars, and disseminate Project information
- Attend meetings with various groups, such as community, business, residential, ethnic, and special trade organizations, and disseminate Project information
- Actively seek community events
- Provide event coordination for community events, including selecting and securing location, conducting site checks, and procurement of facility and registration fees

13.01.02 Facilitate Project Public Involvement Meetings

- Attend public hearings, workshops, and/or seminars and disseminate Project information
- Provide event coordination for Public Involvement events, including selecting, securing, and procuring a location compatible with community needs, conducting site checks of proposed facilities, and procuring rentals and facilities, as requested

- Oversee the design, production, procurement, and dissemination of information
 - Participate in the production of information materials, such as agendas, fact sheets, and programs
 - Distribute publicity materials prior to each meeting, including postcards, newsletters, flyers, and media releases
 - Manage audio and visual vendors activities
 - Produce comment cards, sign-in sheets, and staff name tags
 - Provide refreshments for Public Involvement events, as requested
 - Plan and procure catering services for Public Involvement events, as requested
 - Set up and clean up event equipment and facilities
 - Prepare post-meeting summary reports, correspondence, and other event logistics
 - Prepare event budget
- 13.01.03 Produce Graphics in Support of Public Outreach**
Produce graphics for materials such as newsletters, sign-in sheets, brochures, and multimedia
- 13.01.04 Develop and Produce Presentations and Manage Presentation/Schedule (i.e., "Speaker's Bureau")**
- Attend meetings with organizations, associations, and other stakeholders, and disseminate Project information
 - Solicit and coordinate Speaker's Bureau meetings and informational presentations
 - Produce presentation slides, videos, and materials updates
- 13.01.05 Maintain Existing and Develop New Contacts with Local Groups and Organizations, including City Council and Neighborhood Boards**
- Maintain existing, as well as develop new, contacts with groups, organizations, and individuals
 - Provide public outreach by attending meetings and disseminating Project information
 - Update and maintain Public Involvement database, as requested
- 13.01.06 Maintain the Project Mailing List, Internet Outreach, and Telephone Hotline**
- Manage website updates
 - Manage database maintenance
- 13.01.07 Develop, Produce, and Distribute Public Information Documents and Electronic Media**

- Develop, produce, procure, and distribute materials, video programs, fact sheets, and other public information documents
- Produce long- and short-format video guides, simulations, and other multimedia productions
- Procure Public Involvement materials and distribute to database subscribers via USPS or e-mail, including the provision of postage
- Procure design and production services for logo items and materials, and procure items as required

13.01.08 Respond to Public Inquiries about the Project

Respond to public inquiries during various public outreach activities

13.01.09 Present Community Feedback to the Project Team

Convey community feedback to the Project team at the weekly Public Involvement meetings, on behalf of the general public and specialty groups

13.01.10 Effectiveness of the Program

Compile market research surveys

13.01.11 System Branding

Generate public awareness by participating in System Branding efforts

13.02 Support Construction Management (CM) in Oversight of Contractor Public Outreach Teams

13.02.01 Oversee Public Contact

Participate in construction mitigation efforts throughout neighborhoods along the alignment by attending various public outreach events and/or disseminating Project information

13.03 Support the City in Media and Agency Coordination as Needed

Prepare editorial boards, press conference materials, media releases, and media appearances as requested

13.03.02 Paid Media

- Design and produce paid media materials, including the procurement of paid media materials, such as television, radio, print, and multimedia outlets
- Manage paid media programs
- Perform media monitoring and rapid release
- Oversee Project clipping services and secure subscription fees (i.e., Civil Beat), as needed

13.04 Documentation

Prepare and submit monthly progress reports

Task 23 Archaeological Services

23.01 Archaeological Inventory Survey (AIS) Coordination


- Provide community and general public outreach for the AIS for the Airport and City Center sections
- Provide communication conduit for business owners and residential property owners to maintain communication during AIS work in roadways
- Participate in weekly AIS coordination meetings

ATTACHMENT 3

FEE SCHEDULE/BUDGET

Exhibit 2A - Cost Estimate

LYCHEE PRODUCTIONS, INC.

Item	Amount
Total Labor (1) Other Direct Costs (2) Lower-tier Subcontractor Costs (3) General Excise and Use Tax (4.5 %)	
TOTAL	\$1,169,146
(1) Schedule A - Labor Details (2) Schedule B - Other Direct Cost Details (3) Schedule C - Lower-tier Subcontractor Details N/A	

SPECIAL PROVISIONS
Honolulu High-Capacity Transit Corridor Project

Exhibit 2A – Cost Estimate

Schedule A – Labor Details

Title/Name	Estimated Hours per Month	Total Hours ¹	Bill Rate ²	Total Labor
Principal – Laura Pennington	█	█	█	█
Total		█		█

(1) Total hours are based upon a period of performance of twenty-four (24) months from Notice-to-Proceed.

(2) The Bill Rate is inclusive of all direct and indirect costs associated with the performance of the Services, including but not limited to direct labor, overhead, general and administrative expenses, other direct costs not identified in Schedule B below, and operating margin (profit). The Bill Rate does not include the General Excise and Use Tax.

Schedule B – Other Direct Cost Details

Task #	Title	Event/Action/Deliverable	Budget
13.01	Public Involvement Program Activities		█
13.01.01	Community Events	Logo items, materials, events	
13.01.02	Public Involvement Meetings	PI and Youth Ambassador Workshops	
13.01.05	Community Contacts	Advisory Committee	
13.01.06	Mailing List, Internet and Hotline	Constant contact	
13.01.07	Info Documents and Electronic Media	Newsletters, ads, DV production	
13.01.08	Respond to Public Inquiries	Policy maker official briefings (HART, FTA, or elected officials)	
13.01.10	Assess program effectiveness	Industry recognition programs (entry fee & entry production/packaging)	
13.02	CM Support		█
13.02.03	Construction Impact Mitigation	Special news media campaign (above normal outreach)	
13.03	Media and Agency Coordination		█
13.03.02	Paid Media		
23.01	Archeological Inventory Survey (AIS) Coordination		█
23.01	Business & Community Mitigation	Advertising, Signage, mailings, meetings	
TOTAL			█

SPECIAL PROVISIONS

Honolulu High-Capacity Transit Corridor Project

**PROFESSIONAL SERVICES ON-CALL/TASK ORDER SUBCONTRACT
BETWEEN
PARSONS BRINCKERHOFF, INC.
AND
MM PICTURES, LLC
(#PB-16590E-MP0)**

This Subcontract, effective as of August 2, 2011, is made and entered into by and between **PARSONS BRINCKERHOFF, INC.** ("PB"), a New York corporation with offices at Alii Place, 17th Floor, 1099 Alakea Street, Honolulu, HI 96813, and **MM PICTURES, LLC** ("Subcontractor"), a Hawaiian limited liability company with offices at [REDACTED].

RECITALS

PB (formerly known as "PB Americas, Inc.") entered into General Engineering Consultant Contract (GEC II) No. SC-DTS-1100131 dated June 30, 2011 (the "Prime Agreement") between PB Americas, Inc. and the Honolulu Authority for Rapid Transportation, hereinafter referred to as "HART" ("Client"), to provide general engineering, planning, construction management and other consultant services for the Honolulu High-Capacity Transit Corridor Project, which includes the 28-mile Locally Preferred Alternative and the 20-mile Airport Alignment, as more particularly defined in Prime Agreement Special Provisions VII(A) ("HHCTCP" or the "Project").

PB anticipates subcontracting certain of the services required under the Prime Agreement on an as-needed basis pursuant to Task Orders, and Subcontractor wishes to provide such of the services as PB may request.

Therefore, for the consideration hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which the parties by their signatures below affirm, the parties do mutually agree as follows.

TERMS

The foregoing recitals are incorporated herein for all purposes as if fully set forth.

ARTICLE 1: PRIME AGREEMENT TERMS AND CONDITIONS

Except as noted below, or where in their application the context clearly requires otherwise, all the terms and conditions of the Prime Agreement, including all exhibits thereto and other documents incorporated by reference therein, that pertain to the subcontracted services or to the Subcontractor, or that by their express terms are required to be incorporated into each subcontract (the "Prime Agreement Terms and Conditions"), labeled **Attachment 1**, are by this reference incorporated herein and made a part hereof for all purposes. By the signature below of its authorized representative, Subcontractor affirms that it has been provided a copy of Attachment 1 on CD.

With regard to the services to be performed by it, Subcontractor assumes toward PB all of the obligations and responsibilities that PB assumes toward the Client under the Prime Agreement Terms and Conditions, and Subcontractor shall be bound by all of the Prime Agreement Terms and Conditions to the same extent as PB is bound thereby. In the event of any conflicts or ambiguities between or among the provisions of this Subcontract and the Prime Agreement Terms and Conditions, the provision that imposes the more stringent requirement on Subcontractor shall take precedence.

Subcontractor shall include in all lower-tier subcontracts those provisions of the Prime Agreement that are required to be so included, and shall require all lower-tier subcontractors to comply with such provisions for the duration of their respective subcontracts. Subcontractor shall require each lower-tier subcontractor to make such disclosures and execute such attestations as may be required under the Prime Agreement Terms and Conditions, including but not limited to those required by state or federal statute associated with source of funding. Failure to comply with the terms of this paragraph shall constitute a material default.

ARTICLE 2: SCOPE OF SERVICES

Subcontractor shall perform, consistent with the standard of care stipulated herein and other terms and conditions of this Subcontract and the Task Order, those Services identified in each Task Order (the "Task Order Services" or "Services").

The Task Order Services shall include all tasks and components, whether or not expressly set forth in the Task Order, that are manifestly necessary to carry out the intent of this Subcontract and the Task Order, or that are customarily performed in conjunction with, as a component of, or in order to accomplish, the Task Order Services, and such tasks and components shall be performed as if fully and correctly set forth in the description of the Task Order Services.

ARTICLE 3: TASK ORDERS; UNAUTHORIZED OR EXTRA WORK

a. **Task Orders.** Each Task Order shall incorporate the terms and conditions of this Subcontract in effect as of the date the Task Order is executed, and shall identify the Services to be performed, deliverables to be produced, performance schedule, compensation, and any terms and conditions modifying or supplementing those set forth herein that are specific to the Task Order. Upon execution, and without further action of the parties, each Task Order shall be by this reference automatically incorporated into this Subcontract as an exhibit, numbered sequentially, and made a part hereof for all purposes as if fully set forth. Task Orders may not be modified except in writing, by an amendment signed by the parties thereto.

b. **Unauthorized or Extra Work.** Subcontractor shall not proceed with performance of any Services or incur any costs, or be entitled to compensation or reimbursement for any Services performed or costs incurred, prior to the full and proper execution of a Task Order authorizing performance of the Services. Nor shall Subcontractor proceed with performance of any work in addition to that authorized in a Task Order ("Extra Work"), or be entitled to compensation therefor, or to reimbursement for costs incurred in connection therewith, prior to full and proper execution of a Task Order amendment executed by both parties describing the Extra Work to be performed, the schedule for performance, the compensation to be paid, and all other applicable terms and conditions. **Any work performed prior to execution of a Task Order or Task Order amendment authorizing same, is done solely as a volunteer and at no cost to PB.**

ARTICLE 4: COMPENSATION

Subcontractor shall perform the Services identified in each Task Order for the amount and in accordance with the compensation provisions established therein, subject to any applicable mandates of Prime Agreement Part 2, Special Provisions Exhibit 2B(2)(a), (b), (c) and (e). If compensation is on a cost plus fixed fee basis, the fixed fee component is only due and payable for Services for which PB has given notice to proceed and which the Subcontractor has completed in accordance with the terms of this Subcontract and the Task Order. PB may permit an increase in the fixed fee only due to "Extra Work," as that term is defined herein.

Provisional overhead rates in effect at Subcontract inception may be modified at the end of each subsequent fiscal year only upon submittal and approval of a detailed "Schedule of Overhead," accompanied by Subcontractor's most recent report of independent auditors ("Independent Auditor Report"). Subcontractor shall submit its Schedule of Overhead and Independent Auditor Report no later than six (6) months after the end of each fiscal year.

ARTICLE 5: INVOICES; PAYMENT

a. **Electronic Reporting;** (applies to cost-plus-fixed-fee or billing rate task orders). PB has implemented a web-based time collection/reporting system for the Project. Utilizing software provided by PB, Subcontractor shall submit bi-weekly timesheets electronically to PB's Project Control Office. All timesheets must be reviewed by PB's Project lead or manager for compliance with Subcontract invoicing requirements, including but not limited to compliance with Exhibit 2B mandates, and authorized prior to invoice submittal ("Authorized Time"). Amounts invoiced must correspond to the hours of Authorized Time entered on the electronic reporting system for the invoice period.

b. **Invoice Periods; Submittal Deadlines.** Invoicing for the Project is structured on a 12-period annual cycle, and Subcontractor shall submit its invoices monthly, unless otherwise directed in the Task Order. Invoices shall be submitted no later than 15 days following the end of the invoice period. Any invoice delivered to PB after the applicable submittal deadline will be processed with the next succeeding invoice period submittals.

If under the terms of the Task Order payment is to be made in a lump-sum upon completion of all Services and submittal of all deliverables, Subcontractor shall submit its invoice to PB by the invoice period submittal deadline following Subcontractor's completion of all Services, transmittal of all deliverables, and fulfillment of all other obligations under the Task Order. Where under the terms of the Task Order payment is due only upon completion of designated milestones or upon completion of designated tasks, Subcontractor shall submit its invoice to PB by the invoice period submittal deadline following Subcontractor's completion.

c. **Invoice Submittal Requirements.** As applicable, invoices shall include all labor costs incurred during the invoice period for Authorized Time, and all Reimbursable Costs incurred and booked during the invoice period, together with back-up documentation. The bill-through date on each monthly invoice must match the last actual expenditure date shown on the back-up documentation. In addition, Subcontractor shall include with each invoice a **progress report** that documents, in bulleted detail, the Services completed during the invoice period, including items of work accomplished and milestones reached; problems / issues / concerns; and work planned for the next invoice period. The signed invoice, backup documentation, and progress report shall be sent to LaRhonda Sayles, Accounting Manager at sayles@pbworld.com; hard copy to be delivered to the address for notice stipulated in Article 23.

d. **Payment.** Contingent upon Subcontractor's timely submittal of a proper invoice and progress report, PB shall pay those undisputed amounts due and owing within 10 days of the date of payment by Client to PB for the Services covered by the invoice, less any amounts PB may be authorized or required to withhold or deduct under the terms of this Subcontract, applicable law, or court order. If compensation is on a cost plus fixed fee basis, the fixed fee will be prorated and paid each invoice period in proportion to Subcontractor's direct labor and overhead costs incurred in performance of Services satisfactorily completed during the invoice period. Final payment shall include any portion of the fixed fee due and owing but not previously paid. In the event of non-payment by Client, both parties shall cooperate in seeking payment from Client.

e. **Right to Withhold.** It is expressly agreed that PB shall be entitled to withhold payment pending correction of non-conforming Services and/or other performance deficiencies.

f. **Audits.** All payments hereunder are subject to the audits, adjustments and limitations that apply to PB under the Prime Agreement.

ARTICLE 6: TERM; PERFORMANCE SCHEDULE; DELAYS

a. **Subcontract.** The term of this Subcontract shall be for a period commencing with the effective date hereof and ending on (1) the date the Prime Agreement expires according to its terms; (2) the date the Prime Agreement is terminated; or (3) the date this Subcontract it is terminated by PB; whichever occurs first, unless otherwise directed in writing by PB.

b. **Task Orders.** The term of each Task Order shall be for a period commencing with the effective date of the Task Order and ending on the earlier of: (1) the date the Task Order Services have been satisfactorily completed, as determined and acknowledged by PB in writing, and final payment for the Task Order Services has been made; (2) the date stated in any Notice of Termination issued pursuant to Article 16; or (3) the date the Prime Agreement is terminated, if the Prime Agreement Terms and Conditions so provide.

c. **Performance Schedule.** Time is of the essence in Subcontractor's performance of Services, and Subcontractor shall promptly commence performance of Services as instructed in each Task Order, and perform the same diligently and without interruption until completed in accordance with the performance schedule established in the Task Order.

d. **Delays.** Subcontractor shall notify PB in writing within five (5) business days of any event or condition impacting its ability to meet the performance schedule, together with the steps contemplated or taken by Subcontractor to mitigate the effect of such delay.

Delays caused by *force majeure* events such as war, civil insurrection, riot, acts of public authority, strike, explosion, fire, earthquake, flood and like catastrophic events, shall be excusable to the extent they could not reasonably be anticipated, mitigated, or avoided by Subcontractor, and did not result in whole or in part from Subcontractor's fault or neglect, but shall be compensable only if additional compensation is obtained by PB from Client for such delays.

ARTICLE 7: KEY PERSONNEL

If any Subcontractor key personnel have been designated for this Project, they are either listed in this Article 7 or in the applicable Task Order. Subcontractor's key personnel shall not be replaced without PB's or Client's prior written consent. In the event any key personnel become unavailable due to separation from employment with Subcontractor, long-term illness/disability, or death, Subcontractor shall nominate a replacement with equivalent qualifications for PB's approval, which shall not be unreasonably withheld. In the event Subcontractor fails to provide a suitable replacement, PB shall have the right to terminate this Subcontract.

Key Personnel: Melanie Blades, Principal
 Andrew Magpoc, Producer

ARTICLE 8: STANDARD OF CARE; QUALIFICATIONS AND LICENSES

a. **Standard of Care.** Subcontractor shall perform the Services in a manner consistent with that degree of skill and care ordinarily exercised by members of the same profession performing the same or similar work under the same or similar circumstances in the city and county of Honolulu. The parties acknowledge that PB is relying upon Subcontractor's expertise, and that neither PB's review, approval, acceptance, or payment for the Services is intended, nor shall it, constitute a waiver, release, or discharge of Subcontractor's responsibility for the proper performance of the Services or liability for defects in same, or an assumption by PB of such responsibility or liability.

b. **Qualifications and Licenses.** Subcontractor represents and warrants that all personnel performing Services or conducting activities in furtherance of this Subcontract or a Task Order shall be properly qualified, and that personnel performing services or conducting activities for which a license or certification is required under local, state, or federal regulations shall be duly licensed and/or certified. All licenses and certifications shall be current at the time the work is performed.

ARTICLE 9: INDEPENDENT CONTRACTOR

The parties affirm that Subcontractor is an independent contractor under subcontract to PB, and is not in a joint venture, partnership, agent-principal or employer-employee relationship with PB. Subcontractor shall, at its own expense, provide all equipment, materials, services, and personnel required to perform the Services. Subcontractor, consistent with its status as an independent contractor, shall maintain complete control and direction over and responsibility for its employees, lower-tier subcontractors, and agents, and shall be solely responsible for the means, methods, sequences and techniques for carrying out the Services, and for the safety of its employees, lower-tier subcontractors, agents and invitees. Subcontractor affirms that it shall not represent itself to be an agent of PB or Client, or as having any authority to bind PB or Client, and further affirms that it shall instruct its personnel that they are not, and are prohibited from representing themselves to be, officers, agents, or employees of PB or Client, and have no authority to bind PB or Client.

Subcontractor shall indemnify, defend, and hold PB and Client harmless from any claims, and pay all damages, costs and judgments related to any claims made against PB or Client by Subcontractor's and/or its lower tier subcontractors' employees, agents, and representatives, for wages, salaries or any other form of compensation; for benefits, including but not limited to Workers' Compensation insurance benefits, health, disability, medical, vacation, retirement, and sick leave; and/or any other benefit or assistance that may be available to employees of PB or Client or otherwise associated with an employer/employee relationship, such as training, counseling, or promotion. Subcontractor shall be responsible for all payroll and unemployment taxes associated with workers it provides to perform Services, and for withholding of social security and state and federal income taxes for such individuals, and shall indemnify, defend and hold PB and Client harmless from, and shall pay, all taxes and costs, fines, penalties and assessments associated therewith.

ARTICLE 10: CLAUSES APPLICABLE TO FEDERALLY-FUNDED CONTRACTS

All clauses set forth in Prime Agreement Special Provisions Article VIII are by this reference expressly incorporated into and made a part of this Subcontract for all purposes as if set forth in full, and shall control in accordance with their terms in the event of conflict with any other terms and conditions of this Subcontract. Subcontractor shall comply with, and ensure that its lower-tier subcontractors comply with, all provisions of this Article.

ARTICLE 11: DISADVANTAGED BUSINESS ENTERPRISES

- a. Subcontractor shall fully cooperate with PB in meeting PB's commitments and goals, if any, with regard to the maximum utilization of disadvantaged business enterprises, minority business enterprises, small business enterprises, women-owned business enterprises, emerging business enterprises, and historically underutilized businesses (collectively, "DBEs"), and Subcontractor, if requested in writing by PB, shall provide the maximum practicable opportunity for DBEs to compete for any lower-tier subagreements available pursuant to this Subcontract.
- b. If Subcontractor is a DBE, upon written request by PB Subcontractor shall provide certificates or other acceptable testament to such DBE status.
- c. Subcontractor shall promptly provide attesting documentation when requested by PB, that proves that all lower-tier DBEs have received the revenue paid to Subcontractor by PB on behalf of the DBEs for services provided pursuant to the provisions of this Subcontract.

ARTICLE 12: INDEMNIFICATION

To the maximum extent permitted by law, Subcontractor shall indemnify, defend and hold harmless PB and Client, their successors and assigns, and each of their respective officers, agents, servants and employees, from and against any and all claims, suits, actions, judgments, orders, demands, losses, damages, and liability of whatsoever nature, and costs and expenses including but not limited to (1) administrative or statutory assessments, sanctions, fines, and penalties, and (2) reasonable attorneys' fees, witness fees, costs of discovery and investigation, and court costs, whether incurred in relation to administrative, pre-trial, trial, post-trial, or appellate proceedings; caused by, resulting from, or arising out of (a) Subcontractor's breach of a Task Order; (b) the negligent acts, errors, or omissions, or the intentional, willful, or reckless misconduct of Subcontractor, its officers, employees, servants, agents, subcontractors or representatives in the performance of Task Orders; (c) Subcontractor's infringement of patents or copyrights, or unauthorized disclosure of trade secrets; (d) Subcontractor's violation of applicable codes and regulations, including but not limited to laws relating to health and safety, compensation and conditions of employment, and payment of subcontractors, vendors, and materialmen.

Notwithstanding any other provision to the contrary, in the event of litigation between the parties to enforce the provisions of this Article or any other indemnification obligation owed to PB under the terms of this Subcontract or a Task Order, the prevailing party shall be entitled to recover costs incurred and reasonable attorneys' fees.

The indemnification afforded under this Article shall not be limited in any manner whatsoever by insurance required under a Task Order, this Subcontract, or the Prime Agreement, or by any other insurance carried by Subcontractor, PB or the Client. Nor shall the terms of this indemnification provision operate to limit or modify any of the insurance required hereunder, or the scope or terms of such coverage. Nothing herein is intended to require Subcontractor to indemnify PB from liability for PB's negligence.

ARTICLE 13: PROMPT PAYMENT OBLIGATIONS; RELEASE OF LIENS AND CLAIMS

Subject to Subcontractor's right to withhold payment in a good-faith dispute, Subcontractor shall promptly pay for all services, labor, equipment and materials furnished in performing Services. PB may at any time require Subcontractor to submit lien releases satisfactory to PB and Client evidencing payment and release of claims for payment. Upon evidence of unpaid undisputed claims for payment, PB may pay and discharge same and deduct the amount paid, together with reasonably incurred costs and

attorneys' fees, from compensation due or to become due to Subcontractor under any Task Order. Acceptance by Subcontractor of final payment for a Task Order shall operate as a full and final release from liability by Subcontractor, its affiliates, successors, and assigns, of Client and PB, its affiliates, successors, and assigns, for additional compensation or payment for Services rendered, costs incurred, or work performed by Subcontractor under the Task Order.

ARTICLE 14: INSURANCE

a. Coverage. Subcontractor shall maintain at its own cost and expense for the duration of this Subcontract the following insurance coverages issued by companies licensed to do business in the State of Hawaii, with an AM Best rating of A-VIII or better, and otherwise acceptable to PB and Client.

(1) **Workers' Compensation and Employer's Liability Insurance**

Coverage to include all Statutory Workers' Compensation benefits to the employees of Subcontractor who may sustain work-related injury, death, or disease, and coverage, if applicable, commensurate with the requirements of the U.S. Longshore and Harbor Workers' Compensation Act (USL&H) or any other maritime law or similar act (e.g., Outer Continental Shelf Lands Act (OSCLA), Federal Employers Liability Act (FELA)). Such insurance shall include a waiver of subrogation in favor of PB and Client, unless prohibited under applicable state law. Employer's Liability coverage with a limit of not less than \$1,000,000 each accident/disease shall also be maintained.

(2) **Commercial General Liability and Contractual Liability ("CGL") Insurance, including contractual liability cover, with a limit of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate**

Coverage to include premises operations, independent contractors, products and completed operations, and broad-form contractual, personal injury, advertising injury and property damage, and XCU (explosion, collapse, and underground hazard) coverage. If Subcontractor's work is within 50 feet of a railroad right of way, the policy must also be endorsed to cover work within 50 feet of a railroad. Contractual liability shall not exclude the indemnification provisions of this Subcontract. PB and Client, and their respective officers, directors, agents, and employees must be named as additional insureds, for both ongoing and completed operations, and on a primary and non-contributory basis. Such policy shall contain a severability of interests provision or cross-liability clause, and shall provide that the general aggregate limit applies on a per-project basis. Such insurance shall include a waiver of subrogation in favor of PB and Client.

(3) **Business Automobile Liability with a combined single limit of not less than \$1,000,000 each accident**

The policy must be written on an "any auto" basis. PB and Client, and their respective officers, directors, agents, and employees must be named as additional insureds, on a primary and non-contributory basis. Such insurance shall include a waiver of subrogation in favor of PB and Client unless prohibited under applicable state law.

(4) **Professional Liability with a limit of not less than \$1,000,000 per claim and annual aggregate**

Coverage to include Subcontractor's legal liability for damages arising out of Subcontractor's performance of professional services pursuant to this Subcontract or relating to the Project.

Neither PB nor Client shall be liable for any deductibles on additional insured coverage, and any coverage maintained by PB and Client shall be excess and noncontributory. The required insurance shall apply separately to each insured against whom claim is made or suit brought, except with respect to the limits of

liability. Coverage shall contain no special limitations on the scope of protection afforded to PB, Client and their respective officers, directors, agents, and employees.

CGL insurance shall be written on ISO occurrence form CG 00 01 or a substitute form providing equivalent liability coverage. Additional insured endorsements shall be written on CG 20 10 or equivalent. Business auto coverage shall be written on ISO for CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing equivalent liability coverage. With the exception of professional liability insurance, all insurance shall be written on an occurrence basis. Notwithstanding any other provision to the contrary, professional liability insurance shall be maintained in full force and effect continuously from the effective date of this Subcontract until the expiration of one (1) year following substantial completion of the Project.

All insurance policies must contain a provision that provides thirty (30) days' prior written notice to PB of cancellation (ten (10) days' prior written notice for failure to pay premium). Such notice of cancellation must be provided to PB via the following address: Parsons Brinckerhoff, Inc., Attn: Risk Management, One Penn Plaza, New York, NY 10119.

b. **Certificates and Endorsements.** Subcontractor shall, prior to commencing performance of any Services or entering onto the Project site or other field location, furnish PB with certificates of insurance and endorsements referencing the Project name and Project number, and evidencing (a) the required coverages, including but not limited to the additional insured and waiver of subrogation requirements, (b) the limits, and (c) the notice of cancellation provisions. Certificates and endorsements shall be provided annually, not more than 10 days after renewal or replacement of each policy, and shall restate the effective value of the coverage provided.

Subcontractor shall deliver the certificates of insurance and endorsements, each evidencing the required coverage and Project name and number, to: (1) PB Project Management, Diane Cook at cook@pbworld.com, and (2) to Parsons Brinckerhoff, Inc. at:

- E-mail: PBCertificateTracking@lockton.com <<mailto:PBCertificateTracking@lockton.com>> (preferred method); or
- Fax: Attn: Parsons Brinckerhoff, Inc. Certificate Tracking at Fax 816-783-2276; or
- Mail: Parsons Brinckerhoff, Inc, Certificate Tracking 444, W. 47th Street, Kansas City, MO, 64112.

Failure of PB to demand such certificate or other evidence of full compliance with these insurance requirements, or failure of PB to identify a deficiency from evidence that is provided, shall not be construed as a waiver of Subcontractor's obligation to maintain such insurance.

c. **Lower-Tier Subcontractors.** Subcontractor shall require that each of its lower-tier subcontractors, if any, have in place the insurance required herein, with the coverages and limits required herein, and provide Subcontractor with certificates of insurance and endorsements evidencing such coverage prior to commencement of subcontracted work. Subcontractor shall also require that PB and Client be named as additional insureds on all lower-tier subcontractor CGL, automobile, and (if required) aircraft liability policies, and that CGL, auto, aircraft (if required), and workers' compensation coverages be endorsed to provide for a waiver of subrogation in favor of PB and Client.

Subcontractor shall also comply with all other requirements set forth in Subsection 4.3.2 of the Prime Agreement General Terms and Conditions.

ARTICLE 15: SUSPENSION OF SERVICES

PB may, at any time, and with or without cause, suspend performance of Services or any portion thereof for a period of up to 90 days by notice in writing to Subcontractor, and Subcontractor shall resume its Services promptly after being notified by PB to do so. Subcontractor may be allowed an increase in fee or extension of time, or both, provided same is granted by Client.

PB may immediately suspend Services performed at the Project site or other field location without notice for violation of any safety rules, regulations, or requirements; for code violations; for failure to obtain or comply with the terms of any permits, orders, or required authorizations; or upon discovery of any unsafe working conditions. In such case, Subcontractor shall immediately cure the violation or remedy the unsafe working condition. Failure to do so shall constitute a material default.

ARTICLE 16: TERMINATION

PB may terminate this Subcontract at any time, for any reason, without notice. PB may terminate any Task Order, in whole or in part, for cause, upon seven (7) days' written notice of default and failure to cure within the stipulated cure period. Breach by Subcontractor of any material provision of a Task Order shall also constitute cause for termination of any or all other Task Orders in effect at the time of the breach. PB may terminate any Task Order, in whole or in part, for its convenience, upon 10 days' written notice.

In the event of termination of a Task Order for cause, Subcontractor shall be entitled to compensation for the value of all Services performed under the Task Order in accordance with contract requirements up to the effective date of termination, less allowable deductions, which include, but are not limited to, all costs in excess of the compensation established in the Task Order reasonably incurred by PB to complete the Services. To the extent allowable deductions exceed amounts remaining due to Subcontractor under the Task Order, Subcontractor shall be and remain liable to PB upon demand for the amount of such excess.

In the event of termination of a Task Order for PB's convenience and without default on the part of Subcontractor, Subcontractor shall be entitled to compensation for all Services performed in accordance with contract requirements up to the effective date of termination, less allowable deductions. To the extent allowable deductions exceed amounts remaining due to Subcontractor under the Task Order, Subcontractor shall be and remain liable to PB upon demand for the amount of such excess.

Upon receipt of notice of termination of a Task Order, Subcontractor shall discontinue the Services unless otherwise directed and deliver to PB all Work Product pertaining to such Task Order.

In the event of termination, PB shall have the right to conduct a financial audit, as well as a performance audit to ascertain the quality, timeliness and compensability of Subcontractor's Services. If, after issuance of notice of termination of a Task Order for cause, it is determined for any reason that Subcontractor was not in default, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to termination for convenience.

ARTICLE 17: REMEDIES

In the event Subcontractor fails to timely perform Services, fails to perform Services in accordance with contract requirements, or is otherwise in default, PB shall be entitled to withhold payment until the default is corrected. Subcontractor shall, upon notice from PB, correct the designated performance deficiencies without additional compensation. If such performance deficiencies are not corrected within the time period specified in the notice, PB may cause same to be corrected and deduct all costs reasonably incurred

by reason of such failure from Subcontractor's compensation and, if Subcontractor's remaining compensation is not sufficient to reimburse PB for such costs, recover the same from Subcontractor upon demand. These remedies shall be in addition to all other remedies available to PB.

With the exception of attorneys' fees to enforce indemnification obligations, neither party hereto shall be entitled to recover from the other for breach of this Subcontract or a Task Order (a) incidental, nominal, special, indirect, exemplary or consequential damages, or damages that in their nature or amount constitute a penalty, or (b) attorneys fees or costs. Notwithstanding the foregoing, however, PB shall be entitled to seek, recover, and recoup from Subcontractor those types of damages, of whatever nature, as PB may be held accountable to the Client under the terms of the Prime Agreement, or to third parties, that were caused by or attributable to Subcontractor, its agents, servants, or employees, or for which Subcontractor is otherwise legally responsible.

Neither the pendency of a dispute nor consideration of claims by PB pertaining to a Task Order shall excuse Subcontractor from full and timely performance in accordance with the terms of that or any other Task Order.

ARTICLE 18: WORK PRODUCT

All drawings, plans, designs, specifications, photographs, models, schematics, surveys, maps, reports, studies, analyses, estimates, minutes, diaries, field notes, training manuals and materials, data bases, electronic files, file formats, templates, procedures, scripts, links, specifically-created key commands, source code documentation, software programs, calculations, summaries and other compilations of information to be developed or produced by Subcontractor as part of the Services, including but not limited to all deliverables identified in the Task Order, whether completed or in process, and all supporting documents and data, whether in hard copy or electronic or digital format or capable of being converted to such format, constitute "Work Product."

Work Product shall be the property of PB and shall be furnished to PB promptly upon request and as a condition to issuance of payment, although Subcontractor shall be permitted to retain reproducible copies. Subcontractor shall not be liable for loss, damage, or injury resulting from PB's use of Work Product for purposes other than as intended or contemplated under the terms of the Task Order.

The parties intend that Work Product shall be "work made for hire," of which PB shall be deemed the author. If for any reason such Work Product does not constitute "work made for hire," Subcontractor hereby (a) waives all rights in such Work Product, and any other rights of authorship, identification, or approval, restriction or limitation on use or subsequent modification, and (b) irrevocably assigns to PB all right, title, and interest in and to the Work Product, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Subcontractor shall obtain such interest and execute and deliver such instruments and take such other actions as may be necessary to vest and perfect such rights in PB.

To the extent any Work Product includes Subcontractor's previously-developed intellectual property that is or could be protected by federal copyright, patent, or trademark laws, or state trade secret laws, Subcontractor hereby grants to PB and Client a perpetual, royalty-free, fully-paid up, non-exclusive and irrevocable license to copy, reproduce, perform, dispose of, and use and re-use, in whole or in part, such intellectual property, and to authorize others to do so. Such previously-developed intellectual property may constitute but is not limited to, data bases, software programs, templates, file formats, specifically-created key commands, scripts, links, procedures, training manuals and other training materials, designs, prototypes, plans, and other works provided or delivered to PB or Client by Subcontractor.

ARTICLE 19: PROJECT RECORDS; RECORD RETENTION PERIOD; AUDITS

a. **Project Records.** All records pertaining to this Subcontract, its Task Orders, and Services performed thereunder, including but not limited to (a) timesheets and accounting and financial records; (b) Work Product; (c) drawings, maps, surveys, models, photographs, schematics, plans, designs, specifications, reports, studies, summaries, analyses, diaries, field notes, estimates, calculations, and other compilations of information obtained by or provided to Subcontractor in performance of the Services; and (d) correspondence; whether in hard copy or electronic or digital format, or capable of being converted to such format, constitute "Project Records."

b. **Accounting and Financial Records; Audits.** Subcontractor shall preserve all Project Records in such detail as shall properly substantiate contract performance and claims for payment under all Task Orders entered into pursuant to this Subcontract, and shall comply with the accounting and audit requirements of the Prime Agreement Terms and Conditions. In the event the Project is subject to the Federal Acquisition Regulations ("FAR"), Subcontractor shall comply with all applicable sections of the FAR. Subcontractor shall immediately repay to PB upon demand any compensation disallowed as a result of an audit conducted hereunder, or PB may elect to deduct disallowed amounts from monies due or to become due under any one or more Task Orders entered into pursuant to this Subcontract.

c. **Record-Retention Period; Review and Reproduction.** Subcontractor shall retain all Project Records at a secure location reasonably accessible to the parties hereto for the longer of (a) six (6) years from the date of final payment, or (b) until all disputes, audits, claims, legal proceedings, and other actions involving this Subcontract, its Task Orders, and the Services performed hereunder have been resolved or concluded (the "Record Retention Period"). During the Record Retention Period Subcontractor shall make all Project Records available to PB and Client for review and reproduction for any lawful purpose during normal business hours or at such other times as PB or Client may reasonably require.

Subcontractor shall include the requirements of this Article in all lower-tier subcontracts.

ARTICLE 20: CONFIDENTIAL INFORMATION; NON-DISCLOSURE

Unless required by law or Court order to do to, or unless prior written authorization is received from the PB or the Client, Subcontractor shall not disclose any (1) information concerning the Project that is not already in the public domain; (2) data, information, processes, or documents provided by or on behalf of PB or the Client, including but not limited to Electric Utility Infrastructure Information ("EUII"), as that term has been defined in Prime Agreement Special Provisions, Section VII (K); (3) Work Product; or (4) other information generated by Subcontractor in the course of performing this Subcontract (collectively, "Confidential Information") to anyone other than PB, and at PB's direction, the Client. Nor shall Subcontractor use such Confidential Information for any purpose other than the performance of Services under this Subcontract. Subcontractor shall instruct its employees and lower-tier subcontractors to treat all information obtained or generated in performance of the Subcontract as confidential, and shall obtain from its lower-tier subcontractors equivalent agreements to withhold and protect from disclosure all Confidential Information covered under this Article.

ARTICLE 21: COMPLIANCE WITH LAWS

Subcontractor shall comply with all federal, state and local laws, codes, ordinances and regulations applicable to Subcontractor, this Subcontract, Task Orders, Services, and the Project and its work sites, including but not limited to those regulating conditions of employment and workplace safety and health. Subcontractor shall be liable to PB for all losses, costs, and expenses PB may incur resulting from or

attributable to Subcontractor's, its employees', its lower-tier subcontractors', and/or agents' failure to so comply, including but not limited to orders, judgments, fines, penalties, and required corrective measures.

During the term of this Subcontract and all Task Orders entered into pursuant hereto, Subcontractor shall not unlawfully discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, sexual preference, disability, age (40+), marital status, or public assistance status. Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and the selection for training, including apprenticeship. Subcontractor agrees to post in conspicuous places, available to employees and applicants for employment, notices which set forth the provisions of this non-discrimination Article.

ARTICLE 22: HEALTH AND SAFETY

Subcontractor agrees that the prevention of accidents to workers engaged by Subcontractor is the responsibility of Subcontractor. To that end, Subcontractor shall comply with all federal, state and local health and safety laws, codes, ordinances and regulations applicable to the Project, the Project site and other work locations, Subcontractor, this Subcontract, Task Orders and the performance of Services thereunder, including, but not limited to, the Occupational Safety and Health Act of 1970. If Services are to be performed or activities conducted on-site or at other field locations, Subcontractor shall also implement and enforce a safety program for all workers, including those of lower-tier subcontractors, if any, engaged in performing Services, and shall ensure such workers' participation in appropriate safety training. Subcontractor's safety and training program shall comply at a minimum with such safety policies and programs as may be established or mandated under the Prime Agreement. Subcontractor shall also be responsible for the safety and conduct of persons on property under Subcontractor's control, including Subcontractor's employees, agents, invitees, and lower-tier subcontractors.

ARTICLE 23: NOTICES

All notices required or permitted under this Subcontract shall be given in writing and delivered either personally, by delivery service, by first-class, certified, or registered mail, or by e-mail, to the authorized representative of the other party at the address set forth below, or as may be designated by notice delivered in accordance with the requirements of this Article. If notice is delivered by e-mail, the notice must be signed by the party giving notice and sent as a pdf attachment to the e-mail at the address stipulated herein. Electronic or digital signatures shall not be allowed.

TO PB: Parsons Brinckerhoff, Inc.
Alii Place, 17th Floor
1099 Alakea Street
Honolulu, Hawaii 96813
E-mail: 16590EHHCTCPNotices@pbworld.com
Attention: Mr. James Van Epps

TO SUBCONTRACTOR: MM Pictures, LLC
[REDACTED]
E-mail: [REDACTED]
Attention: Ms. Melanie Blades

Notice shall be effective upon delivery when delivered in person, by courier service providing receipt of delivery, or by registered or certified mail, return receipt requested. Notices properly addressed and

stamped, and deposited into the US postal system as first-class mail, shall be deemed received two (2) business days after date of postmark. Notice delivered by e-mail shall be deemed received by the date and time stated on the transmitter's copy.

ARTICLE 24: STANDARDS; QUALITY PROGRAM

All Services shall be performed in compliance with the standards, specifications, manuals of instruction, policies, protocols, and procedures established by the Client and such other regulatory agencies as may have jurisdiction over the work.

Subcontractor shall maintain a quality program for the duration of this Subcontract that at a minimum complies with any requirements established in the Prime Agreement. Upon request by PB, Subcontractor shall provide a copy of its quality program to PB. The program must ensure that the Services performed by Subcontractor conform to the requirements of this Subcontract, the applicable Task Order, and the Prime Agreement Terms and Conditions. Subcontractor shall provide for a flow down of all appropriate quality requirements to its lower-tier subcontracts.

As part of its quality program, Subcontractor shall maintain and implement a Quality Control and Quality Assurance Plan ("QA/QC Plan"). At a minimum, the Plan shall ensure (i) Work Product review (the Work Product is accurate and complete) by suitably-qualified parties independent from the personnel performing the Services or delivering the Work Product, and (ii) periodic process audit and review of the overall quality control activities contained in the Plan. Subcontractor shall document all of its quality program activities performed in connection with this Subcontract and its Task Orders. If any deviations are identified in any of the performed Services, corrective actions shall be developed, implemented, and documented by Subcontractor. PB has the right to audit Subcontractor's quality program and its Project-related quality activities required by the Plan at any time. The results of any internal reviews specified in the Plan shall be submitted to PB.

If Subcontractor fails to properly implement and maintain a quality program or QA/QC Plan, and such failure continues following notification to Subcontractor by PB, then PB may, in addition to any other remedies permitted herein or by law, terminate this Subcontract and or the Task Order, withhold payment for Services until Subcontractor is in compliance with the requirements of this Article, or remedy such failure at Subcontractor's expense.

ARTICLE 25: APPLICABLE LAW; JURISDICTION; VENUE

This Subcontract and its Task Orders, their validity, interpretation, and performance, and any disputes between the parties arising out of or relating to this Subcontract or a Task Order, shall be governed by and construed in accordance with the laws of the state of Hawaii, without regard to conflict of laws principles. In the event the parties are first unable to resolve their disputes through good-faith negotiations or through mutually-agreed nonbinding mediation, legal proceedings may be brought. Any such legal proceedings shall be brought in a court of competent jurisdiction in the city and county of Honolulu, and Subcontractor by its signature below consents to the *in personam* jurisdiction of said courts and waives and covenants not to seek change of venue based upon *forum non conveniens*. Notwithstanding the foregoing, legal proceedings may be brought at any time to preserve equitable or legal remedies, obtain equitable or extraordinary relief, preserve evidence, prevent irreparable harm, preserve the status quo pending proceedings on the merits, or preserve claims that might otherwise be barred by applicable statutes of limitations, or lost or impaired on other legal or procedural grounds.

ARTICLE 26: SEVERABILITY

If any provision of a this Subcontract or a Task Order is prohibited by law, invalid, or otherwise unenforceable, the remainder of the document shall remain in full force and effect; provided that in such event the parties hereto shall in good faith attempt to replace the invalid or unenforceable provision with one that is valid and enforceable, and comes as close as reasonably possible to expressing or achieving the intent of the parties with regard to the original provision. Upon agreement, the document shall be amended to incorporate the substitute language.

ARTICLE 27: SURVIVAL

The parties acknowledge that all terms and conditions of this Subcontract and Task Orders which by their nature are intended to survive the termination or expiration of this Subcontract or the Task Order, including non-disclosure, indemnification, insurance, retention and production of Project Records, and other obligations Subcontractor has a continuing duty to observe, as well as all provisions applicable to disputes and legal proceedings, and Article 23 notices, shall survive and be enforceable by PB according to the terms hereof.

ARTICLE 28: SUCCESSORS AND ASSIGNS

Subcontractor shall not assign, sell, transfer or otherwise dispose of any of its interest in this Subcontract or a Task Order, or delegate any of its duties under this Subcontract or a Task Order, without the prior written approval of PB. Any unauthorized attempt thereat shall be void and unenforceable.

ARTICLE 29: THIRD-PARTY BENEFICIARIES

This Subcontract and all Task Orders shall be binding upon and inure to the benefit of the parties hereto, their successors and permitted assigns, only. PB and Subcontractor are the only beneficiaries of this Subcontract and its Task Orders, and are solely entitled to enforce their terms. It is the express intent of PB and Subcontractor that should any persons or entities other than the parties hereto receive a benefit under this Subcontract or any Task Order they shall do so as incidental beneficiaries only.

ARTICLE 30: INTERPRETATION

This Subcontract and its Task Orders shall not be construed in favor of or against either party based upon authorship, the parties being of equal bargaining stature. Headings are solely for the convenience of the parties and shall have no bearing on interpretation of text. Unless established as a term of art, with a well-understood and unequivocal technical or trade meaning, words are used in their common and ordinary meaning. Defined terms are capitalized, and when capitalized, shall carry their defined meaning. Wherever the term "day" or "days" is used, it shall mean singular or consecutive calendar days, respectively. "Business day" shall mean any weekday other than Saturday, Sunday or a holiday recognized and observed by the state where the Project is located.

ARTICLE 31: NONWAIVER

No failure or successive failures on the part of PB to enforce any provision of this Subcontract or a Task Order, or custom or practice that may evolve between the parties in the administration of this Subcontract or a Task Order, shall operate as a waiver or discharge of that or any other provision, or render the same invalid, or impair PB's right to enforce the same in the event of any subsequent breach by Subcontractor. Any waiver, if given, shall be in writing, signed by the party making the waiver and addressed to the other party, and shall be limited to the particular instance and for the particular purposes stipulated therein.

ARTICLE 32: ENTIRE AGREEMENT

This Subcontract represents the entire and integrated agreement between PB and Subcontractor, and supersedes and replaces all prior and contemporaneous understandings, agreements, arrangements, negotiations, and representations, whether written or oral, with respect to the subject matter hereof. This Subcontract may not be modified except in writing, by an amendment signed by the parties thereto.

IN WITNESS WHEREOF, PB and Subcontractor have duly executed this Subcontract, effective from the date first written above.

PARSONS BRINCKERHOFF, INC.

MM PICTURES, LLC

BY: James R. Van Epps
Signature

BY: Melanie Blades
Signature

James R. Van Epps, Sr. Vice President
and Project Manager

MELANIE BLADES
Printed Name

Owner - Producer
Printed Title

**TASK ORDER NO. 1
ISSUED UNDER
PROFESSIONAL SERVICES ON-CALL/TASK ORDER SUBCONTRACT
BETWEEN
PARSONS BRINCKERHOFF, INC.
AND
MM PICTURES, LLC
DATED AUGUST 2, 2011**

Client: Honolulu Authority for Rapid Transportation ("HART")
Project Name: Honolulu High-Capacity Transit Corridor Project (includes the 28-mile Locally Preferred Alternative and the 20-mile Airport Alignment)
PB Project No.: 16590E
Prime Agreement No.: SC-DTS-1100131

PARSONS BRINCKERHOFF, INC. ("PB") and MM PICTURES, LLC ("Subcontractor") entered into the above-referenced Professional Services Task Order Subcontract (the "Subcontract") for the performance of services pursuant to Task Orders. All terms and conditions of the Subcontract, including all exhibits and amendments thereto, and all documents and terms incorporated therein, are by this reference incorporated into this Task Order for all purposes as if fully set forth, and shall govern the parties hereto.

This Task Order, effective as of August 2, 2011, constitutes Subcontractor's Notice to Proceed with performance of the Services described herein, in accordance with the terms hereof.

Section 1. Task Order Services. Subcontractor shall perform the Services set forth in Exhibit A, Scope of Services, attached hereto and by this reference incorporated herein and made a part hereof for all purposes as if fully set forth.

Section 2. Compensation. Subcontractor shall perform the Services for the fixed price/lump sum amount of **SIX THOUSAND TWO HUNDRED SEVENTY AND NO/100 DOLLARS (\$6,270.00)**. The lump-sum amount includes all direct labor, overhead, general and administrative expenses, other direct costs, subcontractor costs, fees (profit), and all applicable taxes, excluding State General Excise and Use Tax (GET). Compensation shall be due and payable upon completion of the Services and submittal of all deliverables.

Section 3. Invoices. Subcontractor shall submit its invoice in accordance with the requirements of Subcontract Article 5.

Section 4. Key Personnel. If any Subcontractor key personnel have been designated for this Task Order, they are listed below. Subcontractor's key personnel shall not be replaced without PB's or Client's prior written consent.

Key Personnel: Melanie Blade, Principal
Andrew Magpoc, Producer

Section 5. Performance Schedule. Subcontractor shall perform the Services, including submittal of all deliverables, if any, in accordance with the Schedule stipulated in Exhibit A.

Section 6. Conflicts. In the event any term of this Task Order conflicts with the terms of any document incorporated herein by reference, the terms of this Task Order shall take precedence unless the conflict involves a mandatory Prime Agreement term or condition. In such case the mandatory provision shall prevail.

Section 7. Entire Agreement. This Task Order represents the entire and integrated agreement between PB and Subcontractor, and supersedes and replaces all prior and contemporaneous understandings, agreements, arrangements, negotiations, and representations, whether written or oral, with respect to the subject matter hereof. This Task Order may not be modified except in writing, by an amendment signed by the parties hereto.

BY THE SIGNATURES BELOW of their authorized representatives, the parties affirm the terms of this Task Order and agree to be bound accordingly.

PARSONS BRINCKERHOFF, INC.

BY: James R. Van Epps
Signature

James R. Van Epps, Sr. Vice President
and Project Manager

MM PICTURES, LLC

BY: Melanie Blades
Signature

MELANIE BLADES
Printed Name

Owner - Producer
Printed Title

EXHIBIT A

SCOPE OF SERVICES AND SCHEDULE OF DELIVERABLES

Subcontractor shall perform the following Services.

RAIL STATION PLATFORM GATES (VIRTUAL SIMULATION)

Services

1. Subcontractor shall produce HD (high definition) still simulation of the rail station platform gates to be used for public outreach displays and collateral. Services to include:
 - a. Incorporation of Client selected and provided images
 - b. Presentation to PB and Client of "in-progress" simulations during the development phase for input and acceptance. Obtaining PB and Client approval of simulation prior to delivery of the final product
 - c. Film/Video/Simulation production includes staff, equipment and software
 - d. Media encoding and delivery of simulations via DropBox upload
 - e. Mastering for archival purposes to BluRay data disc

2. Subcontractor shall produce HD (high definition) animated simulation of the rail station platform gates to be used for public outreach displays and collateral. Services to include:
 - a. Incorporation of Client-selected and provided images
 - b. Presentation to PB and Client of "in-progress" simulations during the development phase for input and acceptance. Obtaining PB and Client approval of simulation prior to delivery of the final product.
 - c. Film/Video/Simulation production includes staff, equipment and software
 - d. Media encoding and delivery of simulations via DropBox upload
 - e. Mastering for archival purposes to BluRay data disc
 - f. Includes live actors, simulated vehicles and platform

Schedule

Production complete, all approvals obtained and final deliverables submitted by October 13, 2011.

**TASK ORDER NO. 2
ISSUED UNDER
PROFESSIONAL SERVICES ON-CALL/TASK ORDER SUBCONTRACT
BETWEEN
PARSONS BRINCKERHOFF, INC.
AND
MM PICTURES, LLC
DATED AUGUST 2, 2011**

Client: Honolulu Authority for Rapid Transportation ("HART")
Project Name: Honolulu High-Capacity Transit Corridor Project (includes the 28-mile Locally Preferred Alternative and the 20-mile Airport Alignment)
PB Project No.: 16590E
Prime Agreement No.: SC-DTS-1100131

PARSONS BRINCKERHOFF, INC. ("PB") and MM PICTURES, LLC ("Subcontractor") entered into the above-referenced Professional Services Task Order Subcontract (the "Subcontract") for the performance of services pursuant to Task Orders. All terms and conditions of the Subcontract, including all exhibits and amendments thereto, and all documents and terms incorporated therein, are by this reference incorporated into this Task Order for all purposes as if fully set forth, and shall govern the parties hereto.

This Task Order, effective as of August 2, 2011, constitutes Subcontractor's Notice to Proceed with performance of the Services described herein, in accordance with the terms hereof.

Section 1. Task Order Services. Subcontractor shall perform the Services set forth in Exhibit A, Scope of Services, attached hereto and by this reference incorporated herein and made a part hereof for all purposes as if fully set forth.

Section 2. Compensation. Subcontractor shall perform the Services for the fixed price/lump sum amount of **ONE HUNDRED FIFTY-FOUR THOUSAND ONE HUNDRED FORTY AND NO/100 DOLLARS (\$154,140.00)**, calculated according to the fee breakdown set forth in Exhibit B, attached hereto and by this reference incorporated herein and made a part hereof for all purposes as if fully set forth. The lump sum payment includes all direct labor, overhead, general and administrative expenses, other direct costs, subcontractor/subconsultant costs, fees (profit), and all applicable taxes including State General Excise and Use Tax (GET).

The compensation shall be payable in twelve equal monthly lump-sums of \$12,845. Each lump-sum will be payable only upon timely completion of the Services due for that month in accordance with contract requirements, submittal of all deliverables, and acceptance by PB.

Section 3. Invoices. Subcontractor shall submit monthly invoices in accordance with the requirements of Subcontract Article 5.

Section 4. Key Personnel. If any Subcontractor key personnel have been designated for this Task Order, they are listed below. Subcontractor's key personnel shall not be replaced without PB's or Client's prior written consent.

Key Personnel: Melanie Blade, Principal
Andrew Magpoc, Producer

Section 5. Performance Schedule. Subcontractor shall perform the Services, including submittal of all deliverables, if any, in accordance with the Schedule stipulated in Exhibit A.

Section 6. Conflicts. In the event any term of this Task Order conflicts with the terms of any document incorporated herein by reference, the terms of this Task Order shall take precedence unless the conflict involves a mandatory Prime Agreement term or condition. In such case the mandatory provision shall prevail.

Section 7. Entire Agreement. This Task Order represents the entire and integrated agreement between PB and Subcontractor, and supersedes and replaces all prior and contemporaneous understandings, agreements, arrangements, negotiations, and representations, whether written or oral, with respect to the subject matter hereof. This Task Order may not be modified except in writing, by an amendment signed by the parties hereto.

BY THE SIGNATURES BELOW of their authorized representatives, the parties affirm the terms of this Task Order and agree to be bound accordingly.

PARSONS BRINCKERHOFF, INC.

BY: James R. Van Epps
Signature

James R. Van Epps, Sr. Vice President
and Project Manager

MM PICTURES, LLC

BY: Melanie Blades
Signature

MELANIE BLADES
Printed Name

Owner-Producer
Printed Title

EXHIBIT A

SCOPE OF SERVICES AND SCHEDULE OF DELIVERABLES

Subcontractor shall perform the following Services.

I. Subcontractor shall produce the monthly Honolulu on the Move television program.

Services shall be for the production of one (1) Honolulu on the Move show (15-28 minutes) per month for twelve (12) consecutive months.

Services to include:

- All production crews and management, producers and equipment operators
- HD camera, DP, Audio and Operator for B-roll and host stand-ups
- Digitizing of footage and addition of graphics as required
- Editing, Audio Mixing, Graphics, DVD Authoring and Mastering
- Encoding, converting, uploading and documenting completed Honolulu on the Move program content to social media websites including YouTube, Vimeo, and Facebook on a monthly basis for each month's show
- Subcontractor will deliver a total of 3 discs each month per the Deliverables Due date shown below. Two discs (masters) will contain the finished monthly product, Honolulu on the Move. Of these 2 discs, one will be delivered to PB and one will be delivered to Olelo Multimedia Department. The 3rd disc will be a Blu-ray disc containing all the media it took to make that show (multiple takes, cameos, stand-ups, interviews, presenters, raw footage, B-rolls, etc.) and it will also contain the completed show. The Blu-ray disc will be delivered to PB.

Monthly Production Schedule and Deliverables Due

Video Shoot, Host Stand-ups:	Due last Monday of each month
Assorted B-roll shoot:	As needed throughout the month
Video Production and Edits:	Due last Tuesday of each month
Submit Final Deliverable:	Due last Wednesday of each month

EXHIBIT B
COMPENSATION

**Exhibit 2A – Compensation Breakdown
Summary**

MM PICTURES, LLC

Item	Monthly Lump Sum	Total Lump Sum (12 months)
Production Total	\$12,300	\$147,600
General Excise and Use Tax (4.5 %)	\$545	\$6,540
TOTAL	\$12,845	\$154,140

**AMENDMENT NO. 1 TO TASK ORDER NO. 2
ISSUED UNDER
PROFESSIONAL SERVICES ON-CALL/TASK ORDER SUBCONTRACT
BETWEEN
PARSONS BRINCKERHOFF, INC.
AND
MM PICTURES, LLC
DATED AUGUST 2, 2011**

THIS Task Order Amendment, effective as of the 2nd day of August, 2011, is made and entered into by and between **PARSONS BRINCKERHOFF, INC.** ("PB") and **MM PICTURES, LLC** ("Subcontractor").

RECITALS

PB and Subcontractor entered into the above-referenced Professional Services Task Order Subcontract ("Subcontract") for the performance of services pursuant to Task Orders. The parties thereafter entered into Task Order No. 2, dated August 2, 2011, for the performance of services pursuant to Task Orders.

PB and Subcontractor now desire to amend Task Order No. 2 to correct certain compensation provisions.

Therefore, for the consideration hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which the parties hereto by their signatures below affirm, the parties do mutually agree as follows:

TERMS

The above recitals are incorporated herein and made a part hereof as if fully set forth.

A. Section 2: Compensation. The not-to-exceed amount of the Task Order, as set forth in Section 2 thereof, is revised to read, **"ONE HUNDRED FIFTY-FOUR THOUSAND TWO HUNDRED FORTY-TWO AND NO/100 DOLLARS (\$154,242.00)."**

B. Exhibit B, Compensation. Exhibit B is hereby deleted in its entirety and replaced with the revised Exhibit B, Compensation, annexed hereto and by this reference incorporated into the Subcontract for all purposes as if fully set forth.

C. All other terms and conditions of the Task Order remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment No. 1 to Subcontract Task Order No. 2, effective as of the date first written above.

PARSONS BRINCKERHOFF, INC.

BY: James R. Van Epps
Signature
James R. Van Epps, Sr. Vice President
and Project Manager

MM PICTURES, LLC

BY: Melanie Blades
Signature
MELANIE BLADES
Printed Name
owner/producer
Printed Title

EXHIBIT B – REVISED

COMPENSATION

**Exhibit 2A – Compensation Breakdown
Summary**

MM PICTURES, LLC

Item	Monthly Lump Sum	Total Lump Sum (12 months)
Production Total	\$12,300.00	\$147,600.00
General Excise and Use Tax (4.5%)	\$553.50	\$6,642.00
TOTAL	\$12,853.50	\$154,242.00

**TASK ORDER NO. 3
ISSUED UNDER
PROFESSIONAL SERVICES ON-CALL/TASK ORDER SUBCONTRACT
BETWEEN
PARSONS BRINCKERHOFF, INC.
AND
MM PICTURES, LLC
DATED AUGUST 2, 2011**

Client: Honolulu Authority for Rapid Transportation ("HART")
Project Name: Honolulu High-Capacity Transit Corridor Project (includes the 28-mile Locally Preferred Alternative and the 20-mile Airport Alignment)
PB Project No.: 16590E
Prime Agreement No.: SC-DTS-1100131

PARSONS BRINCKERHOFF, INC. ("PB") and MM PICTURES, LLC ("Subcontractor") entered into the above-referenced Professional Services Task Order Subcontract (the "Subcontract") for the performance of services pursuant to Task Orders. All terms and conditions of the Subcontract, including all exhibits and amendments thereto, and all documents and terms incorporated therein, are by this reference incorporated into this Task Order for all purposes as if fully set forth, and shall govern the parties hereto.

This Task Order, effective as of the 2nd day of August, 2011, constitutes Subcontractor's Notice to Proceed with performance of the Services described herein, in accordance with the terms hereof.

Section 1. Task Order Services. Subcontractor shall perform the Services set forth in Exhibit A, Scope of Services, attached hereto and by this reference incorporated herein and made a part hereof for all purposes as if fully set forth.

Section 2. Compensation. Subcontractor shall perform the Services for the fixed price/lump sum amount of **FIFTEEN THOUSAND SIX HUNDRED SEVENTY-FIVE AND NO/100 DOLLARS (\$15,675.00)**, calculated according to the compensation breakdown set forth in Exhibit B, attached hereto and by this reference incorporated herein and made a part hereof for all purposes as if fully set forth. The lump sum payment includes all direct labor, overhead, general and administrative expenses, other direct costs, subcontractor/subconsultant costs, fees (profit), and all applicable taxes including State General Excise and Use Tax (GET).

The compensation shall be payable in twelve (12) equal lump sums of \$1,306.25 inclusive of GET. Each lump sum will be payable only upon timely completion of the Services in accordance with contract requirements, submittal of all deliverables, and acceptance by PB.

Section 3. Invoices. Subcontractor shall submit its invoices in accordance with the requirements of Subcontract Article 5.a through c only upon satisfactory completion of each Activity Production referenced in Exhibit A and submittal of all associated deliverables.

Section 4. Key Personnel. Subcontractor key personnel designated for this Task Order are listed below. Subcontractor's key personnel shall not be replaced without PB's or Client's prior written consent.

Key Personnel: Melanie Blades, Principal
Andrew Magpoc, Producer

Section 5. Performance Schedule. Subcontractor shall perform the Services, including submittal of all deliverables, if any, in accordance with the Schedule stipulated in Exhibit A.


Section 6. Conflicts. In the event any term of this Task Order conflicts with the terms of any document incorporated herein by reference, the terms of this Task Order shall take precedence unless the conflict involves a mandatory Prime Agreement term or condition. In such case the mandatory provision shall prevail.

Section 7. Entire Agreement. This Task Order represents the entire and integrated agreement between PB and Subcontractor, and supersedes and replaces all prior and contemporaneous understandings, agreements, arrangements, negotiations, and representations, whether written or oral, with respect to the subject matter hereof. This Task Order may not be modified except in writing, by an amendment signed by the parties hereto.

BY THE SIGNATURES BELOW of their authorized representatives, the parties affirm the terms of this Task Order and agree to be bound accordingly.

PARSONS BRINCKERHOFF, INC.

BY:


Signature

James R. Van Epps, Sr. Vice President
and Project Manager

MM PICTURES, LLC

BY:


Signature

MELANIE BLADES

Printed Name

OWNER / PRODUCER

Printed Title

EXHIBIT A

SCOPE OF SERVICES AND SCHEDULE OF DELIVERABLES

A. Services

ACTIVITY PRODUCTIONS

Subcontractor shall produce and distribute twelve (12) activity productions of less than five (5) hours duration. These productions will typically include full documentation of events such as conferences, community updates, news and press conferences, rail station workshops, town hall meetings, and public involvement activities. Events will take place from August 2, 2011 through July 31, 2014. PB will provide Subcontractor with notification of each event via NTP delivered in accordance with the notice provisions of Subcontract Article 23.

Each production, will include the HD camera, lights, DP, Audio, and Operator, as well as the following:

- Subcontractor will obtain all necessary waivers and licenses by either an on-camera talent release or a signed talent release form obtained by the Subcontractor.
- Subcontractor will supply all production crews, producers, editors, and equipment operators.
- Subcontractor will provide digital data back-up of raw interviews, speakers, and montage b-roll footage to Blu-ray data disc delivered to PB.

B. Deliverables

For each activity production, Subcontractor will prepare and deliver to PB the complete and finished products listed below in the format indicated:

- One (1) VNR master DVD (includes stock)
- One (1) VNR master back-up on Blu-ray data disc
- One (1) Digital data back-up Blu-ray data disc containing all raw interviews, speakers, and montage b-roll footage

C. Performance Schedule

Subcontractor shall transmit deliverables to PB no later than ten (10) days from the date of the production.

EXHIBIT B
COMPENSATION

**Exhibit 2A – Compensation Breakdown
Summary**

MM PICTURES, LLC

Item	Event Lump Sum	Total Lump Sum (12 Events)
Production Total	\$1,250.00	\$15,000.00
General Excise and Use Tax (4.5 %)	\$56.25	\$675.00
TOTAL	\$1,306.25	\$15,675.00

**TASK ORDER NO. 4
ISSUED UNDER
PROFESSIONAL SERVICES ON-CALL/TASK ORDER SUBCONTRACT
BETWEEN
PARSONS BRINCKERHOFF, INC.
AND
MM PICTURES, LLC
DATED AUGUST 2, 2011**

Client: Honolulu Authority for Rapid Transportation ("HART")
Project Name: Honolulu High-Capacity Transit Corridor Project (includes the 28-mile Locally Preferred Alternative and the 20-mile Airport Alignment)
PB Project No.: 16590E
Prime Agreement No.: SC-DTS-1100131

PARSONS BRINCKERHOFF, INC. ("PB") and MM PICTURES, LLC ("Subcontractor") entered into the above-referenced Professional Services Task Order Subcontract (the "Subcontract") for the performance of services pursuant to Task Orders. All terms and conditions of the Subcontract, including all exhibits and amendments thereto, and all documents and terms incorporated therein, are by this reference incorporated into this Task Order for all purposes as if fully set forth, and shall govern the parties hereto.

This Task Order, effective as of the 2nd day of August, 2011, constitutes Subcontractor's Notice to Proceed with performance of the Services described herein, in accordance with the terms hereof.

Section 1. Task Order Services. Subcontractor shall perform the Services set forth in Exhibit A, Scope of Services, attached hereto and by this reference incorporated herein and made a part hereof for all purposes as if fully set forth.

Section 2. Compensation. Subcontractor shall perform the Services for the fixed price/lump sum amount, of **TWENTY-EIGHT THOUSAND EIGHT HUNDRED FORTY-TWO AND NO/100 DOLLARS (\$28,842.00)**, calculated according to the compensation breakdown set forth in Exhibit B, attached hereto and by this reference incorporated herein and made a part hereof for all purposes as if fully set forth. The lump sum payment includes all direct labor, overhead, general and administrative expenses, other direct costs, subcontractor/subconsultant costs, fees (profit), and all applicable taxes including State General Excise and Use Tax (GET).

The compensation shall be payable in twelve (12) equal lump sums of \$2,403.50 inclusive of GET. Each lump sum will be payable only upon timely completion of the Services in accordance with contract requirements, submittal of all deliverables, and acceptance by PB.

Section 3. Invoices. Subcontractor shall submit its invoices in accordance with the requirements of Subcontract Article 5.a through c only upon satisfactory completion of the each Event Production referenced in Exhibit A, and submittal of all associated deliverables.

Section 4. Key Personnel. Subcontractor key personnel designated for this Task Order are listed below. Subcontractor's key personnel shall not be replaced without PB's or Client's prior written consent.

Key Personnel: Melanie Blades, Principal
Andrew Magpoc, Producer

Section 5. Performance Schedule. Subcontractor shall perform the Services, including submittal of all deliverables, if any, in accordance with the schedule stipulated in Exhibit A.

Section 6. Conflicts. In the event any term of this Task Order conflicts with the terms of any document incorporated herein by reference, the terms of this Task Order shall take precedence unless the conflict involves a mandatory Prime Agreement term or condition. In such case the mandatory provision shall prevail.

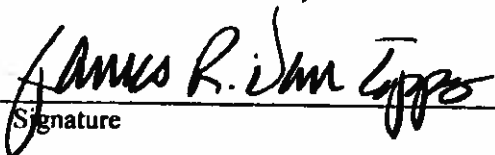
Section 7. Entire Agreement. This Task Order represents the entire and integrated agreement between PB and Subcontractor, and supersedes and replaces all prior and contemporaneous understandings, agreements, arrangements, negotiations, and representations, whether written or oral, with respect to the subject matter hereof. This Task Order may not be modified except in writing, by an amendment signed by the parties hereto.

BY THE SIGNATURES BELOW of their authorized representatives, the parties affirm the terms of this Task Order and agree to be bound accordingly.

PARSONS BRINCKERHOFF, INC.

MM PICTURES, LLC

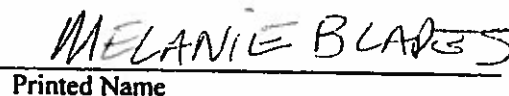
BY:


Signature

BY:


Signature

James R. Van Epps, Sr. Vice President
and Project Manager


Printed Name


Printed Title

EXHIBIT A

SCOPE OF SERVICES AND SCHEDULE OF DELIVERABLES

A. Services

EVENT PRODUCTIONS

Subcontractor shall produce and distribute twelve (12) event productions of greater than five (5) hours duration. These productions will typically include full documentation of events such as workshops, special announcements and milestones, public meetings, and community outreach efforts. Events will take place from August 2, 2011 through July 31, 2014. PB will provide Subcontractor with notification of each event via NTP delivered in accordance with the notice provisions of Subcontract Article 23.

Each production will include the HD camera, lights, DP, Audio, and Operator, as well as the following:

- Subcontractor will obtain all necessary waivers and licenses by either an on-camera talent release or a signed talent release form.
- Subcontractor will supply all production crews, producers, editors, and equipment operators.
- Subcontractor will perform VNR editing on location as deemed necessary by PB.
- Subcontractor will provide VNR digitizing of footage and add digital graphics as required by PB.

B. Deliverables

For each event production, Subcontractor will prepare and deliver to PB the complete and finished products listed below in the format indicated.

- One (1) VNR master DVD (includes stock)
- One (1) VNR master back-up on Blu-ray data disc
- One (1) Digital data back-up Blu-ray data disc containing all raw interviews, speakers, and montage b-roll footage

C. Performance Schedule

Subcontractor shall transmit deliverables to PB no later than ten (10) days from the date of the production.

EXHIBIT B
COMPENSATION

**Exhibit 2A – Compensation Breakdown
Summary**

MM PICTURES, LLC

Item	Event Lump Sum	Total Lump Sum (12 Events)
Production Total	\$2,300.00	\$27,600.00
General Excise and Use Tax (4.5 %)	\$103.50	\$1,242.00
TOTAL	\$2,403.50	\$28,842.00

**TASK ORDER NO. 5
ISSUED UNDER
PROFESSIONAL SERVICES ON-CALL/TASK ORDER SUBCONTRACT
BETWEEN
PARSONS BRINCKERHOFF, INC.
AND
MM PICTURES, LLC
DATED AUGUST 2, 2011**

Client: Honolulu Authority for Rapid Transportation ("HART")
Project Name: Honolulu High-Capacity Transit Corridor Project (includes the 28-mile Locally Preferred Alternative and the 20-mile Airport Alignment)
PB Project No.: 16590E
Prime Agreement No.: SC-DTS-1100131

PARSONS BRINCKERHOFF, INC. ("PB") and MM PICTURES, LLC ("Subcontractor") entered into the above-referenced Professional Services Task Order Subcontract (the "Subcontract") for the performance of services pursuant to Task Orders. All terms and conditions of the Subcontract, including all exhibits and amendments thereto, and all documents and terms incorporated therein, are by this reference incorporated into this Task Order for all purposes as if fully set forth, and shall govern the parties hereto.

This Task Order, effective as of the 2nd day of August, 2012, constitutes Subcontractor's Notice to Proceed with performance of the Services described herein, in accordance with the terms hereof.

Section 1. Task Order Services. Subcontractor shall perform the Services set forth in Exhibit A, Scope of Services, attached hereto and by this reference incorporated herein and made a part hereof for all purposes as if fully set forth.

Section 2. Compensation. Subcontractor shall perform the Services for the fixed price/lump sum amount of **FIFTEEN THOUSAND SIX HUNDRED SEVENTY-FIVE AND NO/100 DOLLARS (\$15,675.00)**, calculated according to the compensation breakdown set forth in Exhibit B, attached hereto and by this reference incorporated herein and made a part hereof for all purposes as if fully set forth. The lump sum payment includes all direct labor, overhead, general and administrative expenses, other direct costs, subcontractor/subconsultant costs, fees (profit), and all applicable taxes including State General Excise and Use Tax (GET).

The compensation shall be payable in twelve (12) equal lump sums of \$1,306.25 inclusive of GET. Each lump sum will be payable only upon timely completion of the Services in accordance with contract requirements, submittal of all deliverables, and acceptance by PB.

Section 3. Invoices. Subcontractor shall submit its invoices in accordance with the requirements of Subcontract Article 5.a through c only upon satisfactory completion of each Production referenced in Exhibit A and submittal of all associated deliverables.

Section 4. Key Personnel. Subcontractor key personnel designated for this Task Order are listed below. Subcontractor's key personnel shall not be replaced without PB's or Client's prior written consent.

Key Personnel: Melanie Blades, Principal
Andrew Magpoc, Producer

Section 5. Performance Schedule. Subcontractor shall perform the Services, including submittal of all deliverables, if any, in accordance with the Schedule stipulated in Exhibit A.

Section 6. Conflicts. In the event any term of this Task Order conflicts with the terms of any document incorporated herein by reference, the terms of this Task Order shall take precedence unless the conflict involves a mandatory Prime Agreement term or condition. In such case the mandatory provision shall prevail.

Section 7. Entire Agreement. This Task Order represents the entire and integrated agreement between PB and Subcontractor, and supersedes and replaces all prior and contemporaneous understandings, agreements, arrangements, negotiations, and representations, whether written or oral, with respect to the subject matter hereof. This Task Order may not be modified except in writing, by an amendment signed by the parties hereto.

BY THE SIGNATURES BELOW of their authorized representatives, the parties affirm the terms of this Task Order and agree to be bound accordingly.

PARSONS BRINCKERHOFF, INC.

MM PICTURES, LLC

BY:

James R. Van Epps
Signature

BY:

Melanie Blades
Signature

James R. Van Epps, Sr. Vice President
and Project Manager

MELANIE BLADES
Printed Name

Owner/PRODUCER
Printed Title

EXHIBIT A

SCOPE OF SERVICES AND SCHEDULE OF DELIVERABLES

A. Services

COMMUNITY VOICES/SHORT MEDIA PRODUCTION

Subcontractor shall produce and distribute twelve (12) original, short media productions of two- to three-minute duration. These productions will typically include a minimum of three (3) varied community members utilizing previously recorded material. Events will take place from August 2, 2012 through July 31, 2014. PB will provide notification of each event via NTP delivered in accordance with the notice provisions of Subcontract Article 23.

Each production will include the HD camera, lights, DP, Audio, and Operator, as well as the following:

- Subcontractor will obtain all necessary waivers and licenses by either an on-camera talent release or a signed talent release form
- Subcontractor will supply all editing equipment and operators
- Subcontractor will digitize footage and add graphics as required
- Subcontractor will perform/provide editing, audio mixing, graphics, DVD authoring, and mastering
- Subcontractor will encode, convert, upload, and document completed production as requested

B. Deliverables

For each event production, Subcontractor will prepare and deliver to PB the complete and finished products listed below in the format indicated.

- One (1) VNR master DVD (includes stock)
- One (1) VNR master back-up on Blu-ray data disc
- One (1) Digital data back-up Blu-ray data disc containing all raw interviews, speakers, and montage b-roll footage

C. Performance Schedule

Subcontractor shall transmit deliverables to PB no later than ten (10) days from the date of the production.

EXHIBIT B
COMPENSATION

**Exhibit 2A – Compensation Breakdown
Summary**

MM PICTURES, LLC

Item	Production Lump Sum	Total Lump Sum (12 Productions)
Production Total	\$1,250.00	\$15,000.00
General Excise and Use Tax (4.5 %)	\$56.25	\$675.00
TOTAL	\$1,306.25	\$15,675.00

**TASK ORDER NO. 6
ISSUED UNDER
PROFESSIONAL SERVICES ON-CALL/TASK ORDER SUBCONTRACT
BETWEEN
PARSONS BRINCKERHOFF, INC.
AND
MM PICTURES, LLC
DATED AUGUST 2, 2011**

Client: Honolulu Authority for Rapid Transportation ("HART")
Project Name: Honolulu High-Capacity Transit Corridor Project (includes the 28-mile Locally Preferred Alternative and the 20-mile Airport Alignment)
PB Project No.: 16590E
Prime Agreement No.: SC-DTS-1100131

PARSONS BRINCKERHOFF, INC. ("PB") and MM PICTURES, LLC ("Subcontractor") entered into the above-referenced Professional Services Task Order Subcontract (the "Subcontract") for the performance of services pursuant to Task Orders. All terms and conditions of the Subcontract, including all exhibits and amendments thereto, and all documents and terms incorporated therein, are by this reference incorporated into this Task Order for all purposes as if fully set forth, and shall govern the parties hereto.

This Task Order, effective as of the 14th day of May, 2012, constitutes Subcontractor's Notice to Proceed with performance of the Services described herein, in accordance with the terms hereof.

Section 1. Task Order Services. Subcontractor shall perform the Services set forth in Exhibit A, Scope of Services, attached hereto and by this reference incorporated herein and made a part hereof for all purposes as if fully set forth.

Section 2. Compensation. Subcontractor shall perform the Services for the fixed price/lump sum amount of **SIX THOUSAND FIVE HUNDRED THIRTY-ONE AND 25/100 DOLLARS (\$6,531.25)**, calculated according to the compensation breakdown set forth in Exhibit B, attached hereto and by this reference incorporated herein and made a part hereof for all purposes as if fully set forth. The lump sum payment includes all direct labor, overhead, general and administrative expenses, other direct costs, subcontractor/subconsultant costs, fees (profit), and all applicable taxes including State General Excise and Use Tax (GET).

Section 3. Invoices. Subcontractor shall submit its invoices in accordance with the requirements of Subcontract Article 5.a through c only upon satisfactory completion of the Video Production referenced in Exhibit A and submittal of all associated deliverables.

Section 4. Key Personnel. Subcontractor key personnel designated for this Task Order are listed below. Subcontractor's key personnel shall not be replaced without PB's or Client's prior written consent.

Key Personnel: Melanie Blades, Principal
Andrew Magpoc, Producer

Section 5. Performance Schedule. Subcontractor shall perform the Services, including submittal of all deliverables, if any, in accordance with the Schedule stipulated in Exhibit A.

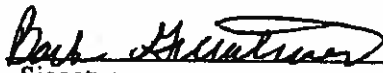
Section 6. Conflicts. In the event any term of this Task Order conflicts with the terms of any document incorporated herein by reference, the terms of this Task Order shall take precedence unless the conflict involves a mandatory Prime Agreement term or condition. In such case the mandatory provision shall prevail.

Section 7. Entire Agreement. This Task Order represents the entire and integrated agreement between PB and Subcontractor, and supersedes and replaces all prior and contemporaneous understandings, agreements, arrangements, negotiations, and representations, whether written or oral, with respect to the subject matter hereof. This Task Order may not be modified except in writing, by an amendment signed by the parties hereto.

BY THE SIGNATURES BELOW of their authorized representatives, the parties affirm the terms of this Task Order and agree to be bound accordingly.

PARSONS BRINCKERHOFF, INC.

MM PICTURES, LLC

BY: 
Signature

BY: 
Signature

for:

James R. Van Epps, Sr. Vice President
and Project Manager

MELANIE BLADES
Printed Name

OWNER / PRODUCER
Printed Title

EXHIBIT A

SCOPE OF SERVICES AND SCHEDULE OF DELIVERABLES

A. Services

Subcontractor shall produce one (1) video of up to four (4) hours duration in accordance with Stipulation V.F of the Project Programmatic Agreement dated January 2011. The video production shall be comprehensive video coverage of the project corridor and will consist of unedited footage filmed from a moving vehicle, using a mounted camera. The project corridor shall be filmed from the vehicle in each direction, from Ala Moana Station to East Kapolei Station, and from East Kapolei Station to Ala Moana Station.

The video production will include film camera (and other equipment as required), vehicle mounting, Director of Photography, and Operator. The Subcontractor shall:

- Obtain all necessary waivers and licenses.
- Supply all production crews, producers, editors, and equipment operators.
- Provide digital data back-up of footage on Blu-ray data disc delivered to PB.
- Prepare and deliver the complete and finished products listed below under Deliverables in the formats indicated to PB.

B. Deliverables

- Ten (10) DVDs with Chapters
- Two (2) Blu-rays with Chapters
- Two (2) DVDs Web Resolution Data Discs
- Two (2) master DVD of footage, playable in a standard DVD player
- Two (2) HD master back-up on Blu-ray data disc
- Two (2) Digital data back-up Blu-ray data disc containing all raw footage

C. Performance Schedule

Subcontractor shall commence taping at the direction of PB and shall transmit deliverables no later than two (2) weeks from the date of completion of video production.

EXHIBIT B
COMPENSATION

**Exhibit 2A – Compensation Breakdown
Summary**

MM PICTURES, LLC

Item	Video Production Lump Sum
Filming	\$1,250.00
Encoding/Menu Creation/Mastering	<u>\$5,000.00</u>
Lump Sum Subtotal	\$6,250.00
General Excise and Use Tax (4.5 %)	\$281.25
TOTAL	\$6,531.25

**PROFESSIONAL SERVICES SUBCONTRACT
BETWEEN
PARSONS BRINCKERHOFF, INC.
AND
RED MONARCH STRATEGIES INC.
(#PB-16590E-RC0)**

This Subcontract, effective as of the 2nd day of August, 2011, is made and entered into by and between **PARSONS BRINCKERHOFF, INC.** ("PB"), a New York corporation with offices at Alii Place, 17th Floor, 1099 Alakea Street, Honolulu, HI 96813, and **RED MONARCH STRATEGIES INC.** ("Subcontractor"), a Hawaii corporation with offices at [REDACTED].

RECITALS

PB (formerly known as "PB Americas, Inc.") entered into General Engineering Consultant Contract (GEC II) No. SC-DTS-1-100131 dated June 30, 2011 (the "Prime Agreement") between PB Americas, Inc. and the Honolulu Authority for Rapid Transportation, hereinafter referred to as "HART" ("Client"), to provide general engineering, planning, construction management and other consultant services for the Honolulu High-Capacity Transit Corridor Project, which includes the 28-mile Locally Preferred Alternative and the 20-mile Airport Alignment, as more particularly defined in Prime Agreement Special Provisions VII(A) ("HHCTCP" or the "Project").

PB has determined the need to subcontract certain of the public involvement services required under the Prime Agreement, and Subcontractor has agreed to provide the same for the duration of the Prime Agreement in accordance with the terms and conditions contained herein.

Therefore, for the consideration hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which the parties by their signatures below affirm, the parties do mutually agree as follows.

TERMS

The foregoing recitals are incorporated herein for all purposes as if fully set forth.

ARTICLE 1: PRIME AGREEMENT TERMS AND CONDITIONS

Except as noted below, or where in their application the context clearly requires otherwise, all the terms and conditions of the Prime Agreement, including all exhibits thereto and other documents incorporated by reference therein, that pertain to the subcontracted services or to the Subcontractor, or that by their express terms are required to be incorporated into each subcontract (the "Prime Agreement Terms and Conditions"), labeled **Attachment 1**, are by this reference incorporated herein and made a part hereof for all purposes. By the signature below of its authorized representative, Subcontractor affirms that it has been provided a copy of Attachment 1 on CD.

With regard to the services to be performed by it, Subcontractor assumes toward PB all of the obligations and responsibilities that PB assumes toward the Client under the Prime Agreement Terms and Conditions, and Subcontractor shall be bound by all of the Prime Agreement Terms and Conditions to the same extent as PB is bound thereby. In the event of any conflicts or ambiguities between or among the provisions of this Subcontract and the Prime Agreement Terms and Conditions, the provision that imposes the more stringent requirement on Subcontractor shall take precedence.

Subcontractor shall include in all lower-tier subcontracts those provisions of the Prime Agreement that are required to be so included, and shall require all lower-tier subcontractors to comply with such provisions for the duration of their respective subcontracts. Subcontractor shall require each lower-tier subcontractor to make such disclosures and execute such attestations as may be required under the Prime Agreement Terms and Conditions, including but not limited to those required by state or federal statute associated with source of funding. Failure to comply with the terms of this paragraph shall constitute a material default.

ARTICLE 2: SCOPE OF SERVICES; UNAUTHORIZED AND EXTRA WORK

a. **Services.** Subcontractor shall perform, consistent with the standard of care stipulated herein and other terms and conditions of this Subcontract, those services set forth in the Scope of Services annexed hereto as **Attachment 2** and by this reference incorporated herein and made a part hereof for all purposes (the "Services") as may be required during the term of the Prime Agreement to complete the Project. The Services include all tasks and components, whether or not expressly set forth herein, that are manifestly necessary to carry out the intent of this Subcontract, or that are customarily performed in conjunction with, as a component of, or in order to accomplish, the Services, and such tasks and components shall be performed as if fully set forth in the description of the Services.

b. **Unauthorized and Extra Work.** Subcontractor shall not proceed with performance of any Services or incur any costs, or be entitled to compensation or reimbursement for any Services performed or costs incurred, prior to the effective date of this Subcontract and issuance of Notice to Proceed ("NTP"). Nor shall Subcontractor proceed with performance of any work in addition to that stipulated in this Subcontract ("Extra Work"), or be entitled to compensation therefor, or to reimbursement for costs incurred in connection therewith, prior to full and proper execution of a Subcontract amendment executed by both parties describing the work to be performed, the schedule for performance, and the compensation to be paid. **Any work performed prior to the effective date of this Subcontract or an amendment authorizing same, is done solely as a volunteer and at no cost to PB.**

ARTICLE 3: KEY PERSONNEL

If any Subcontractor key personnel have been designated for this Project, they are listed below. Subcontractor's key personnel shall not be replaced without PB's or Client's prior written consent. In the event any key personnel become unavailable due to separation from employment with Subcontractor, long-term illness/disability, or death, Subcontractor shall nominate a replacement with equivalent qualifications for PB's approval, which shall not be unreasonably withheld. In the event Subcontractor fails to provide a suitable replacement, PB shall have the right to terminate this Subcontract.

Key Personnel: Bennette Misalucha

ARTICLE 4: COMPENSATION

a. **Total Contract Amount.** Subcontractor shall be compensated on a Bill Rate basis, and shall perform the Services for an amount not to exceed **ONE HUNDRED SIXTY-EIGHT THOUSAND FIVE HUNDRED FIFTY-NINE AND NO/100 DOLLARS (\$168,559.00)** (the "Total Price"), in accordance with the Fee Schedule/Budget annexed hereto as **Attachment 3** and by this reference incorporated herein and made a part hereof for all purposes ("Fee Schedule. Reimbursable costs shall include only those authorized in Prime Agreement Part 2, Special Provisions Exhibit 2B(2)(a), (b), (c) and (e) ("Reimbursable Costs"), as further delineated in Attachment 3.

b. **Notifications Required.** Subcontractor shall notify PB promptly in writing at the point at which (a) Subcontractor exceeds the estimated monthly level of effort by 25%, or (b) Subcontractor has expended 75% of the Total Price. Subcontractor shall not under any circumstances incur fees in excess of the Total Price.

ARTICLE 5: INVOICING; PAYMENT

a. **Electronic Reporting.** PB has implemented a web-based time collection/reporting system for the Project. Utilizing software provided by PB, Subcontractor shall submit bi-weekly timesheets electronically to PB's Project Control Office. All timesheets must be reviewed by PB's Project lead or manager for compliance with Subcontract invoicing requirements, including but not limited to compliance with Exhibit 2B mandates, and authorized prior to invoice submittal ("Authorized Time"). Amounts invoiced must correspond to the hours of Authorized Time entered on the electronic reporting system for the invoice period.

b. **Invoice Periods; Submittal Deadlines.** Invoicing for the Project is structured on a 12-period annual cycle. Subcontractor shall prepare invoices for Services performed during each invoice period in a format acceptable to PB, and shall submit its invoices monthly, no later than 15 days following the end of the applicable invoice period. Any invoice delivered to PB after the submittal deadline will be processed with the next succeeding invoice period submittals.

c. **Invoice Submittal Requirements.** Invoices shall include all labor costs incurred during the invoice period for Authorized Time, and all Reimbursable Costs incurred and booked during the invoice period, together with back-up documentation. The bill-through date on each monthly invoice must match the last actual expenditure date shown on the back-up documentation. In addition, Subcontractor shall include with each invoice a **progress report** that documents, in bulleted detail, the Services completed during the invoice period, including items of work accomplished and milestones reached, as well as problems/issues/concerns, and work planned for the next invoice period. The signed invoice, backup documentation, and progress report shall be sent to LaRhonda Sayles, Accounting Manager, at sayles@pbworld.com; hard copy to be delivered to the address for notice stipulated in Article 22.

d. **Payment.** Contingent upon Subcontractor's timely submittal of a proper invoice and progress report, PB shall pay those undisputed amounts due and owing within 10 days of the date of payment by Client to PB for the Services covered by the invoice, less any amounts PB may be authorized or required to withhold or deduct under the terms of this Subcontract, applicable law, or court order. In the event of non-payment by Client, both parties shall cooperate in seeking payment from Client.

e. **Right to Withhold.** It is expressly agreed that PB shall be entitled to withhold payment pending correction of non-conforming Services and/or other performance deficiencies.

f. **Audits.** All payments hereunder are subject to the audits, adjustments and limitations that apply to PB under the Prime Agreement.

ARTICLE 6: TERM; PERFORMANCE SCHEDULE; DELAYS

a. **Term.** The term of this Subcontract shall be for a period commencing with the effective date hereof and ending on the earlier of: (1) the date the Prime Agreement expires; (2) the date stated in any Notice of Termination issued pursuant to Article 15; or (3) the date the Prime Agreement is terminated, if the Prime Agreement Terms and Conditions so provide.

b. Performance Schedule. Time is of the essence in Subcontractor's performance of the Services under this Subcontract, and Subcontractor shall promptly commence performance of the Services as instructed in the NTP, and perform the same diligently and without interruption until completed in accordance with the performance schedule established in Attachment 2, or if none, in the Prime Agreement (the "Performance Schedule"). Provided, if the Performance Schedule applicable to the Services is derived from the Prime Agreement, Subcontractor shall submit all deliverables to PB no later than twenty-one (21) business days prior to the completion/submittal deadline for such work applicable to PB.

c. Delays. Subcontractor shall notify PB in writing within five (5) business days of any event or condition impacting its ability to meet the performance schedule, together with the steps contemplated or taken by Subcontractor to mitigate the effect of such delay.

Delays caused by *force majeure* events such as war, civil insurrection, riot, acts of public authority, strike, explosion, fire, earthquake, flood and like catastrophic events, shall be excusable to the extent they could not reasonably be anticipated, mitigated, or avoided by Subcontractor, and did not result in whole or in part from Subcontractor's fault or neglect, but shall be compensable only if additional compensation is obtained by PB from Client for such delays.

ARTICLE 7: STANDARD OF CARE; QUALIFICATIONS/LICENSES

a. Standard of Care. Subcontractor shall perform the Services in a manner consistent with that degree of skill and care ordinarily exercised by members of the same profession performing the same or similar work under the same or similar circumstances in the city and county of Honolulu. The parties acknowledge that PB is relying upon Subcontractor's expertise, and that neither PB's review, approval, acceptance, or payment for the Services is intended, nor shall it, constitute a waiver, release, or discharge of Subcontractor's responsibility for the proper performance of the Services or liability for defects in same, or an assumption by PB of such responsibility or liability.

b. Qualifications and Licenses. Subcontractor represents and warrants that all personnel performing Services or conducting activities in furtherance of this Subcontract shall be properly qualified, and that personnel performing Services or conducting activities for which a license or certification is required under local, state, or federal regulations shall be duly licensed and/or certified. All licenses and certifications shall be current at the time the work is performed.

ARTICLE 8: INDEPENDENT CONTRACTOR

The parties affirm that Subcontractor is an independent contractor under subcontract to PB, and is not in a joint venture, partnership, agent-principal or employer-employee relationship with PB. Subcontractor shall, at its own expense, provide all equipment, materials, services, and personnel required to perform the Services. Subcontractor, consistent with its status as an independent contractor, shall maintain complete control and direction over and responsibility for its employees, lower-tier subcontractors, and agents, and shall be solely responsible for the means, methods, sequences and techniques for carrying out the Services, and for the safety of its employees, lower-tier subcontractors, agents and invitees. Subcontractor affirms that it shall not represent itself to be an agent of PB or Client, or as having any authority to bind PB or Client, and further affirms that it shall instruct its personnel that they are not, and are prohibited from representing themselves to be, officers, agents, or employees of PB or Client, and have no authority to bind PB or Client.

Subcontractor shall indemnify, defend, and hold PB and Client harmless from any claims, and pay all damages, costs and judgments related to any claims made against PB or Client by Subcontractor's and/or its lower tier subcontractors' employees, agents, and representatives, for wages, salaries or any other form of compensation; for benefits, including but not limited to Workers' Compensation insurance benefits,

health, disability, medical, vacation, retirement, and sick leave; and/or any other benefit or assistance that may be available to employees of PB or Client or otherwise associated with an employer/employee relationship, such as training, counseling, or promotion. Subcontractor shall be responsible for all payroll and unemployment taxes associated with workers it provides to perform Services, and for withholding of social security and state and federal income taxes for such individuals, and shall indemnify, defend and hold PB and Client harmless from, and shall pay, all taxes and costs, fines, penalties and assessments associated therewith.

ARTICLE 9: CLAUSES APPLICABLE TO FEDERALLY-FUNDED CONTRACTS

All clauses set forth in Prime Agreement Special Provisions Article VIII are by this reference expressly incorporated into and made a part of this Subcontract for all purposes as if set forth in full, and shall control in accordance with their terms in the event of conflict with any other terms and conditions of this Subcontract. Subcontractor shall comply with, and ensure that its lower-tier subcontractors comply with, all provisions of this Article 9.

ARTICLE 10: DISADVANTAGED BUSINESS ENTERPRISES

a. With regard to the performance of this Subcontract and in provision of the Services, Subcontractor shall fully cooperate with PB in meeting PB's commitments and goals, if any, with regard to the maximum utilization of disadvantaged business enterprises, minority business enterprises, small business enterprises, women-owned business enterprises, emerging business enterprises, and historically underutilized businesses (collectively, "DBEs"), and Subcontractor, if requested in writing by PB, shall provide the maximum practicable opportunity for DBEs to compete for any lower-tier subagreements available pursuant to this Subcontract.

b. If Subcontractor is a DBE, upon written request by PB Subcontractor shall provide certificates or other acceptable testament to such DBE status.

c. Subcontractor shall promptly provide attesting documentation when requested by PB, that proves that all lower-tier DBEs have received the revenue paid to Subcontractor by PB on behalf of the DBEs for services provided pursuant to the provisions of this Subcontract.

ARTICLE 11: INDEMNIFICATION

To the maximum extent permitted by law, Subcontractor shall indemnify, defend, and hold harmless PB and Client, their successors and assigns, and each of their respective officers, agents, servants and employees, from and against any and all claims, suits, actions, judgments, orders, demands, losses, damages, and liability of whatsoever nature, and costs and expenses including but not limited to (a) administrative or statutory assessments, sanctions, fines, and penalties, and (b) reasonable attorneys' fees, witness fees, costs of discovery and investigation, and court costs, whether incurred in relation to administrative, pre-trial, trial, post-trial, or appellate proceedings; caused by, resulting from, or arising out of (a) breach of this Subcontract; (b) the negligent acts, errors, or omissions, or the intentional, willful, or reckless misconduct of Subcontractor, its officers, employees, servants, agents, subcontractors, or representatives in the performance of this Subcontract; (c) infringement of patents or copyrights, or unauthorized disclosure of trade secrets or Confidential Information, as defined in Article 19; or (d) violation of applicable codes and regulations, including but not limited to laws relating to health and safety, compensation and conditions of employment, and payment of subcontractors, vendors, and materialmen.

Notwithstanding any other provision to the contrary, in the event of litigation between the parties to enforce the provisions of this Article or any other indemnification obligation owed to PB under the terms

of this Subcontract, the prevailing party shall be entitled to recover costs incurred and reasonable attorneys' fees.

The indemnification afforded under this Article shall not be limited in any manner whatsoever by insurance required under this Subcontract or the Prime Agreement, or by any other insurance carried by Subcontractor, PB or the Client. Nor shall the terms of this indemnification provision operate to limit or modify any of the insurance required of Subcontractor hereunder, or the scope or terms of such coverage. Nothing herein is intended to require Subcontractor to indemnify PB from liability for PB's negligence.

ARTICLE 12: PROMPT PAYMENT OBLIGATIONS; RELEASE OF LIENS AND CLAIMS

Subject to Subcontractor's right to withhold payment in a good-faith dispute, Subcontractor shall promptly pay for all services, equipment and materials furnished in performing the Services hereunder. PB may at any time require Subcontractor to submit lien releases satisfactory to PB and Client evidencing payment and release of claims for payment. Upon evidence of unpaid undisputed claims for payment, PB may pay and discharge same and deduct the amount paid, together with incurred costs and attorneys' fees, from compensation due or to become due to Subcontractor hereunder. Acceptance of final payment by Subcontractor shall operate as a full and final release of Client and PB, its affiliates, successors, and assigns, from liability for any and all claims by Subcontractor, its affiliates, successors, and assigns, for additional compensation or payment for Services rendered, costs incurred, or work performed by Subcontractor under this Subcontract.

ARTICLE 13: INSURANCE

a. Coverage. Subcontractor shall maintain at its own cost and expense for the duration of this Subcontract the following insurance coverages issued by companies licensed to do business in the State of Hawaii, with an AM Best rating of A-VIII or better, and otherwise acceptable to PB and Client.

(1) Workers' Compensation and Employer's Liability Insurance

Coverage to include all Statutory Workers' Compensation benefits to the employees of Subcontractor who may sustain work-related injury, death, or disease, and coverage, if applicable, commensurate with the requirements of the U.S. Longshore and Harbor Workers' Compensation Act (USL&H) or any other maritime law or similar act (e.g., Outer Continental Shelf Lands Act (OSCLA), Federal Employers Liability Act (FELA)). Such insurance shall include a waiver of subrogation in favor of PB and Client, unless prohibited under applicable state law. Employer's Liability coverage with a limit of not less than \$1,000,000 each accident/disease shall also be maintained.

(2) Commercial General Liability and Contractual Liability ("CGL") Insurance, including contractual liability cover, with a limit of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate

Coverage to include premises operations, independent contractors, products and completed operations, and broad-form contractual, personal injury, advertising injury and property damage, and XCU (explosion, collapse, and underground hazard) coverage. If Subcontractor's work is within 50 feet of a railroad right of way, the policy must also be endorsed to cover work within 50 feet of a railroad. Contractual liability shall not exclude the indemnification provisions of this Subcontract. PB and Client, and their respective officers, directors, agents, and employees must be named as additional insureds, for both ongoing and completed operations, on a primary and non-contributory basis. Such policy shall contain a severability of interests provision or cross-liability clause, and shall provide that the general aggregate limit applies on a per-project basis. Such insurance shall include a waiver of subrogation in favor of PB and Client.

(3) Business Automobile Liability with a combined single limit of not less than \$1,000,000 each accident

The policy must be written on an "any auto" basis. PB and Client, and their respective officers, directors, agents, and employees must be named as additional insureds, on a primary and non-contributory basis. Such insurance shall include a waiver of subrogation in favor of PB and Client unless prohibited under applicable state law.

(4) Professional Liability with a limit of not less than \$1,000,000 per claim and annual aggregate

Coverage to include Subcontractor's legal liability for damages arising out of Subcontractor's performance of professional services pursuant to this Subcontract or relating to the Project.

Neither PB nor Client shall be liable for any deductibles on additional insured coverage, and any coverage maintained by PB and Client shall be excess and noncontributory. The required insurance shall apply separately to each insured against whom claim is made or suit brought, except with respect to the limits of liability. Coverage shall contain no special limitations on the scope of protection afforded to PB, Client and their respective officers, directors, agents, and employees.

CGL insurance shall be written on ISO occurrence form CG 00 01 or a substitute form providing equivalent liability coverage. Additional insured endorsements shall be written on CG 20 10 or equivalent. Business auto coverage shall be written on ISO for CA 00 01, CA 00 05, CA 00 12, CA 00 20. or a substitute form providing equivalent liability coverage. With the exception of professional liability insurance, all insurance shall be written on an occurrence basis. Notwithstanding any other provision to the contrary, professional liability insurance shall be maintained in full force and effect continuously from the effective date of this Subcontract until the expiration of one (1) year following substantial completion of the Project.

All insurance policies must contain a provision that provides thirty (30) days' prior written notice to PB of cancellation (ten (10) days' prior written notice for failure to pay premium). Such notice of cancellation must be provided to PB via the following address: Parsons Brinckerhoff, Inc., Attn: Risk Management, One Penn Plaza, New York, NY 10119.

b. **Certificates and Endorsements.** Subcontractor shall, prior to commencing performance of any Services or entering onto the Project site or other field location, furnish PB with certificates of insurance and endorsements referencing the Project name and Project number, and evidencing (a) the required coverages, including but not limited to the additional insured and waiver of subrogation requirements, (b) the limits, and (c) the notice of cancellation provisions. Certificates and endorsements shall be provided annually, not more than 10 days after renewal or replacement of each policy, and shall restate the effective value of the coverage provided.

Subcontractor shall deliver the certificates of insurance and endorsements, each evidencing the required coverage and Project name and number, to: (1) PB Project Management, Diane Cook at cook@pbworld.com, and (2) to Parsons Brinckerhoff, Inc. at:

- E-mail: PBCertificateTracking@lockton.com <<mailto:PBCertificateTracking@lockton.com>> (preferred method); or
- Fax: Attn: Parsons Brinckerhoff, Inc. Certificate Tracking at Fax 816-783-2276; or
- Mail: Parsons Brinckerhoff, Inc, Certificate Tracking 444, W. 47th Street, Kansas City, MO, 64112.

Failure of PB to demand such certificate or other evidence of full compliance with these insurance requirements, or failure of PB to identify a deficiency from evidence that is provided, shall not be construed as a waiver of Subcontractor's obligation to maintain such insurance.

c. Lower-Tier Subcontractors. Subcontractor shall require that each of its lower-tier subcontractors, if any, have in place the insurance required herein, with the coverages and limits required herein, and provide Subcontractor with certificates of insurance and endorsements evidencing such coverage prior to commencement of subcontracted work. Subcontractor shall also require that PB and Client be named as additional insureds on all lower-tier subcontractor CGL, automobile, and (if required) aircraft liability policies, and that CGL, auto, aircraft (if required), and workers' compensation coverages be endorsed to provide for a waiver of subrogation in favor of PB and Client.

Subcontractor shall also comply with all other requirements set forth in Subsection 4.3.2 of the Prime Agreement General Terms and Conditions.

ARTICLE 14: SUSPENSION OF SERVICES

PB may, at any time, and with or without cause, suspend performance of the Services or any portion thereof for a period of up to 90 days by notice in writing to Subcontractor, and Subcontractor shall resume its Services promptly after being notified by PB to do so. Subcontractor may be allowed additional compensation or an extension of time, or both, provided same is granted by Client.

PB may immediately suspend Services performed at the Project site or other field locations without notice for violation of any safety rules, regulations, or requirements, for code violations, for failure to obtain or comply with the terms of any permits, orders, or required authorizations, or upon discovery of any unsafe working conditions. In such case, Subcontractor shall immediately cure the violation or remedy the unsafe working condition. Failure to do so shall constitute a material default.

ARTICLE 15: TERMINATION

PB may terminate this Subcontract, in whole or in part, for cause, upon seven (7) days' written notice. PB may terminate this Subcontract, in whole or in part, for its convenience, upon 10 days' written notice.

In the event of termination for cause, Subcontractor shall be entitled to compensation for the value of all Services performed in accordance with contract requirements up to the effective date of termination, less allowable deductions, which include, but are not limited to, all costs in excess of the compensation established in Article 4 reasonably incurred by PB to complete the Services. To the extent allowable deductions exceed amounts remaining due to Subcontractor, Subcontractor shall be and remain liable to PB upon demand for the amount of such excess.

In the event of termination for PB's convenience and without default on the part of Subcontractor, Subcontractor shall be entitled to compensation for all Services performed in accordance with contract requirements up to the effective date of termination, less allowable deductions. To the extent allowable deductions exceed amounts remaining due to Subcontractor, Subcontractor shall be and remain liable to PB upon demand for the amount of such excess.

Upon receipt of notice of termination, Subcontractor shall discontinue the Services unless otherwise directed and deliver to PB all Work Product. In the event of termination, PB shall have the right to conduct a financial audit, as well as a performance audit to ascertain the quality, timeliness and compensability of Subcontractor's Services. If, after issuance of notice of termination for cause, it is

determined for any reason that Subcontractor was not in default, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to termination for convenience.

ARTICLE 16: REMEDIES

In the event Subcontractor fails to timely perform Services, fails to perform Services in accordance with contract requirements, or is otherwise in default, PB shall be entitled to withhold payment until the default is corrected. Subcontractor shall, upon notice from PB, correct the designated performance deficiencies without additional compensation. If such performance deficiencies are not corrected within the time period specified in the notice, PB may cause same to be corrected and deduct costs incurred by reason of such failure from Subcontractor's compensation and, if Subcontractor's remaining compensation is not sufficient to reimburse PB for such costs, recover the same from Subcontractor upon demand. These remedies shall be in addition to all other remedies available to PB.

With the exception of attorneys' fees to enforce indemnification obligations, neither party hereto shall be entitled to recover from the other for breach of this Subcontract (a) incidental, nominal, special, indirect, exemplary or consequential damages, or damages that in their nature or amount constitute a penalty, or (b) attorneys fees or costs. Notwithstanding the foregoing, however, PB shall be entitled to seek, recover, and recoup from Subcontractor those types of damages, of whatever nature, as PB may be held accountable to the Client under the terms of the Prime Agreement, or to third parties, that were caused by or attributable to Subcontractor, its agents, lower-tier subcontractors, servants, or employees, or for which Subcontractor is otherwise legally responsible.

Neither the pendency of a dispute nor consideration of claims by PB pertaining to this Subcontract shall excuse Subcontractor from full and timely performance in accordance with the terms hereof.

ARTICLE 17: WORK PRODUCT

All drawings, plans, designs, specifications, photographs, models, schematics, surveys, maps, reports, studies, analyses, estimates, minutes, diaries, field notes, training manuals and materials, data bases, electronic files, file formats, templates, procedures, scripts, links, specifically-created key commands, source code documentation, software programs, calculations, summaries and other compilations of information to be developed, produced, or provided by Subcontractor as part of the Services, including but not limited to all deliverables identified herein, whether completed or in process, and all supporting documents and data, whether in hard copy or electronic or digital format or capable of being converted to such format, constitute "Work Product."

Work Product shall be the property of PB and shall be furnished to PB promptly upon request and as a condition to issuance of payment, although Subcontractor shall be permitted to retain reproducible copies. Subcontractor shall not be liable for loss, damage, or injury resulting from PB's use of Work Product for purposes other than as intended or contemplated herein.

The parties intend that Work Product shall be "work made for hire," of which PB shall be deemed the author. If for any reason such Work Product does not constitute "work made for hire," Subcontractor hereby (a) waives all rights in such Work Product, and any other rights of authorship, identification, or approval, restriction or limitation on use or subsequent modification, and (b) irrevocably assigns to PB all right, title, and interest in and to the Work Product, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Subcontractor shall obtain such interest and execute and deliver such instruments and take such other actions as may be necessary to vest and perfect such rights in PB.

To the extent any Work Product includes Subcontractor's previously-developed intellectual property that is or could be protected by federal copyright, patent, or trademark laws, or state trade secret laws, Subcontractor hereby grants to PB and Client a perpetual, royalty-free, fully-paid up, non-exclusive and irrevocable license to copy, reproduce, perform, dispose of, and use and re-use, in whole or in part, such intellectual property, and to authorize others to do so. Such previously-developed intellectual property may constitute but is not limited to, data bases, software programs, templates, file formats, specifically-created key commands, scripts, links, procedures, training manuals and other training materials, designs, prototypes, plans, and other works provided or delivered to PB or Client by Subcontractor.

ARTICLE 18: PROJECT RECORDS; RECORD RETENTION PERIOD; AUDITS

a. **Project Records.** All records pertaining to this Subcontract and the Services performed hereunder, including but not limited to (a) timesheets and accounting and financial records; (b) Work Product; (c) drawings, maps, surveys, models, photographs, schematics, plans, designs, specifications, reports, studies, summaries, analyses, diaries, field notes, estimates, calculations, and other compilations of information obtained by or provided to Subcontractor in performance of the Services; and (d) correspondence; whether in hard copy or electronic or digital format, or capable of being converted to such format, constitute "Project Records."

b. **Accounting and Financial Records; Audits.** Subcontractor shall preserve all Project Records in such detail as shall properly substantiate contract performance and claims for payment under this Subcontract, and shall comply with the accounting and audit requirements of the Prime Agreement Terms and Conditions. In the event the Project is subject to the Federal Acquisition Regulations ("FAR"), Subcontractor shall comply with all applicable sections of the FAR. Subcontractor shall immediately repay to PB upon demand any compensation disallowed as a result of an audit conducted hereunder, or PB may elect to deduct disallowed amounts from monies due or to become due under this Subcontract.

c. **Record-Retention Period; Review and Reproduction.** Subcontractor shall retain all Project Records at a secure location reasonably accessible to the parties hereto for the longer of (a) six (6) years from the date of final payment or (b) until all disputes, audits, claims, legal proceedings, and other actions involving this Subcontract and the Services performed hereunder have been resolved or concluded (the "Record Retention Period"). During the Record Retention Period Subcontractor shall make all Project Records available to PB and Client for review and reproduction during normal business hours or at such other times as PB or Client may reasonably require.

Subcontractor shall include the requirements of this Article in all lower-tier subcontracts.

ARTICLE 19: CONFIDENTIAL INFORMATION; NON-DISCLOSURE

Unless required by law or Court order to do so, or unless prior written authorization is received from the PB or the Client, Subcontractor shall not disclose any (1) information concerning the Project that is not already in the public domain; (2) data, information, processes, or documents provided by or on behalf of PB or the Client, including but not limited to Electric Utility Infrastructure Information ("EUII"), as that term has been defined in Prime Agreement Special Provisions, Section VII (K); (3) Work Product; or (4) other information generated by Subcontractor in the course of performing this Subcontract (collectively, "Confidential Information") to anyone other than PB, and at PB's direction, the Client. Nor shall Subcontractor use such Confidential Information for any purpose other than the performance of Services under this Subcontract. Subcontractor shall instruct its employees and lower-tier subcontractors to treat all information obtained or generated in performance of the Subcontract as confidential, and shall obtain from its lower-tier subcontractors equivalent agreements to withhold and protect from disclosure all Confidential Information covered under this Article.

ARTICLE 20: COMPLIANCE WITH LAWS

Subcontractor shall comply with all federal, state and local laws, codes, ordinances and regulations applicable to Subcontractor, this Subcontract, the Project and its work sites, and the Services to be performed hereunder, including but not limited to those regulating conditions of employment and workplace safety and health. Subcontractor shall be liable to PB for all losses, costs, and expenses PB may incur resulting from or attributable to Subcontractor's, its employees', lower-tier subcontractors' and/or agents' failure to so comply, including but not limited to orders, judgments, fines, penalties, and required corrective measures.

During the performance of this Subcontract, Subcontractor shall not unlawfully discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, sexual preference, disability, age (40+), marital status, or public assistance status. Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and the selection for training, including apprenticeship. Subcontractor agrees to post in conspicuous places, available to employees and applicants for employment, notices which set forth the provisions of this non-discrimination Article.

ARTICLE 21: HEALTH AND SAFETY

Subcontractor agrees that the prevention of accidents to workers engaged by Subcontractor is the responsibility of Subcontractor. To that end, Subcontractor shall comply with all Project safety policies/protocols/program, and all federal, state and local health and safety laws, codes, ordinances and regulations applicable to the Project, the Project site and other work locations, Subcontractor, this Subcontract and the performance of the Services hereunder, including, but not limited to, the Occupational Safety and Health Act of 1970. If Services are to be performed or activities conducted on-site or at other field locations, Subcontractor shall also implement and enforce a safety program for all workers, including those of lower-tier subcontractors, if any, engaged in performing the Services, and shall ensure such workers' participation in appropriate safety training. Subcontractor's safety and training program shall comply at a minimum with such safety policies and programs as may be established or mandated under the Prime Agreement. Subcontractor shall also be responsible for the safety and conduct of persons on property under Subcontractor's control, including Subcontractor's employees, agents, invitees, and lower-tier subcontractors.

ARTICLE 22: NOTICES

All notices required or permitted under this Subcontract shall be given in writing and delivered either personally, by delivery service, by first-class, certified, or registered mail, or by e-mail, to the authorized representative of the other party at the address set forth below, or as may be designated by notice delivered in accordance with the requirements of this Article. If notice is delivered by e-mail, the notice must be signed by the party giving notice and sent as a pdf attachment to the e-mail at the address stipulated herein. Electronic or digital signatures shall not be allowed.

TO PB: Parsons Brinckerhoff, Inc.
Alii Place, 17th Floor
1099 Alakea Street
Honolulu, Hawaii 96813
E-mail: 16590EHHCTCPNotices@pbworld.com
Attention: Mr. James Van Epps

TO SUBCONTRACTOR:

Red Monarch Strategies Inc.

E-mail:

Attention: Ms. Bennette Misalucha

Notice shall be effective upon delivery when delivered in person, by courier service providing receipt of delivery, or by registered or certified mail, return receipt requested. Notices properly addressed and stamped, and deposited into the US postal system as first-class mail, shall be deemed received two (2) business days after date of postmark. Notice delivered by e-mail shall be deemed received by the date and time stated on the transmitter's copy.

ARTICLE 23: STANDARDS; QUALITY PROGRAM

All Services shall be performed in compliance with the standards, specifications, manuals of instruction, policies, protocols, and procedures established by the Client and such other regulatory agencies as may have jurisdiction over the work.

Subcontractor shall maintain a quality program for the duration of this Subcontract that at a minimum complies with any requirements established in the Prime Agreement. Upon request by PB, Subcontractor shall provide a copy of its quality program to PB. The program must ensure that the Services performed by Subcontractor conform to the requirements of this Subcontract and the Prime Agreement Terms and Conditions. Subcontractor shall provide for a flow down of all applicable quality requirements to its lower-tier subcontracts.

As part of its quality program, Subcontractor shall maintain and implement a Quality Control and Quality Assurance Plan ("QA/QC Plan"). At a minimum, the Plan shall ensure (i) Work Product review (the Work Product is accurate and complete) by suitably-qualified parties independent from the personnel performing the Services or delivering the Work Product, and (ii) periodic process audit and review of the overall quality control activities contained in the Plan. Subcontractor shall document all of its quality program activities performed in connection with this Subcontract. If any deviations are identified in any of the performed Services, corrective actions shall be developed, implemented, and documented by Subcontractor. PB has the right to audit Subcontractor's quality program and its Project-related quality activities required by the Plan at any time. The results of any internal reviews specified in the Plan shall be submitted to PB.

If Subcontractor fails to properly implement and maintain a quality program or QA/QC Plan, and such failure continues following notification to Subcontractor by PB, then PB may, in addition to any other remedies permitted herein or by law, terminate this Subcontract, withhold payment for Services until Subcontractor is in compliance with the requirements of this Article, or remedy such failure at Subcontractor's expense. Subcontractor agrees to indemnify and hold PB harmless for all costs incurred by PB to correct work adversely affected by such failure.

ARTICLE 24: APPLICABLE LAW; JURISDICTION; VENUE

This Subcontract, its validity, interpretation, and performance, and any disputes between the parties arising out of or relating to this Subcontract, shall be governed by and construed in accordance with the laws of the state of Hawaii, without regard to conflict of laws principles. In the event the parties are first unable to resolve their disputes through good-faith negotiations or through mutually-agreed nonbinding mediation, legal proceedings may be brought. Any such legal proceedings shall be brought in a court of competent jurisdiction in the city and county of Honolulu, and Subcontractor by its signature below

consents to the *in personam* jurisdiction of said courts and waives and covenants not to seek change of venue based upon *forum non conveniens*. Notwithstanding the foregoing, legal proceedings may be brought at any time to preserve equitable or legal remedies, obtain equitable or extraordinary relief, preserve evidence, prevent irreparable harm, preserve the status quo pending proceedings on the merits, or preserve claims that might otherwise be barred by applicable statutes of limitations, or lost or impaired on other legal or procedural grounds.

ARTICLE 25: SEVERABILITY

If any provision of this Subcontract is prohibited by law, invalid, or otherwise unenforceable, the remainder of this Subcontract shall remain in full force and effect; provided that in such event the parties hereto shall in good faith attempt to replace the invalid or unenforceable provision with one that is valid and enforceable, and comes as close as reasonably possible to expressing or achieving the intent of the parties with regard to the original provision. Upon agreement, this Subcontract shall be amended to incorporate the substitute language.

ARTICLE 26: SURVIVAL

The parties acknowledge that all terms and conditions of this Subcontract which by their nature are intended to survive the termination or expiration of this Subcontract, including non-disclosure, indemnification, insurance, retention and production of Project Records, and other obligations Subcontractor has a continuing duty to observe, as well as all provisions applicable to disputes and legal proceedings, and Article 22 notices, shall survive and be enforceable by PB according to the terms hereof.

ARTICLE 27: SUCCESSORS AND ASSIGNS

Subcontractor shall not assign, sell, transfer, or otherwise dispose of any of its interest in this Subcontract, or delegate any of its duties under this Subcontract, without the prior written approval of PB. Any unauthorized attempt thereat shall be void and unenforceable.

ARTICLE 28: THIRD-PARTY BENEFICIARIES

This Subcontract shall be binding upon and inure to the benefit of the parties hereto, their successors and permitted assigns, only. PB and Subcontractor are the only beneficiaries of this Subcontract and are solely entitled to enforce its terms. It is the express intent of PB and Subcontractor that should any persons or entities other than the parties hereto receive a benefit under this Subcontract, they shall do so as incidental beneficiaries only.

ARTICLE 29: INTERPRETATION

This Subcontract shall not be construed in favor of or against either party based upon authorship, the parties being of equal bargaining stature. Headings are solely for the convenience of the parties and shall have no bearing on interpretation of text. Unless established as a term of art, with a well-understood and unequivocal technical or trade meaning, words are used in their common and ordinary meaning. Defined terms are capitalized, and when capitalized, shall carry their defined meaning. Wherever the term "day" or "days" is used, it shall mean singular or consecutive calendar days, respectively. "Business day" shall mean any weekday other than Saturday, Sunday or a holiday recognized and observed by the state of Hawaii.

ARTICLE 30: NONWAIVER

No failure or successive failures on the part of PB to enforce any provision of this Subcontract, or custom or practice that may evolve between the parties in the administration of this Subcontract, shall operate as a waiver or discharge of that or any other provision, or render the same invalid, or impair PB's right to enforce the same in the event of any subsequent breach by Subcontractor. Any waiver, if given, shall be in writing, signed by the party making the waiver and addressed to the other party, and shall be limited to the particular instance and for the purposes stipulated therein.

ARTICLE 31: ENTIRE AGREEMENT

This Subcontract represents the entire and integrated agreement between PB and Subcontractor, and supersedes and replaces all prior and contemporaneous understandings, agreements, arrangements, negotiations, and representations, whether written or oral, with respect to the subject matter hereof. This Subcontract may not be modified except in writing, by an amendment signed by the parties hereto.

IN WITNESS WHEREOF, PB and Subcontractor have duly executed this Subcontract, effective from the date first written above.

PARSONS BRINCKERHOFF, INC.

BY: James R. Van Epps
Signature

James R. Van Epps, Sr. Vice President
and Project Manager

RED MONARCH STRATEGIES INC.

BY: Bennette E. Misalucha
Signature

BENNETTE E. MISALUCHA
Printed Name

PRESIDENT
Printed Title

ATTACHMENT 1
PRIME AGREEMENT TERMS AND CONDITIONS

Copy provided to Subcontractor on CD.

ATTACHMENT 2
SCOPE OF SERVICES

Task numbering corresponds to that used in the Prime Agreement Special Provisions, Exhibit I, Scope of Services.

Subcontractor shall perform the following services:

Task 13 Public Involvement

13.01 Public Involvement Program Activities

- Provide community and general public outreach
- Participate in weekly Public Involvement meetings
- Attend additional Public Involvement meetings, as requested
- Attend and respond to public input at public meetings, interest groups, and through personal outreach
- Provide community general public outreach for the Archaeological Inventory Survey (AIS) for the Airport and City Center sections
- Inform Public Involvement Manager promptly of information and developments that may affect the Project

13.01.01 Participate in Community Events

- Attend trade shows, workshops, and seminars, and disseminate Project information
- Attend meetings with various groups such as community, business, residential, ethnic, and special trade organizations, and disseminate Project information

13.01.02 Facilitate Project Public Involvement Meetings

Attend public hearings, workshops, and seminars, and disseminate Project information

13.01.04 Develop and Produce Presentations and Manage Presentation/Schedule (i.e., "Speaker's Bureau")

- Attend meetings with organizations, associations and other stakeholders, and disseminate Project information
- Participate in and solicit Speaker's Bureau meetings and informational presentations

13.01.05 Maintain Existing and Develop New Contacts with Local Groups and Organizations, including City Council and Neighborhood Boards

- Maintain existing, as well as develop new, contacts with groups, organizations, and individuals

- Attend meetings with outreach groups including business and ethnic organizations, and disseminate Project information
- Update and maintain Public Involvement database, as requested

13.01.07 Develop, Produce, and Distribute Public Information Documents and Electronic Media

Distribute approved public information documents and materials

13.01.08 Respond to Public Inquiries about the Project

Respond to public inquiries during various public outreach activities

13.01.09 Present Community Feedback to the Project Team

Convey community feedback to the Project team at the weekly Public Involvement meetings, on behalf of the general public and specialty groups

13.02 Support Construction Management (CM) in Oversight of Contractor Public Outreach Teams

13.02.01 Oversee Public Contact

- Attend construction mitigation and contractor's task force meetings
- Participate in construction mitigation efforts through neighborhoods along the alignment by attending various public outreach events and/or disseminating Project information

13.03 Support the City in Media and Agency Coordination as Needed

Perform media monitoring and rapid response

13.04 Documentation

Prepare and submit monthly progress report

Task 23 Archaeological Services

23.01 Archaeological Inventory Survey (AIS) Coordination

- Provide community and general public outreach for the AIS for the Airport and City Center sections
- Provide communication conduit for business owners and residential property owners to maintain communications during AIS work in roadways
- Participate in weekly AIS coordination meetings

ATTACHMENT 3
FEE SCHEDULE/BUDGET

Exhibit 2A – Cost Estimate
Summary

RED MONARCH STRATEGIES INC.

Item	Amount
Total Labor (1) Other Direct Costs (2) Lower-tier Subcontractor Costs (3) General Excise and Use Tax (4.5 %)	
TOTAL	\$168,559
(1) Schedule A – Labor Details (2) Schedule B – Other Direct Cost Details (3) Schedule C – Lower-tier Subcontractor Details	

SPECIAL PROVISIONS
Honolulu High-Capacity Transit Corridor Project

Exhibit 2A – Cost Estimate

Schedule A – Labor Details

Title/Name	Total Hours ¹	Bill Rate ²	Total Labor
Principal – Bennette Misalucha	█	█	█
Total			█

(1) Total hours are based upon a period of performance of twelve (12) months from Notice-to-Proceed.

(2) The Bill Rate is inclusive of all direct and indirect costs associated with the performance of the Services, including but not limited to direct labor, overhead, general and administrative expenses, other direct costs not identified in Schedule B below, and operating margin (profit). The Bill Rate does not include the General Excise and Use Tax.

Schedule B – Other Direct Cost Details

Description	Unit Cost	Units	Total
Seminar and Event Registration Fees			█
Total			█

SPECIAL PROVISIONS
Honolulu High-Capacity Transit Corridor Project

Schedule C – Lower-tier Subcontractor Details

JACQUELINE K. HO d/b/a BELLA

Schedule C1 – Summary

Item	Amount
Total Labor (1)	[REDACTED]
Other Direct Costs (2)	
Lower-tier Subcontractor Costs (3)	
General Excise and Use Tax (4.5 %)*	
Total	[REDACTED]
(1) Schedule C2 – Labor Details (2) Schedule C3 – Other Direct Cost Details – N/A (3) Schedule C4 – Lower-tier Subcontractor Details – N/A	

*General Excise and Use Tax calculated on total amount on summary page.

Schedule C2 – Labor Details

Title/Name	Total Hours ¹	Bill Rate ²	Total
PR Specialist – Jacqueline K. Ho	[REDACTED]	[REDACTED]	[REDACTED]
Total			[REDACTED]

(1) Total hours are based upon a period of performance of twelve (12) months from Notice-to-Proceed.

(2) The Bill Rate is inclusive of all direct and indirect costs associated with the performance of the Services, including but not limited to direct labor, overhead, general and administrative expenses, other direct costs, and operating margin (profit). The Bill Rate does not include the General Excise and Use Tax.

SPECIAL PROVISIONS
 Honolulu High-Capacity Transit Corridor Project

**AMENDMENT NO. 1
TO
PROFESSIONAL SERVICES SUBCONTRACT
BETWEEN
PARSONS BRINCKERHOFF, INC.
AND
RED MONARCH STRATEGIES INC.
(#PB-16590E-RC0)
DATED AUGUST 2, 2011**

THIS Amendment, effective as of the 1st day of July, 2012, is made and entered into by and between **PARSONS BRINCKERHOFF, INC.** ("PB") and **RED MONARCH STRATEGIES INC.** ("Subcontractor").

RECITALS

PB entered into General Engineering Consultant Contract (GEC II) No. SC-DTS-1100131 dated August 2, 2011 (the "Prime Agreement") between PB Americas, Inc. ("PB") and the Honolulu Authority for Rapid Transportation, hereinafter referred to as "HART" ("Client"), to provide general engineering, planning, construction management and other consultant services for the Honolulu High-Capacity Transit Corridor Project, which includes the 28-mile Locally Preferred Alternative and the 20-mile Airport Alignment, as more particularly defined in Prime Agreement Special Provisions VII(A) ("HHCTCP" or the "Project").

PB solicited Subcontractor to provide public/community outreach services required under the Prime Agreement ("Services"), and PB and Subcontractor entered into a subcontract for same dated August 2, 2011 (the "Subcontract").

PB and Subcontractor now desire to amend the Subcontract to reallocate the Total Labor budget from the Lower-tier Subcontractor (Jacqueline K. Ho d/b/a Bella) to Subcontractor's Labor and Other Direct Costs budget.

Therefore, for the consideration hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which the parties hereto by their signatures below affirm, the parties do mutually agree as follows:

TERMS

The above recitals are incorporated herein and made a part hereof as if fully set forth.


A. Attachment 3, Fee Schedule/Budget. Attachment 3 is hereby deleted in its entirety and replaced with the revised Attachment 3, Fee Schedule/Budget, annexed hereto and by this reference incorporated into the Subcontract for all purposes as if fully set forth.

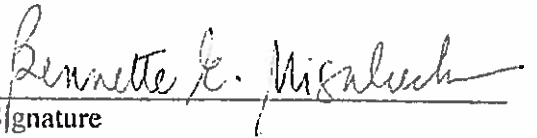
B. All other terms and conditions of the Subcontract shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment No. 1, effective as of the date first written above.

PARSONS BRINCKERHOFF, INC.

RED MONARCH STRATEGIES INC.

BY: 
Signature

BY: 
Signature

for: James R. Van Epps, Sr. Vice President
and Project Manager


Bennette E. Misalucha
President

ATTACHMENT 3 – REVISED

FEE SCHEDULE/BUDGET

**Exhibit 2A – Cost Estimate
Summary**

RED MONARCH STRATEGIES INC.

Item	Amount
Total Labor (1) Other Direct Costs (2) Lower-tier Subcontractor Costs (3) General Excise and Use Tax (4.5 %)	
TOTAL <i>(1) Schedule A – Labor Details</i> <i>(2) Schedule B – Other Direct Cost Details</i> <i>(3) Schedule C – Lower-tier Subcontractor Details – N/A</i>	\$168,559

SPECIAL PROVISIONS
 Honolulu High-Capacity Transit Corridor Project

Exhibit 2A – Cost Estimate

Schedule A – Labor Details

Title/Name	Total Hours¹	Bill Rate²	Total Labor
Principal – Bennette Misalucha	█	█	█
Total			█

(1) Total hours are based upon a period of performance of twelve (12) months from Notice-to-Proceed.

(2) The Bill Rate is inclusive of all direct and indirect costs associated with the performance of the Services, including but not limited to direct labor, overhead, general and administrative expenses, other direct costs not identified in Schedule B below, and operating margin (profit). The Bill Rate does not include the General Excise and Use Tax.

Schedule B – Other Direct Cost Details

Description	Unit Cost	Units	Total
Seminar and Event Registration Fees			█
Total			█

SPECIAL PROVISIONS
 Honolulu High-Capacity Transit Corridor Project