

CONTRACT

THIS AGREEMENT is made and entered into as of this 24th day of June, 2019, by and between the COUNTY OF HAWAI'I, a municipal corporation duly organized and existing under the laws of the State of Hawai'i, whose business address is 25 Aupuni Street, Hilo, Hawai'i 96720, hereinafter called the "COUNTY," and BROWN AND CALDWELL, a corporation, organized under the laws of the State of California, whose business address is 737 Bishop Street, Suite 3000 Pacific Guardian Center – Mauka Tower, Honolulu, Hawai'i 96813-4020, hereinafter called the "CONSULTANT."

WITNESSETH:

WHEREAS, the COUNTY wishes to obtain the services of the CONSULTANT to render all the necessary professional engineering and other services required to perform Environmental Assessment Documents (EADs) and Public Outreach associated with the Nā'ālehu Large Capacity Cesspool (LCC) Replacement project, including a new Wastewater Treatment Plant (WWTP) expandable to service the Nā'ālehu community, and necessary Preliminary Engineering Report (PER) Updates for associated wastewater collection, transmission, treatment and disposal systems, for Hawai'i Environmental Policy Act (HEPA) and State Environmental Review Process (SERP) compliance, including Federal crosscutting authorities for CWSRF funding, for the County of Hawai'i Department of Environmental Management, Wastewater Division, hereinafter called the "PROJECT"; and

WHEREAS, the CONSULTANT is qualified, ready, willing and able to provide such services; and

WHEREAS, the COUNTY and the CONSULTANT have detailed the scope of work to be performed by the CONSULTANT on the PROJECT in a separate attachment entitled "EXHIBIT A - SCOPE OF WORK", a copy of which is attached hereto;

NOW, THEREFORE, the COUNTY and the CONSULTANT, in consideration of the mutual promises hereinafter set forth, hereby agree as follows:

1. The CONSULTANT shall perform all the services required for the PROJECT in accordance with the General Terms and Conditions for Consultant Service Contracts dated October 22, 2014, attached hereto and hereinafter called the "GENERAL TERMS & CONDITIONS."

2. That the CONSULTANT shall comply with all Federal Requirements for the Consultants and Contractors dated June 2018; attached hereto and hereinafter called the CWSRF BOILERPLATE; and

3. The compensation for the work under "EXHIBIT B - FEE SUMMARY", subject to the GENERAL TERMS & CONDITIONS, shall consist of a fee not to exceed SEVEN HUNDRED FIFTY THOUSAND AND NO/ 100 DOLLARS (\$750,000), inclusive of all taxes for the CONSULTANT except in the case of a contract amendment increasing or decreasing the scope of work.

4. The work under "EXHIBIT A - SCOPE OF WORK" on this AGREEMENT shall be completed within the time periods established in "EXHIBIT C – SCHEDULE OF WORK" and shall commence after the COUNTY has given the official written notice to proceed, exclusive of review time as may be required by the COUNTY and other agencies.

5. Any additional work that may be required shall be for Professional Services, as defined under Hawai'i Revised Statutes Section 103d-104, Definitions. The CONSULTANT shall submit a detailed scope of work, fee estimate, and project schedule for all additional work to be done.

Authorization for the additional work shall be provided via written Task Order(s). All Task Orders issued shall be incorporated into the AGREEMENT by Supplemental Agreement. Supplemental Agreements shall be executed periodically after Task Orders are issued, but prior to contract close out.

6. That liquidated damages for the failure to perform the work under Task No's 1 through 4 of EXHIBIT A – SCOPE OF WORK within the time fixed or any extension thereof exclusive of review time or any delays beyond the control of the Consultant shall be ONE HUNDRED FIFTY DOLLARS (\$150.00) per calendar day. Project schedule and completion dates shall be as scheduled under EXHIBIT C herein.

7. A signed copy of the AGREEMENT and any Supplement Agreement may be executed and transmitted to any party by facsimile, electronic mail ("email") or other means of electronic transmission and shall be deemed to be, and utilized in all respects as, an original, wet-inked manually executed document.

8. This AGREEMENT may be executed in counterparts, each of which shall be deemed to be an original copy of this AGREEMENT, and all of which, when taken together, will be deemed to constitute one and the same AGREEMENT. Signatures of the parties transmitted by facsimile or other electronic means shall be deemed to be their original signatures.

9. If a disagreement concerning this AGREEMENT or CONSULTANT'S work on the PROJECT arises which the parties cannot settle pursuant to the dispute resolution clause of the GENERAL TERMS & CONDITIONS appended hereto and incorporated by reference herein, the parties agree that no action or proceeding involving this AGREEMENT or CONSULTANT'S work on the PROJECT shall be commenced by either party except in the Circuit or District Courts of the Third Circuit, State of Hawai'i, nor shall any action commenced in such court be removed or transferred to any other state or federal court; and

[Remainder of this page is intentionally left blank – CONTRACT]

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed as of the day and year first above written.

COUNTY OF HAWAI'I

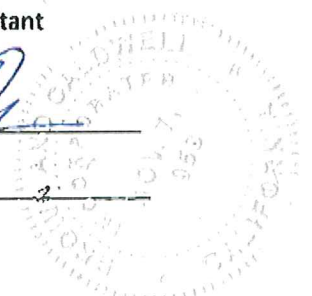
By Wia

Its Managing Director

BROWN AND CALDWELL, Consultant

By [Signature]

Its Executive Engineer



RECOMMEND APPROVAL:

[Signature]

WILLIAM A. KUCHARSKI, Director
Department of Environmental Management

APPROVED AS TO FORM AND LEGALITY:

[Signature]
Deputy Corporation Counsel
County of Hawai'i

DESIGNATED REPRESENTATIVE
for COUNTY OF HAWAI'I:
Name: Dora Beck, P.E.
Title: Wastewater Division Chief
Telephone: (808) 961-8513
Email: dora.beck@hawaiicounty.gov

DESIGNATED REPRESENTATIVE
for BROWN AND CALDWELL:
Name: Craig Lekven, P.E.
Title: Managing Engineer
Telephone: (808) 442-3301
Email: clekven@brwnald.com

EXHIBIT A – SCOPE OF WORK

1. GENERAL DESCRIPTION:

1.1 The Consultant shall provide all planning, engineering and related services for preparing an Environmental Assessment (EA) for the Nā'ālehu Large Capacity Cesspool (LCC) Replacement project including the Nā'ālehu Wastewater Collection System, Nā'ālehu Sewage Pump Station and Force Main and Nā'ālehu Wastewater Treatment and Disposal System and Drainage Modifications in accordance with HRS 343, EPA approved SERP requirements, and CWSRF applicable crosscutting authorities; incorporating current best information available; updating the projects' PER as needed and/or appending applicable technical memoranda (TM) for the R-1 Stock Water Feasibility Study, collection system concepts, drainage study, etc.; associated Public Outreach Services; and Project Management Services to include all necessary oversight and coordination.

1.1.1 A Phase 1 Environmental Site Assessment was performed on the target property for the wastewater treatment and disposal systems at TMKs 9-5-022:001, 9-5-007:016 and 9-5-021:015 which are currently owned by Ka'ū Valley LLC, Ka'ū Mahi LLC and Tot Trust and the County has discussed the proposed use with their representatives, Ala Kahakai Trail Association, as well as members of the public during preliminary public outreach sessions.

1.1.2 It is understood that should target properties on parcels 9-5-022:001 and 9-5-007:016 be determined not to be viable for a new Wastewater Treatment Plant and/or Land Disposal System during the Environmental Assessment and Public Outreach phases a modification to the contract would be required in order to explore other options.

1.1.3 Work under this contract is being performed in accordance with United States Environmental Protection Agency (USEPA) Region 9 Administrative Order on Consent, Docket No. SDWA-UIC-AOC-2017-0002 dated June 22, 2017 (Consent Order).

A. Work under this contract shall be performed in accordance with the Consent Order and Compliance Dates established in the Consent Order or extensions approved by USEPA.

1.2 CWSRF Requirements:

1.2.1 The County intends to utilize funding from the Clean Water State Revolving Fund Program (CWSRF) through the State of Hawai'i, Department of Health, Wastewater Branch. All documents produced in fulfillment of this Contract must meet all requirements for participation in the CWSRF program, including boilerplate, and address all applicable federal cross-cutting authorities.

1.2.2 The EA project description shall explicitly state the CWSRF project names: Nā'ālehu Wastewater Collection System, Nā'ālehu Sewage Pump Station and Force Main and Nā'ālehu Wastewater Treatment and Disposal System and Drainage Modifications.

1.2.3 Figures: Maps and drawings shall clearly show the three (3) projects' work areas.

2. SCOPE OF WORK:

2.1 TASK No. 1 – Project Management

- 2.1.1 Manage the project from inception through completion for on-time, in-budget delivery to include coordination with sub-consultant firms, County, State and other pertinent agencies, perform budget tracking and scheduling, complete monthly project status reports, and serve as the single point of contact for the County.
 - A. Review and steer preliminary design efforts, data gathering, and provide communication support between the County, other agencies, and the team being utilized for the EA/EID, collection system design, and Public Outreach.
- 2.1.2 Submit a project schedule that identifies submittals, deliverables, critical path and deadlines for work tasks within seven (7) calendar days of Notice to Proceed.
 - A. The County notes that as the project is under an Administrative Order with the Environmental Protection Agency, it is imperative that project schedules are met in order to prevent enforcement action against the County as well as to ensure that Grant Funds to be expended during the Construction Phase are maintained. Prioritize tasks to ensure items impacting ability to meet AOC deadlines are accomplished sufficiently in advance to ensure compliance and grant funds can be utilized for construction.
 - B. Participate in quarterly conference call meetings with the USEPA during EA efforts.
 - C. Provide up to three (3) trips to Hilo and/or Nā'ālehu for project review meetings with the County, site visits, and data-gathering.
- 2.1.3 Clarify and accurately document any changes in scope of work, schedule, and budget.
- 2.1.4 Schedule, coordinate, and lead progress meetings regarding work performed under this contract.
- 2.1.5 Coordinate site visits and data gathering with affected property owners and the County.
- 2.1.6 Conduct Quality Assurance and Control Review of all documents and submittals prior to presentation to the County, State and other agencies.

2.2 TASK NO. 2 – Collection System Planning

- 2.2.1 Work under this task performs planning level analysis of options and cost opinions for the Nā'ālehu collection system including utilizing existing sewer pipes and/or alignments; new deep sewers primarily in rights-of-way to reduce or eliminate private pump stations on residential properties; new gravity sewers in easements to minimize sewer depths; new low pressure sewer; new vacuum sewer; and an optimized hybrid of

these systems.

- A. Expand the collection system to the proposed WWTP site and to incorporate newly accessible parcels indicated on Figure 2-1 of the October 2018 Preliminary Engineering Report (PER).

2.2.2 Subtask 2.1 Research:

- A. Research previous efforts that highlight collection system issues and concerns.

2.2.3 Subtask 2.3 Draft Technical Memorandum (TM):

- A. Provide a Draft TM evaluating alternatives for the existing or a new sewer system to service all properties included within each of the final CWSRF project areas to be appended to the projects' PER. Include maps, figures and tables as needed to summarize and clarify the text and analyses.

- 1) Describe the existing collection system and outline its' adequacy to meet project needs.
- 2) Describe each alternative considered, including relevant design criteria and considerations based on available information including topography, soils, anticipated subsurface conditions, routine and special operation and maintenance requirements, safety provisions, and staffing requirements. Identify all properties not servable by gravity for each. Include pump or vacuum station descriptions and pertinent design basis or calculations, as needed.
- 3) Assess existing and conceptual collection system capacity to confirm adequacy based on applicable City and County of Honolulu Wastewater System Design Standards (including per capita flow, I&I and peaking factors) and provide estimated flows and sewer pipe sizing for each option. Break down by CWSRF project area of potential effect (APE).
- 4) Identify all land acquisitions (including any easements) required for installation of the proposed sewer collection and transmission systems for each option and CWSRF projects' APE.
- 5) Provide a conceptual opinion of probable design and construction cost, including for all land acquisitions (fee title and easements) required for each option and CWSRF projects' APE. Incorporate a 25-35% contingency to account for uncertainties associated with a Class 4 estimate.
- 6) Describe the recommended collection system alternative and basis, including relevant design criteria and assumptions. Prepare conceptual plans and profiles indicating concept locations of proposed private lateral connections. Address phasing of implementation to expedite the LCC closures.

- B. The Draft TM shall conform to all applicable requirements for participation in the

CWSRF loan program.

- C. Provide one copy of the Draft TM in PDF format to the County for review and comment.

2.2.4 Subtask 2.5 Final TM:

- A. Prepare and present a Final TM in PDF format that documents the collection system conceptual design process and findings and provides recommendations for future collection system activities (including required approvals and permits) to be incorporated in or appended to the projects' PER prior to publication of the draft EA for public comment.

2.3 Task 3 – EA, CWSRF Cross Cutters and HEPA Compliance:

- 2.3.1 The HRS 343 EA and the CWSRF Environmental Information Document (EID) shall be combined into a single EA document which addresses SERP criteria and crosscutters sufficiently for DOH review and concurrence (including USEPA when required).

2.3.2 Subtask 3.1 Environmental Assessment:

A. Preliminary Documentation

- 1) Prepare project description.
- 2) Conducts site visits as necessary to identify existing conditions and verify project objectives and other development considerations.

B. Pre-Assessment Consultation

- 1) Conduct pre-assessment consultation and solicit comments from key agencies, property owners, community members who attended previous outreach meetings for the project and provided mailing addresses on the sign-in sheets, and Native Hawaiian Organizations (NHO).

C. Review Draft EA/EID Document

- 1) Perform archaeological investigation and flora-fauna surveys and agency consultation.
- 2) Collect, review, and compile data and information relating to the projects' site and their potential effect to the environment and incorporate into the EA/EID. Incorporate a discussion and list of applications, approvals and permits necessary to complete the proposed work.
- 3) Prepare Review Draft EA/EID.

D. Draft EA/EID

- 1) Prepare draft EA/EID based on comments to the Review Draft EA and Notice of Determination letter for County signature.
- 2) Coordinate filing of draft EA and letter to the Office of Environmental Quality Control (OEQC).
- 3) Conduct one public meeting and two landowner meetings (one for C Brewer connected properties and one for newly accessible properties) during the draft EA comment period to present the project and draft EA/EID process and solicit written comments.
 - a) Prepare a Community Meeting Plan that includes the most effective ways to “talk story” with the community and further Section 106 NHO consultation through a listening session. The objectives of the plan include the following:
 - i) Meeting organization (date, time, duration, venue, target audience, invitations, flyers, advertising).
 - ii) Program development.
 - iii) Dissemination of accurate project information.
 - iv) Identification of key issues that affect project acceptance.
 - v) Meeting facilitation and event management (program needs, furniture set up, food and beverage, sign-in, name tags).
 - vi) Meeting summary with supporting documentation (preliminary and final). (Note: Meetings will not be transcribed.)
 - vii) Recommendations for further outreach activities.

E. Final EA

- 1) Respond to comments received on the draft EA and meet with reviewing agencies to discuss if necessary.
- 2) Prepare a Review Final EA for County review.
- 3) Revise Review Final EA and prepare Final EA Notice of Determination letter.
- 4) Coordinate filing required copies of the Final EA/FONSI with the OEQC and CWSRF.

2.3.3 Subtask 3.2 Address Crosscutters:

- A. The scope of services for Crosscutter compliance shall include preparation of environmental documentation that will support content and procedural requirements of the SRF Environmental Assessment Review Checklist and the Department of Health (DOH)/USEPA EID requests. The majority of the technical investigation supporting consultation for the specific EID requirements will have been conducted in conjunction with producing the Final EA.
- B. National Historic Preservation Act (NHPA), Section 106 and HRS Chapter 6E
 - 1) Coordinate DOH's consultation with the State Historic Preservation Officer (SHPO) pursuant to both NHPA and HRS.
 - 2) It is understood that current scope of work in this regard is based on a "no effect" or "not likely to adversely affect" and excludes resolution of issues should consultation result in an initial determination of adverse effect.
- C. Endangered Species Act (ESA), Section 7
 - 1) Coordinate conducting DOH's consultation with the U.S. Department of Interior Fish and Wildlife Service (USFWS) pursuant to the EA as it pertains to threatened or endangered species.
 - 2) It is understood that current scope of work in this regard is based on a "no effect" or "not likely to adversely affect" and excludes resolution of issues should consultation result in an initial determination of adverse effect

2.3.4 Subtask 3.3 Special Permit

- A. Consult with the County Planning Department to verify process, application and permitting requirements.
- B. Complete the Special Permit Application Form and prepare or assemble supporting materials required by Planning Department instructions, except as specifically excluded in the attached proposal.

2.4 Task 4 – R-1 Stock Water Feasibility Study and Report:

2.4.1 Subtask 4.1 Research and Study

- A. Prepare a feasibility study for creating a side-stream of R-1 stock water.
 - 1) Estimate stock water demand for TMK 9-5-007:016, assuming year round use and no over-grazing.
 - 2) Develop an R-1 treatment and storage system concept assuming secondary effluent is drawn for side stream treatment and held in an above-ground tank

for ranch use.

- 3) Size for the capacity to produce, store and deliver the estimated weekly demand in one day, if possible, to minimize operator site visits.
- 4) Assess design, construction, regulatory and operation and maintenance requirements and planning level estimated costs for the typical design life of the system. Compare the costs to a comparably sized system connected to the community's potable water supply.

2.4.2 Subtask 4.2 Draft Technical Memorandum

- A. Provide a Draft TM evaluating and comparing two alternatives for a new R-1 stock water side stream system to service TMK 9-5-007:016 to be incorporated or appended to the projects' PER. Include maps, figures and tables as needed to summarize and clarify the text and analyses.
- B. The Draft TM shall conform to all applicable requirements for participation in the CWSRF loan program.
- C. Provide one copy of the Draft TM in PDF format to the County for review and comment.

2.4.3 Subtask 4.3 Final Technical Memorandum

- A. Prepare and present a Final TM in PDF format that documents the R-1 stock water system conceptual design process and findings and provides recommendations for associated future activities (including required approvals and permits) to be incorporated in or appended to the projects' PER prior to publication of the draft EA for public comment.

2.5 Task 5 – Additional Unforeseen Work:

- 2.5.1 Perform additional unforeseen work as requested by the County after submittal of a detailed scope of work and fee proposal for the work. Authorization for performance of such work shall be provided by written Task Order.
 - A. Additional unforeseen work authorized in accordance with this section shall be limited to Engineering and Technical Services in accordance with HRS §103d-104.
 - B. All unforeseen work authorized in accordance with this section shall be incorporated into the contract via Supplemental Agreement prior to final closure of the contract.

2.6 The scope of work is further detailed in the following attachments to Exhibit A:

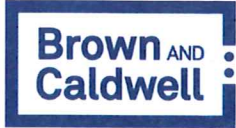
- 2.6.1 Consultant's Proposal, dated March 19, 2019

- 2.6.2 Consultant's clarifying email, dated March 29, 2019
- 2.6.3 SRF Environmental Review Checklist
- 2.6.4 Federal Requirements for CWSRF Projects and "CWSRF Boilerplate"

ATTACHMENTS TO EXHIBIT A – SCOPE OF WORK

2261 Aupuni Street, Suite 201
Wailuku, HI 96793

T: 808.244.7005



March 19, 2019

Ms. Sandra Mendonca, P.E.
County of Hawaii, Wastewater Division
108 Railroad Avenue
Hilo, HI 96720

1055.071116.003

Subject: Naalehu Large Capacity Cesspool Closure Project – Proposal for
Environmental Assessment

Dear Ms. Mendonca:

Brown and Caldwell (BC) is pleased to present our proposal for the Environmental Assessment (EA) for the Naalehu Large Capacity Cesspool Closure Project.

The community's wastewater is currently disposed via large capacity cesspools (LCCs). The United States Environmental Protection Agency (USEPA) no longer allows LCCs and an alternate wastewater treatment and disposal method has to be implemented. The Administrative Order of Consent (Docket SDWA-UIC-AOC-2017-0002) sets a deadline of October 5, 2019 for completing the EA for the project.

BC has prepared a preliminary engineering report (PER) for the new wastewater treatment plant (WWTP) that will serve as the technical basis for the EA. Fukunaga & Associates (F&A) previously prepared a collection system design for the town that was based on a WWTP location that was later determined to not be feasible. Preliminary design of a revised system to the preferred WWTP site is needed to complete the EA.

Scope of Services

Our scope of services is divided into four tasks as listed below.

Task 1 – Project Management, Meetings, Site Visits

Project management includes administration, internal and external coordination, accounting, subconsultant contracting, and invoice preparation. Our budget includes up to three trips to Hilo and/or Naalehu for project review meetings with the County, site visits, and data-gathering.

Task 2 – Collection System Preliminary Design

BC will subcontract with Fukunaga and Associates (F&A) to prepare a planning-level assessment of the collection system needs based on the preferred WWTP site location. F&A's proposal is included as Attachment A. In summary, F&A will evaluate:

- Low-pressure sewer system to minimize the depth of the sewer pipes (per the previous Naalehu Phase 1 design).
- Deep sewers in the County ROW to eliminate pump stations on residential properties.

- Gravity sewers within backyard easements to minimize depth of sewer.
- Vacuum sewer system.
- Hybrid system of two or more of the above.
- Continue to use the existing collection system.

A technical memorandum (TM) will be prepared with the findings. The TM will be included in the EA.

Deliverables: Draft and final TM in electronic (PDF) format.

Task 3 – EA and Special Permit

BC will subcontract with Wilson Okamoto Corporation (WOC) to prepare and process the EA document. WOC will also provide services for Federal cross-cutter compliance (Section 7 and Section 106) through the State of Hawaii Department of Health (DOH), and application for the anticipated special permit required to allow a WWTP to be located within a parcel that is zoned for agriculture by the State Land Use Commission. WOC will subcontract with Cultural Surveys Hawaii and AECOS for archeology and biological services needed to complete the EA. In addition, Cultural Surveys Hawaii's scope includes an archeological inventory survey (AIS) consisting of up to eight trenches and a 100 percent pedestrian survey of the project site. WOC's proposal is included as Attachment B.

BC will subcontract with EarthPlan to prepare and facilitate one public information meeting in Naalehu during the draft EA public comment period. EarthPlan's proposal is included as Attachment C.

BC will support WOC by providing background documentation, drawings, and technical assistance regarding the proposed project. BC will update the PER for the WWTP project with the best-available information to include in the Draft EA. BC will assist WOC in responding to comments from reviewing agencies and individuals.

Deliverables: WOC will submit a Review Draft EA for County review and comment and a Draft EA Notice of Determination letter for DEM signature and filing with OEQC. After public meeting, a Review Final EA will be submitted for BC and County review. The revised Final EA and Notice of Determination letter will be filed (paper and electronic copies) with OEQC for publication in the Environmental Notice.

Special permit application and related documents as outlined in Attachment B.

Task 4 – R-1 Stock Water Feasibility Study

BC will prepare a feasibility study of creating a side-stream of R-1 recycled water for stock watering use by parcel TMK (3)9-5-007:016. BC will prepare an estimate of the stock water demand for the parcel, assuming year-round use and no over-grazing. A conceptual R-1 treatment and storage system will be developed that assumes secondary effluent is drawn from Lagoon 4 for side-stream treatment to meet R-1 standards and placed in an above-ground storage tank for ranch use. If possible, the system will be sized to allow one-day-per-week operation (i.e., the capacity to produce all of the R-1 water needed for a week in one day to minimize operator visits to the site). Regulatory and operation and maintenance (O&M) requirements will be assessed. Planning level capital, O&M, and life-cycle costs will be developed. Similar costs will be developed for a system connected to the community's potable water system for comparison purposes. The findings will be presented in a TM.

Deliverables: Draft and final TMs in electronic (PDF) format.

Schedule

The scope of work will be conducted to meet the Administrative Order of Consent compliance date to complete the environmental assessment for the project by October 5, 2019, unless EPA authorizes a schedule extension.

PROJECT: Naaletu Collection System
 CLIENT: County of Hawaii

FUKUNAGA AND ASSOCIATES, INC.
 MANPOWER ESTIMATE

WORK DESCRIPTION	PRIN		ASOC		SR		LIC		DRFT		CLRK		SUBTOTAL
	ENGR		ENGR		ENGR		ENGR		TECH		CLRK		
A. PRELIMINARY ASSESSMENT													
1 Meetings, Management and Coordination	16	24	16	16									\$9,992.00
2 Site Visits													\$0.00
3 Develop Alternatives													
3a E1 Pumps (update)			8	16									\$4,736.00
3b Deep sewers			16	24									\$8,248.00
Easement for trunk sewer to reduce sewer depth			16	24									\$8,248.00
3c Vacuum Sewer (incl research)			16	32									\$9,472.00
3e Hybrid System			16	16									\$6,104.00
3f Status quo			8	16									\$4,736.00
4 Develop Planning Level Cost Estimates													
4a E1 Pumps			4	8									\$1,908.00
4b Deep sewers			16	16									\$5,184.00
Easement for trunk sewer to reduce sewer depth			16	16									\$5,184.00
4d Vacuum Sewer			16	16									\$5,184.00
4e Hybrid System			16	16									\$5,184.00
4f Status quo			4	16									\$3,132.00
5 Technical Memo of findings and recommendations			8	24									\$9,896.00
6 Address comments			8	8									\$4,464.00
TOTALS	16	192	32	264	84	12							\$91,672.00
RATE	\$ 215.00	\$ 171.00	\$ 153.00	\$ 115.00	\$ 139.00	\$ 4.448	\$ 4.448	\$ 9.660	\$ 75.00				

LABOR \$91,672.00
 GE TAX (4.4386%) \$4,068.95
 SUBTOTAL LABOR AND TAX \$95,740.95
 TRAVEL \$0.00
 TOTAL \$95,740.95 SAY \$ 95,740

Development of Alternatives Includes:
 Identify potential pump station locations
 General system layout map
 Approx. pipe sizes and depths
 Collection system for commercial area

February 28, 2019



FUKUNAGA & ASSOCIATES, INC.
CONSULTING ENGINEERS

Mr. Craig Lekven
Brown and Caldwell
2261 Aupuni Street, Suite 201
Wailuku, Maui, Hawaii 96793

**SUBJECT: NAALEHU COLLECTION SYSTEM
FEE PROPOSAL FOR PLANNING**

Dear Mr. Lekven:

We are pleased to submit for your review our fee proposal to provide planning level analysis of options for the Naalehu collection system as requested. Per our discussions we understand the options are as follows:

1. Low-pressure sewer system to minimize depth of sewer (previous Naalehu Phase 1 design).
2. Deep sewers in the County ROW to eliminate pump stations on residential properties.
3. Gravity sewers within "backyard" easements to minimize depth of sewer.
4. Vacuum sewer system.
5. Hybrid collection system that utilizes two or more of the above methods to optimize the system.
6. Status quo; utilize existing sewer pipes and/or their alignments to convey sewage.

Our analysis will also include planning level analysis of the expanded collection system to include the commercial properties identified by the County. We have kept our fees as low as possible, assuming a streamlined process to evaluate the system. Should we have to repeatedly revisit the options or evaluate minutiae for various iterations of the options, we will have to also reevaluate our effort and fee for this portion of the project. Our attached fee estimate does not include any subconsultant fees at this time, assuming planning and cost estimates would be based on a cursory evaluation of the system using our experience of past projects of a similar nature. Should we require consultation with a subconsultant to address any comments or concerns, we will have to revise our fees to include their efforts. Furthermore, final verification of the suitability of the option(s) is dependent on further field work and detailed analysis that will be done at the design stage. The estimated fee for the above scope is \$95,740. A detailed recapitulation of our fee estimate is attached.

We hope that our fee proposal meets with your satisfaction. If you have any questions or concerns, please contact Andrew Amuro of our office at (808)944-1821 or aamuro@fukunagaengineers.com.

Very truly yours,
FUKUNAGA AND ASSOCIATES, INC.


Royce Fukunaga

Attachment
RF/aa

Attachment: Fukunaga & Associates Proposal

Fee

BC will complete the scope of services described above for a lump-sum fee of \$724,488.00. Table 2 provides a summary of our fee estimate; additional detail can be provided upon request. BC will invoice every four weeks on a percentage complete by task basis.

Table 2. Fee Estimate									
Task	Labor Hours				Labor Budget	Travel & ODCs	Subs	Tax	Total
	Engineering	CADD	Admin	Total					
1. PM	220	0	100	320	\$61,312	\$1,200	\$0	\$2,775	\$65,287
2. Collection system planning	96	0	20	116	\$22,061	\$200	\$105,314	\$5,662	\$133,237
3. EA and special permit	296	24	40	360	\$76,634	\$1,100	\$370,209	\$19,882	\$467,825
4. R-1 stock water feasibility	276	24	8	308	\$55,277	\$200	\$0	\$2,462	\$57,939
Subtotals	888	48	168	1,104	\$215,284	\$2,700	\$475,523	\$30,781	\$724,288

We truly look forward to assisting the County with implementation of this unique and challenging project. Please call Craig Lekven at (808) 442-3301 or Peter Ono at (808) 203-2665 if you have any questions.

Very truly yours,

Brown and Caldwell



Craig C. Lekven, P.E.
Managing Engineer
Project Manager



Peter R. Ono, P.E.
Executive Engineer
Client Service Manager

CCL:ic

Attachments:

1. Subconsultants (Fukunaga & Associates, Wilson Okamoto Corporation, and EarthPlan) proposals.

Attachment: Wilson Okamoto Corporation Proposal



WILSON OKAMOTO
CORPORATION
INNOVATORS • PLANNERS • ENGINEERS

10345-02
February 28, 2019

Mr. Craig Lekven
Brown and Caldwell
1955 Main Street, Suite 200
Wailuku, Maui, HI 96793

SUBJECT: PROPOSAL FOR PROFESSIONAL SERVICES (REVISED #3)
Planning
Nā'ālehu Wastewater Treatment Facility Environmental Assessment (EA)
and Special Permit
Nā'ālehu, Ka'u, Hawai'i
TMK 9-5-007:016, 9-5-021:015 and 9-5-022:001

Dear Mr. Lekven:

Wilson Okamoto Corporation is pleased for the opportunity to submit this revised proposal to provide professional services for the subject project. This revised proposal supersedes our proposal dated March 15, 2018 and is for a new project site. In addition, it is anticipated that additional service will be required to address potentially significant controversy and opposition to the project. Such services may include participation in community outreach efforts, greater scrutiny of work products, particularly for legal compliance, additional labor to respond to public comments, and additional coordination with the project team.

Our services, including sub-consultants, shall include:

Wilson Okamoto Corporation Services

- Planning

Subconsultants

- Biological Resources AECOS, Inc.
- Cultural/Archeological Resources Cultural Surveys, Hawai'i

10345-02

Proposal to Mr. Craig Lekven

Page 2

February 28, 2019

For the purposes of this Proposal, Brown and Caldwell shall be referred to as the "CLIENT", Wilson Okamoto Corporation as the "CONSULTANT", and the Nā'ālehu Wastewater Treatment Facility Planning Study shall be referred to as the "PROJECT." The CLIENT's Terms and Conditions for Professional Services will be applicable, including the CONSULTANT's Subcontract Addendum – Approved Modifications to Subcontract Terms and Conditions.

PROJECT DESCRIPTION

The County of Hawai'i Department of Environmental Management (DEM) is proposing to develop a new wastewater collection system and a new treatment and disposal facility to serve the Nā'ālehu community on Hawai'i Island. Most of the residential lots in the community are currently served by a wastewater collection and disposal system originally constructed, operated and maintained by C. Brewer since the 1940s. The collection system consists of cast iron pipes ranging in size from three to eight inches, some of which were located in the streets and others routed in the backyards of private parcels. The disposal system consisted of three large capacity cesspools (LCCs), one located on County property and the other two within easements on private properties within the community. Currently, the collection and disposal system services 158 properties. In 1998, the US Environmental Protection Agency (EPA) issued regulations (40 CFR 144.14) requiring the elimination or closure of all large capacity cesspools used for wastewater disposal by April 5, 2005.

Under the direction of the Mayor's office, on April 12, 2007, an agreement was finalized between C. Brewer and the County transferring ownership of the system to the County and defining the responsibilities for construction of a new sewage collection system and a treatment and disposal system. On April 30, 2010, the County took over the existing system and has since been responsible for its maintenance.

Previously, DEM had planned to install sewer lines that would convey wastewater from residences to a new large capacity septic system (LCSS) within the community. In August 2007, the Final EA and Finding of No Significant Impact (FONSI) was published for that project.

In 2009, the previously proposed 2007 project was found to be problematic as the existing LCC on the County-owned site did not have sufficient capacity to function as a seepage pit for disposing of effluent from a LCSS serving the entire community. Two additional seepage pits would have been required to accommodate such a flow. However, the County-owned site does not have sufficient space to fit the LCSS and three seepage pits while maintaining proper setbacks and distances between units. Further, the existing LCCs are in poor condition and failing, requiring the County to pump them out weekly to keep the sewage system operational. Compounding these limitations is the poor quality of effluent produced by LCSS, which would impact the surrounding environment. Lastly, the LCSS is an anaerobic process that produces hydrogen sulfide gas, which if released, particularly during maintenance activities, would be an odor nuisance to the community. Therefore, the LCSS approach is not considered a long-term solution for a community-wide wastewater treatment system.

Based on the above and information set forth in the October 2018 Nā'ālehu Preliminary Engineering Report, the proposed Nā'ālehu Wastewater Facility project would consist of:

1. A new wastewater collection system located within the County rights-of-way of streets serving the residential community located north (mauka) of Māmalahoa Highway and also other parcels on both the mauka and makai sides of the highway along the transmission line;
2. An approximately 5,550-foot wastewater transmission line located along Māmalahoa Highway from the Ohai Street intersection within the State of Hawai'i Department of Transportation (HDOT) right-of-way to the Nā'ālehu Spur Road intersection where it turns makai and extends about 1,800 feet along a portion of the road before turning into the proposed wastewater treatment plant site. The transmission line would require at least one mauka-makai crossing beneath the highway;
3. Use of an approximately 14.9-acre area in a currently privately-owned parcel (TMK: 9-5-007:016) south of Māmalahoa Highway as a WWTP and an effluent disposal site using a slow rate land-based system. The 14.9-acre area will be owned by the County;
4. Use of an about 3.2-acre area for a drainage swale within an easement in TMK: 9-5-021:005 and also in TMK: 9-5-007:016;
5. Use of an approximately 2.8-acre site within a privately owned parcel (TMK: 9-5-022:001) south of Māmalahoa Highway for an effluent disposal site using a slow rate land based system.
6. Closure of the three existing LCCs.

The project area is located within two State land use districts: Urban (TMK: 9-5-002:001) and Agricultural (TMK: 9-5-007:015 and TMK: 9-5-007:016); and within the Agricultural A-20 County zoning designation. The WWTP in the State Agricultural land use district will require a Special Permit pursuant to Chapter 205, Hawai'i Revised Statutes, Section 4.5, item 7. Since the WWTP site appears to occupy less than 15 acres in the State Agricultural district, the Special Permit would be processed by the County of Hawai'i Planning Department. The WWTP is a "public use" as defined by County of Hawai'i Chapter 25, Zoning.

The project area is located approximately 13,000 feet (2.5 miles) from the coast at elevations greater than about 660 feet mean sea level, which places it above the Underground Injection Control (UIC) line and not within the Special Management Area or the Shoreline Setback.

The Nā'ālehu Wastewater Facility will use funds from the Department of Health, Clean Water Branch Clean Water State Revolving Fund (CWSRF), which will require the project comply with Endangered Species Act and the National Historic Preservation Act, including consultations with the State Historic Preservation Division and various Native Hawaiian Organizations. Various federal cross cutter analysis as specified by the DOH will also be required. The project will not use EPA Special Appropriation Grant funds.

2. Pre-Assessment Consultation

- a. Conduct pre-assessment consultation to solicit comments from key reviewing agencies including the US Fish and Wildlife, State Office of Planning, State Department of Health, State Historic Preservation Division, and County of Hawai'i agencies.
- b. In consultation with the CLIENT and DEM, respond, as needed, to comments received during the pre-assessment consultation.

3. Draft EA Document

- a. Prepare the Draft EA, including project description, overview of the affected environment, and assessment of anticipated impacts in accordance with Chapter 343, HRS and Chapter 200, HAR, including the federal cross-cutter requirements.
- b. Incorporate any significant comments from the EA Pre-consultation phase into the Draft EA.
- c. Prepare an anticipated FONSI determination letter for DEM signature and submittal to OEQC.
- d. File the DEM letter and required number of copies of the Draft EA/Anticipated FONSI with the Office of Environmental Quality Control (OEQC) for publication in the *Environmental Notice*.
- e. Distribute up to five (5) copies of the Draft EA as requested by interested parties without access to the internet.

4. Coordinate with the CLIENT and DEM to conduct a Draft EA Public Meeting in Nā'ālehu to present findings and solicit comments on the Draft EA.

B. Final EA

1. In consultation with the CLIENT and DEM, respond to comments received on the Draft EA. If deemed necessary, meet with agencies or other concerned parties to discuss the comments.
2. Based on comments received on the Draft EA and responses prepared, revise the Draft EA to comply with the Final EA content requirements of Chapter 343, HRS and Chapter 200, HAR.
3. Prepare a FONSI determination letter for DEM signature and submittal to OEQC.

SCOPE OF SERVICES

I. ENVIRONMENTAL ASSESSMENT (EA)

The scope of services for the EA includes preparing and processing an EA/Anticipated Finding of No Significant Impact (FONSI) pursuant to Chapter 343, Hawai'i Revised Statutes (HRS), and Title 11, Chapter 200, Administrative Rules of the State of Hawai'i Department of Health (DOH). The accepting authority for the EA will be the County of Hawai'i Department of Environmental Management (DEM). The following is a detailed description of our proposed scope of services.

A. Draft Environmental Assessment

1. Coordination and Data Gathering

- a. Conduct a site visit of the project site to gain familiarity with the project site, adjacent areas, and to identify potential concerns.
- b. In consultation with the CLIENT, verify project objectives, development layout, and other development considerations.
- c. Collect, review and compile data and information relating to the project site and its environs for incorporation in the EA, including:
 - 1) Site boundaries, development layout, and other development considerations.
 - 2) Description of the proposed site with respect to existing improvements, and surrounding land uses.
 - 3) Natural physical characteristics of the project site.
 - 4) Generalized information relating to air and noise quality.
 - 5) Relevant governmental land use and environmental controls and policies.
- d. Coordinate preparation of the project description and development plans with the CLIENT.
- e. Coordinate the work of the subconsultants.
- f. Attend a meeting with DEM and the County Planning Department to discuss the project and to determine permitting requirements.

4. File the required number of copies of the Final EA/FONSI with the OEQC for publication in the *Environmental Notice*.
5. Distribute up to five (5) copies of the Final EA/FONSI as required for documentation or permit application requirements.

II. Special Permit

A. Permit Application

1. Conduct an initial consultation with the County of Hawaii Planning Department (PD) to verify permitting requirements.
2. Prepare the Special Permit Application Form and supporting background information as required by the County of Hawai'i Planning Department instructions. Much of this information will be available from the Final Environmental Assessment. Also required will be the acceptance correspondence for the archeological inventory survey (AIS) and an archaeological monitoring plan (AMP) by the State Historic Preservation Division (SHPD).
3. Prepare an assessment of how the proposed project meets the permit criteria.
4. Obtain required plans and drawings of the proposed project from the CLIENT.
5. Prepare a list of the names, addresses and TMK of all owners and lessees of record of surrounding properties. Surrounding properties includes those within 500 of the project site boundary if they are in the Agricultural District or 300 feet if the properties are in the Rural or Urban district. Data for making these determinations shall be obtained from the Real Property Tax Division of the County of Hawaii Department of Finance.
6. Assemble the permit application and submit it to the CLIENT and DEM for review.
7. Revise the application based on comments received and submit it to the PD for acceptance, and, if necessary, provide any additional information as required by the PD.
8. Prepare 20 copies for submission to the PD.

B. Permit Processing

1. Pursuant to the Hawaii County Planning Commission's Rules of Practice and Procedure, within 10 days of PD's acceptance of the application, prepare and serve first notice of the application on surrounding property owners, as identified in application. In addition to other required project related information, the notice shall include a statement of the recipient's right to submit a written request for a contested case procedure and a copy of the form to "Petition for Standing in Contested Case Hearing."
2. Also, within 10 days of PD's acceptance of the application, prepare and post a sign on the project site notifying the public of the proposed project, in accordance with Chapter 25 Planning Commission Rules of Practice and Procedure and PD instructions for signage. Within five days of posting the sign, prepare and file an affidavit with the PD attesting to the posting, along with a photograph of the sign.
3. Within 10 days of being notified by the PD of the scheduled Planning Commission public hearing but no less than 10 days prior to the hearing, serve the second notice of the application to the surrounding property owners. The contents of the second notice will be the same as the first. The public hearing must be scheduled no later than 90 days after the application is accepted, unless the DEM agrees to a longer schedule. An affidavit or proof of mailing will be filed with the PD prior to the public hearing.
4. Participate in meetings/telephone conferences with the CLIENT and DEM to update progress on application processing and preparation for participating in the Planning Commission public hearing and proceedings.
5. Prepare materials for County's use at the public hearing.
6. Attend one public hearing session to answer questions held at the Planning Commission.
7. Provide follow-up services, as necessary, to assure that permit conditions are accurately and appropriately documented in the permit approval.

Items to be provided by others

1. Proposed site plan showing development phases and elevation drawings or renderings of the proposed structures.
2. Surveys, reports, and other documents related to the surrounding uses / areas.
3. If required, a certificate of clearance from the County Director of Finance stating that the real property taxes and all other fees relating to the project site have been paid, and that there are no outstanding delinquencies.

Items Excluded from Scope of Services

1. Preparation and processing of environmental impact statement (EIS) or permit applications beyond that specified in the above scope of services.
2. Preparation of technical studies beyond those specified herein. Such technical studies may include, but are not limited to a cultural impact assessment, botanical survey, glint and glare studies, or social/economic impact assessment.
3. Preparation and processing of permits beyond those specified herein.
4. Preparation of design plans or construction documents.
5. Notices to surrounding land owners and filing fee to continue the hearing as may be requested by the DEM.
6. Preparation for, or presentation at, public/community meetings or hearings not included in the above scope of services.
7. Additional services to address potential public controversy or opposition to the project – e.g. participating in a community outreach program beyond a potential public meeting presentation associated with filing the permit application.
8. Attendance at public meetings, more than specified in the scope of services and budgeted for under reimbursable costs.

SCHEDULE OF SERVICES

The time schedule for the proposed scope of services should proceed according to the following time estimates, exclusive of review periods, significant changes, or other delays beyond the control of the CONSULTANT.

<u>Phase</u>	<u>Estimated Time</u>
I. Environmental Assessment	
Pre-Assessment Consultation	1 month after NTP.
Draft EA	3 months after obtaining sufficient design information and completion of Pre-Assessment Consultation Comment Period.
Final EA	2 month after end of Public Comment period.
II. Special Permit	
Permit Application	1 month after obtaining sufficient design information and drawings. Filing must be accompanied by the Final EA.
Permit Processing	As required based on County's acceptance of the application, scheduling of the public hearing and permit approval.

COMPENSATION FOR PROFESSIONAL SERVICES

For the services outlined above, the CLIENT shall compensate the CONSULTANT according to the terms and conditions of this Agreement.

Fixed Fee

Compensation will be on a fixed fee basis with 4.4386% tax included.

The compensation is outlined below by major tasks.

I. Environmental Assessment EA

Draft EA	\$ 75,000.00
Final EA	<u>\$ 30,000.00</u>
Subtotal	\$ 105,000.00

II. Special Permit

Permit Application	\$ 40,000.00
Permit Processing	<u>\$ 50,000.00</u>
Subtotal	\$ 90,000.00

Subtotal CONSULTANT Labor \$ 195,000.00

Sub-Consultant Costs (Includes GET, as applicable)

Archaeological Literature Review and Field Investigation, and Archaeological Inventory Survey; Section 106 (NHPA) Consultation (Cultural Surveys Hawai'i – See Attachment "A")	\$ 91,909.99
Flora-Fauna Survey and Section 7, ESA Informal Consultation (AECOS, Inc. – See Attachment "B")	<u>\$ 20,858.28</u>
Subtotal Sub-Consultant Fee	\$ 112,768.27
GET (4.166%)	<u>\$ 4,697.93</u>
Total Sub-Consultant Fee	\$ 117,466.20
TOTAL FIXED FEE	\$ 312,466.20
SAY	<u>\$ 312,400.00</u>

Reimbursable Expenses

A 15% service charge will be applied to all reimbursable expenses.

Travel, Airfare, Car Rental, Parking and Other Out-of-Pocket Costs	\$ 7,500.00
Permit Filing Fee	\$ 500.00
Special Permit Application reproduction	<u>\$ 1,000.00</u>
Total Reimbursable Expenses	\$ 9,000.00

10345-02
Proposal to Mr. Craig Lekven
Page 12
February 28, 2019

ADDITIONAL SERVICES/AMENDMENTS

Additional services that are not part of this Agreement will be undertaken by the CONSULTANT by separate agreement and at the direction of the CLIENT.

Any significant increase or decrease in the scope of work, or significant time delays beyond the control of the CONSULTANT, shall be subject to a mutually agreed upon amendment to this fee proposal.

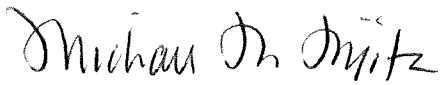
AGREEMENT

This fee proposal is firm for a period of thirty (30) days. After March 31, 2019, the specific terms of this proposal are subject to change.

Please call Earl Matsukawa, AICP or myself if you have any questions.

Sincerely,

WILSON OKAMOTO CORPORATION



Michael M. Fujita, P.E.
President



Earl Matsukawa, AICP
Vice President-Director Planning

GTO/EM/jm

ATTACHMENT A

Archaeological Literature Review and Field
Inspection / Section 106 Consultation /
Archaeological Inventory Study

Cultural Surveys Hawai'i

CULTURAL SURVEYS HAWAII

ARCHAEOLOGICAL, CULTURAL, AND HISTORICAL DOCUMENTATION SERVICES - SINCE 1982



31 October 2018

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Branch Offices:
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Kona, Hawai'i
Lāwai, Kaua'i

Subject: Proposal for an Archaeological Literature Review and Field Inspection to Support Consultation with SHPD, Consultation for Section 106, and Archaeological Inventory Survey for the Nā'ālehu Wastewater Treatment Plant Project, Kāhilipalinui Ahupua'a, Ka'ū District, Hawai'i Island TMKs: [3] 9-5-007:015 and 016, 010:029 and 022:001

Dear Mr. Sakaguchi:

Thank you for contacting Cultural Surveys Hawai'i, Inc. (CSH) regarding the Nā'ālehu Wastewater Treatment Plant project. CSH understands that the County of Hawai'i is proposing to develop a new wastewater treatment facility to serve the Nā'ālehu community.

Archaeological Literature Review and Field Inspection to Support Consultation with SHPD

Based on the information provided and communication between our firms, CSH proposes to conduct an archaeological literature review and field inspection (LRFI) to support a request to the State Historic Preservation Division (SHPD) per Hawai'i Revised Statutes (HRS) §6E-8 for a determination of the appropriate historic preservation requirements for this project.

Hawai'i Administrative Rule (HAR) §13-275-3 states that requests to SHPD for a letter of determination must be initiated by a government agency (any state or county governmental entity). SHPD notified CSH on 30 October 2017 that this rule will be enforced. Included in this proposal's scope of work are the following tasks to assist client with consultation with SHPD: 1) preparation of HRS 6E Submittal Form; 2) draft letter of request for agency to submit to SHPD; and 3) coordinate and assist during consultation with SHPD.

Consultation for NHPA Section 106

CSH understands that this project will be funded by the State Revolving Fund which includes federal funding source. Therefore, this project is required to comply with Section 106 of the National Historic Preservation Act of 1966 (NHPA). Section 106 requires Federal agencies to take into account the effects of their undertakings on historic properties and afford the Advisory Council on Historic Preservation a reasonable opportunity to comment. The responsible federal agency first determines whether it has an undertaking that is a type of activity that could affect historic properties. If so, it must identify the

appropriate State Historic Preservation Officer to consult with during the process. It should also plan to involve the consulting parties and identify other potential consulting parties. Consulting parties' involvement is a key ingredient in successful Section 106 consultation, and the views of the consulting parties should be solicited and considered throughout the process. If it determines that it has no undertaking, or that its undertaking is a type of activity that has not potential to affect historic properties, the agency has no further Section 106 obligations.

Archaeological Inventory Survey

The archaeological inventory survey (AIS) is described in HAR §13-276-2 as:

Archaeological inventory survey" means the process of identifying and documenting the archaeological historic properties and burial sites in a delineated area, gathering sufficient information to evaluate significance of the historic properties and burial sites, and compiling the information into a written report for review and acceptance by the department.

The scope of work includes sub-surface testing with eight (8) trenches and 100% pedestrian survey. This scope of work is contingent on SHPD's historic preservation determination for this project which will be the outcome of the LRFI and consultation with SHPD. If consultation with SHPD indicates increased sub-surface testing or other requirements, CSH will provide a change order request for the increased level of effort required.

The proposed scope of work and associated costs follow. We are happy to address any questions or concerns about these recommendations.

The total cost in this proposal is \$91,909.99. The breakdown is as follows:


Scopes of Work	Cost Estimate
Literature Review and Field Inspection	\$ 17,048.23
Consultation for Section 106	\$ 10,079.58
Archaeological Inventory Survey	\$ 64,782.18
Total Cost	\$ 91,909.99

RATES INCREASE

As a general notice to our clients, CSH increased the hourly rates effective 1 September 2018, the first increase since 2012. The increase is due to the rising cost of doing business in Hawai'i, especially costs for insurance, medical benefits, and employee benefits. This measure will ensure CSH continues to attract experienced and qualified employees, deliver quality and valuable archaeological and cultural services, grow and maintain an extensive library collection of reports, documents, maps, and historic photographs, expand our GIS database, conduct staff training, and upgrade equipment and software. All of these are integral components that helps CSH to work with integrity, sensitivity, and professionalism on all projects, large and small, for all clients from government, private, and non-profits.

Please feel free to contact me by telephone at (808) 262-9972 on O'ahu or toll free at 1-800-599-9962, or by e-mail at hhammatt@culturalsurveys.com. Thank you for contacting CSH, we look forward to working with Wilson Okamoto Corporation.

Sincerely,

A handwritten signature in black ink, appearing to read "Hallett H. Hammatt". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Hallett H. Hammatt, PhD
President

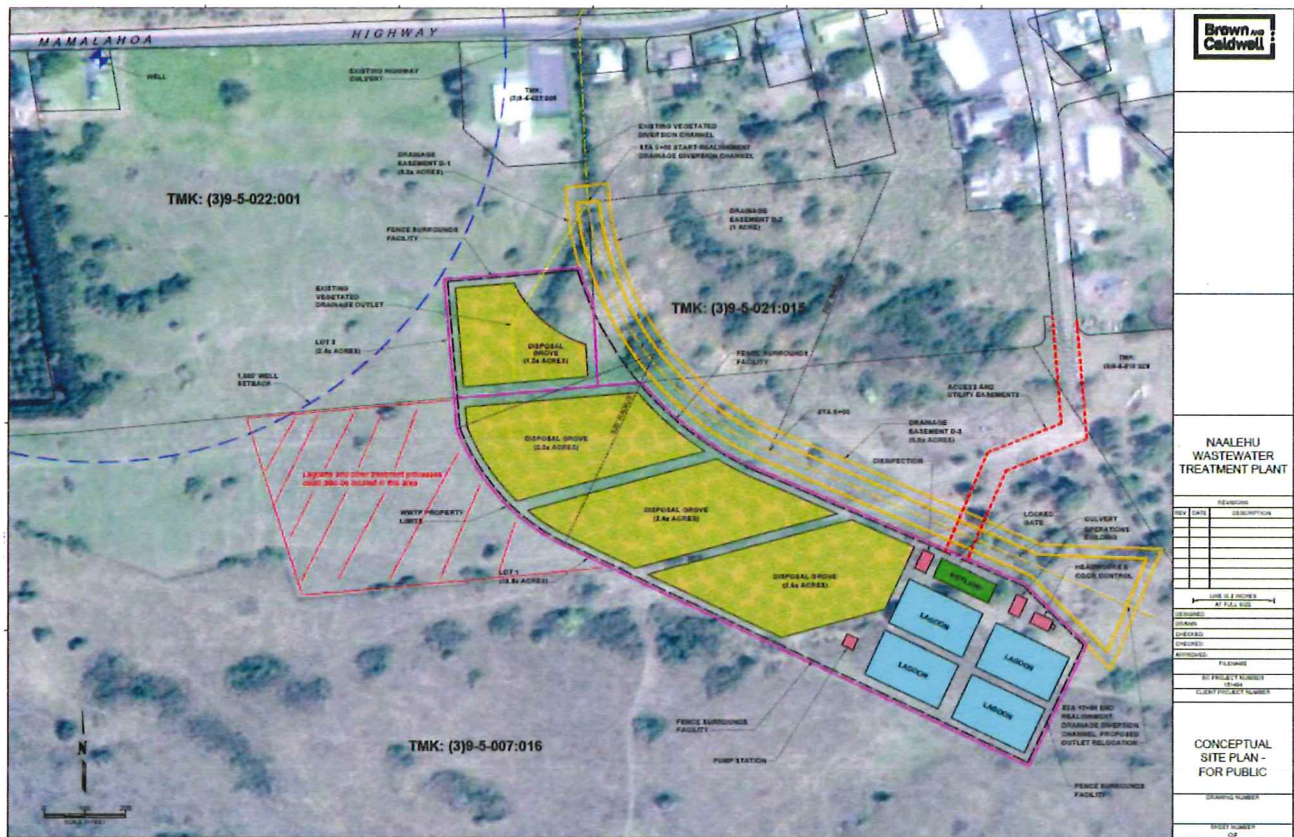
Section 1: INFORMATION FROM CLIENT

The information below summarizes our understanding of the County of Hawai'i's project. To ensure we have an accurate understanding, we ask that you verify the information below and let CSH know if anything needs to be changed. CSH will then reissue this proposal with the corrected information.

<p>CLIENT OF RECORD: The party below will be responsible for payment unless CSH is directed otherwise. John Sakaguchi Wilson Okamoto Corporation 1907 South Beretania Street, Suite 400 Honolulu, HI 96826 Phone: 808-946-2277 Fax: 808-946-2253 Email: jsakaguchi@wilsonokamoto.com</p>	<p>PROJECT LAND JURISDICTION: Check all that apply: <input type="checkbox"/> County / State <input type="checkbox"/> Federal <input checked="" type="checkbox"/> Private <input type="checkbox"/> Department of Hawaiian Home Lands (DHHL) <input type="checkbox"/> Other: _____</p>
<p>PROJECT PROPONENT: County of Hawai'i</p>	<p>FEDERAL INVOLVEMENT? <input checked="" type="checkbox"/> Yes (State Revolving Funds)</p>
<p>HISTORIC PRESERVATION TRIGGER: HRS §6E-8 HAR §13-275 NHPA Section 106</p>	<p>HDOT INVOLVEMENT? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, please specify type of involvement below. _____</p>
<p>PROJECT DESCRIPTION: The County of Hawai'i Department of Environmental Management (DEM) is proposing to develop a new wastewater treatment facility to serve the Nā'ālehu community on Hawai'i Island. The community is currently served by what is considered a large capacity cesspool. Such large capacity cesspools are no longer allowed by the federal Environmental Protection Agency (EPA) and must be decommissioned. Previously, DEM had planned to install sewer lines that would convey wastewater from residences to new individual wastewater septic systems within the community. An environmental assessment was prepared for that proposal. The currently proposed project would convey collected wastewater to the new wastewater treatment facility for processing and disposal to tree farm to be established on the project site for that purpose. The construction of a wastewater treatment plant includes 2000 feet extension of an existing drainage channel. Project Acreage: tbd</p>	



Project Area



Wastewater Treatment Plant Site

- Archaeological Literature Review and Field Inspection
- Consultation with SHPD
- Consultation for Section 106
- Archaeological Inventory Survey
- Nā‘ālehu Wastewater Treatment Plant
- Kāhilipalini Ahupua‘a, Ka‘ū District, Hawai‘i Island
- TMKs: [3] 9-5-007:015 and 016, 010:029 and 022:001

Section 2: ARCHAEOLOGICAL LITERATURE REVIEW AND FIELD INSPECTION TO SUPPORT CONSULTATION WITH SHPD SCOPE OF WORK

This proposal is for an archaeological literature review and field inspection to support archaeological consultation with the State Historic Preservation Division (SHPD). This scope of work is based on information provided by the client.

Please note that the following scope of work *does not satisfy* the Hawai'i state requirements for an archaeological inventory survey (AIS) (Hawai'i Administrative Rules [HAR] Chapter 13-276 and Chapter 13-275/284). As part of the consultation process, SHPD will determine historic preservation requirement. The scope proposed here will facilitate in that determination.

CSH's scope of work for this preliminary study includes:

1. Historical research to include study of archival sources, historic maps, Land Commission Awards and previous archaeological reports to construct a history of land use and to determine if archaeological sites have been recorded on or near this property.
2. Limited field inspection of the project area to identify any surface archaeological features and to investigate and assess the potential for impact to such sites. This assessment will identify any sensitive areas that may require further investigation or mitigation before the project proceeds.
3. Preparation of a letter report to include the results of the historical research with an assessment of archaeological potential based on that research, with recommendations for further archaeological work, if appropriate. It will also provide mitigation recommendations if there are archaeologically sensitive areas that need to be taken into consideration.
4. Preparation of HRS 6E Submittal Form, and draft of a "Request for a State Historic Preservation Division Letter" to request a determination of historic preservation requirement. Agency will submit letter to SHPD on letterhead to comply with recent directive from SHPD which requires "agency to agency" consultation.
5. CSH will coordinate and schedule consultation meeting for client with SHPD.

Assumptions

CSH has made the following assumptions when preparing this proposal:

1. CSH will charge shift differential rates for work performed on weekends, at night and on holidays. Work at night is defined as all work that occurs between the hours of 6pm and 5am. CSH charges for travel time to and from the project.
2. This project will be scheduled to be completed by Hawai'i-based staff; however, there are instances where project timing and/or the project's scope of work will require O'ahu-based personnel. In these cases, travel costs will be incurred. Please note that these expenses apply only if O'ahu personnel are required to complete this project's scope of work.

TRAVEL		
Item	Rate	Unit
Airfare	\$213.61	1 round trip per person
Car Rental	\$52.36	Per day for 1 to 5 people
Parking at home airport	\$18.00	Per day per person
Meals	\$30.00	Per day per person
Lodging	\$157.07	Per night for 1 to 2 people

3. Travel time to and from project area will be added to fieldwork hours and billed at standard rates.
4. This proposal includes provisions for the following tasks:
 - Project Coordination and Management: coordination, communications and management with client, vendors, subcontractors, SHPD, etc.;
 - Background Research: study of archival sources, historic maps, Land Commission Awards and previous archaeological reports to construct a history of land use and to determine if archaeological sites have been recorded on or in the vicinity of this project area. Hawaiian language documents (i.e. Ka Nupepe Kuokoa, Ka Makaainana, and Ka Hoku o Ka Pakipika) pertaining to the project area, the ahupua‘a of the project area, and place names will be translated for inclusion in the report.
 - Preparation of HRS 6E Submittal Form;
 - Preparation of SHPD Request for Determination: preparation of draft “Request for a State Historic Preservation Division letter”. Agency will submit letter to SHPD on letterhead to comply with recent directive from SHPD which requires “agency to agency” consultation;
 - Consultation with SHPD: consultation with SHPD for determination of historic preservation requirement for this project;
 - Field Inspection: two (2) archaeologists for two (2) days to conduct field inspection of the project area;
 - Travel Time: travel time to and from project site;
 - Final Report: preparation of a letter report to include the results of the background research and fieldwork for client’s review for submittal to SHPD supporting the request for determination;
 - Graphics and GPS/GIS Work: production of graphics for the background research, fieldwork documentation, and other graphics needed for the draft and final report;
 - Report Production: production and transmittal of final report for client.

Section 4: CONSULTATION FOR SECTION 106 SCOPE OF WORK

This proposal is for an archaeological consultation for Section 106. This scope of work is based on information provided by the client.

Section 106 of the National Historic Preservation Act of 1966 (NHPA) requires Federal agencies to take into account the effects of their undertakings on historic properties and afford the Advisory Council on Historic Preservation a reasonable opportunity to comment. The responsible federal agency first determines whether it has an undertaking that is a type of activity that could affect historic properties. If so, it must identify the appropriate State Historic Preservation Officer to consult with during the process. It should also plan to involve the consulting parties and identify other potential consulting parties. Consulting parties' involvement is a key ingredient in successful Section 106 consultation, and the views of the consulting parties should be solicited and considered throughout the process. If it determines that it has no undertaking, or that its undertaking is a type of activity that has not potential to affect historic properties, the agency has no further Section 106 obligations.

CSH provides basic assistance and consultation to planners and/or project proponents for projects that are required to use the Section 106 process.

CSH generally assists clients with this set of basic services:

- Initial consultation with client and the State Historic Preservation Division/Department of Lands and Natural Resources (SHPD/DLNR),
- Development of consultation list of consulting parties, including Native Hawaiian Organizations (NHOs), in consultation with the client, to be utilized for contacting these consulting parties,
- Drafting of the initial Section 106 "Consultation Letter" that client will utilize for contacting consulting parties, including NHOs,
- Subsequent consultation for further Section 106 guidance that may arise as a result of responses that may be received from consulting parties, including NHOs, and,
- A summary and request to SHPD/DLNR (i.e. local SHPO) for a Section 106 compliance letter.

Occasionally, and particularly for complex or controversial projects, clients request a more extensive level of assistance.

- Such assistance would include direction, coordination, and consultation with the Office of Hawaiian Affairs (OHA), the Island Burial Council, and other Hawaiian and local community organizations knowledgeable of, or concerned with, the historic properties or cultural resources of the region, and the project area in particular. Such consultation would be undertaken to further assist in the identification of alternative actions and possible mitigation measures required for the project.
- Costs for these extended services may involve representation at meetings with the organizations, as well as travel (off-island travel when required), coordination, and consultation with your firm. If your firm prefers these extended services an addendum scope of work and proposal would be developed for your consideration.

This proposal is based on the requirements of the Section 106 process. The cost estimate posted below is based on the assumption that controversial projects can generate interest among additional parties who

Section 3: COST ESTIMATE ARCHAEOLOGICAL LITERATURE REVIEW AND FIELD INSPECTION TO SUPPORT CONSULTATION WITH SHPD

Costs detailed below represent a best estimate based on information gathered at the time of submission. Services outlined in this document are offered on a time and materials basis and actual costs may vary.

LABOR	POSITION								TOTAL HOURS	TOTAL COST	
	CSH Principal, Dr. Hammatt	Project Manager	Project Director	Supervisor	General Staff	GIS Specialist	Hawaiian Language Translator	Editor			
TASK		\$ 160.00	\$ 145.00	\$ 107.00	\$ 91.00	\$ 75.00	\$ 107.00	\$ 75.00	\$ 107.00		
Project Coordination & Management			2.00	4.00	2.00					8.00	\$ 900.00
Background Research					8.00		8.00	8.00		24.00	\$ 2,184.00
Field Inspection & Travel Time				16.00	16.00					32.00	\$ 3,168.00
Preparation of HRS 6E Submittal Form			4.00	4.00						8.00	\$ 1,008.00
Preparation of SHPD Request for Determination			4.00	4.00						8.00	\$ 1,008.00
Consultation with SHPD			6.00							6.00	\$ 870.00
Letter Report			8.00	24.00	16.00				8.00	56.00	\$ 6,040.00
Graphics and GPS/GIS Work							8.00			8.00	\$ 856.00
Report Production						2.00				2.00	\$ 150.00
TOTAL HOURS:		0.00	24.00	52.00	42.00	2.00	16.00	8.00	8.00	152.00	
TOTAL LABOR:		\$ -	\$ 3,480.00	\$ 5,564.00	\$ 3,822.00	\$ 150.00	\$ 1,712.00	\$ 600.00	\$ 856.00		\$ 16,184.00
Tax at 4.166%:											\$ 674.23

OTHER DIRECT COSTS (ODC)		
ITEM		
Consumables and Other Small Ticket Items		
Consumables (Ex. Field supplies such as flagging tape)		\$ 150.00
SUBTOTAL ODC:		\$ 150.00
HANDLING FEE at 10%:		\$ 15.00
SHPD/DLNR Report Review Fees		\$ 25.00
TOTAL ODC:		\$ 190.00

PROJECT SUMMARY					
Labor	\$	16,184.00	Tax at 4.166%	\$ 674.23	Total Labor with tax = \$ 16,858.23
Other Direct Cost (ODC)	\$	190.00	Tax at 4.166%	\$ -	Total ODC with tax if applicable = \$ 190.00
Total Pre-Tax Cost:	\$	16,374.00	Total Tax	\$ 674.23	Total Project = \$ 17,048.23

Work not in Scope

Additional meeting attendance, additional consultation, or items above and beyond the scope of work outlined in this proposal will be billed at the standard rates:

- \$75.00/hour for General Staff (includes Archaeologist and Archaeological Support Staff)
- \$91.00/hour for Supervisor
- \$107.00/hour for Project Director, GIS Specialist, and Editor
- \$145.00/hour for Project Manager/Principal Investigator
- \$160.00/hour for Principal

wish to contribute their opinions and knowledge of the cultural practices of the area and the potential impacts.

Section 5: ESTIMATE FOR CONSULTATION FOR SECTION 106

Costs detailed below represent a best estimate based on information gathered at the time of submission. Services outlined in this document are offered on a time and materials basis and actual costs may vary.

LABOR	POSITION						TOTAL HOURS	TOTAL COST	
	CSH Principal, Dr. Hammatt	Project Manager	Project Director	Supervisor	General Staff	GIS Specialist			
TASK	\$	160.00	\$ 145.00	\$ 107.00	\$ 91.00	\$ 75.00	\$ 107.00		
Project Coordination & Management			2.00	2.00				4.00	\$ 504.00
Initial Consultation with Client and SHPD			6.00	6.00		4.00		16.00	\$ 1,812.00
Formulation of Consulting Parties List					8.00	8.00		16.00	\$ 1,328.00
Preparation of Section 106 Consultation Letter			6.00	6.00				12.00	\$ 1,512.00
Consultation			8.00	6.00		4.00		18.00	\$ 2,102.00
Request to SHPD for Section 106 Compliance Letter			6.00	6.00				12.00	\$ 1,512.00
Graphics and GPS/GIS Work							8.00	8.00	\$ 856.00
	TOTAL HOURS:	0.00	28.00	26.00	8.00	16.00	8.00	86.00	
	TOTAL LABOR:	\$ -	\$ 4,060.00	\$ 2,782.00	\$ 728.00	\$ 1,200.00	\$ 856.00		\$ 9,626.00
	Tax at 4.712%:								\$ 453.58

PROJECT SUMMARY					
Labor	\$	9,626.00	Tax at 4.712%	\$ 453.58	Total Labor with tax = \$ 10,079.58
Other Direct Cost (ODC)	\$	-	Tax at 4.712%	\$ -	Total ODC with tax if applicable = \$ -
Total Pre-Tax Cost:	\$	9,626.00	Total Tax	\$ 453.58	Total Project = \$ 10,079.58

Work not in Scope

Meeting attendance, additional consultation, or items above and beyond the scope of work outlined in this proposal will be billed at the standard rates:

- \$75.00/hour for General Staff (includes Archaeologist and Archaeological Support Staff)
- \$91.00/hour for Supervisor
- \$107.00/hour for Project Director, GIS Specialist, and Editor
- \$145.00/hour for Project Manager/Principal Investigator
- \$160.00/hour for Principal

Section 6: ARCHAEOLOGICAL INVENTORY SURVEY SCOPE OF WORK

The following tasks are required in order to satisfy the Hawai'i state requirements for archaeological inventory surveys (Hawai'i Administrative Rules [HAR] §13-276 and §13-284):

1. Historic and archaeological background research, including a search of historic maps, written records, Land Commission Award documents, and the reports from prior archaeological investigations. This research will focus on the specific project area's past land use, with general background on the precontact and historic settlement patterns of the *ahupua'a* and district. This background information will be used to compile a predictive model for the types and locations of historic properties that could be expected within the project area.
2. A complete (100 %) systematic pedestrian inspection of the project area to identify any potential surface historic properties. Surface historic properties will be recorded with an evaluation of age, function, interrelationships, and significance. Documentation will include photographs, scale drawings, and, if warranted, limited controlled excavation of select sites and/or features.
3. Based on the project area's environment and the results of the background research, test excavations will be undertaken for surface feature interpretation and identification of subsurface archaeological cultural resources. The testing program will consist of controlled hand excavation as applicable at surface archaeological features and hand and/or backhoe excavations in locations within the project area with the potential for impact by project development and/or for subsurface cultural deposits. Appropriate samples from these excavations will be analyzed for cultural and chronological information. All subsurface historic properties identified will be documented to the extent possible, including geographic extent, content, function/derivation, age, interrelationships, and significance.
4. As appropriate, consultation with knowledgeable individuals regarding the project area's history, past land use, and the function and age of the historic properties documented within the project area.
5. As appropriate, laboratory work to process and gather relevant environmental and/or archaeological information from collected samples.
6. Preparation of an inventory survey report, which will include the following:
 - A project description;
 - A section of a USGS topographic map showing the project area boundaries and the location of all recorded historic properties;
 - Historical and archaeological background sections summarizing traditional Hawaiian and post-Contact land use of the project area and its vicinity;
 - Descriptions of all historic properties, including selected photographs, scale drawings, and discussions of age, function, laboratory results, and significance, per the requirements of HAR §13-276. Each historic property will be assigned a Hawai'i State Inventory of Historic Places number;
 - If appropriate, a section concerning cultural consultations [per the requirements of HAR §13-276-5(g) and HAR §13-275/284-8(a)(2)].
 - A summary of historic property categories, integrity, and significance based upon the State of Hawaii historic property significance criteria.
 - A project effect recommendation;
 - Treatment recommendations to mitigate the project's adverse effect on any significant historic properties identified in the project area.

If historic properties and / or cultural deposits are located, there are specific requirements for documentation including written descriptions and recording their geographic location with a GPS on project area maps. Documentation may include, as appropriate, section drawings and stratigraphic profiles, plan views, and photographs. Required analysis of located historic properties (or potential historic properties) may include any or all of the following:

- analysis of recovered artifacts and midden from traditional Hawaiian deposits,
- analysis of historic artifacts from historic-era deposits, and
- radiocarbon dating of samples from cultural contexts.

The scope of work includes coordination with the SHPD relating to archaeological matters. This coordination takes place after consent of the owner and/or project proponents.

Proposed Strategy & Associated Assumptions

The SHPD determines whether an archaeological inventory survey is needed for a project. The SHPD also has final authority on the sufficiency of an archaeological inventory survey's level of testing and documentation and can increase requirements if significant archaeological resources are encountered during the archaeological inventory survey. Based on project information supplied by the client, a brief review of previous archaeology work in the area, and similar CSH studies, CSH has outlined a strategy for satisfying the Hawai'i state requirements for an archaeological inventory survey and noted any assumptions made. CSH will modify costs if the level of work required to complete the project is different than that described below or if conditions vary from the assumptions noted.

Strategy

CSH's strategy to implement the scope of work is as follows:

1. Fieldwork will include a 100% pedestrian inspection of the project area.
2. Test excavations will be the primary means of identifying and documenting archaeological cultural resources. The subsurface testing program will consist of eight (8) test excavations (trenches).
3. To allow for in situ documentation and sampling of features, excavation methodology will include backhoe excavation of fill layers. If non-sand natural deposits are found beneath the fill layers, mechanized excavation will continue through both the overlying fill layers and these natural sediments. Where appropriate and feasible, archaeological features and/or deposits exposed in plan view during the mechanized excavation of the trench will be documented in plan view and excavated by hand. All excavations will be made to bedrock or depths just below the water table unless prohibited by safety concerns. If natural sedimentary deposits (e.g., buried A horizon) are found beneath fill layers, excavation will shift to removing thin sections by hand shovel in an effort to identify in plan view any possible in situ features.
1. Documentation efforts will include sample collection and analysis. This estimate provides for of in-house sorting and analysis. Costs for outsourced sample analysis are detailed in the cost section of this proposal.

Assumptions

CSH has made the following assumptions when preparing this proposal:

1. This scope of work is contingent on SHPD’s historic preservation determination for this project which will be the outcome of the LRFI and consultation with SHPD. If the sub-surface testing program or other strategies offered in this proposal requires revision, CSH will provide a change order request for the revisions.
2. Backhoe expenses are based on a standard trench dimensions measuring 3.3 feet (1.0 meter) by 16.5 feet (5.0 meter), constituting a 54.5 square feet trench. Depth of excavation depends on subsurface conditions. Please note that enclosed archaeological inventory survey costs assume trenches will be excavated in unimproved areas where there is no paving. Saw-cutting through pavement and repaving are not included in this cost estimate.
3. CSH will charge shift differential rates for work performed on weekends, at night and on holidays. Work at night is defined as all work that occurs between the hours of 6pm and 5am.
4. Travel time to and from project area will be added to fieldwork hours and billed at standard rates.
5. This project will be scheduled to be completed by Hawai‘i- and O‘ahu-based staff and travel costs will be incurred.

TRAVEL		
Item	Rate	Unit
Airfare	\$213.61	1 round trip per person
Car Rental	\$52.36	Per day for 1 to 5 people
Parking at home airport	\$18.00	Per day per person
Meals	\$30.00	Per day per person
Lodging	\$157.07	Per night for 1 to 2 people

6. This proposal includes provisions for the following tasks and reimbursable expenses:
 - Project Coordination and Management: coordination, communications and management with client, vendors, subcontractors, SHPD, etc.;
 - Background Research: study of archival sources, historic maps, Land Commission Awards and previous archaeological reports to construct a history of land use and to determine if archaeological sites have been recorded on or near this project area.
 - Fieldwork: two (2) archaeologists 10 days to conduct pedestrian survey of 100% of the project area and subsurface testing;
 - Travel Time: travel time to and from project site;
 - Lab Work: lab work which may include, but not limited to dating, faunal analyses, soil analyses, botanical analyses, lithic analyses, and artifact analyses;
 - Draft Report: preparation of report to include the results of the background research, fieldwork and lab work for client’s and SHPD’s review;
 - Final Report: incorporation of edits and changes from SHPD;
 - Graphics and GPS/GIS Work: production of graphics for the background research, fieldwork documentation, and other graphics needed for the draft and final report;
 - Report Production: production and transmittal of draft and final reports for client and SHPD;
 - Reimbursable expenses include:

- Of-Island Travel Expenses: airfare, car rental, parking, meals, and lodging;
- Consumables: miscellaneous equipment and supplies for fieldwork;
- Machine Assisted Excavation: backhoe and labor;
- Sample Analysis: for processing and analysis (radiocarbon dating AMS and charcoal wood taxa identification);
- SHPD review fee of \$450.00.

Section 7: COST ESTIMATE FOR ARCHAEOLOGICAL INVENTORY SURVEY

Costs detailed below represent a best estimate based on information gathered at the time of submission. Services outlined in this document are offered on a time and materials basis and actual costs may vary.

LABOR	TASK	POSITION						TOTAL HOURS	TOTAL COST	
		CSH Principal, Dr. Hammatt	Project Manager	Project Director	Supervisor	General Staff	GIS Specialist			Editor
		\$ 160.00	\$ 145.00	\$ 107.00	\$ 91.00	\$ 75.00	\$ 107.00	\$ 107.00		
	Project Coordination & Management		4.00	8.00	8.00				20.00	\$ 2,164.00
	Background Research				8.00	12.00	12.00		32.00	\$ 2,912.00
	Fieldwork & Travel Time			18.00	90.00	90.00			198.00	\$ 16,866.00
	Consultation with SHPD		4.00	6.00					10.00	\$ 1,222.00
	Lab Work				8.00	16.00			24.00	\$ 1,928.00
	Draft Report		16.00	32.00	48.00	40.00		8.00	144.00	\$ 13,968.00
	Final Report		4.00	8.00	16.00	24.00		8.00	60.00	\$ 5,548.00
	Graphics and GPS/GIS Work						12.00		12.00	\$ 1,284.00
	Report Production					2.00			2.00	\$ 150.00
	TOTAL HOURS:	0.00	28.00	72.00	178.00	184.00	24.00	16.00	502.00	
	TOTAL LABOR:	\$ -	\$ 4,060.00	\$ 7,704.00	\$ 16,198.00	\$ 13,800.00	\$ 2,568.00	\$ 1,712.00		\$ 46,042.00
	Tax at 4.166%:									\$ 1,918.11

OTHER DIRECT COSTS (ODC)						
ITEM	PEOPLE		QTY		RATE	
Off-Island Travel Expenses						
Airfare			2	Tickets	x \$ 213.61	per Round-Trip Ticket = \$ 427.22
Car Rental			10	Days	x \$ 52.08	per Day = \$ 520.83
Parking	1	People	x 10	Days	x \$ 18.00	per Day = \$ 180.00
Meals	1	People	x 10	Days	x \$ 30.00	per Day = \$ 300.00
Lodging	1	Rooms	x 8	Nights	x \$ 156.25	per Night = \$ 1,249.99
Consumables and Other Small Ticket Items						
Consumables (Ex. Field supplies such as flagging tape)						\$ 500.00
Machine Assisted Excavation and Associated Services						
Backhoe - Transportation to Site						\$ 385.41
Backhoe - Operation						64.00 Hours x \$ 145.83 per Hour = \$ 9,333.27
Sample Analysis						
Radiocarbon Dating - AMS						2 Samples x \$ 595.00 per Sample = \$ 1,190.00
Charcoal Wood Taxa Identification						2 Samples x \$ 425.00 per Sample = \$ 850.00
SUBTOTAL ODC:						\$ 14,936.73
HANDLING FEE at 10%:						\$ 1,493.67
SHPD/DLNR Report Review Fees						\$ 450.00
TOTAL ODC:						\$ 16,880.41
PROJECT SUMMARY						
Labor	\$ 46,042.00	Tax at 4.166%	\$ 1,918.11	Total Labor with tax		= \$ 47,960.11
Other Direct Cost (ODC)	\$ 16,880.41	Tax at 4.166%	\$ -	Total ODC with tax if applicable		= \$ 16,880.41
Total Pre-Tax Cost:	\$ 62,922.41	Total Tax	\$ 1,918.11	Total Project		= \$ 64,840.52

Sample Analysis

Costs for sample analysis are estimated below. Actual costs will depend on the samples collected.

TYPE OF SAMPLE	FEE
Radiocarbon Dating Accelerator Mass Spectrometry (AMS)	\$595.00 per sample
Charcoal Wood Taxa ID	\$425.00 per sample
Energy Dispersive X-Ray Fluorescence	\$30.00 per sample
Palynomorph (pollen) ID	\$600.00 per sample

Human Skeletal Remains

If suspected human skeletal remains are encountered, an osteologist will be called to the site to make a determination and implement temporary mitigation measures if warranted. Mileage to and from the site as well as the osteologist’s travel time will be billed to the client.

In the event that human skeletal remains are found, representation to the Island Burial Council and/or other community related meetings will be necessary. The cost for archaeological representation will include labor and expenses, including off-island travel expenses if necessary. A detailed cost proposal will be developed if these services are required; professional services are billed at a maximum hourly rate of \$160.00.

Work not in Scope

Additional meeting attendance, additional consultation, or items above and beyond the scope of work outlined in this proposal will be billed at the standard rates:

- \$75.00/hour for General Staff (includes Archaeologist and Archaeological Support Staff)

- \$91.00/hour for Supervisor
- \$107.00/hour for Project Director, GIS Specialist, and Editor
- \$145.00/hour for Project Manager/Principal Investigator
- \$160.00/hour for Principal

Section 8: SCHEDULE

Upon acceptance of this proposal CSH will coordinate with client to schedule work.

Section 9: CLIENT RESPONSIBILITIES

Should client engage CSH for this work, we request delivery of all relevant project information to commence work including a project area map with defined project boundaries; verification of project information as stated on page 4 of this proposal; and any topographic maps, aerial photos, and other scientific/technical reports for the project, if available. CSH requests receiving graphics in ESRI shapefile or AutoCAD format when available.

Client will provide available information on utility locations. CSH is not responsible for damages to unidentified utilities. Client will coordinate with current landowners/representatives/lessees to provide access to the site for the subsurface work on a suitable schedule.

All archaeological materials and/or samples recovered during this investigation and removed from the project area are the sole property of the landowner. CSH will deliver any such items for client's handling, subsequent to analysis per the scope for an archaeological inventory survey. The final disposition of the collection is the responsibility of the landowner, in consultation with SHPD. Private landowners may request storage and archiving of these materials for a fee.

Section 10: SCHEDULE

Upon acceptance of this Proposal CSH will coordinate with client to schedule work.

Section 11: CLIENT RESPONSIBILITIES

Should client engage CSH for this work, we request delivery of all relevant project information to commence work including a project area map with defined project boundaries; verification of project information as stated on page 4 of this proposal; and any topographic maps, aerial photos, and other scientific/technical reports for the project, if available. CSH requests receiving graphics in ESRI shapefile or AutoCAD format when available.

Section 12: ENGAGEMENT

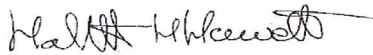
This proposal is valid for 30 days.

CSH will bill monthly for work completed. Expenses are billed at cost plus a 10% handling fee. CSH reserves the right to charge 1.5% interest on any or all invoices more than 30 days past due.

If the terms of this proposal are satisfactory, please acknowledge your authorization by signing and dating a copy of this proposal and returning it to Louise Funai at lfunai@culturalsurveys.com.

If you have any questions regarding the scope of these services and data to be furnished, please contact me at (808) 262-9972 or by email at hhammatt@culturalsurveys.com. We look forward to working with you on this project.

Sincerely,



Hallett H. Hammatt, PhD

ACCEPTED:

Signature

Date

Printed Name

ATTACHMENT B

Flora Fauna Survey

AECOS, Inc.



AECOS , Inc.
45-939 Kamehameha Hwy, #104
Kaneohe, HI 96744

aecos@aecos.com
(808)234-7770 (phone)
(808)234-7775 (fax)

TO: Wilson Okamoto
FROM: Snookie Mello

ATTN: John/Earl
DATE: *revised 10/2/2018*

NAALEHU WWTP
Flora/Fauna Survey

TASK 1 Flora Fauna Survey of proposed WWTP site **\$ 13,768.66**
(approximately 40 acres)

inclusive of
State GET

A flora and fauna survey will be conducted at the proposed Naalehu WWTP site, drainage way and the pipeline route along the roadway through the subdivision. A report suitable for an EA or EIS will be prepared. The report will include the findings of the survey and assess potential impacts to any protected species.

TASK 2 Section 7 Informal Consultation to NLAA **\$ 5,999.96**

inclusive of
State GET

Informal consultation with resource agencies will be undertaken through the agency that triggers the federal action.

NOTES: If section 7 formal consultation is necessary, cost will be based on time and materials.

Right of entry will be provided by Wilson Okamoto.



February 13, 2019

Craig Lekven
Brown and Caldwell
1955 Main St., Suite 200
Wailuku, HI 96793

Dear Craig:

**Subject: Naalehu Wastewater Treatment Plant
Proposal for Community Outreach Program During Environmental Assessment
Phase**

This is a proposal to provide community outreach services during the Environmental Assessment phase of the Naalehu Wastewater Treatment Plant project. Proposed services include:

1. Assist the project team in media and other communications regarding the preparation and issuance of the Draft Environmental Assessment.
2. Assist the project team in preparing for a community information meeting regarding the Environmental Assessment, including
 - 2.1. Recommended approach and talking points
 - 2.2. Input in presentation material, include PowerPoint presentation
3. Facilitate community information meeting
4. If meetings with landowners, including owners of former C. Brewer lands and of newly accessible properties, are conducted, assist project team as follows:
 - 4.1. Input on announcements and invitations
 - 4.2. Recommended approach and talking points
 - 4.3. Facilitate meeting(s) if requested, and as appropriate

Attachment: EarthPlan Proposal

Proposal to Brown and Caldwell re: Naalehu WWTP Community Outreach

February 13, 2019

Page 2 of 3

Proposed Fees

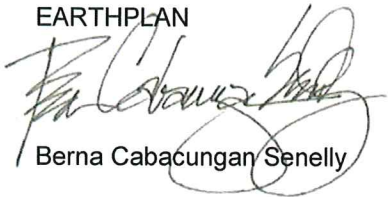
Based on this proposed scope of work, we propose a ceiling fee of \$14,735.00. This is based on an estimated \$10,375.00 in hourly fees and \$4,360 in expenses. I would bill for actual time spent and expenses. Copies of receipts will be provided.

Please note that expenses are based on a possible two trips. While only one trip is anticipated, I included two in the expense estimate should a separate trip is needed for landowner meetings. Further, I ask that we review these expense estimates every six months upon contract approval to assess if estimates are within a reasonable range, and that contract adjustments are made if appropriate.

Again, thank you for including Earthplan on your project team. I hope that this proposal meets your needs. Please let me know if you have questions or need further information.

Sincerely

EARTHPLAN



Berna Cabacungan Senelly

Hourly Fees (based on hourly rate of \$125)

Scope Item	Number of Hours	Subtotal
1. Assist in communications re: EA preparation and issuance	5	\$ 625.00
2. Preparations for community information meeting	50	\$ 6,250.00
3. Facilitate meeting	8	\$ 1,000.00
4. Assist in landowner meetings	20	\$ 2,500.00
Subtotal Hourly Fees		78 \$ 10,375.00

Expenses

Roundtrip airfare DFW - KOA or ITO (\$1,500 per trip; 2 trips)	\$ 3,000.00
Lodging (\$200 per night; 5 nights)	\$ 1,000.00
Car rental (\$60 per day; 6 days)	\$ 360.00
Expenses Subtotal	\$ 4,360.00

Total Proposed Fees \$ 14,735.00

Estimates for Ceiling Fee

EXHIBIT B – FEE SUMMARY:

Table 1 – Project Costs

Task No.	Description	Cost
1	Project Management	\$65,287.00
2	Collection System Planning	\$133,237.00
3	EA/EID and Special Permit	\$467,825.00
4	R-1 Stock Water Feasibility	\$57,939.00
5	Unforeseen Work	\$25,712.00
	Total	\$750,000.00

EXHIBIT C – SCHEDULE OF WORK:

Table 2 – Project Schedule

Deliverable (from 3/19/19 Proposal)/Description	Milestone (from rev 22 schedule, last dated 6/7/19)	Consent Order Deadline
Notice to Proceed	June 24, 2019	
Task 1 – Weekly: Call Logs with Action Items and Key Decisions Tracked Monthly: Status Reports, Invoices, Schedule Updates	Throughout Project	
Task 2A, ID 102 – Draft Collection System TM	11/4/19	
Task 3A, ID 99 start – Issue Pre-Assessment Consultation Package	7/22/19	
Task 4A, ID 108 – Draft TM for R-1 Stock Water Feasibility Study	9/23/19	
Task 3B, ID 131 start – Review Draft EA	3/2/20	
Task 3C, ID 134 start – Draft EA to OEQC	4/6/2020 ^a	
Task 3D, ID 139 start - Public Meeting	Early in Public Comment Period-4/27/19 ^a	
Task 2B, ID 105 – Final Collection System TM	12/2/19 ^a	
Task 3E, ID 147 – Review Final EA	4/28/21 ^{a,b}	
Task 4B, ID 111 – Final TM for R-1 Stock Water Feasibility	11/4/19 ^a	
Task 3F, ID 150 – Final EA and FONSI to OEQC	6/2/21 ^{a,b}	October 5, 2019
Task 3G, ID 51 - Special Permit Application Complete (Ready for Submittal)	3/8/22 ^b	
Task 3H – Serve Notice and Post Signs for Special Permit Application	Order of Possession ^a + 10 days ^b	
Land Acquisition (by County, Possession)	3/18/22 ^{a,b}	June 1, 2020

^a Dependent on timely County or outside agency reviews or responses that are outside Consultant's control.

^b Schedule assumes a 90-day review and approval of draft AIS by SHPD. Consultant shall submit an updated schedule within 14 calendar days of County receiving written approval of draft AIS from SHPD. Milestone for this item shall be updated by Supplemental Agreement, based on the mutually-agreeable updated schedule.

GENERAL TERMS AND CONDITIONS
for
CONSULTANT SERVICES CONTRACTS
October 22, 2014

SECTION 1 - DEFINITIONS

When used in these General Terms and Conditions or elsewhere in the contract, the following terms, or pronouns used in place of them, shall have meaning ascribed to them in this section, unless it is apparent from the context that a different meaning is intended.

- 1.1 CONSTRUCTION MANAGEMENT SERVICES. The endeavor to provide inspection services as an authorized representative of the Director.
- 1.2 CONSULTANT. Any individual, partnership, firm, corporation or joint venture engaged by the County to perform the services under the contract.
- 1.3 CONTRACT. The written agreement covering the performance of the services required for the project by the consultant. It shall include these general terms and conditions, and the special provisions. It shall also include all modifications of the contract by supplemental agreements thereto in writing and written orders of the Mayor and Director.
- 1.4 COUNTY. The County of Hawaii, State of Hawaii.
- 1.5 DESIGNS AND PLANS. Any and all designs, plans, construction drawings, specifications, cost estimates, work schedules, proposals, studies, reports and other items.
- 1.6 DIRECTOR. The Director of Environmental Management of the County of Hawaii, Department of Environmental Management, directly or through an assistant or representative.
- 1.7 ENGINEER. The Director of Public Works of the County of Hawaii, Department of Public Works, directly or through an assistant or representative.
- 1.8 INSPECTION. Visual observation of materials, equipment, or construction work for the purpose of ascertaining that the work is in substantial conformance with the contract documents and with the design intent. Such inspection shall not be relied upon by others as acceptance of the work, nor shall it be construed to relieve the Contractor in any way from his obligations and responsibilities under the construction contract.
- 1.9 MAYOR. The Mayor of the County of Hawaii.
- 1.10 SRF. State Revolving Fund.

SECTION 2 - AWARD AND EXECUTION OF CONTRACT

- 2.1 AWARD OF CONTRACT: The CONSULTANT, upon being selected to render certain professional services for the project, will be notified of his commission by the DIRECTOR. Said notice shall not be construed to be authorization to proceed with performance of services under the contract.

Any services performed by the CONSULTANT prior to the date indicated in the notice to proceed from the DIRECTOR shall be at his own risk.

2.2 EXECUTION OF CONTRACT: Prior to the drafting of the contract, discussions will be held between the parties relative to the extent of the services to be performed by the CONSULTANT and other pertinent matters. Based on said discussions, the COUNTY will draft the contract and submit the same to the CONSULTANT for review and signature. If the CONSULTANT is an individual, or partnership, the CONSULTANT shall sign the contract in the office of the DIRECTOR or before a notary public. If the CONSULTANT is a corporation, the CONSULTANT shall cause the contract to be signed before a notary public by an officer authorized to do so and shall affix to the contract its corporate certificate, resolution or other instrument vesting such officer with authority to sign the contract on its behalf. The signed contract shall be returned to the COUNTY for signature and further processing.

2.3 TAX CLEARANCES/COMPLIANCE WITH LAWS:

A. In accordance with Section 103-53, Hawaii Revised Statutes (HRS), tax clearances from the State Director of Taxation and the Internal Revenue Service to the effect that due tax returns have been filed and all taxes, penalties and interest have been paid are prerequisites to entering into the contract and to receipt of final payment, except as otherwise provided by rule or statute. Progress payments are subject to statutory assignment to satisfy delinquent taxes, interest and penalties.

B. Consultant is also required to furnish proof of compliance with the requirements of Section 3-122-112, Hawaii Administrative Rules (HAR):

- a. Chapter 237, tax clearance;
- b. Chapter 383, unemployment insurance;
- c. Chapter 386, workers' compensation;
- d. Chapter 392, temporary disability insurance;
- e. Chapter 393, prepaid health care; and
- f. One of the following:
 - (1) Be incorporated or organized under the laws of the State of (hereinafter referred to as a "Hawaii business"); or
 - (2) Be registered to do business in the State (hereinafter referred to as a "compliant non-Hawaii business").

C. Effective July 1, 2011, the Governor of Hawai'i signed Act 190 into law, which requires compliance documentation for awards of \$2,500.00 or more:

The responsibility of all Offerors doing business with the State or County are required to comply with all applicable statutes, administrative rules and procedures. State or County agencies must verify compliance prior to award. Acceptable verification is through Hawai'i Compliance Express (HCE). Vendors wishing to do business with the State or County must register in HCE and be in compliance.

HCE is a one-stop online program where vendors verify and manage their compliance. Once a vendor is registered, HCE provides the following proof of compliance/ compliance documentation:

- Certificate of Good Standing (COGS) from the Department of Commerce and Consumer Affairs (DCCA) Business Registration Division
- Tax clearances (federal and state) from the Department of Taxation (DOTAX)
- Compliance with HRS Chapters 383 Hawai'i Employment Security Law (Unemployment Insurance), 386 (Worker's Compensation Law), 392 Temporary Disability Insurance and 393 Prepaid Healthcare Act, from the Department of Labor and Industrial Relations (DLIR)

There is a nominal fee to subscribe to HCE. Please note that it may take two or more weeks to establish a vendor account in HCE. For more information and to register, see <http://vendors.ehawaii.gov>.

D. The above certificates should be applied for and submitted to the Department as soon as possible. If a valid certificate is not submitted on a timely basis for award of a contract, an offeror otherwise responsive and responsible may not receive the award.

E. In addition to a tax clearance certificate, an original "Certification of Compliance for Final Payment" (SPO Form-22) will be required for final payment. A copy of the form is also available at www.spo.hawaii.gov. Select "Forms for Vendors/Contractors" from the Chapter 103D, HRS, pop-up menu. A consultant making a false affirmation shall be suspended and may be debarred pursuant to Section 103D-702, HRS.

2.4 **CONTRACT NOT BINDING**: The Contract shall not be binding or of any force until said contract has been fully and properly signed by all of the parties thereto, certified by the Director of Finance as to availability of funds in the amounts and for the purpose set forth therein and signed by the Mayor.

SECTION 3 - LEGAL RELATIONS AND RESPONSIBILITY

3.1 **INDEPENDENT CONTRACTOR**: In the performance of the services required under this Agreement, the CONSULTANT shall be an independent contractor with the authority to control and direct the performance and details of the work and services required under this Agreement; however, the COUNTY shall have a general right to inspect work in progress, with proper and reasonable notice, to determine whether, in the opinion of the COUNTY, the work is being performed by the CONSULTANT in accordance with the provisions of this Agreement.

All persons hired or used by the CONSULTANT shall be the CONSULTANT'S agents and employees and the CONSULTANT shall be responsible for the accuracy, completeness, and adequacy of any and all work and services performed by its agents and employees.

Furthermore, the CONSULTANT intentionally, voluntarily, and knowingly assumes the sole and entire liability, if any such liability is determined to exist, to its agents and employees, or to third persons, for all loss, cost, damage, or injury to the extent caused by the negligence of CONSULTANT'S agents and employees in the course of their employment.

The performance of work under this Agreement alone shall not be construed as employment with the COUNTY and shall not entitle the CONSULTANT or the CONSULTANT'S agents, employees, to vacation, sick leave, retirement, or other benefits directly afforded COUNTY employees. The CONSULTANT shall be responsible for payment of income, social security, and any other federal, state, or local taxes that it may be required to pay.

3.2 INDEMNIFICATION: The Consultant shall indemnify and hold harmless the County, its officers, agents and employees, from and against any and all actions, claims, suits, damages, losses, costs, and expenses to the extent arising out of the negligent, reckless, intentional or wrongful acts, errors or omissions of the Consultant, its officers, agents, employees or subcontractors occurring during or in connection with the performance of the Consultant's services under this contract, or to the extent arising out of the breach of this Contract by the Consultant. It is strictly understood that the County, its officers, agents and employees shall in no way be held liable for any damages, cause of action or suits resulting from the negligent, reckless, intentional or wrongful acts, errors, or omissions of the Consultant, its officers, agents, employees, or subcontractors. The Consultant shall reimburse the County and its officers, agents, and employees for their defense costs, including but not limited to attorney's fees and costs, to the extent attributable to the negligent, reckless intentional or wrongful acts or omissions of the Consultant, or its subcontractors and their officers, agents, and employees.

3.3 LIABILITY INSURANCE: The Consultant shall secure adequate public or commercial liability insurance covering death or bodily injury with limits not less than FIVE HUNDRED THOUSAND AND NO/ 100 DOLLARS (\$500,000.00) for personal injury, and for injury or damage to property, which policy shall remain in full force and effect for the term of this contract and which further names the County of Hawai'i as additional insured. Proof of workers compensation coverage and motor vehicle coverage (assuming consultant will be using vehicle(s) in performance of the scope of work) be provided compliant with laws of the State of Hawai'i.

The Consultant shall file with the Department of Environmental Management copies of a certificate of insurance showing it has in full force and effect the required insurance. The Consultant shall give the County thirty (30) days' notice of any cancellation in the policy."

3.4 NONDISCRIMINATION IN COUNTY CONTRACTS:

A. Pursuant to Executive Order No. 142, County of Hawaii, dated February 11, 2005, during the performance of this contract, the contractor agrees as follows:

1) The contractor shall comply with all requirements set forth in Federal and State laws and regulations relative to Title VI of the Civil Rights Act of 1964, as amended, which provide for non-discrimination in Federally assisted programs.

2) The contractor shall not discriminate against any employee or applicant for employment because of race, ancestry/national origin, religion, color, disability, age, marital status, military status, veteran's status, sexual orientation, lactation, arrest and court record, citizenship, or any other classification protected by state and federal law. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training. The contractor agrees to post in conspicuous places notices to be provided by the contracting officer setting forth the provisions of the nondiscrimination clause.

3) The contractor shall in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants shall receive consideration for employment without regard to race, ancestry/national origin, religion, color, disability, age, marital status, military status, veteran's status, sexual orientation, lactation, arrest and court record, citizenship, or any other classification protected by state or federal law.

4) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract, this contract may be canceled or suspended in whole or in part and the contractor may be declared ineligible for further County contracts until such time that the contractor by satisfactory evidence, in good faith, ceases such discriminatory practices or procedures.

5) The contractor who subcontracts any portion of the contract shall assure the County that such subcontractor shall abide by the nondiscrimination provisions stated herein and agrees that any subcontractor who is found in violation of such provisions shall subject the principal contractor's contract with the County to be terminated or suspended pursuant to Section (4) above.

6) The County may direct any bidder, prospective contractor, or subcontractor to submit a statement in writing signed by an authorized officer, agent, or employee of the contracting party that the signer's practices and policies do not discriminate on the grounds of race, ancestry/national origin, religion, color, disability, age, marital status, military status, veteran's status, sexual orientation, lactation, arrest and court record, citizenship, or any other classification protected by state or federal law, and that the terms and conditions of employment under the proposed contract shall be in accordance with the purposes and provisions stated herein.

3.5 LAWS & REGULATIONS: The CONSULTANT shall keep himself fully informed of all laws, ordinances, codes, rules and regulations, governmental changes and development plans, setback limitations, rights-of-way, and all changes thereto, which in any manner affect the contract and the performance thereof.

The CONSULTANT shall comply with all such present laws, ordinances, codes, rules, regulations, design standards and criteria, governmental general and development plans, set back limitations, rights-of-way, including the giving of all notice necessary and incident to the proper and lawful prosecution of the work, and all changes thereto. If any discrepancy or inconsistency is discovered between the contract and any such law, ordinance, code, rule, regulation, design standard, design criterion, governmental general and development plans, setback limitation, rights-of-way, the CONSULTANT shall forthwith report the same in writing to the DIRECTOR.

3.6 SRF BOILERPLATE: When the Project is to be funded through the State Revolving Fund, the consultant shall comply with all federal regulations as listed in the "SRF Boilerplate" Federal Requirements for SRF Projects dated June 1997 as applicable "Cross-cutter" regulations which have been determined as applying to the SRF loan program.

3.7 H.A.R. 3-125 (CHAPTER 125) REQUIREMENTS:

A. The language contained in the following provisions of the Hawaii Administrative Rules, Title 3, Subtitle 11, Chapter 125, are adopted and included by reference:

- 1) §3-125-2 Change order to goods and services contracts;
- 2) §3-125-3 Modifications to goods and service contracts;
- 3) §3-125-5 Authorization for a stop work order for goods and services contracts;
- 4) §3-125-6 Stop work orders for goods and services contracts;
- 5) §3-125-8 Variations in quantities for definite quantity goods and services contracts;
- 6) §3-125-9 Variations in quantities for indefinite quantity goods and services contracts;
- 7) §3-125-12 Price adjustment for goods and services contracts;

- 8) §3-125-14 Novation or change of name;
- 9) §3-125-15 Claims based on a procurement officer's actions or omissions for goods and services contracts;
- 10) §3-125-16 Claims based on oral directives;
- 11) §3-125-17 Termination for default in goods and services contracts;
- 12) §3-125-19 Liquidated damages for goods and services contracts;
- 13) §3-125-21 Termination for convenience of goods and services contracts;
- 14) §3-125-23 Prompt payment by contractors to subcontractors; and
- 15) §3-125-24 Remedies.

B. In the event of conflict or omission between the language of this contract and the intent of Chapter 125, H.A.R., the contract shall not be void or voidable, but the intent of Chapter 125 shall prevail.

SECTION 4 - MODIFICATIONS

4.1 **MODIFICATION OF CONTRACT:** The COUNTY may at any time make such modifications in the contract, as it deems necessary and advisable. Such modifications shall be made by a supplemental agreement in writing or by a written order of the Mayor provided that modifications by such a written order shall be limited to modifications in the scope of services and provided further that modifications involving no reduction or increase in compensation of the CONSULTANT may be made by written order of the DIRECTOR.

Upon receipt of a written order, the CONSULTANT shall proceed with the modification as ordered. If the CONSULTANT does not agree with any of the terms or conditions of or with the amount of the reduction, increase in compensation provided for in the order, he shall file with the DIRECTOR a written protest setting forth his reasons in detail within ten (10) calendar days after receipt of the order. The protest shall be disposed of pursuant to the provisions of subsection 5.4. Failure to file such protest within the time specified shall constitute agreement on the part of the CONSULTANT with the terms, conditions and amount in the order.

In the event the CONSULTANT for reasons related to safety does not agree with and refuses to proceed with the modifications required by the COUNTY in the written order, the Mayor may allow the CONSULTANT to withdraw from the contract without breach, provided the CONSULTANT files with the Mayor a written protest setting his reasons in detail within ten (10) calendar days after receipt of the order. If withdrawal is allowed, the CONSULTANT shall be compensated in the same proportion of the compensation under the contract as the services performed bear to the services to be performed under the contract.

SECTION 5 - PERFORMANCE OF CONTRACT

5.1 **TIME:** Time is of the essence of the contract. Performance of the services under the contract shall begin on the commencement date designated in the notice to proceed and be completed within the number of calendar days specified.

5.2 **DELAY:** If any delay in the performance of the services under the contract occurs as a result of unforeseeable causes beyond the control and without fault or negligence of the CONSULTANT, including but not limited to, acts of God, acts of the public enemy, acts of the COUNTY with respect to the contract, acts of another contractor in the performance of a contract with the COUNTY, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather, or delays of subcontractors or suppliers, then the CONSULTANT shall be granted an extension of the time for performance corresponding to the delay. If as a result of the delay completion of performance within

the extended time would cause undue hardship to the CONSULTANT, the DIRECTOR may, in his discretion, grant further extension of the time for performance. No extension of time, however, shall be granted unless a written application therefore stating in detail the cause or cause of delay is filed by the CONSULTANT with the DIRECTOR within ten (10) calendar days after commencement of the delay. The number of days of each extension of time shall be determined by the DIRECTOR. No such extension shall be deemed a waiver of the right of the COUNTY to require the completion of the services under the contract within the time required herein as so extended by the specific terms of such extension or extensions, nor a waiver of right to terminate the contract for any other or additional delay not covered by the specific terms of such extension or extensions.

5.3 PROSECUTION OF THE WORK: The CONSULTANT shall be available upon reasonable demand to discuss the progress of the services being performed under contract. All questions arising during the performance of the contract that must be resolved by the Mayor or DIRECTOR shall be brought to their immediate attention.

The CONSULTANT shall direct his work to relate appropriately to, and in accordance with, established and generally accepted engineering, planning and/or architectural design principles and practices in effect at the time that CONSULTANT'S professional services are rendered.

The CONSULTANT shall be responsible for the accuracy of all computations and completeness of all work.

All notes, including field notes, designs, drawings, tracings and other data produced in the performance of the contract shall be the property of the COUNTY.

The DIRECTOR shall have access, at all reasonable times, to all notes, designs, drawings, tracings or other technical data pertaining to the services being performed under the contract for the purpose of inspection and making copies of them. Upon completion of the services under the contract, any and all such notes, studies, designs, drawings, tracings or other technical data shall be delivered and surrendered to the COUNTY on demand, provided that copies of notes, studies and other technical data may be delivered and surrendered instead of originals.

5.4 MEDIATION: At the option of, and in the sole discretion of the Director, any dispute, controversy or claim arising out of or in connection with the interpretation or performance of any term or condition of this Agreement or any breach or alleged breach of this Agreement, shall be submitted to and resolved by non-binding mediation by a neutral and independent mediator, who shall be selected by the parties by mutual agreement, or if the parties are unable to agree upon the selection of a mediator, then in accordance with the commercial arbitration rules of the American Arbitration Association. The mediation shall take place in the County of Hawaii, State of Hawaii. The cost of the mediator and other mediation costs shall be borne equally by the parties. The mediation process and the outcome of the mediation shall remain confidential to the maximum extent permissible by law. Notwithstanding the foregoing terms, the parties shall make every reasonable effort to resolve disputes, controversies or claims between themselves in a cooperative fashion prior to submitting a dispute to mediation.

5.5 SUBCONTRACTING OR ASSIGNMENT OF CONTRACT: The CONSULTANT shall not subcontract or assign all or any part of the services under the contract without the prior written consent of the DIRECTOR. Any consent by the COUNTY to subcontract, assign or otherwise dispose of any portion of the contract shall not be construed to relieve the CONSULTANT of any responsibility for the performance of the contract.

5.6 STANDARDS: All work related to wastewater projects shall be performed in conformance with the Design Standards of the Department of Wastewater Management, City and County of Honolulu. Where there are no established Standards, the CONSULTANT shall submit the proposed Standard(s) for approval.

5.7 OWNERSHIP OF DOCUMENTS: Upon completion, the CONSULTANT agrees to relinquish and furnish to the COUNTY all original tracings of any and all plans and stencils which hereafter shall become the property of the COUNTY.

SECTION 6 - SERVICES TO BE PERFORMED BY THE COUNTY

6.1 COOPERATION BY THE COUNTY: The COUNTY shall, without cost to the CONSULTANT, through the DIRECTOR, cooperate fully with the CONSULTANT and will promptly place at the disposal of the CONSULTANT all available pertinent information which the COUNTY may have in its possession. The COUNTY does not represent that other information not certified as accurate is so and takes no responsibility therefore, and the CONSULTANT shall rely on such information at his own risk.

SECTION 7 - COMPENSATION

7.1 COMPENSATION: The CONSULTANT shall be paid the amount stated in the written agreement, less any reduction in compensation and plus any increase in compensation pursuant to subsection 7.4 as full compensation for the performance of the services under the contract.

7.2 ABANDONMENT OF THE PROJECT; DEATH OR DISABILITY OF CONSULTANT: In the event the COUNTY terminates the contract because it wishes to abandon, defer, restudy or revise the project, or in the event the CONSULTANT, in the case of an individual, dies or become physically or mentally disabled, the CONSULTANT or his estate shall be compensated in the same proportion of the compensation under the contract as the services performed bear to the services to be performed under the contract.

7.3 PROGRESS PAYMENTS: Prior to any progress payment authorization, the CONSULTANT shall submit, and the COUNTY shall approve a detailed schedule of values corresponding to the specific services to be performed. As long as the services of the CONSULTANT are being performed in a manner satisfactory to the COUNTY, the COUNTY shall pay the CONSULTANT monthly partial payments in amounts proportionate to the value of the services performed by the CONSULTANT as indicated in the schedule of values.

7.4 REDUCTION OR INCREASE IN COMPENSATION: The compensation of the CONSULTANT shall be reduced whenever modification of the contract pursuant to subsection 4.1 reduces the services to be performed by the CONSULTANT.

The compensation of the CONSULTANT shall be increased to reimburse him for increased costs to perform the services under contract if performance of the services was delayed for more than six months by an act or omission of the COUNTY. No such reimbursement, however, shall be made unless he files a written application therefore with the DIRECTOR within thirty (30) calendar days after termination of the delay. In addition, the compensation of the CONSULTANT shall be increased whenever modification of the contract pursuant to subsection 4.1 requires the CONSULTANT to perform services not required under the contract. For each such modification and each modification reducing the services to be performed by the CONSULTANT, the compensation of the CONSULTANT shall be increased or reduced in accordance with the supplemental agreement or if no supplemental agreement has been entered into, by an amount equal to the sum total of the following:

- a) Wages of employees actually engaged in the services required by the modification and the salary cost of principals when actually engaged in such services in the case of an increase in compensation or the wages of employees and the salary cost of principals who would have been engaged in the case of a reduction in compensation;
- b) One hundred fifty percent (150%) of (a) for all other overhead, including bonus allowances, cost of supplies used, cost of transportation within the State of Hawaii required for the project and profit; and
- c) Other direct costs, including the cost of transportation to and from destination outside of the County of Hawaii and long-distance telephone calls.
- d) The State of Hawaii General Excise Tax payable by the CONSULTANT on (a), (b) and (c).

7.5 ASSIGNMENT OF MONEY DUE OR PAYABLE: Assignment of money due or to become payable to the CONSULTANT under the contract shall not be valid without the prior written consent of the Mayor. The rights of the assignee to moneys due or to become due to the CONSULTANT shall be subject to subsection 8.4.

7.6 ACCEPTANCE AND FINAL PAYMENT: Final payment will be made only after the issuance of a notice of final approval and acceptance by the Mayor advising the CONSULTANT of the satisfactory fulfillment of the terms of the contract and receipt of a certificate from the Director of Taxation, as provided in Section 103-53, HRS, relating to prerequisite for final settlement of contracts.

Acceptance by the CONSULTANT of the final payment shall constitute payment in full for all services performed under the contract.

SECTION 8 - REMEDIES

8.1 RIGHT OF THE COUNTY TO TERMINATE: The COUNTY shall have the right to suspend performance of the services under the contract or terminate the contract in whole or in part at any time by written notice to the CONSULTANT. Upon termination all data, plans, specifications, reports, estimates, summaries, completed work and work in progress and such other information and materials as may have been accumulated by the CONSULTANT in the performance of his services shall, in the manner and to the extent determined by the DIRECTOR, become the property of and be delivered to the COUNTY. If the termination is for reasons other than default of the CONSULTANT as provided in subsection 8.2, the CONSULTANT shall be compensated in accordance with subsection 7.2.

It is understood and agreed that any services to be provided in accordance with the terms of this contract may be terminated immediately, in whole or in part, upon a finding by the County that the services must be provided by public employees pursuant to Civil Service Laws or that such services will be discontinued. It is further understood, that should such a finding be made, the COUNTY will not be liable under this contract for any resulting damages, and such a termination will not be considered a breach of this agreement.

8.2 TERMINATION BECAUSE OF CONSULTANT'S DEFAULT: The COUNTY shall have the right to enter into a new contract with another CONSULTANT and pay a reasonable compensation for such services as may be necessary to properly complete the services under the contract if it terminates the same because the CONSULTANT:

- a) fails to begin work under the contract at the time required,
- b) is unnecessarily delaying the performance of the contract or any part thereof,

- c) is failing to perform the contract with sufficient or adequate personnel, equipment or materials or is making sufficient progress to ensure the completion of the contract with the time specified,
- d) fails to perform the contract in accordance with directions of the DIRECTOR,
- e) discontinues performance of the contract,
- f) fails to recommence performance of the contract within a reasonable time after service of a written order to do so if the performance has been suspended,
- g) becomes insolvent or is declared bankrupt,
- h) commits any act of bankruptcy or insolvency,
- i) allows any final judgment to stand against him unsatisfied for a period of ten (10) calendar days,
- j) makes an assignment for the benefit of creditors,
- k) fails to pay for all labor, tools, materials and equipment,
- l) has abandoned the contract,
- m) or violates or fails to comply with any of the terms, covenants and conditions of the contract.

The fee of such other CONSULTANT shall be paid from said unexpended amount of the compensation under the contract. Should the compensation of such other CONSULTANT exceed such unexpended amount, the CONSULTANT shall reimburse the COUNTY for the difference as part of the damages caused by CONSULTANT'S default. The provisions of this subsection shall not apply if the CONSULTANT is an individual and the default is due to his death or mental or physical disability.

8.3 LIQUIDATED DAMAGES: The amount of damage to the COUNTY as a result of failure to complete performance of specified services under the contract within the time fixed or any extension thereof, exclusive of overhead expenses, being certain but difficult, it not impossible, to ascertain, the CONSULTANT agrees to pay the sum stated in the contract as liquidated damages, and not by way of penalty, for every day delay until the services are completed and accepted, or a reasonable time has expired for completion and acceptance of the services remaining to be performed.

8.4 AUTHORITY TO WITHHOLD MONEY DUE OR PAYABLE: The COUNTY may withhold such amount from the money due or to become payable under the contract to the CONSULTANT, or any assignee under subsection 7.5, as may be necessary to protect the COUNTY against liability or to satisfy the obligations of the CONSULTANT to the COUNTY and to employees, subcontractors and material men who have performed labor or furnished material and equipment under the contract and may make such payments from such amounts as may be necessary to discharge such obligations and protect the COUNTY.

8.5 DISPUTES (HAR § 3-126-31)

(1) All controversies between the County and the Consultant which arise under, or are by virtue of, this contract and which are not resolved by mutual agreement, shall be decided by the Procurement Officer in writing, within ninety (90) calendar days after a written request by the Consultant for a final decision concerning the controversy; provided that if the Procurement Officer does not issue a written decision within ninety (90) calendar days after written request for a final decision, or within such longer

period as may be agreed upon by the parties, the Consultant may proceed as if an adverse decision had been received

(2) The Procurement Officer shall immediately furnish a copy of the decision to the Consultant, by certified mail, return receipt requested, or by any other method that provided evidence of receipt.

(3) Any such decision shall be final and conclusive, unless fraudulent, or unless the Consultant brings an action seeking judicial review of the decision in a circuit court of the State within six (6) months from the date of the receipt of the decision.

(4) The Consultant shall comply with any decision of the Procurement Officer and proceed diligently with performance of this contract pending final resolution by a circuit court of this State of any controversy arising under, or by virtue of, this contract, except where there has been a material breach of contract by the Count; provided that in any event the Consultant shall proceed diligently with the performance of the contract where the Chief Procurement Officer has made a written determination that continuation of work under the contract is essential to public health and safety.

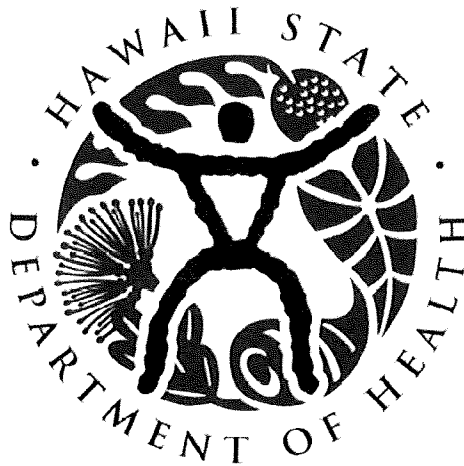
8.6 REMEDIES NOT EXCLUSIVE: The express provision herein of certain measures which may be exercised by the COUNTY for its protection shall not be construed to preclude the COUNTY from exercising any other or further legal or equitable right to protect interest.

"CWSRF BOILERPLATE"

FEDERAL REQUIREMENTS

FOR

CONSULTANTS AND CONTRACTORS



June 2018

"CWSRF BOILERPLATE"

FEDERAL REQUIREMENTS

FOR

CONSULTANTS AND CONTRACTORS

To the Consultant, Contractor or Sub-contractor of a CWSRF loan funded project:

All CWSRF projects must comply with all the federal regulations listed herein which have been determined as applying to the SRF loan program.

A. CROSS-CUTTER REGULATIONS

1. ENVIRONMENTAL AUTHORITIES:

- a. ARCHEOLOGICAL AND HISTORIC PRESERVATION ACT OF 1974, 16 USC 469a-1

Should the contractor discover potential archaeological or historical resources during construction, all work in the area of the find shall stop and the construction management consultant shall be called in to evaluate the situation and make recommendations to the State Historic Preservation Officer, Department of Land and Natural Resources, State of Hawaii. The Historic Preservation Officer will determine what will be necessary for construction to proceed.

2. SOCIAL POLICY AUTHORITIES:

- a. AGE DISCRIMINATION ACT OF 1975, 42 USC 6102

No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

- b. CIVIL RIGHTS ACT OF 1964, TITLE VI, 42 USC 2000d

No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

- c. EQUAL EMPLOYMENT OPPORTUNITY, EXECUTIVE ORDER 11246, AS AMENDED

The contractor, subcontractor, or consultant for any SRF project shall maintain a policy of non-discrimination in the treatment of employees, shall make this policy known to employees, and shall recruit, hire and train employees without regard to race, color, sex, religion and national origin.

- d. SECTION 13 OF THE FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972, 33 USC 1251

No person in the United States shall, on the grounds of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance under... the federal Water Pollution Control Act...

- e. REHABILITATION ACT OF 1973, 29 USC 794

No otherwise qualified handicapped individual in the United States shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

- f. MINORITY BUSINESS ENTERPRISE DEVELOPMENT, EXECUTIVE ORDER 12432

This executive order sets forth in more detail the responsibilities of Federal agencies for the monitoring, maintaining of data and reporting on the use of minority enterprises.

- g. NATIONAL PROGRAM FOR MINORITY BUSINESS ENTERPRISE, EXECUTIVE ORDER 11625

This Executive Order directs Federal agencies to promote and encourage the use of minority business enterprises in projects utilizing federal funds.

- h. NATIONAL WOMEN'S BUSINESS ENTERPRISE POLICY AND NATIONAL PROGRAM FOR WOMEN'S BUSINESS ENTERPRISE, EXECUTIVE ORDER 12138

This Executive Order directs each department or agency empowered to extend Federal financial assistance to any program or activity to issue regulations requiring the recipient of such assistance to take appropriate affirmative action in support of women's business enterprises and to prohibit actions or policies which

discriminate against women's business enterprises on the grounds of sex.

i. SMALL BUSINESS ADMINISTRATION REAUTHORIZATION AND AMENDMENT ACT OF 1998, PUB. L. 100-590, SECTION 129

This Amendment directs Federal agencies to promote and encourage the use of small business enterprises in projects utilizing federal funds.

j. DEPARTMENT OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND AGENCIES APPROPRIATIONS ACT, 1993, PUB. L. 102-389

The Administrator of the Environmental Protection Agency shall, hereafter to the fullest extent possible, ensure that at least 8 per centum of Federal funding for prime and subcontracts awarded in support of authorized programs, including grants, loans and contracts for wastewater treatment and for leaking underground storage tanks, be made available to businesses or other organizations owned or controlled by socially and economically disadvantaged individuals (within the meaning of Section 8(a)(5) and (6) of the Small Business Act (15 U.S.C. 637(a)(5) and (6)), including historically black colleges and universities. For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women.

k. DISADVANTAGED BUSINESS ENTERPRISE RULE, 2008, 40 CFR Part 33

Prior to the award of a consultant or construction contract, the Contractor or Consultant shall fully comply with 40 CFR Part 33, entitled "Participation by Disadvantaged Business Enterprises in Procurement under Environmental Protection Agency (EPA Financial Assistance Agreements)". The Consultant or Contractor shall notify the County prior to termination of a Disadvantaged Business Enterprise (DBE) subconsultant or subcontractor for convenience by the Contractor. In addition, the Consultant or Contractor shall employ the six good faith efforts listed in 40 CFR 33.301 when soliciting a replacement subconsultant or subcontractor.

The Consultant or Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Consultant or Contractor shall carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the Consultant or Contractor to

carry out these requirements is a material breach of this contract, which may result in the termination of this contract or other legally available remedies.

1. DAVIS BACON ACT, TITLE 29, PART 5, CODE OF FEDERAL REGULATIONS

The consultant or construction contractor shall comply with the labor standards provided under this act, including but not limited to:

- (1) Payment of the prevailing wage rate;
- (2) Posting of prevailing wage rates and Davis-Bacon poster at the work site where it can be easily seen by the workers;
- (3) The following Wage Determination General Decision and Modification numbers apply to this contract:

Wage Determination General Decision No.:

Not Applicable for Consultants

(CWSRF Loan Recipient to fill in)

Modification No.:

Not Applicable for Consultants

(CWSRF Loan Recipient to fill in)

The consultant or construction contractor understands that labor standards interviews will be conducted during the course of construction in accordance with Standard Form 1445.

3. MISCELLANEOUS AUTHORITIES:

a. DEBARMENT AND SUSPENSION, EXECUTIVE ORDER 12549

Prior to the award of a construction or consultant contract, the Contractor or Consultant shall fully comply with Subpart C of 40 CFR Part 32, entitled "Responsibilities of Participants Regarding Transactions" and ensure that any lower tier covered transaction and subsequent lower tier transaction, includes a term or condition requiring compliance with Subpart C. The Contractor shall certify that his subcontractors and suppliers are not on the Excluded Parties List when the bid proposals are submitted. The Consultant shall certify that his sub-consultants are not on the Excluded Parties List. The Contractor or Consultant acknowledges that failing to disclose the information required under 40 CFR 32.335 may result in the delay or negation of payment, or pursuance of legal remedies, including suspension and debarment. The Contractor or Consultant may access the Excluded Parties List System at <http://epls.arnet.gov>.

B. AMERICAN IRON AND STEEL (AIS) SECTION 608 OF THE CLEAN WATER ACT (CWA):

Funds made available from a State water pollution control revolving fund established under this title may not be used for a project for the construction, alteration, maintenance, or repair of treatment works unless all of the iron and steel products used in the project are produced in the United States.

See attached *AIS Guidance*.

C. REQUIRED FEDERAL FORM AND INFORMATION:

1. The following EPA form shall be submitted by the Consultant or Contractor to the recipient (County) for each CWSRF project:

EPA Form 5700-52A (MBE/WBE Utilization Under Federal Grants, Cooperative Agreements, and Other Federal Financial Assistance)

2. The following information must be included in the contract specifications:
 - a. Davis Bacon Requirements (see attached)

LABOR STANDARDS INTERVIEW

CONTRACT NUMBER			EMPLOYEE INFORMATION		
NAME OF PRIME CONTRACTOR			LAST NAME		FIRST NAME
			STREET ADDRESS		
NAME OF EMPLOYER			CITY		
			STATE		ZIP CODE
SUPERVISOR'S NAME			WORK CLASSIFICATION		
LAST NAME		FIRST NAME			

ACTION	CHECK BELOW	
	YES	NO
Do you work over 8 hours per day?		
Do you work over 40 hours per week?		
Are you paid at least time and a half for overtime hours?		
Are you receiving any cash payments for fringe benefits required by the posted wage determination decision?		

WHAT DEDUCTIONS OTHER THAN TAXES AND SOCIAL SECURITY ARE MADE FROM YOUR PAY?

HOW MANY HOURS DID YOU WORK ON YOUR LAST WORK DAY BEFORE THIS INTERVIEW?	TOOLS YOU USE	
DATE OF LAST WORK DAY BEFORE INTERVIEW (YYMMDD)		
DATE YOU BEGAN WORK ON THIS PROJECT (YYMMDD)		

THE ABOVE IS CORRECT TO THE BEST OF MY KNOWLEDGE

EMPLOYEE'S SIGNATURE			DATE (YYMMDD)
INTERVIEWER	SIGNATURE	TYPED OR PRINTED NAME	DATE (YYMMDD)

INTERVIEWER'S COMMENTS			
WORK EMPLOYEE WAS DOING WHEN INTERVIEWED	ACTION <i>(If explanation is needed, use comments section)</i>	YES	NO
	IS EMPLOYEE PROPERLY CLASSIFIED AND PAID?		
	ARE WAGE RATES AND POSTERS DISPLAYED?		

FOR USE BY PAYROLL CHECKER

IS ABOVE INFORMATION IN AGREEMENT WITH PAYROLL DATA?

YES NO

COMMENTS

CHECKER			
LAST NAME	FIRST NAME	MI	JOB TITLE
SIGNATURE			DATE (YYMMDD)

**U.S. ENVIRONMENTAL PROTECTION AGENCY
 MBE/WBE UTILIZATION UNDER FEDERAL GRANTS
 AND COOPERATIVE AGREEMENTS**

PART I. (Reports are required even if no procurements are made during the reporting period.)

1A. FEDERAL FISCAL YEAR (Oct. 1-Sep 30) 20 _____	1B. REPORTING PERIOD (Check ALL appropriate boxes) <input type="checkbox"/> 1 st (Oct-Dec) <input type="checkbox"/> 2 nd (Jan-Mar) <input type="checkbox"/> 3 rd (Apr-Jun) <input type="checkbox"/> 4 th (Jul-Sep) <input type="checkbox"/> Semi-Annual (Oct-Mar) <input type="checkbox"/> Semi-Annual (Apr-Sep) <input type="checkbox"/> Annual <input type="checkbox"/> Check if this is the last report for the project (Project completed).																				
1C. REVISION OF A PRIOR REPORT? Y or N Year: _____ Quarter: _____	BRIEFLY DESCRIBE THE REVISIONS YOU ARE MAKING:																				
2A. EPA FINANCIAL ASSISTANCE OFFICE ADDRESS (ATTN: DBE Coordinator)	3A. RECIPIENT NAME AND ADDRESS																				
2B. EPA DBE COORDINATOR Name: E-mail:	2C. PHONE: Fax:	3B. RECIPIENT REPORTING CONTACT: Name: E-mail:	3C. PHONE: Fax:																		
4A. FINANCIAL ASSISTANCE AGREEMENT ID NUMBER (SRF State Recipients, refer to Instructions for Completion of blocks 4A, 5A and 5C.)	4B. FEDERAL FINANCIAL ASSISTANCE PROGRAM TITLE or CFDA NUMBER:																				
5A. TOTAL ASSISTANCE AGREEMENT AMOUNT (SRF State Recipients, refer to Instructions for Completion of blocks 4A, 5A and 5C.) EPA Share: \$ _____ Recipient Share: \$ _____	5B. If NO procurement and NO accomplishments were made this reporting period (by the recipients, sub-recipients, loan recipients, and prime contractors), CHECK and SKIP to Block No. 7. (Procurements are all expenditures through contract, order, purchase, lease or barter of supplies, equipment, construction, or services needed to complete Federal assistance programs. Accomplishments, in this context, are procurements made with MBEs and/or WBEs. <input type="checkbox"/>																				
5C. Total Procurements This Reporting Period (Only include amount not reported in any prior reporting period) Total Procurement Amount \$ _____ (Include total dollar values awarded by recipient, sub-recipients and SRF loan recipients, including MBE/WBE expenditures.)																					
5D. Were sub-awards issued under this assistance agreement? Yes___ No___ Were contracts issued under this assistance agreement ? Yes___ No___																					
5E. MBE/WBE Accomplishments This Reporting Period Actual MBE/WBE Procurement Accomplished: (Include total dollar values awarded by recipient, sub-recipients, SRF loan recipients and Prime Contractors.) <table style="width:100%; margin-top: 10px;"> <thead> <tr> <th></th> <th align="center"><u>Construction</u></th> <th align="center"><u>Equipment</u></th> <th align="center"><u>Services</u></th> <th align="center"><u>Supplies</u></th> <th align="center"><u>Total</u></th> </tr> </thead> <tbody> <tr> <td>\$MBE:</td> <td>_____</td> <td>_____</td> <td>_____</td> <td>_____</td> <td>_____</td> </tr> <tr> <td>\$WBE:</td> <td>_____</td> <td>_____</td> <td>_____</td> <td>_____</td> <td>_____</td> </tr> </tbody> </table>					<u>Construction</u>	<u>Equipment</u>	<u>Services</u>	<u>Supplies</u>	<u>Total</u>	\$MBE:	_____	_____	_____	_____	_____	\$WBE:	_____	_____	_____	_____	_____
	<u>Construction</u>	<u>Equipment</u>	<u>Services</u>	<u>Supplies</u>	<u>Total</u>																
\$MBE:	_____	_____	_____	_____	_____																
\$WBE:	_____	_____	_____	_____	_____																
6. COMMENTS: (If no MBE/WBE procurements were accomplished during the reporting period, please explain what steps you are taking to achieve the MBE/WBE Program requirements specified in the terms and conditions of the Assistance Agreement.)																					
7. NAME OF RECIPIENT'S AUTHORIZED REPRESENTATIVE	TITLE																				
8. SIGNATURE OF RECIPIENT'S AUTHORIZED REPRESENTATIVE	DATE																				

Instructions:

A. General Instructions:

MBE/WBE utilization is based on 40 CFR Part 33. EPA Form 5700-52A must be completed by recipients of Federal grants, cooperative agreements, or other Federal financial assistance which involve procurement of supplies, equipment, construction or services to accomplish Federal assistance programs.

Recipients are required to report 30 days after the end of each federal fiscal quarter, semiannually, or annually, per the terms and conditions of the financial assistance agreement.

	Quarterly Reporting Due Date	Semiannual Reporting Due Date	Annual Reporting Due Date
Agreements awarded prior to May 27, 2008	January 30, April 30, July 30, October 30	N/A	October 30
Agreements awarded on or after May 27, 2008	N/A	April 30, October 30	October 30

MBE/WBE program requirements, including reporting, are material terms and conditions of the financial assistance agreement.

B. Definitions:

Procurement is the acquisition through contract, order, purchase, lease or barter of supplies, equipment, construction or services needed to accomplish Federal assistance programs.

A **contract** is a written agreement between an EPA recipient and another party (also considered "prime contracts") and any lower tier agreement (also considered "subcontracts") for equipment, services, supplies, or construction necessary to complete the project. This definition excludes written agreements with another public agency. This definition includes personal and professional services, agreements with consultants, and purchase orders.

A **minority business enterprise (MBE)** is a business concern that is (1) at least 51 percent owned by one or more minority individuals, or, in the case of a publicly owned business, at least 51 percent of the stock is owned by one or more minority individuals; and (2) whose daily business operations are managed and directed by one or more of the minority owners. In order to qualify and participate as an MBE prime or subcontractor for EPA

recipients under EPA's DBE Program, an entity must be properly certified as required by 40 CFR Part 33, Subpart B.

U.S. citizenship is required. Recipients shall presume that minority individuals include Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans, or other groups whose members are found to be disadvantaged by the Small Business Act or by the Secretary of Commerce under section 5 of Executive order 11625. The reporting contact at EPA can provide additional information.

A **woman business enterprise (WBE)** is a business concern that is, (1) at least 51 percent owned by one or more women, or, in the case of a publicly owned business, at least 51 percent of the stock is owned by one or more women and (2) whose daily business operations are managed and directed by one or more of the women owners. In order to qualify and participate as a WBE prime or subcontractor for EPA recipients under EPA's DBE Program, an entity must be properly certified as required by 40 CFR Part 33, Subpart B.

Business firms which are 51 percent owned by minorities or women, but are in fact managed and operated by non-minority individuals do not qualify for meeting MBE/WBE procurement goals. U.S. Citizenship is required.

Good Faith Efforts

A recipient is required to make the following good faith efforts whenever procuring construction, equipment, services, and supplies under an EPA financial assistance agreement. These good faith efforts for utilizing MBEs and WBEs must be documented. Such documentation is subject to EPA review upon request:

1. Include of MBEs/WBEs on solicitation lists.
2. Assure that MBEs/WBEs are solicited once they are identified.
3. Divide total requirements into smaller tasks to permit maximum MBE/WBE participation, where feasible.
4. Establish delivery schedules which will encourage MBE/WBE participation, where feasible.
5. Encourage use of the services of the U.S. Department of Commerce's Minority Business Development Agency (MBDA) and the U.S. Small Business Administration to identify MBEs/WBEs.

6. Require that each party to a subgrant, subagreement, or contract award take the good faith efforts outlined here.

C. Instructions for Part I:

1a. Specify Federal fiscal year this report covers. The Federal fiscal year runs from October 1st through September 30th (e.g. **November 29, 2010 falls within Federal fiscal year 2011**)

1b. Check applicable reporting box, quarterly, semiannually, or annually. Also indicate if this is the last report for the project.

1c. Indicate if this is a revision to a previous year, half-year, or quarter, and provide a brief description of the revision you are making.

2a-c. Please refer to your financial assistance agreement for the mailing address of the EPA financial assistance office for your agreement.

The "EPA DBE Reporting Contact" is the DBE Coordinator for the EPA Region from which your financial assistance agreement was originated. For a list of DBE Coordinators please refer to the EPA OSBP website at www.epa.gov/osbp. Click on "Regional Contacts" for the name of your coordinator.

3a-c. Identify the agency, state authority, university or other organization which is the recipient of the Federal financial assistance and the person to contact concerning this report.

4a. Provide the Assistance Agreement number assigned by EPA. A separate report must be submitted for each Assistance Agreement.

***For SRF recipients:** In box 4a list numbers for ALL OPEN Assistance Agreements being reported on this form. Please note that although the New DBE Rule (which took effect May 27, 2008) revised the reporting frequency requirements from quarterly to semiannually, that change only applies to agreements awarded AFTER the New DBE Rule took effect. Therefore, SRF recipients may either continue to report activity for all Agreements on one form on a quarterly basis until the last award that was made prior to the New DBE Rule has been closed out; OR, the recipient may split the submission of SRF reports into quarterly reports for Agreements awarded prior the New DBE Rule, and semiannually for the awards made after the New DBE Rule.

4b. Refer back to Assistance Agreement document for this information.

5a. Provide the total amount of the Assistance Agreement which includes Federal funds plus recipient matching funds and funds from other sources.

***For SRF recipients only:** SRF recipients will not enter an amount in 5a. Please leave 5a blank.

5b. Self-explanatory.

5c. Provide the total dollar amount of **ALL** procurements awarded this reporting period by the recipient, sub-recipients, and SRF loan recipients, **including** MBE/WBE expenditures. For example: Actual dollars for procurement from the procuring office; actual contracts let from the contracts office; actual goods, services, supplies, etc., from other sources including the central purchasing/ procurement centers).

***NOTE:** To prevent double counting on line 5C, if any amount on 5E is for a subcontract and the prime contract has already been included on Line 5C in a prior reporting period, then report the amount going to MBE or WBE subcontractor on line 5E, but exclude the amount from Line 5C. To include the amount on 5C again would result in double counting because the prime contract, which includes the subcontract, would have already been reported.

5d. State whether or not sub-awards and/or subcontracts have been issued under the assistance agreement by indicating "yes" or "no".

5e. Where requested, also provide the total dollar amount of all MBE/WBE procurement awarded during this reporting period by the recipient, sub-recipients, SRF loan recipients, and prime contractors in the categories of construction, equipment, services and supplies. These amounts include Federal funds plus recipient matching funds and funds from other sources.

***For SRF recipients only:** In 5c please enter the total procurement amount for the quarter, or semiannual period, under all of your SRF Assistance Agreements. The figure reported in this section is **not** directly tied to an individual Assistance Agreement identification number. **(SRF state recipients report state procurements in this section)**

6. If there were no MBE/WBE accomplishments this reporting period, please briefly explain what

specific steps you are taking to achieve the MBE/WBE requirements specified in the terms and conditions of the Assistance Agreement.

7. Name and title of official administrator or designated reporting official.
8. Signature, month, day, and year report submitted.

D. Instructions for Part II:

For each MBE/WBE procurement made under this assistance agreement during the reporting period, provide the following information:

1. Check whether this procurement was made by the recipient, sub-recipient/SRF loan recipient, or the prime contractor.
2. Check either the MBE or WBE column. If a firm is both an MBE and WBE, the recipient may choose to count the entire procurement towards EITHER its MBE or WBE accomplishments. The recipient may also divide the total amount of the procurement (using any ratio it so chooses) and count those divided amounts toward its MBE and WBE accomplishments. If the recipient chooses to divide the procurement amount and count portions toward its MBE and WBE accomplishments, please state the appropriate amounts under the MBE and WBE columns on the form. **The combined MBE and WBE amounts for that MBE/WBE contractor must not exceed the "Value of the Procurement" reported in column #3**
3. Dollar value of procurement.
4. Date of procurement, shown as month, day, year. Date of procurement is defined as the date the contract or procurement was awarded, **not** the date the contractor received payment under the awarded contract or procurement, unless payment occurred on the date of award. **(Where direct purchasing is the procurement method, the date of procurement is the date the purchase was made)**
5. Using codes at the bottom of the form, identify type of product or service acquired through this procurement (e.g., enter 1 if construction, 2 if supplies, etc).
6. Name, address, and telephone number of MBE/WBE firm.

**This data is requested to comply with provisions mandated by: statute or regulations (40 CFR Part 30, 31,

and 33); OMB Circulars; or added by EPA to ensure sound and effective assistance management. Accurate, complete data are required to obtain funding, while no pledge of confidentiality is provided.

The public reporting and recording burden for this collection of information is estimated to average 1 hour per response annually. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclosure or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, OPPE Regulatory Information Division, U.S. Environmental Protection Agency (2136), 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460. Include the OMB Control number in any correspondence. Do not send the completed form to this address.

AMERICAN IRON AND STEEL (AIS) GUIDANCE

Covered Iron and Steel Products

What is an iron or steel product?

For purposes of the CWSRF projects that must comply with the AIS requirement, an iron or steel product is one of the following made primarily of iron or steel that is permanently incorporated into the public water system or treatment works:

Lined or unlined pipes or fittings;
Manhole Covers;
Municipal Castings (defined in more detail below);
Hydrants;
Tanks;
Flanges;
Pipe clamps and restraints;
Valves;
Structural steel (defined in more detail below);
Reinforced precast concrete; and
Construction materials (defined in more detail below).

What does the term 'primarily iron or steel' mean?

'Primarily iron or steel' places constraints on the list of products above. For one of the listed products to be considered subject to the AIS requirements, it must be made of greater than 50% iron or steel, measured by cost. The cost should be based on the material costs.

Can you provide an example of how to perform a cost determination?

For example, the iron portion of a fire hydrant would likely be the bonnet, body and shoe, and the cost then would include the pouring and casting to create those components. The other material costs would include non-iron and steel internal workings of the fire hydrant (i.e., stem, coupling, valve, seals, etc). However, the assembly of the internal workings into the hydrant body would not be included in this cost calculation. If one of the listed products is not made primarily of iron or steel, United States (US) provenance is not required. An exception to this definition is reinforced precast concrete, which is addressed in a later question.

If a product is composed of more than 50% iron or steel, but is not listed in the above list of items, must the item be produced in the US? Alternatively, must the iron or steel in such a product be produced in the US?

The answer to both question is no. Only items on the above list must be produced in the US. Additionally, the iron or steel in a non-listed item can be sourced from outside the US.

What is the definition of steel?

Steel means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements. Metallic elements such as chromium, nickel, molybdenum, manganese, and silicon may be added during the melting of steel for the purpose of enhancing properties such as corrosion resistance, hardness, or strength. The definition of steel covers carbon steel, alloy steel, stainless steel, tool steel and other specialty steels.

What does 'produced in the United States' mean?

Production in the United States of the iron or steel products used in the project requires that all manufacturing processes, including application of coatings, must take place in the United States, with the exception of metallurgical processes involving refinement of steel additives. All manufacturing processes includes processes such as melting, refining, forming, rolling, drawing, finishing, fabricating and coating. Further, if a domestic iron and steel product is taken out of the US for any part of the manufacturing process, it becomes foreign source material. However, raw materials such as iron ore, limestone and iron and steel scrap are not covered by the AIS requirement, and the 7 material(s), if any, being applied as a coating are similarly not covered. Non-iron or steel components of an iron and steel product may come from non-US sources. For example, for products such as valves and hydrants, the individual non-iron and steel components do not have to be of domestic origin.

Are the raw materials used in the production of iron or steel required to come from US sources?

No. Raw materials, such as iron ore, limestone, scrap iron, and scrap steel, can come from non-US sources.

If an above listed item is primarily made of iron or steel, but is only at the construction site temporarily, must such an item be produced in the US?

No. Only the above listed products made primarily of iron or steel, permanently incorporated into the project must be produced in the US. For example trench boxes, scaffolding or equipment, which are removed from the project site upon completion of the project, are not required to be made of U.S. Iron or Steel.

What is the definition of 'municipal castings'?

Municipal castings are cast iron or steel infrastructure products that are melted and cast. They typically provide access, protection, or housing for components incorporated into utility owned drinking water, storm water, wastewater, and surface infrastructure. They are typically made of grey or ductile iron, or steel.

Examples of municipal castings are:

- Access Hatches;
- Ballast Screen;
- Benches (Iron or Steel);
- Bollards;
- Cast Bases;
- Cast Iron Hinged Hatches, Square and Rectangular;
- Cast Iron Riser Rings;
- Catch Basin Inlet;
- Cleanout/Monument Boxes;
- Construction Covers and Frames;
- Curb and Corner Guards;
- Curb Openings;
- Detectable Warning Plates;
- Downspout Shoes (Boot, Inlet);
- Drainage Grates, Frames and Curb Inlets;
- Inlets;
- Junction Boxes;
- Lampposts;
- Manhole Covers, Rings and Frames, Risers; 8
- Meter Boxes;
- Service Boxes;
- Steel Hinged Hatches, Square and Rectangular;
- Steel Riser Rings;
- Trash receptacles;
- Tree Grates;
- Tree Guards;
- Trench Grates; and
- Valve Boxes, Covers and Risers.

What is 'structural steel'?

Structural steel is rolled flanged shapes, having at least one dimension of their cross-section three inches or greater, which are used in the construction of bridges, buildings, ships, railroad rolling stock, and for numerous other constructional purposes. Such shapes are designated as wide-flange shapes, standard I-beams, channels, angles, tees and zees. Other shapes include H-piles, sheet piling, tie plates, cross ties, and those for other special purposes.

What is a 'construction material' for purposes of the AIS requirement?

Construction materials are those articles, materials, or supplies made primarily of iron and steel, that are permanently incorporated into the project, not including mechanical and/or electrical components, equipment and systems. Some of these products may overlap with what is also considered "structural steel". This includes, but is not limited to, the following products: wire rod, bar, angles, concrete reinforcing bar, wire, wire cloth, wire rope and cables, tubing, framing, joists, trusses, fasteners (i.e., nuts and bolts), welding rods, decking, grating, railings, stairs, access ramps, fire escapes, ladders, wall panels, dome structures, roofing, ductwork, surface drains, cable hanging systems, manhole steps, fencing and fence tubing, guardrails, doors, and stationary screens.

What is not considered a 'construction material' for purposes of the AIS requirement?

Mechanical and electrical components, equipment and systems are not considered construction materials. Mechanical equipment is typically that which has motorized parts and/or is powered by a motor. Electrical equipment is typically any machine powered by electricity and includes components that are part of the electrical distribution system.

The following examples (including their appurtenances necessary for their intended use and operation) are NOT considered construction materials: pumps, motors, gear reducers, drives (including variable frequency drives (VFDs)), electric/pneumatic/manual accessories used to operate valves (such as electric valve actuators), mixers, gates, motorized screens (such as traveling screens), blowers/aeration equipment, compressors, meters, sensors, controls and switches, supervisory control and data acquisition (SCADA), membrane bioreactor systems, membrane filtration systems, filters, clarifiers and clarifier mechanisms, rakes, grinders, disinfection systems, presses (including belt presses), conveyors, cranes, HVAC (excluding ductwork), water heaters, heat exchangers, generators, cabinetry and housings (such as electrical boxes/enclosures), lighting fixtures, electrical conduit, emergency life systems, metal office furniture, shelving, laboratory equipment, analytical instrumentation, and dewatering equipment.

If the iron or steel is produced in the US, may other steps in the manufacturing process take place outside of the US, such as assembly?

No. Production in the US of the iron or steel used in a listed product requires that all manufacturing processes must take place in the United States, except metallurgical processes involving refinement of steel additives.

What processes must occur in the US to be compliant with the AIS requirement for reinforced precast concrete?

While reinforced precast concrete may not be at least 50% iron or steel, in this particular case, the reinforcing bar and wire must be produced in the US and meet the same standards as for any other iron or steel product. Additionally, the casting of the concrete product must take place in the US. The cement and other raw materials used in concrete production are not required to be of domestic origin.

If the reinforced concrete is cast at the construction site, the reinforcing bar and wire are considered to be a construction material and must be produced in the US.

Construction Contract Language for AIS

Projects funded with monies from the Clean Water State Revolving Fund are subject to the American Iron and Steel (AIS) requirement as in Section 608 of the Clean Water Act. The Contractor hereby represents and warrants to and for the benefit of the Purchaser and the State that a) the Contractor has reviewed and understands the AIS requirement, (b) all of the iron and steel products used in the project will be and/or have been produced in the United States in a manner that complies with the AIS requirement, unless a waiver of the requirement is approved, and (c) the Contractor will provide any further verified information, certification or assurance of compliance with the AIS requirement, or information necessary to support a waiver of the AIS requirement, as may be requested by the Purchaser or the State. Failure to comply with the AIS requirement by the Contractor shall permit the Purchaser or State to recover as damages against the Contractor any loss, expense, or cost (including without limitation attorney's fees) incurred by the Purchaser or State resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the State or any damages owed to the State by the Purchaser).

Sample Certifications

The following information is provided as a sample letter of step certification for AIS compliance. Documentation must be provided on company letterhead.

Date
Company Name
Company Address
City, State Zip

Subject: American Iron and Steel Step Certification for Project (XXXXXXXXXX)

I, (company representative), certify that the (melting, bending, coating, galvanizing, cutting, etc.) process for (manufacturing or fabricating) the following products and/or materials shipped or provided for the subject project is in full compliance with the American Iron and Steel requirement as mandated in EPA's State Revolving Fund Programs.

Item, Products and/or Materials:

1. Xxx
2. Xxx
3. Xxx

Such process took place at the following location:

If any of the above compliance statements change while providing material to this project we will immediately notify the prime contractor and the engineer.

Signed by company representative

The following information is provided as a sample letter of certification for AIS compliance. Documentation must be provided on company letterhead.

Date
Company Name
Company Address
City, State Zip

Subject: American Iron and Steel Certification for Project (XXXXXXXXXX X)

I, (company representative), certify that the following products and/or materials shipped/provided to the subject project are in full compliance with the American Iron and Steel requirement as mandated in EPA's State Revolving Fund Programs.

Item, Products and/or Materials:

1. Xxx
2. Xxx
3. Xxx

Such process took place at the following location:

If any of the above compliance statements change while providing material to this project we will immediately notify the prime contractor and the engineer.

Signed by company representative

DAVIS BACON REQUIREMENTS

1. Contract and Subcontract provisions.

(a) The Recipient shall insert in full in any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a treatment work under the CWSRF the following clauses:

(1) Minimum wages.

- (i) All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in §5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

The Recipient may obtain wage determinations from the U.S. Department of Labor's web site, www.dol.gov.

- (ii)(A) The Recipient, on behalf of EPA, shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The State award official shall approve a request for an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

DAVIS BACON REQUIREMENTS

- (2) The classification is utilized in the area by the construction industry; and
 - (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- (B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Recipient agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), documentation of the action taken and the request, including the local wage determination shall be sent by the Recipient to the State award official. The State award official will transmit the report, to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 and to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification request within 30 days of receipt and so advise the State award official or will notify the State award official within the 30-day period that additional time is necessary.
- (C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the and the Recipient do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the award official shall refer the request, and the local wage determination, including the views of all interested parties and the recommendation of the State award official, to the Administrator for determination. The request shall be sent to the EPA Regional Coordinator concurrently. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt of the request and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- (D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.
- (iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
- (iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

DAVIS BACON REQUIREMENTS

- (2) Withholding. The Recipient shall upon written request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.
- (3) Payrolls and basic records.
- (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.
- (ii)(A) The contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to the Recipient, that is, the entity that receives the sub-grant or loan from the State capitalization grant recipient. Such documentation shall be available on request of the State or EPA. As to each payroll copy received, the Recipient shall provide written confirmation in a form satisfactory to the State indicating whether or not the project is in compliance with the requirements of 29 CFR 5.5(a)(1) based on the most recent payroll copies for the specified week. The payrolls shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on the weekly payrolls. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number).

DAVIS BACON REQUIREMENTS

The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the Recipient for transmission to the State or EPA if requested by EPA, the State, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the Recipient.

- (B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:
 - (1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;
 - (2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;
 - (3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.
- (C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.
- (D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.
- (iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the State, EPA or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the

DAVIS BACON REQUIREMENTS

required records or to make them available, the Federal agency or State may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees.

- (i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.
- (ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they

DAVIS BACON REQUIREMENTS

are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

- (iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.
- (5) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.
- (6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the EPA determines may be appropriate, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.
- (7) Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.
- (8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.
- (9) Disputes concerning labor standards. Disputes arising out of the labor standards

DAVIS BACON REQUIREMENTS

provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the Recipient, State, EPA, the U.S. Department of Labor, or the employees or their representatives.

- (10) Certification of eligibility.
 - (i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
 - (ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
 - (iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

2. **Contract Provision for Contracts in Excess of \$100,000.**

- (a) Contract Work Hours and Safety Standards Act. The Recipient shall insert the following clauses set forth in paragraphs (a)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by Section 1, above or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.
 - (1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
 - (2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.
 - (3) Withholding for unpaid wages and liquidated damages. The Recipient shall upon the request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld, from any moneys payable on account of work

DAVIS BACON REQUIREMENTS

performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

- (4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.
- (b) In addition to the clauses contained in Section 1, above, in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR 5.1, the Recipient shall insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Recipient shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

3. Compliance Verification

- (a) The Recipient shall periodically interview a sufficient number of employees entitled to DB prevailing wages (covered employees) to verify that contractors or subcontractors are paying the appropriate wage rates. As provided in 29 CFR 5.6(a)(6), all interviews must be conducted in confidence. The Recipient must use Standard Form 1445 (SF 1445) or equivalent documentation to memorialize the interviews. Copies of the SF 1445 are available from EPA on request.
- (b) The Recipient shall establish and follow an interview schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, the Recipient should conduct interviews with a representative group of covered employees within two weeks of each contractor or subcontractor's submission of its initial weekly payroll data and two weeks prior to the estimated completion date for the contract or subcontract. The Recipient must conduct more frequent interviews if the initial interviews or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. The Recipient shall immediately conduct necessary interviews in response to an alleged violation of the prevailing wage requirements. All interviews shall be conducted in confidence.
- (c) The Recipient shall periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates. The Recipient shall establish and follow a spot check schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, if practicable the Recipient shall spot check payroll data within two weeks of each contractor or subcontractor's submission of its initial payroll data and

DAVIS BACON REQUIREMENTS

two weeks prior to the completion date the contract or subcontract. The Recipient must conduct more frequent spot checks if the initial spot check or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. In addition, during the examinations the Recipient shall verify evidence of fringe benefit plans and payments thereunder by contractors and subcontractors who claim credit for fringe benefit contributions.

- (d) The Recipient shall periodically review contractors and subcontractors use of apprentices and trainees to verify registration and certification with respect to apprenticeship and training programs approved by either the U.S Department of Labor or a state, as appropriate, and that contractors and subcontractors are not using disproportionate numbers of, laborers, trainees and apprentices. These reviews shall be conducted in accordance with the schedules for spot checks and interviews described in Item 5(b) and (c) above.
- (e) The Recipient must immediately report potential violations of the DB prevailing wage requirements to the EPA DB contact listed above and to the appropriate DOL Wage and Hour District Office listed at <http://www.dol.gov/esa/contacts/whd/america2.htm>.