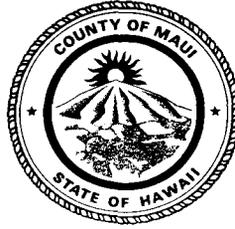


ALAN M. ARAKAWA
Mayor
STEWART STANT
Director
MICHAEL M. MIYAMOTO
Deputy Director



MICHAEL P. RATTE
Solid Waste Division
ERIC NAKAGAWA, P.E.
Wastewater Reclamation Division

COUNTY OF MAUI
DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT
2050 MAIN STREET, SUITE 2B
WAILUKU, MAUI, HAWAII 96793

April 18, 2018

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OFFICE OF THE
COUNTY COUNCIL

Mr. Sananda Baz
Budget Director, County of Maui
200 South High Street
Wailuku, Hawaii 96793

Honorable Alan M. Arakawa
Mayor, County of Maui
200 South High Street
Wailuku, Hawaii 96793

For Transmittal to:

Honorable Riki Hokama
Chair, Budget and Finance Committee
Maui County Council
200 South High Street
Wailuku, Hawaii 96793

Dear Chair Hokama:

**SUBJECT: REQUESTS/QUESTIONS FROM THE APRIL 10, 2018 MEETING
(EM-7) (BF-1)**

The County is in receipt of the above Budget and Finance (BF) Committee requested information dated April 12, 2018. Your request and the corresponding answer is provided below by the Department of Environmental Management (DEM).

Wastewater

1. *As it relates to CBS-5053 Countywide Injection Well Alternative Study (page 635 of the Program Budget):*
 - a. *Please identify whether \$50,000 will be sufficient to complete a comprehensive study and how the cost estimate was determined. (RH/DG)*

Based on recent engineering studies, \$100,000 would be more appropriate to fund a complete comprehensive study for CBS-5053. The cost estimate was based on projected man hours for a high level study regarding injection well alternatives and taking into consideration several of the options have already

been looked at in depth. Recent discussions have identified additional options not contemplated in the original project study budget.

- b. *Please specify whether alternatives relating to uses for treated R-O drinking quality water will be explored. (MW)*

Yes, alternatives relating to uses for treated R-O drinking water will be explored

2. *Provide a summary of the feasibility study completed by the Department relating to the use of scalping plants. (EC)*

The feasibility study for scalping plants is 90% complete and should be completed by May 29, 2018. Preliminary analysis suggest scalping plants require significant ancillary infrastructure in order to collect flows, provide backup systems, odor control, reuse water distribution, sludge slurry disposal and other necessary systems which are beyond the cost of the packaged unit. Moreover, the analysis suggest there are not many suitable locations within our service areas to locate these types of plants.

3. *As it relates to CBS-5026 Kihei Wastewater Reclamation Facility Grit System Replacement (page 647 of the Program Budget):*

- a. *Will this project result in a reduction in operating cost? If so, please provide the estimated cost savings. (MW)*

Yes. There is an expected savings in annual operations and maintenance costs. In the Kihei WWRF Grit Study, Table 3.5, O&M Cost Summary shows the anticipated average annual O&M costs. Appendix C: Cost Evaluations, itemizes all of the costs over the life cycle and annualizes the costs. Both are attached.

- b. *Provide the current cost of the engineering report conducted relating to the grit system and provide the report's findings. (EC)*

In the Kihei WWRF Grit Study, Appendix C: Cost Evaluations shows the per event cleaning cost at \$305,000. Table 3.1, Estimated Grit Removal Efficiencies at Kihei WWRF shows the anticipated FAB Cleanout Frequency. As the HeadCell Grit Removal System expects a 20+ years frequency, Cost Evaluation assumed a 34 year frequency based on current information.

- c. *Provide the cost of the engineering report conducted relating to the grit system and provide the report's findings. (EC)*

The cost of the study was \$59,937. Attached is Section 4, Conclusions and Recommendations from the study. Nowhere in the study does it state, "...not worth it to replace." That comment was inputted into a maintenance program to summarize the findings of the study. Please take note of the Plant

Supervisor's comment relative the challenges with cleaning the grit out of the basins.

The study and subsequent comment were purely based on economic considerations. In Section 3.0, Non-Economic Comparison, the study pays tribute to the non-economic benefits which are summarized in Table 3-8, Non-Economic Comparison (copy attached). The study does not assume an equivalent economic value.

What the report does not add into the evaluation of alternatives is the challenge at getting the basins cleaned. The difficulties start with getting a crew together to clean the basins. The difficulty and unpleasantness of the whole process makes putting a team together challenging. The basins are cleaned at night to avoid the hot Kihei sun so additional lights are brought in. The basins are 24 feet deep and each basin has 10,000 air diffusers. The space is considered a confined space so safety protocols are followed. The level of grit, red worms and slime in the basins matches the height of the diffusers. All this makes keeping your balance difficult. There have been many injuries in the past 20 plus years.

Once you have a crew together, you can schedule the contractor support. The process starts with draining the liquid out of the basin, staff climb down ladders into the grit layer and start the vacuuming process. As the level gets low, staff start the process of washing the diffusers and pushing the grit to the vacuum area.

Attached are photos of the process. In the second picture, now Director Stant is the person in the white shirt. To appreciate the difficulty and unpleasantness of the process, one has to be present or better yet, participate in the process. The next basin will be cleaned in July, 2018.

4. *As it relates to CBS-5030 Liloa Drive Recycled Water Line (page 649 of the Program Budget):*
 - a. *Provide a breakdown of the expended or encumbered \$100,000 from prior years, as indicated on the project sheet. (RH)*

The \$100,000 previous encumbrance shown on CBS-5030 is incorrectly shown here. That amount was actually for the Kulanihakoi Recycled Water Line Extension which has already been constructed. That system will be connected to this new recycled water line and provide redundancy.

- b. *Identify whether the requested \$500,000 would be used for design or construction. (KK)*

The \$500,000 requested will be for design services.

5. *As it relates to CBS-1131 Wailuku-Kahului Environmental Protection Agency (EPA) Compliance Sewer Rehabilitation (page 669) of the Program Budget),*

please refer to the attached map and confirm whether or not the project is located within the Wailuku Redevelopment Area. (RH)

Upon further review of the expanded Wailuku Redevelopment Area, half of the project is located within the boundary (from Market Street to High Street) and the other is not (from High Street to end of Vineyard Street).

6. *As it relates to CBS-5034 Wailuku-Kahului Recycled Water Pump Station (page 671 of the Program Budget), please provide a definition for "SAT basin," and a description of how the basin works. (RH/DG/EC)*

A Soil Aquifer Treatment Basin ("SAT") is an engineered infiltration system approved by the State of Hawaii Department of Health and the Environmental Protection Agency in which effluent is pumped into an engineered basin or series of basins that allows the effluent to seep down into the ground through a series of selected soil layers designed to provide final treatment to the effluent before it reaches groundwater.

7. *As it relates to CBS-5034 Wailuku-Kahului Recycled Water Pump Station (page 671 of the Program Budget) and CBS-5035 Wailuku-Kahului Wastewater Reclamation Facility Emergency Effluent Force Main (page 673 of the Program Budget), please provide a breakdown of what portion of the funds will be used for design and what portion of the funds will be used for construction. (KK)*

The Breakdown is as follows:

CBS No	Project	FY19		
		Design	Const	Total
CBS-5034	WK WWRF Recycled Water PS	\$600,000	\$0	\$600,000
CBS-5035	WK WWRF Emergency Effluent FM	\$0	\$450,000	\$450,000

8. *Provide a status update on CBS-3233 Wailuku-Kahului WWRF Solids Building Renovation, for which \$1 million was appropriated in FY 2017. Provide the total project cost to-date, including any funds expended or encumbered under Countywide projects. (RH)*

The construction of CBS-3233 Wailuku-Kahului WWRF Solids Building Renovation is ongoing and projected to be done by December 1, 2108. The total project cost was \$657,605.95 and no funds were required from the Countywide projects.

Solid Waste

9. *As it relates to CBS-1218 Countywide Equipment (page 686 of the Program Budget), provide a breakdown of the estimated labor cost savings, including any reduction in workman's compensation claims, since the implementation of automated refuse trucks. (MW)*

Since the implementation of the automated collection program in 2002, the Refuse collection section has not requested any expansion E/P's, while the number of refuse accounts has grown by approximately 7,000 accounts (~19,000 accounts in 2002, ~26,000 accounts in 2018).

Without increasing our automated collection routes (and the associated EP savings), this ~37% increase in accounts, would have required an additional 15 refuse collection employees (5 crews) to cover Central, Upcountry, and Lahaina districts.

Prior to implementation of the automated collection program, per union contract, the County incurred > \$100,000/year due to requiring crews to exceed their weekly pickup limit (1750/week). These costs have been reduced to \$0/year since 2008 due to automation.

Prior to 2005, during employee sick days, vacation, and workers compensation claims, the section utilized ~6 DPW highways employees/day to cover.

The total cost avoidance per year (FY19 labor costs) would equate to ~\$1,600,000/yr as a result of the implementation of automated refuse collection. This significant long term savings provides justification to continue our automation efforts, and we are requesting 3 additional automated trucks for FY 19.

Here is the information relative to workman's compensation claims:

2000	9	\$ 72,654.24
2001	14	\$ 66,142.73
2002	18	\$ 118,608.18
2003	14	\$ 110,659.57
2004	13	\$ 176,866.79
2005	7	\$ 9,702.79
2006	9	\$ 18,161.98
2007	6	\$ 44,520.83
2008	4	\$ 35,507.96
2009	5	\$ 240,991.95
2010	5	\$ 201,689.98
2011	2	\$ 14,748.50
2012	3	\$ 210,683.43
2013	2	\$ 2,699.86
2014	4	\$ 22,846.48
2015	4	\$ 54,722.87
2016	2	\$ 13,198.23

10. *As it relates to CBS-4609 Landfill Potable Water Supply (page 622 of the Program Budget):*

- a. *Identify where the closest water line is located in relation to the Central Maui Landfill and whether the Department of Water Supply has provided input relating to this project. (MW)*

The Department of Water Supply was contacted and advised that the nearest County water lines are near Target and Costco in Kahului. Furthermore, the Division has also investigated to determine that the closest private water line is approximately 2 miles away at the corner of Hookele Street and Pulehu Road.

The intent of this preliminary engineering report (PER) is to identify and evaluate the feasibility of different alternatives to provide potable water to our active landfills. A domestic water line connection will be included as one possible measure, but will not be the sole alternative. In the case of Central Maui Landfill, the possibility of treating brackish water from the onsite production well will also be studied along with any other best practical technologies. The PER will then compare these alternatives and recommend the best solution(s) and associated costs.

It is because of this distance and costs involved with underground waterlines and pump station required, thru non-County land with easements, etc the costs to do that are estimated to be much greater than possible alternatives. Our requested CIP PER requested in FY 19 will evaluate these alternatives and options to allow for the most cost effective solution to our onsite water needs.

- b. *Identify where the closest water line is located in relation to the Lanai landfill. (RH)*

There are no County water lines on the island of Lanai. Per Pulama Lanai, the closest private water line is a small 2-inch pipe located along Kaunalapau Highway from the Airport feeding the existing concrete batch plant. Part of the CIP requested is to evaluate connection to this line, capacity needs, easements required, onsite storage tank options, pump station, etc. (Currently the Lanai site has no running water, using chemical toilets, no water storage for fire suppression). As mentioned above, this will not be the sole measure analyzed by the PER, the possibility of drilling a production well and treating the water will also be compared.

11. *As it relates to CBS-1908 Hana Landfill Makai Berm Waste Removal, (page 637 of the Program Budget), provide the results of the soil testing done on the landfill site where vehicles were previously stored and identify whether any remediation is planned for that site. (RC)*

Lab results are attached. No recommended remediation in this area was required based upon lab results.

12. *As it relates to CBS-4606 Molokai Landfill Phase V Expansion (page 651 of the Program Budget), provide a cost estimate for construction in subsequent fiscal years. (RH/KK)*

The necessary construction cost of the Molokai Landfill Phase V expansion is estimated at \$3.5M in Fiscal Year 2020.

13. *As it relates to CBS-1901 Central Maui Landfill Phase VI (page 658 of the Program Budget), provide a comparison between the cost per ton for the disposal of waste for the phase IV parcel, and the parcel proposed for CBS-3567 (page 666 of the Program Budget) Central Maui Landfill Land Purchase. (RH/MW)*

The cost per ton for disposal is an operational cost, and remains the same regardless of location. However, cost per cubic yard of airspace includes the development costs and elevation differences. The more airspace per acre available the cheaper the overall cost is. Because the CBS-3567 area is separated from other landfill areas by existing environmental controls (storm water management, leachate collection system, landfill gas collection system) and utilities and operational structures, it is not contiguous and will not gain any additional free airspace. In comparison, Phase VI area was previously quarried, allowing for much more cubic yards of airspace available for landfilling per acre. The CBS-3567 area, is at grade so therefore will require additional costs to excavate and develop for landfilling purposes.

	Total Acres	Total Cost	Volume (CY)	Development Cost/Acre	Air Space/Acre (CY)
Phase VI	19	\$6,700,000	2,900,000	\$350,000	153,000
Other Property	17	\$11,500,000	2,000,000	\$674,000	119,000

Assuming that the Other Property is excavated to 10 feet below grade, difference in cost to develop the Other Property is estimated to be \$4,800,000 more and provide approximately 3 years less capacity than Phase VI.

14. *As it relates to CBS-2290 Central Maui Landfill Monitoring Well Design/Construction (page 660 of the Program Budget):*

- a. *Provide a cost comparison between the installation of a monitoring well and a potable water well. (KK)*

There is no option to use a monitoring well for a “dual purpose” potable water well. Monitoring wells are required to be stand alone system placed down gradient of the landfill to monitor ground water for potential contaminants from the landfill, not to pump out potable water for human consumption. In addition that down gradient groundwater is brackish, and unsuitable for human consumption. In addition ground water wells used for potable water is

required to be above the landfill, and above the UIC line. (Under Ground Injection Control line).

Construction for a potable water well at Central Maui Landfill is estimated to be \$415k for drilling, permitting, design, borehole logging and testing. A groundwater monitoring well is estimated to be \$175k due shallower well depth and simpler design and construction requirements.

- b. *Provide the number of wells the Department of Health has identified as necessary to date, and supporting documentation. (RH)*

In accordance with Central Maui Landfill's Hawaii Department of Health Solid Waste Management Facility Permit the County shall:

"...the permittee shall install monitoring wells (MW) 7, 8, and 9 in accordance with the Site Map by A-Mehr, Inc. on sheet 1 in the February 2017 Phase V-B Ext permit application, and install MW-10 as recommended by the 2016 Conceptual Site Model Figure 8 Groundwater Monitoring Well Network by CH2M Hill prepared February 2016, or as otherwise approved by the DOH..."

This equates to a total # of 4 wells needed.

15. *As it relates to CBS-3567 Central Maui Landfill Land Purchase (page 666 of the Program Budget):*

- a. *Provide a cost comparison for acquiring the proposed 22.4 acres versus the entire 66 acres of surrounding land. (RH/MW)*

Purchasing the entire 66 acres of land will cost approximately \$3.25M versus the 22.4 acres estimated at \$1.25M.

- b. *Provide the estimated cost per acre for the property. (MW)*

Cost per acre is approximately \$56k.

- c. *Explain what would be done with the land when not in use for emergency purposes.*

The Division would immediately set up the TDSR site to prepare for any debris management situation that may arise. This would include the trailer, scale system, ramp for trucks to enter, roads to enter and exit, storm water controls, berms, etc. FEMA approved site plan to maximize our reimbursements.

At all times, (not just in major disasters) this land would be used for temporary debris management for smaller, shorter term debris sorting and management. In addition, there is a wide range of shorter term stockpiling of materials needed, that we currently don't have space for, including: cover soil, concrete eco-blocks, 6" minus and 3" minus materials, road building

materials, clay soils for liner, slope rebuilding temp storage, temporary construction materials, plastic liners, bentonite, geo-textile and concrete cobbles. These are all necessary and standard requirements for proper landfilling operations and construction of phases.

16. *As it relates to CBS-3175 Leachate Collection and Recovery and Electrical Distribution System Upgrades (page 662 of the Program Budget), provide a status update on the \$250,000 appropriated in Fiscal Year 2018. (RH)*

The appropriated \$250,000 will be encumbered by September 2018, along with the additional FY 19 funding if approved.

The DEM requested \$500,000 in FY 18 based on our original engineers estimate. Council approved half of the request (\$250,000) in FY 18. SWD has awaited for this FY 19 budget approval to obtain the full remaining construction funding. We chose not to phase the project as this would cost more due to multiple mobilizations, potentially two different contractors and potential construction conflicts, etc. If FY 19 monies are not approved, we will be forced to phase the construction, costing more.

Project justification:

The scope of work for CBS-3175 includes upgrading the electrical system powering the leachate collection and recovery system (LCRS) bringing it up to code and enabling it to be powered by portable generator during emergencies, tracking generated leachate quantities (as required by Hawaii Department of Health Permit), and enabling the recirculation of leachate from the leachate tankfarm back into the landfill waste mass.

This project is essential for the Division as it will enable us to precisely track leachate quantities generated, reduce the number of trips required to dispose of leachate at wastewater treatment facilities, improve safety at the landfill by updating the electrical distribution system, and enable the leachate collection system to be run off of an portable generator.

17. *As it relates to CBS-5019 Central Maui Landfill Phase III (page 667 of the Program Budget), provide the contracts or agreements for entities operating on the County-owned proposed phase III property. (RH)*

Attached is the contract for EKO composting, the sole contractor on the County-owned proposed Phase III property. Also included is a copy of the Request for Proposals that the contract is based upon.

Honorable Riki Hokama
April 18, 2018
Page **10** of **10**

Should you have any questions, please contact me at ext. 8230.

Sincerely,

A handwritten signature in black ink that reads "Stewart Stant". The signature is written in a cursive style with a large, prominent initial "S".

Stewart Stant
Director of Environmental Management

- The private vector trucks move the grit to an area lined with tarps for drying before being hauled to the landfill by County hauling trucks.
- County staff load the dry grit into dump trucks for landfill disposal.

Other O&M assumptions are listed in Table 3-4.

Description	Value
Straight-time labor cost	\$60/person-hour
Overtime labor markup	1.5
Electricity cost	\$0.40 per kWh
Landfill tip fee	\$85/ton
Contract pumper truck fee	\$500/hr
FAB cleanout labor effort	2.4 labor hours per ton
Equipment maintenance cost	2 percent of equipment capital cost/year

The O&M costs of each option were annualized for comparison. Table 3-5 summarizes the annual O&M costs. Constructing an aerated grit chamber would incur the highest O&M costs. The O&M costs of the other two options were similar to one another and less than the HeadCell.

Description	Option		
	1	2	3
Option name	Maintain the status quo	HeadCell grit removal system	Aerated grit chamber in existing vault
Operations labor	N/A	\$22,000	\$22,000
Electricity	N/A	\$18,000	\$46,000
Landfill tip fee ^a	\$54,000	\$53,000	\$64,000
FAB cleanout ^c	\$153,000	\$9,000	\$137,000
Equipment maintenance	\$12,000	\$95,000	\$56,000
Total	\$219,000	\$197,000	\$325,000

^a Tip fee for grit removed by process.

^b Grit pumping and disposal by contractor, landfill tip fee included.

^c Includes labor to move grit within tank and contractor pumping and disposal.

3.2.3 Life-Cycle Costs

An economic evaluation was prepared to assess the potential life-cycle costs associated with each option. The economic evaluation consists of a net present value comparison of alternatives to the status quo operation. The net present value analysis includes and capital O&M costs. An appropriate inflationary factor and discount rate are applied to obtain the net present value over a 20-year planning period. The net present value of an alternative represents the amount of money that would need to be set aside today, at a given interest rate, to pay the capital and O&M costs for

Appendix C: Cost Evaluations

Capital cost estimates, O&M cost estimates, and life-cycle cost evaluation

County of Maui Wastewater Reclamation Division
Kihei WWRF Grit Study

O&M Costs - Common Assumptions

Unit Costs

Labor cost:	\$60	/person-hour
Electricity cost:	\$0.40	/kWh
Landfill tip fee:	\$85	/wet ton
Equipment maintenance:	2%	of equipment capital/yr
Contract pumpout cost:	\$500	/hr

Grit Load

ADWF:	4.1	mgd
Typical grit content:	5	cf/mgal
Estimated Kihei Grit Load:	20.5	cf/day
	7,483	cf/yr
Grit bulk density:	100	lbs/cf
Estimated Kihei grit mass:	748,250	lbs/yr

Annual O&M Cost Summary

Description	Annual O&M Cost
1. Status Quo	\$219,000
2. Headcell	\$197,000
3. Aerated Grit Chamber	\$325,000

County of Maui Wastewater Reclamation Division
Kihei WWRF Grit Study

O&M Costs - Status Quo

FAB Cleanout

No of basins	2
FAB cleanout frequency	2 years
Project duration	2 wks per FAB 4 wks total

County Effort

County employees	10 persons
County cleanout labor:	1,600 person hours/cleanout
Overtime labor multiplier:	1.5
County labor cost	\$144,000 /cleanout

Contracted effort

No. of contracted vector trucks	2 trucks
Contract removal	\$160,000 /cleanout
Tarps	\$2,000 /cleanout
Total cleanout cost:	\$306,000 /cleanout
Annual cleanout cost:	\$153,000 /yr

Cleanout Characteristics

FAB length	128 ft
Pass 1 width	15 ft
Pass 2 width	20 ft
Width per FAB	35 ft
Grit depth	1.5 ft
Grit volume	6,672 cf/basin
Total grit volume	13,344 cf
Grit dry mass	667 tons 1,334,400 lbs
FAB grit solids content	60%
Grit wet mass	1,112 tons
County labor effort:	2.4 person hours/dry ton
Contracted grit removal rate:	83 cf/hr
FAB grit removal	89%
Grit accumulation in TeaCups	11%
Grit mass in TeaCups	162,100 lbs

Landfill

County hauling truck load	20 tons/load
Required loads	56 loads
Hauling rate	2 hrs/load
Hauling time	112 hrs

EM-7, BF-1
3a.

Operators	2 persons
Labor multiplier	1.0
Hauling labor	224 person hours
Operator labor cost	\$13,000 /event
Landfill tip fee	\$95,000 /event
Total landfilling cost	\$108,000 /event
Annual landfilling cost	\$54,000 /yr

Equipment Maintenance

Equipment capital cost:	\$594,000
Equipment maintenance cost:	\$12,000

Annual O&M Cost Summary

Landfill:	\$54,000
Aeration basin cleanout:	\$153,000
Equipment maintenance:	\$12,000
Total annual O&M cost:	\$219,000

County of Maui Wastewater Reclamation Division
Kihei WWRF Grit Study

O&M Costs - Headcell

HeadCell Operation

Operator labor:	1.0	person hr/d
Labor multiplier:	1.0	
Annual operator labor cost:	\$22,000	/yr

Grit Processing Equipment

Estimated grit removal efficiency:	95%	
Annual grit removed in tank:	7,108	cf/yr
Grit dry mass:	355	tons
Solids content:	60%	
Grit wet mass:	592	tons
Landfill tip fee:	\$50,000	/yr
Grit pump motor size:	5	hp
Motor efficiency:	90%	
Grit pump load:	4.1	kW
Annual grit pump electricity demand:	36,291	kWh
Annual grit pump electricity cost:	\$15,000	/yr
Grit classifier motor size:	1	hp
Motor efficiency:	90%	
Grit classifier load:	0.8	kW
Annual grit pump electricity demand:	7,258	kWh
Annual grit washer cost:	\$3,000	/yr

FAB Cleanout

FAB grit removal efficiency:	5%	
Number in service:	2	
Width, each:	35	ft
Length, each:	128	ft
Total bottom area:	8,896	sf
Height of diffusers:	1.5	ft
Cleanout volume:	13,344	cf
Time between cleanouts:	36	yrs
Grit dry mass:	667	tons
FAB grit solids content:	60%	
Grit wet mass:	1,112	tons
Contracted grit removal rate:	83	cf/hr
No. contracted vacuor trucks:	2	
Contract removal cost:	\$161,000	/cleanout
Cleanout labor effort:	2.4	person hours/dry ton
Cleanout labor:	1,600	person hours

Labor multiplier:	1.5
Labor cost:	\$144,000 /cleanout
Total cost per cleanout:	\$305,000 /cleanout
Annual cost:	\$9,000 /yr

FAB Cleanout Landfilling

County hauling truck load	20 tons/load
Required loads	56 loads/cleanout
Hauling rate	2 hrs/load
Hauling time	111 hrs/cleanout
Operators	2 persons
Labor multiplier	1.0
Hauling labor	222 person-hours
Operator labor cost	\$13,344 /cleanout
Landfill tip fee	\$95,000 /cleanout
Total landfilling cost	\$108,000 /cleanout
Annual aeration basins grit landfilling cost	\$3,000 /yr

Equipment Maintenance

Equipment capital cost:	\$4,753,000
Equipment maintenance cost:	\$95,000

Annual O&M Cost Summary

Operations labor:	\$22,000
Electricity:	\$18,000
Landfill:	\$53,000
Aeration basin cleanout:	\$9,000
Equipment maintenance:	\$95,000
Total annual O&M cost:	\$197,000

County of Maui Wastewater Reclamation Division
Kihei WWRF Grit Study

O&M Costs - Aerated Grit

Aerated Grit System Dimensions

Aerated grit removal efficiency:

Total volume:	11,840	cf
Length:	39	ft
Width:	22	ft
Tank depth:	13.8	ft
Average water depth:	8	ft

Aerated Grit Operator Requirements

Operator labor:	1.0	person hr/d
Labor multiplier:	1.0	
Annual operator labor cost:	\$22,000	

Grit Chamber Aeration

Grit chamber typical airflow requirement:	5	cfm/ft of length
Airflow:	195	cfm
Blower efficiency:	20	cfm/hp
Blower bhp:	9.8	hp
Blower motor efficiency:	90%	
Aeration load:	8.1	kW
Annual electricity demand:	70,767	kWh
Annual electricity cost:	\$28,000	/yr

Aerated Grit Chamber O&M

Estimated grit removal efficiency:	20%	
Annual grit removed in tank:	149,650	lbs/yr
	1,497	cf
Grit dry mass:	75	tons
Grit solids content:	40%	
Grit wet mass:	187	wet tons
Landfill tip fee:	\$16,000	/yr
Grit pump motor size:	5	hp
Motor efficiency:	90%	
Grit pump load:	4.1	kW
Annual grit pump electricity demand:	36,291	kWh
Annual grit pump electricity cost:	\$15,000	/yr
Grit classifier motor size:	1	hp
Motor efficiency:	90%	
Grit classifier load:	0.8	kW
Annual grit pump electricity demand:	7,258	kWh
Annual grit classifier electricity cost:	\$3,000	/yr

Aeration Basins Cleanout

Grit load to FAB	80%
Number in service:	2
Width, each:	35 ft
Length, each:	128 ft
Total bottom area:	8,896 sf
Height of diffusers:	1.5 ft
Cleanout volume:	13,344 cf
Time between cleanouts:	2.2 yrs
Grit dry mass:	667 tons
FAB grit solids content:	60%
Grit wet mass:	1,112 tons
Contracted grit removal rate:	83 cf/hr
No. contracted vacor trucks:	2 trucks
Contract removal cost:	\$161,000
Cleanout labor effort:	2.4 person hours/dry ton
Cleanout labor:	1,600 hours/cleanout
Labor multiplier:	1.5
Labor cost:	\$144,000
Total cost per cleanout:	\$305,000
Annual cost:	\$137,000 /yr

Aeration Basins Cleanout Landfilling

County hauling truck load	20 tons/load
Required loads	56 loads/cleanout
Hauling rate	2 hrs/load
Hauling time	111 hrs/cleanout
Operators	2 persons
Labor multiplier	1.0
Hauling labor	222 person-hours
Operator labor cost	\$13,000 /cleanout
Landfill tip fee	\$95,000 /cleanout
Total landfilling cost	\$108,000 /cleanout
Annual aeration basins grit landfilling cost	\$48,000 /yr

Equipment Maintenance

Equipment capital cost:	\$2,796,000
Equipment maintenance cost:	\$56,000

Annual O&M Cost Summary

Operations labor:	\$22,000
Electricity:	\$46,000
Landfill:	\$64,000
Aeration basin cleanout:	\$137,000
Equipment maintenance:	\$56,000
Total annual O&M cost:	\$325,000

**COM WWRD
Kihei WWRF Grit Removal
Alternatives Net Present Value Analysis**

	Agency: COM WWRD	Risk Premium	Sensitivity Adjustments (%)			Results		
			Benefits	Capital Costs	Other Costs	Capital Cost	20-year NPV	Benefit over Status Quo
Project/Problem:	Kihei WWRF Grit Removal							
Alternative 1	Maintain Status Quo					\$1,428,000	(\$5,029,176)	
Alternative 2	HeadCell System					\$6,025,000	(\$9,264,414)	(\$4,235,238)
Alternative 3	Aerated Grit Chamber					\$4,314,000	(\$9,658,211)	(\$4,629,035)
Alternative 4								
Alternative 5								
Alternative 6								
Alternative 7								
Alternative 8								
Alternative 9								
Alternative 10								
Alternative 11								
Alternative 12								

Year of analysis: 2016
 Escalation rate: 3.00%
 Discount rate: 5.00%

Select one
 All entries in dollars
 All entries in thousands of dollars

Note: "Status quo" refers to
 Alternative 1

Make entries in yellow cells only

EM-7, BF-1
 39.

Section 3

Evaluation of Grit Removal Alternatives

Section three will compare the alternatives that passed the screening on an economic and non-economic basis. In the economic comparison, capital costs and operations and maintenance costs will be estimated. Those costs will be used to compare the life cycle costs of the alternatives. For the non-economic comparison each option will be evaluated on criteria of the grit removal process to compare how well each option would improve grit removal at Kihei WWRF.

3.1 Grit Removal System Alternatives

The following three alternatives passed the initial screening for evaluation:

Option 1: Maintain the Status Quo. This alternative assumes grit methods remain as-is, with flow bypassing the TeaCups and accumulating in the FABs, which are manually cleaned out every two years.

Option 2: HeadCell Grit Removal System. A Lamella plate settling system (HeadCell) would be installed, with grit pumped to a grit separator and washer. The equipment proposal from Hydro International is included in Appendix B.

Option 3: Aerated Grit System within Existing Vault. An aerated grit chamber would be constructed within the dimensions of the vault which currently houses the TeaCups. Grit washing and dewatering would follow the aerated grit system. The size of this option would provide approximately four minutes of detention time at peak flow, which is significantly less than the recommended detention time of 10 minutes.

Table 3-1 lists the grit removal efficiencies assumed for each technology. As shown in the table, the three options bracket the full range of grit removal for comparison purposes, ranging from 0 to 95 percent. The grit load that passes through to the FABs will require manual cleanout when the accumulated grit reaches the level of the diffusers.

Option	Estimated Grit Removal System Efficiency	Grit Load Passing to FABs	FAB Cleanout Frequency
1. Maintain the Status Quo	0 percent	100 percent	2 years
2. HeadCell Grit Removal System	95 percent	5 percent	20+ years
3. Aerated Grit System within Existing Vault	20 percent	80 percent	2.2 years

3.2 Economic Evaluations

Capital costs, O&M costs, and life-cycle costs were prepared for each option. The full economic evaluations are included in Appendix C.

Section 4

Conclusions and Recommendations

This section summarizes conclusions of our analyses and recommendations for grit removal at the Kihei WWRF.

4.1 Conclusions

Conclusions from the analyses are listed below:

- Maintaining the status quo has the lowest life and capital costs, but requires significant periodic effort to cleanout the FABs.
- Installing a HeadCell grit removal system would achieve the best grit removal efficiency and cleanout of the FABs would only need to happen every 10-15 years. However, a HeadCell system would also require the highest capital and life-cycle costs.
- Constructing an aerated grit chamber within the existing TeaCups vault would slightly improve grit removal, but would not achieve significant efficiency gains. Grit would continue to accumulate in the FABs with cleanout being required at about the same frequency as the status quo. An aerated grit chamber would also incur nearly double the life-cycle costs compared to the status quo.
- The status quo operation does not adversely impact the liquid or solids treatment processes.

4.2 Recommendations

We recommend that the County continue to employ its status quo operations for grit removal. This option offers greatest benefits in capital and life-cycle costs. To opt for a new grit removal system would require significantly greater capital and life-cycle costs.

A solitary comment from operations was received in the review period of this study, and is included below for memorialization purposes.

"For those of you that vote for the "Status Quo", I sincerely invite you to don your rubber boots and PPE'S and join in the "fun" that is involved with mucking out an aeration basin of all rags and grit, as it is NOT a pleasant experience. Successful grit removal is being conducted nation wide, and why we would be an exception is beyond me. For all the money paid to B&C for their expertise, sharpen your pencil and give us some results." -Tom Johnson, Plant Supervisor, Kihei WWRF

4.2.1 Improving the Status Quo

A capital improvements project is recommended for upgrades to assist grit removal efforts. Improvements could include replacement of the headworks air system, installing water cannons, and rehabilitating the influent channel.

Replacement of the headworks air system. The air system which serves the headworks channels is currently out of commission. The air compressor needs replacement. The air lines are corroded and leak, and are in need of replacement.

Water cannons. Water cannons installed around the FABs will facilitate grit cleanout events. Water cannons are large nozzles connected to a high pressure water source (e.g., recycled water). At Kihei WWRF water cannons could be installed on each end of each pass of the FABs. The water cannons would make it easier to push the grit towards the vacor trucks for removal. Figure 4-1 is an example image of a water cannon.



Figure 4-1. Typical Water Cannon

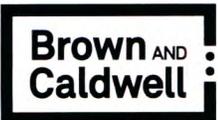
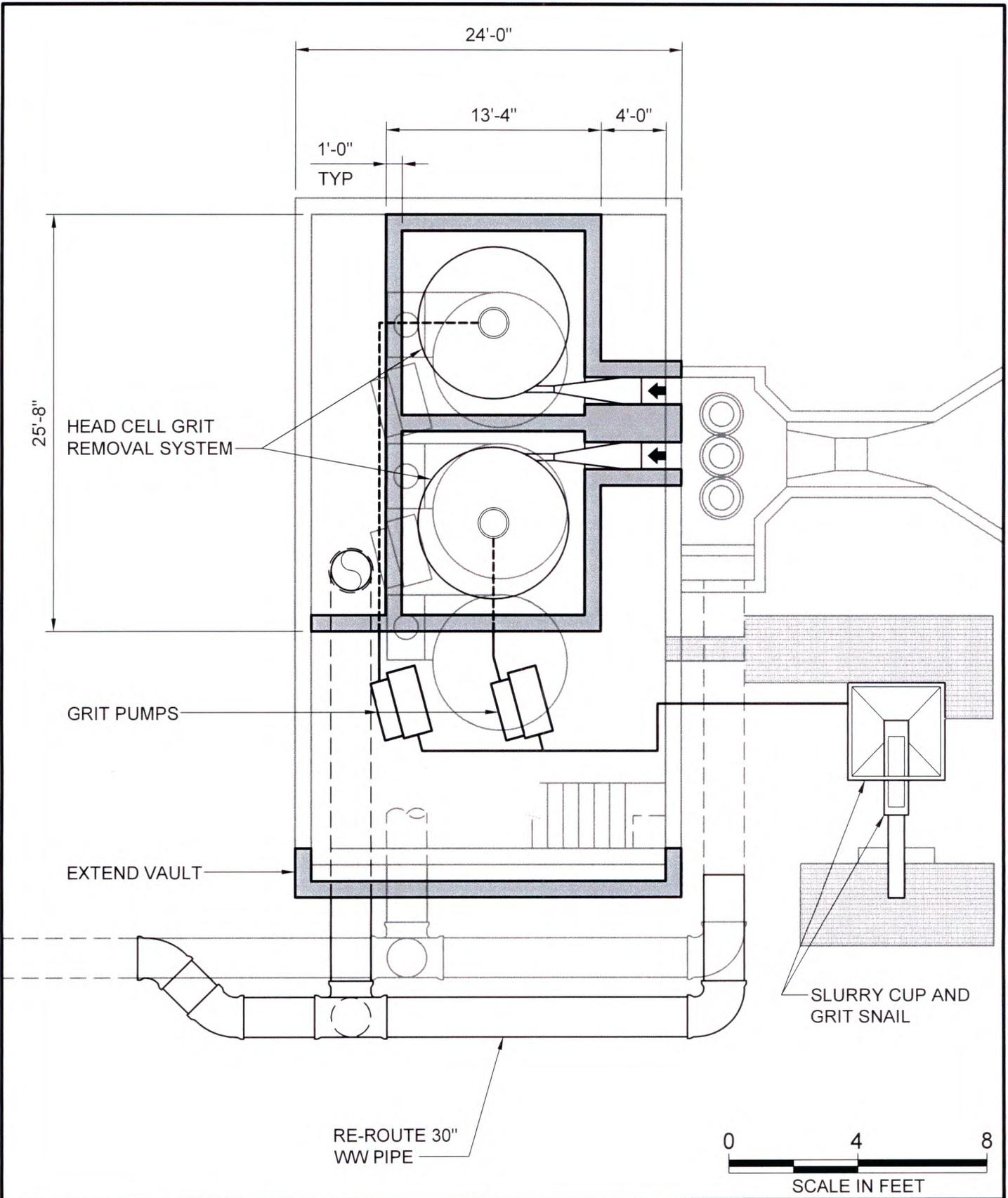
Influent Channel Rehabilitation. The concrete in the influent channel is corroded and needs repair.

4.2.2 HeadCell Grit Removal System

A HeadCell grit removal system is recommended if the County decides to construct a new grit removal system. This grit removal system has the highest grit removal efficiency, and would best alleviate FAB cleanout requirements.

Table 4-1 summarizes key components of the recommended HeadCell grit removal system configuration. Figure 4-1 is a schematic plan of the possible system layout.

Table 4-1. HeadCell Grit Removal System Components		
Description	Amount	Units
HeadCell units	2	ea
No of trays	12	per unit
Tray diameter	9	ft
SlurryCup grit washer	2	ea
Grit Snail grit dewatering unit	1	ea
Grit pumps	2	ea



SCALE: 1/4" = 1'-0"
JOB NUMBER: 148299
DATE: August 29, 2016

KIHEI WWRF
HEADCELL GRIT REMOVAL
SYSTEM LAYOUT

FIGURE
4-2

an option over the entire planning period. The alternative with the lowest net present value is considered the most-attractive from an economic perspective. The evaluation results are included in Appendix C.

Table 3-6 summarizes the life-cycle cost evaluation assumptions.

Table 3-6. Life-Cycle Economic Assumptions	
Description	Value
Year of analysis	2016
Inflation rate	3 percent
Discount rate	5 percent
Planning period	20 years

Table 3-7 summarizes the results of the life-cycle cost analysis. Maintaining the status quo would result in the lowest life-cycle costs, while converting to the HeadCell or an aerated grit chamber would nearly double the life-cycle costs.

Table 3-7. Life-Cycle Cost Evaluation Results			
Option	Description	Life-Cycle Cost	Comparison to Status Quo
1	Maintain the status quo	\$5.03M	--
2	HeadCell grit removal system	\$9.26M	+\$4.23M (+84 percent)
3	Aerated grit chamber	\$9.66M	+4.63M (+92 percent)

3.3 Non-Economic Comparison

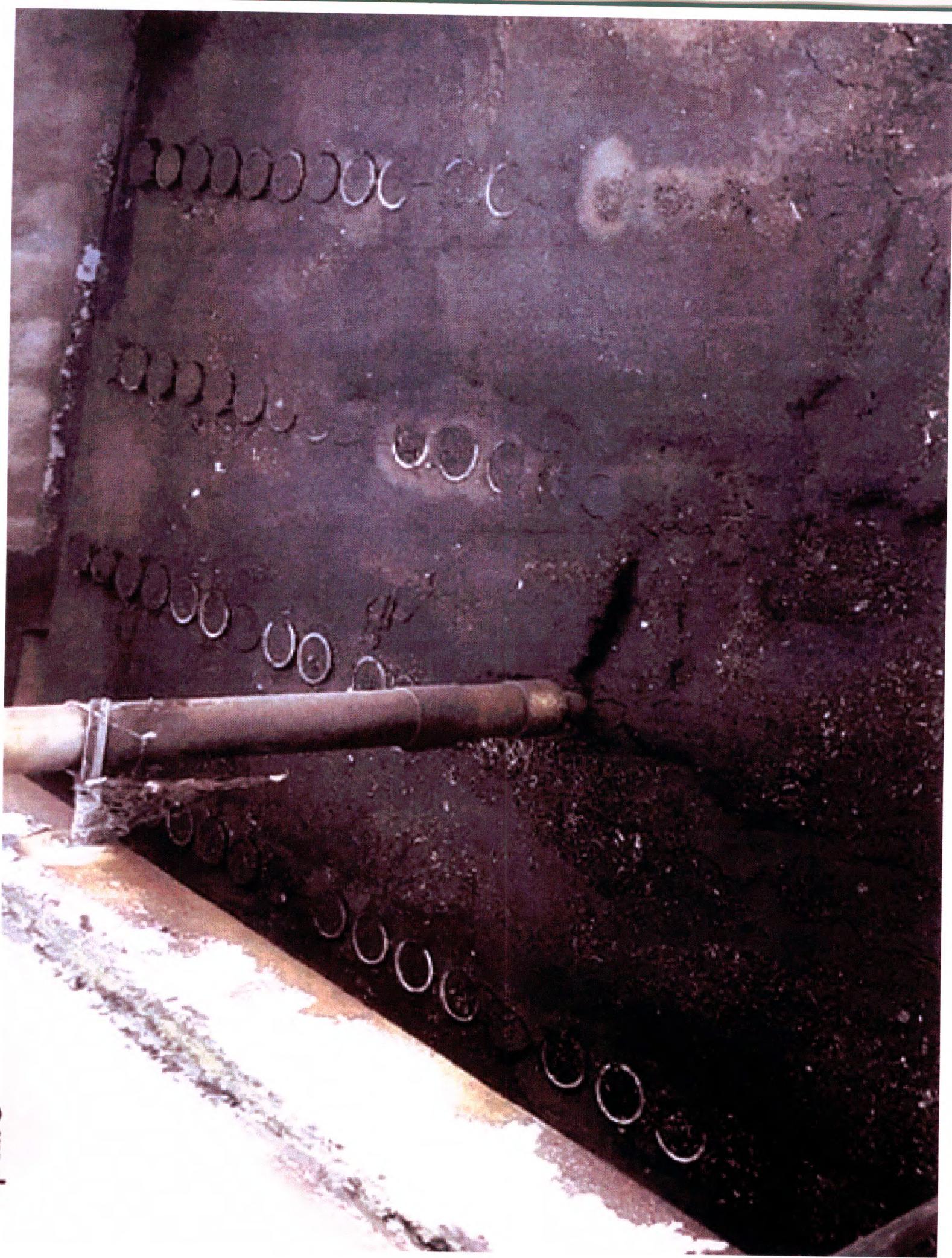
Non-economic benefits also contribute to a technology's value. Characteristics of the three grit removal options were evaluated on a non-economic basis. Table 3-8 scores the alternatives for each non-economic criterion with (+) being a positive score, 0 being neutral, and (-) being a negative score.

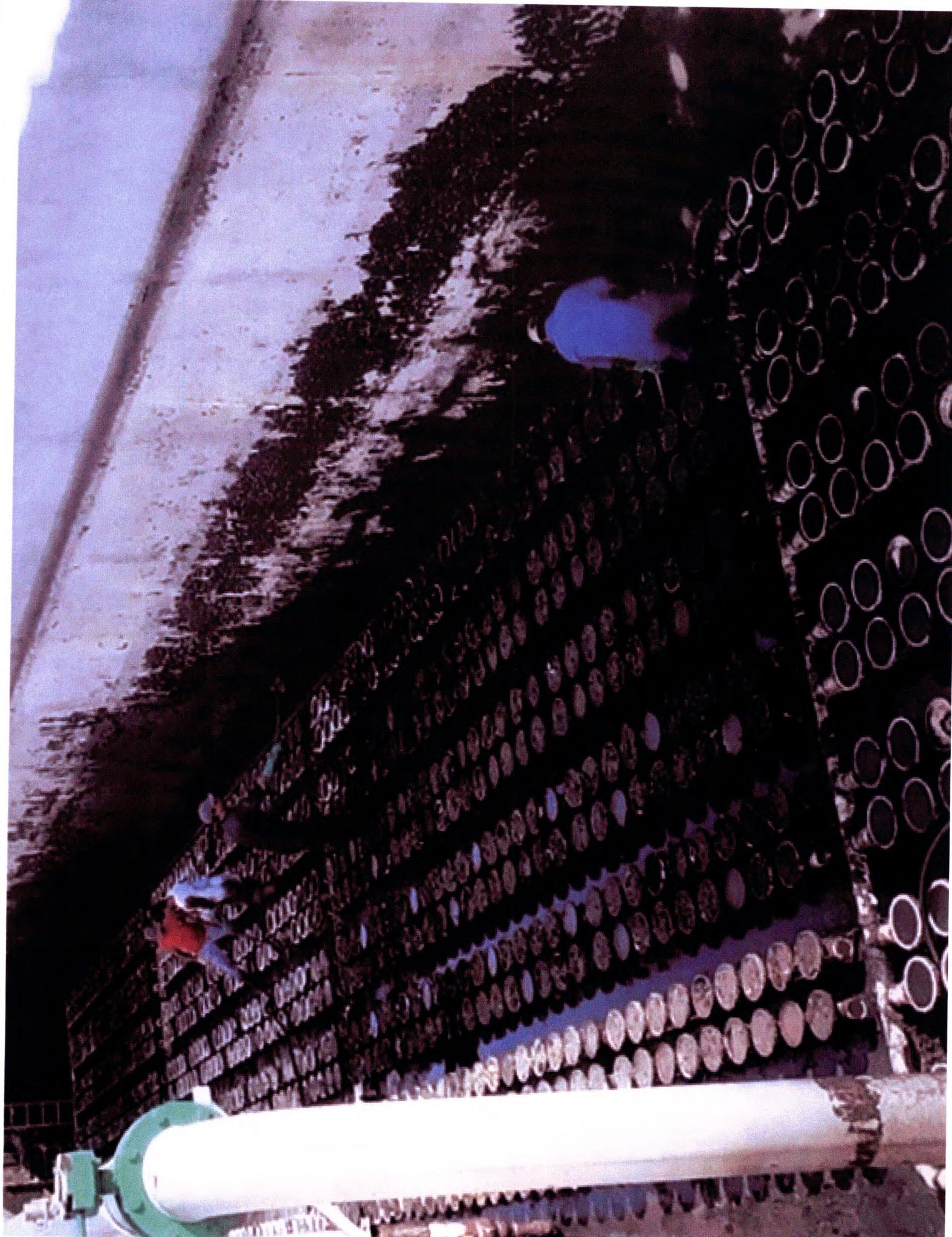
The HeadCell grit removal system scored the highest, while maintaining the status quo and the aerated grit chamber both totaled in the negative.

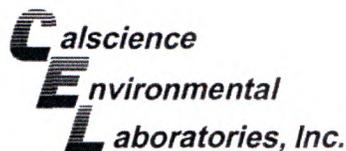
Table 3-8. Non-Economic Comparison			
Criteria Description	Option 1 Maintain Status Quo	Option 2 HeadCell System	Option 3 Aerated Grit Chamber
Grit removal effectiveness	-	+	-
Operations labor intensity	-	+	-
Maintenance complexity	+	0	0
Reliance on outside contractors	0	+	0
Wear on downstream processes	-	+	0
Totals	-2	+4	-2

3.4 Process Impacts

Effective grit removal provisions are important in WWRFs with primary clarifiers and anaerobic digesters because the grit will concentrate in the anaerobic digesters, significantly reducing solids retention time and increasing the risk of upset both in the anaerobic digestion and the liquid treatment processes. The Kihei WWRF does not have primary clarifiers or anaerobic digesters. Grit accumulation in the FABs does not appear to cause adverse process impacts at the Kihei WWRF. The grit is removed when the grit reaches the depth of the diffusers, causing only nominal tank volume reduction. Therefore, the Kihei WWRF process does not appear to be adversely affected by the status quo grit management system.







Analytical Report

URS Corporation
615 Piikoi Street, Suite 900
Honolulu, HI 96814-3116

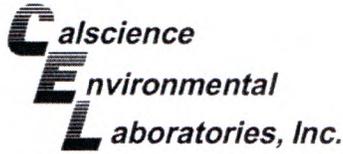
Date Received: 07/18/13
Work Order: 13-07-1164
Preparation: EPA 3550B
Method: EPA 8015B (M)
Units: mg/kg

Project: Hana Landfill - 26537180.56520.00420

Page 1 of 1

Client Sample Number	Lab Sample Number	Date/Time Collected	Matrix	Instrument	Date Prepared	Date/Time Analyzed	QC Batch ID
HS-1	13-07-1164-1-A	07/16/13 15:50	Soil	GC 46	07/18/13	07/23/13 11:45	130718B16
<u>Parameter</u>		<u>Result</u>		<u>RL</u>		<u>DF</u>	<u>Qualifiers</u>
TPH as Motor Oil		ND		25		1	
<u>Surrogate</u>		<u>Rec. (%)</u>		<u>Control Limits</u>		<u>Qualifiers</u>	
n-Octacosane		78		61-145			
Method Blank	099-15-420-507	N/A	Soil	GC 46	07/18/13	07/19/13 04:41	130718B16
<u>Parameter</u>		<u>Result</u>		<u>RL</u>		<u>DF</u>	<u>Qualifiers</u>
TPH as Motor Oil		ND		25		1	
<u>Surrogate</u>		<u>Rec. (%)</u>		<u>Control Limits</u>		<u>Qualifiers</u>	
n-Octacosane		84		61-145			

RL: Reporting Limit. DF: Dilution Factor. MDL: Method Detection Limit.



Analytical Report

URS Corporation
 615 Piikoi Street, Suite 900
 Honolulu, HI 96814-3116

Date Received: 07/18/13
 Work Order: 13-07-1164
 Preparation: EPA 3550B
 Method: EPA 8015B (M)
 Units: mg/kg

Project: Hana Landfill - 26537180.56520.00420

Page 1 of 1

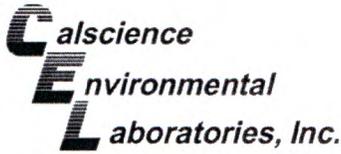
Client Sample Number	Lab Sample Number	Date/Time Collected	Matrix	Instrument	Date Prepared	Date/Time Analyzed	QC Batch ID
HS-1	13-07-1164-1-A	07/16/13 15:50	Soil	GC 46	07/18/13	07/23/13 11:45	130718B15

<u>Parameter</u>	<u>Result</u>	<u>RL</u>	<u>DF</u>	<u>Qualifiers</u>
TPH as Diesel	6.6 J	5.0	1	HD
<u>Surrogate</u>	<u>Rec. (%)</u>	<u>Control Limits</u>	<u>Qualifiers</u>	
n-Octacosane	78	61-145		

Method Blank	099-15-422-605	N/A	Soil	GC 46	07/18/13	07/19/13 04:41	130718B15
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<u>Parameter</u>	<u>Result</u>	<u>RL</u>	<u>DF</u>	<u>Qualifiers</u>
TPH as Diesel	ND	5.0	1	
<u>Surrogate</u>	<u>Rec. (%)</u>	<u>Control Limits</u>	<u>Qualifiers</u>	
n-Octacosane	84	61-145		

RL: Reporting Limit. DF: Dilution Factor. MDL: Method Detection Limit.



Analytical Report

URS Corporation
 615 Piikoi Street, Suite 900
 Honolulu, HI 96814-3116

Date Received: 07/18/13
 Work Order: 13-07-1164
 Preparation: EPA 5035
 Method: EPA 8015B (M)
 Units: mg/kg

Project: Hana Landfill - 26537180.56520.00420

Page 1 of 1

Client Sample Number	Lab Sample Number	Date/Time Collected	Matrix	Instrument	Date Prepared	Date/Time Analyzed	QC Batch ID
HS-1	13-07-1164-1-G	07/16/13 15:50	Soil	GC 4	07/16/13	07/20/13 08:52	130719B01

<u>Parameter</u>	<u>Result</u>	<u>RL</u>	<u>DF</u>	<u>Qualifiers</u>
TPH as Gasoline	ND	0.26	1.06	

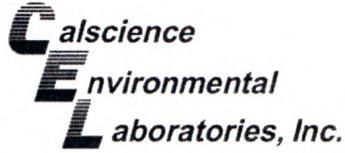
<u>Surrogate</u>	<u>Rec. (%)</u>	<u>Control Limits</u>	<u>Qualifiers</u>
1,4-Bromofluorobenzene	94	60-126	

Method Blank	099-12-285-4797	N/A	Soil	GC 4	07/19/13	07/20/13 03:22	130719B01
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<u>Parameter</u>	<u>Result</u>	<u>RL</u>	<u>DF</u>	<u>Qualifiers</u>
TPH as Gasoline	ND	0.25	1	

<u>Surrogate</u>	<u>Rec. (%)</u>	<u>Control Limits</u>	<u>Qualifiers</u>
1,4-Bromofluorobenzene	99	60-126	

RL: Reporting Limit. DF: Dilution Factor. MDL: Method Detection Limit.



Analytical Report

URS Corporation
 615 Piikoi Street, Suite 900
 Honolulu, HI 96814-3116

Date Received: 07/18/13
 Work Order: 13-07-1164
 Preparation: EPA 7471A Total
 Method: EPA 7471A
 Units: mg/kg

Project: Hana Landfill - 26537180.56520.00420

Page 1 of 1

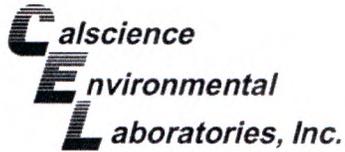
Client Sample Number	Lab Sample Number	Date/Time Collected	Matrix	Instrument	Date Prepared	Date/Time Analyzed	QC Batch ID
HS-1	13-07-1164-1-A	07/16/13 15:50	Soil	Mercury	07/18/13	07/19/13 12:33	130718L08

<u>Parameter</u>	<u>Result</u>	<u>RL</u>	<u>DF</u>	<u>Qualifiers</u>
Mercury	ND	0.0835	1	

Method Blank	099-04-007-9452	N/A	Soil	Mercury	07/18/13	07/18/13 17:41	130718L08
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<u>Parameter</u>	<u>Result</u>	<u>RL</u>	<u>DF</u>	<u>Qualifiers</u>
Mercury	ND	0.0835	1	

RL: Reporting Limit. DF: Dilution Factor. MDL: Method Detection Limit.



Analytical Report

URS Corporation
615 Piikoi Street, Suite 900
Honolulu, HI 96814-3116

Date Received: 07/18/13
Work Order: 13-07-1164
Preparation: EPA 5030C
Method: EPA 8260B
Units: ug/kg

Project: Hana Landfill - 26537180.56520.00420

Page 1 of 1

Client Sample Number	Lab Sample Number	Date/Time Collected	Matrix	Instrument	Date Prepared	Date/Time Analyzed	QC Batch ID
HS-2	13-07-1164-2-B	07/16/13 15:30	Soil	GC/MS Q	07/18/13	07/23/13 21:47	130723L01

<u>Parameter</u>	<u>Result</u>	<u>RL</u>	<u>DF</u>	<u>Qualifiers</u>
Dichlorodifluoromethane	ND	5.0	1	
1,1,2-Trichloro-1,2,2-Trifluoroethane	ND	50	1	
Trichlorofluoromethane	ND	50	1	

<u>Surrogate</u>	<u>Rec. (%)</u>	<u>Control Limits</u>	<u>Qualifiers</u>
1,4-Bromofluorobenzene	98	60-132	
Dibromofluoromethane	108	63-141	
1,2-Dichloroethane-d4	129	62-146	
Toluene-d8	100	80-120	

Method Blank	099-12-796-7452	N/A	Soil	GC/MS Q	07/23/13	07/23/13 16:25	130723L01
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<u>Parameter</u>	<u>Result</u>	<u>RL</u>	<u>DF</u>	<u>Qualifiers</u>
Dichlorodifluoromethane	ND	5.0	1	
1,1,2-Trichloro-1,2,2-Trifluoroethane	ND	50	1	
Trichlorofluoromethane	ND	50	1	

<u>Surrogate</u>	<u>Rec. (%)</u>	<u>Control Limits</u>	<u>Qualifiers</u>
1,4-Bromofluorobenzene	117	60-132	
Dibromofluoromethane	102	63-141	
1,2-Dichloroethane-d4	104	62-146	
Toluene-d8	104	80-120	

RL: Reporting Limit. DF: Dilution Factor. MDL: Method Detection Limit.

CONTRACT CERTIFICATION

I, **DANILO F. AGSALOG**, Director of Finance of the County of Maui, State of Hawaii, do certify that there is available appropriation or balance of an appropriation over and above all outstanding contracts, sufficient to cover the amount required by the foregoing contract, i.e.

Appropriation Index	Title	Amount Required
919871B	EP & S SOLID WASTE ALTERNATIVE (6112)	\$1,535,347.50

CONTRACT NO. C 6050 EKO SYSTEMS INC. dba MAUI EKO SYSTEMS

Date: 21 day of JULY 2016
Time of Performance: June 30, 2018



DANILO F. AGSALOG
Director of Finance

Landfill diversion of organic materials
Maui Hawaii for the Department of
Environmental Management
RFP No. 15-16/P71
ORDINANCE NO.4334 (FY2017)

FY 2017

ji
8004 86

ji
7/28/16

ALAN M. ARAKAWA
Mayor



DANILO F. AGSALOG
Director of Finance

MARK R. WALKER
Deputy Director of Finance

COUNTY OF MAUI
DEPARTMENT OF FINANCE
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793

July 27, 2016

EKO Systems, Inc.
dba Maui Eko Systems
1420 Vance Street, Suite 201
Lakewood, Colorado 80214

RE: CONTRACT FOR GOODS AND SERVICES: LANDFILL DIVERSION OF
ORGANIC MATERIALS, MAUI HAWAII FOR THE DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT
RFP NO. 15-16/P-71
CONTRACT NO. C6050

Dear EKO Systems, Inc.:

Enclosed is a copy of the fully executed contract for your file. You will be receiving your official notice to proceed on the project from the Director of the Department of Environmental Management or his designated representative.

Sincerely,

FOR Christy K Kailiuku

Daniilo F. Agsalog
Director of Finance

DFA:cck
Enclosure

xc: Department of Environmental Management
Environmental Protection & Sustainability Division

CONTRACT NO. C6050

CONTRACT FOR GOODS AND SERVICES

Department: Environmental Management - Environmental Protection & Sustainability
Division

Project Title: Landfill Diversion of Organic Materials, Maui, Hawaii

RFP No.: 15-16/P71

Certification Requested from County: \$1,535,347.50

This CONTRACT is made and entered into by and between the COUNTY OF MAUI, a political subdivision of the State of Hawaii, whose business address is 200 South High Street, Wailuku, Maui, Hawaii 96793, hereinafter referred to as the "County", and EKO SYSTEMS, INC. dba MAUI EKO SYSTEMS, a Colorado corporation, whose mailing address is 1420 Vance Street, Suite 201, Lakewood, Colorado 80214, hereinafter referred to as the "Contractor." County and Contractor shall hereinafter be referred to collectively as the "Parties".

Source of Funds. The source(s) and availability of the funds for this Contract shall be as set forth in the Contract Certification signed by the Director of Finance of the County of Maui on or before the effective date of this Contract. Contract Certification shall be on file in the office of the Director of Finance of the County of Maui.

R E C I T A L S:

WHEREAS, the County has issued Request for Competitive Sealed Proposal for Landfill Diversion of Organic Materials ("RFP"), and has received and reviewed proposals submitted in response to the RFP; and

WHEREAS, the Contractor has been identified as the responsible offeror whose proposal was determined to be the most advantageous, taking into consideration price and the evaluation factors set forth in the RFP; and

WHEREAS, the County desires to retain and engage the Contractor to provide the goods or services, or both, as described in this Contract and its attachments, and the Contractor desires to provide such goods or services, or both, for, and on behalf of, the County; and

CONTRACT NO. C6050
CONTRACT FOR GOODS AND SERVICES

WHEREAS, the Contract is for goods or services, or both, as those terms are defined in Section 103D-104, Hawaii Revised Statutes ("HRS"); and

WHEREAS, pursuant to Section 46-1.5(4), HRS, the County is authorized to enter into this Contract.

NOW, THEREFORE, in consideration of the following mutual promises and agreements set forth, the Parties agree as follows:

1. Scope of Work. The Contractor shall, in a proper and satisfactory manner as determined by the County, provide all goods or services, or both, in accordance with County's RFP No. 15-16/P71, dated February 23, 2016, and any attachments thereto, and Contractor's Proposal dated March 30, 2016, as modified on June 3, 2016, and any attachments thereto (hereinafter, collectively, "Contract Documents"). Contract Documents are on file in the office of the Director of Finance of the County of Maui, and are incorporated herein by reference and hereby made a part of this Contract.

2. Time of Performance. The Contractor shall commence performance under this Contract upon issuance of the Notice to Proceed, and shall continue performance through June 30, 2018, unless sooner completed, terminated, or extended in compliance with the terms of this Contract.

This Contract may be extended for two additional terms of one year each, at the same terms and conditions and upon mutual agreement in writing. It is understood that to exercise each extension option, the parties will execute an Amendment to the Contract.

3. Compensation and Payment Schedule. The Contractor shall be compensated for services rendered and costs incurred under this Contract for a total amount not to exceed the amount of certification requested as set forth above, subject to appropriation, and inclusive of all taxes. County will pay Contractor in accordance with the fee schedule set forth in the Contract

CONTRACT NO. C6050

CONTRACT FOR GOODS AND SERVICES

Documents. Payments shall be made monthly in arrears, subject to the receipt of an original invoice by the Officer-in-Charge no later than on the fifth (5th) day of each month for services rendered during the previous calendar month. The original invoice shall specify the amount due, certify that services requested under this Contract have been performed by the Contractor according to the Contract, and also include any other information reasonably requested from time to time by the Officer in Charge, all in accordance with Section 17 of the General Conditions.

4. General Conditions. The Contractor shall comply with the General Conditions of this Contract (the "General Conditions"), which are attached hereto and are hereby made a part of this Contract.

5. *[This paragraph is intentionally left blank.]*

6. Standards of Conduct Declaration. The Standards of Conduct Declaration of the Contractor is attached hereto and is made a part of this Contract.

7. Other Terms and Conditions. Any Special Conditions are attached hereto and made a part of this Contract. In the event of any inconsistencies or conflict between the General Conditions and the Special Conditions, the Special Conditions shall control. Any general, miscellaneous, or other terms, conditions, or provisions that are found in any of the Contractor's proposals for this Contract or in any sub-contractor's proposals attached thereto shall be unenforceable as against the County, unless the subject of such terms, conditions, or provisions is addressed in the County's General Conditions, and such terms, conditions, or provisions are consistent with the County's General Conditions.

8. Non-Appropriation of Funds for Multi-Term Contracts. County intends, subject to the provisions of this paragraph, to pay Contractor all sums due and to become due under the Contract; the Maui County Council has appropriated sufficient funds to pay all amounts due to

CONTRACT NO. C6050

CONTRACT FOR GOODS AND SERVICES

Contractor during County's current fiscal period; County reasonably believes that legally available funds in an amount sufficient to make all such payments for the full term can be obtained; and County intends to do all things lawfully within its power to obtain and maintain such funds during the full term of the Contract, including making provision for such payments to the extent necessary in each budget or appropriation request submitted and adopted in accordance with applicable law. Notwithstanding the foregoing, the decision whether or not to budget and appropriate funds is within the discretion of the Maui County Council. In the event the Maui County Council fails to appropriate sufficient funds to make all payments and pay other amounts due and to become due during County's next fiscal period, County may, subject to the terms hereof, terminate the Contract as of the last day of the fiscal period for which appropriations were received (an "Event of Non-appropriation"). County agrees to deliver notice of an Event of Non-appropriation to Contractor at least 30 days prior to the end of County's then-current fiscal period, or if an Event of Non-appropriation has not occurred by that date, promptly upon the occurrence of any such Event of Non-appropriation. County and Contractor understand and intend that County's obligation to make payments and pay other amounts due under the Contract shall constitute a current expense and shall not in any way be construed to be a debt in contravention of any applicable constitutional or statutory limitations or requirements concerning County's creation of indebtedness, nor shall anything contained herein constitute a pledge of County's tax revenues, funds or monies.

9. Conflict. In the event of any conflict between or among this Contract and other documents that are attached hereto or incorporated herein by reference or both, the terms of this Contract shall control first, the County's General Conditions second, other documents prepared by the County third, and documents prepared or submitted, or both, by the Contractor last.

CONTRACT NO. C6050

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10. Notices. Any written notice required to be given by a party to this Contract shall be (a) delivered personally, or (b) sent by United States first class mail, postage prepaid. Notice required to be given to the County shall be sent to:

Procurement Officer
Department of Finance
County of Maui
200 South High Street
Wailuku, Maui, Hawaii 96793

Notice to the Contractor shall be sent to the Contractor's address as indicated in this Contract. A notice shall be deemed to have been received three (3) days after mailing or at the time of actual receipt, whichever is earlier. The Contractor is responsible for notifying the County in writing of any change of address.

11. Officer-in-Charge. The Director of Environmental Management, or an authorized representative, shall be the Officer-in-Charge for all services provided herein, and shall have the right to oversee the successful completion of contract requirements, including monitoring, coordinating and assessing Contractor's performance and approving completed work/services with verification of same for Contractor's invoices or requests for payment. The Officer-in-Charge also serves as the point of contact for the Contractor from award to contract completion.

IN WITNESS WHEREOF, the Parties execute this Contract by their signatures, on the dates below, to be effective as of the date of last signature hereto.

[EXECUTION PAGES TO FOLLOW]

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

CONTRACT NO. C6050
CONTRACT FOR GOODS AND SERVICES
CONTRACTOR EXECUTION PAGE

I hereby represent and warrant that I have the legal right and authority to execute this Contract on behalf of the Contractor.

CONTRACTOR:

EKO SYSTEMS, INC., dba MAUI EKO
SYSTEMS

By Thomas A Pawlish
(Signature)

Thomas A. Pawlish
(Print Name)

Its President
(Title)

Date June 24, 2016

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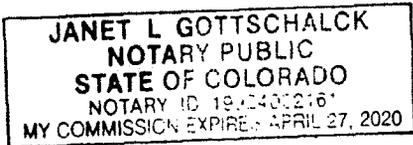
CONTRACT NO. C6050

CONTRACT FOR GOODS AND SERVICES

STATE OF Colorado)
) SS.
County of Jefferson)

On this 24th day of June, 2016, before me personally appeared Thomas A. P... .., to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

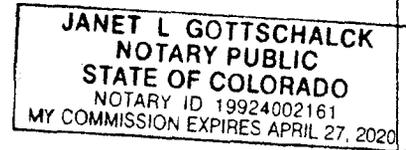


Janet L. Gottschalck
Notary Public, State of Colorado

Print Name: Janet L. Gottschalck

My commission expires: 04-27-20

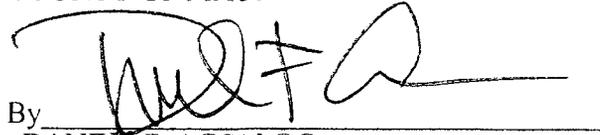
NOTARY PUBLIC CERTIFICATION			
Doc. Date:	<u>June 24th 2016</u>	# Pages:	<u>23</u>
Notary Name:	<u>Janet L. Gottschalck</u>	Judicial Circuit:	
Doc. Description:	<u>Contract No. C6050</u>		
	<u>RFP No. 1516/P71 with EIC</u>		
	<u>Systems Inc DBA MAAT EIC Systems</u>		
Notary Signature:	<u>Janet L. Gottschalck</u>		
Date:	<u>6-24-16</u>		



CONTRACT NO. C6050
CONTRACT FOR GOODS AND SERVICES

COUNTY EXECUTION PAGE

COUNTY OF MAUI



By
DANILO F. AGSALOG
Its Director of Finance

Date JUL 27 2016

APPROVAL RECOMMENDED:



STEWART STANT
Director, Department of
Environmental Management

Date 7/7/16

APPROVED AS TO FORM
AND LEGALITY:



Deputy Corporation Counsel

S:\ALLCONTRACTS\electr systems, inc. 0708primary.spd

Date 7/11/2016

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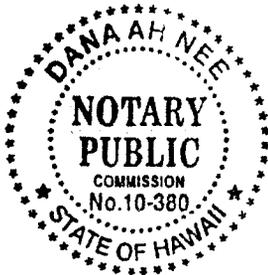
CONTRACT NO. C6050

CONTRACT FOR GOODS AND SERVICES

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

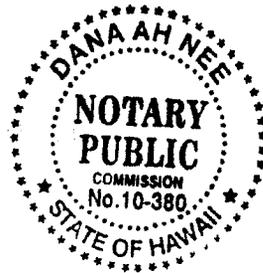
On this 27th day of July, 20 16, before me appeared DANILO F. AGSALOG, to me personally known, who being by me duly sworn, did say that he is the Director of Finance of the County of Maui, a political subdivision of the State of Hawaii, and that the seal affixed to the foregoing instrument is the lawful seal of the said County of Maui, and that the said instrument was signed and sealed on behalf of said County of Maui pursuant to Section 9-18 of the Charter of the County of Maui; and the said DANILO F. AGSALOG acknowledged the said instrument to be the free act and deed of said County of Maui.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



Dana Ah Nee
Notary Public, State of Hawaii
Print Name: DANA AH NEE
My commission expires: NOV 14 2018

NOTARY PUBLIC CERTIFICATION			
Doc. Date:	<u>JUL 27 2016</u>	# Pages:	<u>25</u>
Notary Name:	<u>DANA AH NEE</u>	Judicial Circuit:	<u>2nd</u>
Doc. Description:	<u>Contract no. C6050-Contract for Goods and Services- Landfill Division of Organic Materials, Maui, Hawaii, RFP No. 15-16/P71</u>		
Notary Signature:	<u>Dana Ah Nee</u>		
Date:	<u>JUL 27 2016</u>		



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CONTRACT FOR GOODS AND SERVICES

CONTRACTOR'S STANDARDS OF CONDUCT DECLARATION

For the purposes of this declaration:

"Substantial interest" means an interest in a business or other undertaking which is sufficient in fact to control, whether the interest is greater or less than fifty per cent (50%).

"Employee" means any nominated, appointed, or elected officer or employee of the County, including members of boards, commissions, and committees, and employees under contract to the County, but excluding members of the County Council ("County Council Members").

On behalf of EKO SYSTEMS, INC. dba MAUI EKO SYSTEMS, Contractor, the undersigned does declare as follows:

1. Contractor is is not a County Council Member or an Employee or a business in which a County Council Member or an Employee has a substantial interest.
2. Contractor has not been represented or assisted personally in the matter by an individual who has been an Employee of the County department awarding this Contract within the preceding year and who participated while so employed in the matter with which the Contract is directly concerned.
3. Contractor has not been assisted or represented by a County Council Member or Employee for a fee or other compensation to obtain this Contract and will not be assisted or represented by a County Council Member or Employee for a fee or other compensation in the performance of this Contract, if the County Council Member or Employee has been involved in the development or award of the Contract.
4. Contractor has not been represented on matters related to this Contract, for a fee or other consideration by an individual who, within the past twelve (12) months, has been an Employee, or in the case of the County Council, a County Council Member, and participated while an Employee or a County Council Member on matters related to this Contract.

*Reminder to agency: If the "is" block is checked and if the Contract involves goods or services of a value in excess of \$500, the Contract may not be awarded unless the Contract is made after competitive bidding.

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Contractor understands that the Contract to which this document is attached is voidable on behalf of the County if this Contract was entered into in violation of any provision of Article 10 of the Revised Charter of the County of Maui ("Code of Ethics"), including the provisions which are the source of the declarations above. Additionally, any fee, compensation, gift, or profit received by any person as a result of a violation of the Code of Ethics may be recovered by the County.

Contractor:

EKO SYSTEMS, INC. dba MAUI EKO SYSTEMS

By Thomas A Pawlich
(Signature)

Thomas A. Pawlich
(Print Name)

Its President
(Title)

Date July 13, 2016

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CONTRACT FOR GOODS AND SERVICES

**COUNTY OF MAUI
GENERAL CONDITIONS
FOR PURCHASE OF GOODS AND SERVICES**

1. COORDINATION OF SERVICES BY THE COUNTY. The Officer-in-Charge shall coordinate the services to be provided by the CONTRACTOR in order to complete the performance required in this Contract. The CONTRACTOR shall maintain communications with the Officer-in-Charge at all stages of the CONTRACTOR's work, and submit to the head of the purchasing agency for resolution any questions which may arise as to the performance of this Contract. "Purchasing agency" as used in these General Conditions means and includes any COUNTY department or division which is authorized to enter into contracts for the procurement of goods and services.

2. RELATIONSHIP OF PARTIES: INDEPENDENT CONTRACTOR STATUS AND RESPONSIBILITIES, INCLUDING TAX RESPONSIBILITIES.

a. In the performance of services required under this Contract, the CONTRACTOR is an "independent contractor," with the authority and responsibility 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 to determine whether, in the COUNTY's opinion, the services are being performed by the CONTRACTOR in compliance with this Contract. Unless otherwise provided by special condition, it is understood that the COUNTY does not agree to use the CONTRACTOR exclusively, and that the CONTRACTOR is free to contract to provide services to other individuals or entities while under contract with the COUNTY.

b. The CONTRACTOR and the CONTRACTOR's employees and agents are not by reason of this Contract, agents or employees of the COUNTY for any purpose, and the CONTRACTOR and the CONTRACTOR's employees and agents shall not be entitled to claim or receive from the COUNTY any vacation, sick leave, retirement, workers' compensation, unemployment insurance, or other benefits provided to the COUNTY employees.

c. The CONTRACTOR shall be responsible for the accuracy, completeness, and adequacy of the CONTRACTOR'S performance under this Contract. Furthermore, the CONTRACTOR intentionally, voluntarily, and knowingly assumes the sole and entire liability to the CONTRACTOR'S employees and agents, and to any individual not a party to this Contract, for all loss, damage, or injury caused by the CONTRACTOR, or the CONTRACTOR'S employees or agents in the course of their employment.

d. The CONTRACTOR shall be responsible for payment of all applicable federal, state, and county taxes and fees which may become due and owing by the CONTRACTOR by reason of this Contract, including but not limited to (i) income taxes, (ii) employment related fees, assessments, and taxes and (iii) general excise taxes. Unless provided otherwise by agreement between the parties, the CONTRACTOR also is responsible for obtaining all licenses, permits, and certificates that may be required in order to perform this Contract.

e. The CONTRACTOR shall obtain a general excise tax license from the Department of Taxation, State of Hawaii, in accordance with Section 237-9, Hawaii Revised Statutes ("HRS"), and shall comply with all requirements thereof. The CONTRACTOR shall obtain a tax clearance certificate with all requirements thereof. The CONTRACTOR shall obtain a tax clearance certificate from the Director of Taxation, State of Hawaii, showing that all delinquent taxes, if any, levied or accrued under State law against the CONTRACTOR have been paid and submit the same to the COUNTY prior to commencing any performance under this Contract. The CONTRACTOR shall also be solely responsible for meeting all requirements necessary to obtain the tax clearance certificate required for final payment under Section 103-53, HRS and Paragraph 17 of these General Conditions.

f. The CONTRACTOR is responsible for securing all employee-related insurance coverage for the CONTRACTOR and the CONTRACTOR's employees and agents that is or may be required by law, and for payment of all premiums, costs, and other liabilities associated with securing the insurance coverage.

g. The CONTRACTOR shall obtain a certificate of compliance issued by the Department of Labor and Industrial Relations, State of Hawaii, in accordance with section 103D-310, HRS, and sections 3-122-112, Hawaii Administrative rules, ("HAR"), that is current within six months of the date of issuance.

h. The CONTRACTOR shall obtain a certificate of good standing issued by the Department of Commerce and Consumer Affairs, State of Hawaii, in accordance with section 103D-310, HRS, and section 3-122-112, HAR, that is current within six months of the date of issuance.

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In lieu of the above certificates from the Department of Taxation, Labor and Industrial Relations, and Commerce and Consumer Affairs, the CONTRACTOR may submit proof of compliance through the State Procurement Office's designated certification process.

3. PERSONNEL REQUIREMENTS.

a. The CONTRACTOR shall secure, at the CONTRACTOR's own expense, all personnel required to perform this Contract.

b. The CONTRACTOR shall ensure that the CONTRACTOR's employees or agents are experienced and fully qualified to engage in the activities and perform the services required under this Contract, and that all applicable licensing and operating requirements imposed or required under Federal, State or County law, and all applicable accreditation and other standards of quality generally accepted in the field of the activities of such employees and agents are complied with and satisfied.

4. **NONDISCRIMINATION.** No person performing work under this Contract, including any subcontractor, employee, or agent of the CONTRACTOR, shall engage in any discrimination that is prohibited by any applicable Federal, State, or County law.

5. **CONFLICTS OF INTEREST.** The CONTRACTOR represents that neither the CONTRACTOR, nor any employees or agent of the CONTRACTOR, presently has any interest, and promises that no such interest, direct or indirect, shall be acquired, that would or might conflict in any manner or degree with the CONTRACTOR's performance under this Contract.

6. SUBCONTRACTS AND ASSIGNMENTS; CHANGE OF NAME.

a. No assignment without consent. The CONTRACTOR shall not assign or subcontract any of the CONTRACTOR'S duties, obligations, or interests under this Contract and no such assignment or subcontract shall be effective unless (1) the CONTRACTOR obtains the prior written consent of the COUNTY and (2) the CONTRACTOR'S assignee or subcontractor submits to the COUNTY a tax clearance certificate from the Director of Taxation, State of Hawaii, showing that all delinquent taxes, if any, levied or accrued under State law against the CONTRACTOR'S assignee or subcontractor have been paid. Additionally, no assignment by the CONTRACTOR of the CONTRACTOR'S right to compensation under this Contract shall be effective unless and until the assignment is approved by the COUNTY.

b. Recognition of a successor in interest. When in the best interests of the COUNTY, a successor in interest may be recognized in an assignment agreement in which the COUNTY, the CONTRACTOR and the assignee or transferee (hereinafter referred to as the "Assignee") agree that:

- 1) The Assignee assumes all of the CONTRACTOR'S obligations;
- 2) The CONTRACTOR remains liable for all obligations under this Contract but waives all rights under this Contract as against the COUNTY; and
- 3) The CONTRACTOR shall continue to furnish, and the Assignee shall also furnish, all required bonds.

c. Change of name. When the CONTRACTOR asks to change the name under which it holds this Contract with the COUNTY, the contract officer of the purchasing agency shall, upon receipt of a document acceptable or satisfactory to said officer indicating such change of name (for example, an amendment to the CONTRACTOR'S articles of incorporation), enter into an amendment to this Contract with the CONTRACTOR to effect such a change of name. The amendment to this Contract changing the CONTRACTOR'S name shall specifically indicate that no other terms or conditions of this Contract are thereby changed.

d. Reports. All assignment contracts and amendments to this Contract effecting changes of CONTRACTOR's name or novations hereunder shall be reported to the chief procurement officer as defined in section 103D-203(b), HRS, within 30 days of the date that the assignment contract or amendment becomes effective.

e. Actions affecting more than one purchasing agency. Notwithstanding the provisions of Subparagraphs b. through d. herein, when the CONTRACTOR holds contracts with more than one purchasing agency of the COUNTY, the assignment contracts and the novation and change of name amendments herein authorized shall be processed only through the County Department of Finance

7. **INDEMNIFICATION AND DEFENSE.** Except as provided for in Section 103D-713, HRS, the CONTRACTOR shall defend, indemnify and hold harmless the COUNTY, the contracting department and their directors, employees and agents from and against all liability, loss, damage, cost and expense, including all

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attorneys' fees and costs, and all claims, suits and demands therefor, arising out of or in connection with any acts or omissions of the CONTRACTOR or the CONTRACTOR'S employees, officers, agents or subcontractors under this Contract. The provisions of this Paragraph shall remain in full force and effect notwithstanding the expiration or early termination of this Contract for any reason.

8. COST OF LITIGATION. In case the COUNTY shall, without any fault on its part, be made a party to any litigation commenced by or against the CONTRACTOR in connection with this Contract, the CONTRACTOR shall pay any cost and expense incurred by or imposed on the COUNTY, including attorneys' fees.

9. LIQUIDATED DAMAGES. When the CONTRACTOR is given notice of delay or nonperformance as specified in Paragraph 13 (Termination for Default) and fails to cure in the time specified, it is agreed the CONTRACTOR shall pay to the COUNTY the amount, if any, set forth in this Contract per calendar day from the date set for cure until either (i) the COUNTY reasonably obtains similar goods or services, or both, if the CONTRACTOR is terminated for default, or (ii) until the CONTRACTOR provides the goods or services, or both, if the CONTRACTOR is not terminated for default. To the extent that the CONTRACTOR'S delay or nonperformance is excused under Subparagraph 13.d. (Excuse for Nonperformance or Delay Performance), liquidated damages shall not be assessable against the CONTRACTOR. The CONTRACTOR shall remain liable for damages caused other than by delay. This Paragraph is of no force and effect unless the amount of liquidated damages is specified in the Contract.

10. COUNTY'S RIGHT OF OFFSET. The COUNTY may offset against any monies or other obligations the COUNTY owes to the CONTRACTOR under this Contract, any amounts owed to the COUNTY by the CONTRACTOR under this Contract or any other contracts, or pursuant to any law or other obligation owed to the COUNTY by the CONTRACTOR, including, without limitation, the payment of any taxes or levies of any kind or nature. The COUNTY will notify the CONTRACTOR in writing of any offset and the nature of such offset. For purposes of this Paragraph, amounts owned to the COUNTY shall not include debts or obligations which have been liquidated, agreed to by the CONTRACTOR, and are covered by an installment payment or other settlement plan approved by the COUNTY, provided, however, that the CONTRACTOR shall be entitled to such exclusion only to the extent that the CONTRACTOR is current with, and not delinquent on, any payments or obligations owed to the COUNTY under such payment or other settlement plan.

11. DISPUTES. Disputes shall be resolved in accordance with Section 103D-703, HRS and Chapter 3-126, HAR.

12. SUSPENSION OF AGREEMENT. The COUNTY reserves the right at any time and for any reason to suspend this Contract for any reasonable period, upon written notice to the CONTRACTOR in accordance with the provisions herein.

a. Order to stop performance. The head of the purchasing agency may, by written order to the CONTRACTOR at any time, and without notice to any surety, require the CONTRACTOR to stop all or any part of the performance called for by this Contract. This order shall be for a specified period of time not exceeding sixty (60) days after the order is delivered to the CONTRACTOR, unless the parties agree to any further period. Any such order shall be identified specifically as a stop performance order issued pursuant to this section. Upon receipt of such an order, the CONTRACTOR shall forthwith comply with its terms and take all reasonable steps to minimize the occurrence of costs allocable to the performance covered by the order during the period of performance stoppage. Before the stop performance order expires, or within any further period to which the parties shall have agreed, the head of the purchasing agency shall either:

1) Cancel the stop performance order; or
2) Terminate the performance covered by such order as provided in the termination for default provision or the termination for convenience provision of this Contract.

b. Cancellation or expiration of the order. If a stop performance order issued under this section is cancelled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, the CONTRACTOR shall have the right to resume performance. An appropriate adjustment shall be made in the delivery or performance schedule or compensation, or both, and the Contract shall be modified in writing accordingly, if:

1) The stop performance order results in an increase in the time required for, or in the CONTRACTOR'S cost properly allocable to, the performance of any part of this Contract and

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CONTRACT FOR GOODS AND SERVICES

2) The CONTRACTOR asserts a claim for such adjustment within thirty (30) days after the end of the period of performance stoppage provided that if the head of the purchasing agency decides that the facts justify such action, any such claim asserted may be received and acted upon at any time prior to final payment under this Contract.

c. Termination of stopped performance. If a stop performance order is not cancelled and the performance covered by such order is terminated for default or convenience, the reasonable costs resulting from the stop performance order shall be allowable by adjustment or otherwise.

d. Adjustment of price. Any adjustment in contract price made pursuant to this Paragraph shall be determined in accordance with the price adjustment provisions of this Contract.

13. TERMINATION FOR DEFAULT.

a. Default. If the CONTRACTOR refuses or fails to perform any of the provisions of this Contract with such diligence as will ensure its completion within the time specified in this Contract, or any extension thereof, or otherwise fails to timely satisfy the Contract provisions, or commits any other substantial breach of this Contract, the head of the purchasing agency may notify the CONTRACTOR in writing of the delay or non-performance and if not cured in ten (10) days or any longer time specified in writing by the head of the purchasing agency, the head of the purchasing agency may terminate the CONTRACTOR's right to proceed with the Contract or such part of the Contract as to which there has been delay or failure to properly perform. In the event of termination in whole or in part the head of the purchasing agency may procure similar goods or services in a manner and upon the terms deemed appropriate by the head of the purchasing agency. The CONTRACTOR shall continue performance of the Contract to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods and services.

b. CONTRACTOR'S duties. Notwithstanding termination of the Contract and subject to any directions from the head of the purchasing agency, the CONTRACTOR shall take timely, reasonable, and necessary action to protect and preserve property in the possession of the CONTRACTOR in which the COUNTY has an interest.

c. Compensation. Payment for completed goods and services delivered and accepted by the COUNTY shall be at the price set forth in the Contract. Payment for the protection and preservation of property shall be in an amount agreed upon by the CONTRACTOR and the head of the purchasing agency. If the parties fail to agree, the head of the purchasing agency shall set the amount subject to the CONTRACTOR's rights under chapter 3-126, HAR. The COUNTY may withhold from amounts due the CONTRACTOR such sums as the head of the purchasing agency deems to be necessary to protect the COUNTY against loss because of outstanding liens or claims of former lien holders and to reimburse the COUNTY for the excess costs incurred by the COUNTY in procuring similar goods and services.

d. Excuse for nonperformance or delayed performance. Except with respect to defaults of subcontractors, the CONTRACTOR shall not be in default by reason of any failure in performance of this Contract in accordance with its terms, if the CONTRACTOR has notified the head of the purchasing agency within fifteen (15) days after the cause of the delay and the failure arises out of causes including acts of God; acts of the public enemy; acts of the State and any other governmental body in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather. If the failure to perform is caused by the failure of a subcontractor to perform or to make progress, and if such failure arises out of causes similar to those set forth above, the CONTRACTOR shall not be deemed to be in default, unless the goods and services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the CONTRACTOR to meet the requirements of the Contract. Upon request of the CONTRACTOR, the head of the purchasing agency shall ascertain the facts and extent of the failure, and, if he or she determines that any failure to perform was occasioned by any one or more of the excusable causes, and that, but for the excusable cause, the CONTRACTOR'S progress and performance would have met the terms of the Contract, the delivery schedule or the time of performance shall be revised accordingly, subject to the rights of the COUNTY under the clause entitled, in fixed-price contracts, "Termination for Convenience," and in cost-reimbursement contracts, "Termination." As used in this Paragraph the term "subcontractor" means subcontractor at any tier.

e. Erroneous termination for default. If, after notice of termination of the CONTRACTOR's right to proceed under this Paragraph, it is determined for any reason that the CONTRACTOR was not in default under this Paragraph, or that the delay was excusable under the provisions of Subparagraph d., "Excuse for nonperformance or delayed performance," the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Paragraph 14.

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f. Additional rights and remedies. The rights and remedies provided in this Paragraph are in addition to any other rights and remedies provided by law or under this Contract.

14. TERMINATION FOR CONVENIENCE BY THE COUNTY.

a. Termination for convenience. The head of the purchasing agency may, when the interests of the COUNTY so require, terminate this Contract in whole or in part, for the convenience of the COUNTY. The head of the purchasing agency shall give written notice of the termination to the CONTRACTOR specifying the part of the Contract terminated and when such termination becomes effective.

b. CONTRACTOR's obligations. The CONTRACTOR shall incur no further obligations in connection with the terminated performance, and on the date(s) set in the notice of termination the CONTRACTOR shall stop performance to the extent specified. The CONTRACTOR shall also terminate outstanding orders and subcontracts as they relate to the terminated performance. The CONTRACTOR shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated performance subject to the County's approval. The head of the purchasing agency may direct the CONTRACTOR to assign the CONTRACTOR'S right, title, and interest under terminated orders or subcontracts to the COUNTY. The CONTRACTOR must still complete the performance not terminated by the notice of termination and may incur obligations as are necessary to do so.

c. Right to goods and work product. The head of the purchasing agency may require the CONTRACTOR to transfer title and deliver to the COUNTY in the manner and to the extent directed by the head of the purchasing agency:

1) Any completed goods or work product or both; and
2) The partially completed goods and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "manufacturing material") as the CONTRACTOR has specifically produced or specially acquired for the performance of the terminated part of this Contract. The CONTRACTOR shall, upon direction of the head of the purchasing agency, protect and preserve property in the possession of the CONTRACTOR in which the COUNTY has an interest. If the head of the purchasing agency does not exercise this right, the CONTRACTOR shall use CONTRACTOR's best efforts to sell such goods and manufacturing materials. Use of this Paragraph in no way implies that the COUNTY has breached the Contract by exercise of the termination for convenience provision.

d. Compensation.

1) The CONTRACTOR shall submit a termination claim specifying the amounts due because of the termination for convenience, together with cost or pricing data to the extent required by subchapter 15, chapter 3-122 of the HAR, bearing on the claim. If the CONTRACTOR fails to file a termination claim within one year from the effective date of termination, the head of the purchasing agency may pay the CONTRACTOR, if at all, an amount set in accordance with d.(3) of this Paragraph.

2) The head of the purchasing agency and the CONTRACTOR may agree to a settlement provided the CONTRACTOR has filed a termination claim supported by cost or pricing data submitted to the extent required by subchapter 15, chapter 3-122 of the HAR, and that the settlement does not exceed the total Contract price plus settlement costs reduced by payments previously made by the COUNTY, the proceeds of any sales of goods and manufacturing materials under Subparagraph c. of this Paragraph, and the Contract price of the performance not terminated.

3) Absent complete agreement under Subparagraph d.2) above, the head of the purchasing agency shall pay the CONTRACTOR the following amounts, provided payments agreed to under Subparagraph d.2) shall not duplicate payments under this Subparagraph for the following:

(A) Contract prices for goods or services or both accepted under the Contract;
(B) Costs incurred in preparing to perform and performing the terminated portion of the work or performance plus a five per cent markup on actual direct costs on the portion of the work or performance, the markup shall not include anticipatory profit or consequential damages, less amounts paid or to be paid for accepted goods or services or both; provided, however, that if it appears that the CONTRACTOR would have sustained a loss if the entire Contract would have completed, no markup shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss;

(C) Subject to the prior approval of the head of the purchasing agency, costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to Subparagraph b. Subcontractors shall be entitled to a markup of no more than ten per cent on direct costs incurred to the date of termination. These costs must not include costs paid in accordance with Subparagraph d.3)(B).

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CONTRACT FOR GOODS AND SERVICES

(D) The total sum to be paid the CONTRACTOR under this Subparagraph shall not exceed the total Contract price reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under Subparagraph c.3) and the Contract price of performance not terminated.

4) Costs claimed, agreed to, or established under Subparagraphs d.2) and d.3) above shall be in accordance with Chapter 3-123, HAR.

15. CLAIMS BASED ON THE HEAD OF THE PURCHASING AGENCY'S ACTIONS OR OMISSIONS.

a. Change in scope. If any action or omission on the part of the head of the purchasing agency (which term includes the designee of such person) requiring performance changes within the scope of the Contract constitutes the basis for a claim by the CONTRACTOR for additional compensation, damages or an extension of time for completion, the CONTRACTOR shall continue with performance of the Contract in compliance with the directions or orders of proper officials, but by so doing, the CONTRACTOR shall not be deemed to have prejudiced any claim for additional compensation, damages or extension of time for completion, provided:

1) The CONTRACTOR shall have given written notice to the head of the purchasing agency:

(A) Prior to the commencement of the performance involved, if at that time the CONTRACTOR knows of the occurrence of such action or omission;

(B) Within thirty (30) days after the CONTRACTOR knows of the occurrence of such action or omission, if the CONTRACTOR did not have such knowledge prior to the commencement of the performance or

(C) Within such further time as may be allowed by the head of the purchasing agency in writing.

2) This notice shall state that the CONTRACTOR regards the act or omission as a reason which may entitle the CONTRACTOR to additional compensation, damages or an extension of time. The head of the purchasing agency or his or her designee, upon receipt of such a notice, may rescind such action, remedy such omission or take such other steps as may be deemed advisable in the discretion of the head of the purchasing agency or his or her designee.

3) The notice required by Subparagraph a.1) of this Paragraph must describe as clearly as practicable, at the time, the reasons why the CONTRACTOR believes that additional compensation, damages or an extension of time may be remedies to which the CONTRACTOR is entitled; and

4) The CONTRACTOR must maintain and, upon request, make available to the head of the purchasing agency within a reasonable time, detailed records to the extent practicable, and other documentation and evidence satisfactory to the COUNTY, of the claimed additional costs or an extension of time in connection with such changes.

b. Nothing herein contained, however shall excuse the CONTRACTOR from compliance with any rules or laws precluding any County officers and CONTRACTOR from acting in collusion or bad faith in issuing or performing change orders which are clearly not within the scope of the Contract.

c. Any adjustment in the price made pursuant to this Paragraph shall be determined in accordance with the price adjustment provisions of the Contract and these General Conditions.

16. COST AND EXPENSES. Any reimbursement due the CONTRACTOR for per diem and transportation expenses under this Contract shall be subject to chapter 3-123 (Cost Principles), HAR, and the following guidelines:

a. Reimbursement for air transportation shall be for actual cost or coach class airfare, whichever is less.

b. Reimbursement for ground transportation costs shall not exceed the actual cost of renting an intermediate-sized vehicle.

c. Unless prior written approval of the head of the purchasing agency is obtained, reimbursement for subsistence allowable allowance (i.e., hotel and meals) shall not exceed the applicable daily authorized rates for inter-island or out-of-state travel for County officers and employees in the executive branch who are excluded from collective bargaining coverage. No other travel or living expense (e.g., tips, entertainment, alcohol, etc.) shall be reimbursed by the COUNTY, other than those items listed in Subparagraphs a. and b. of this Paragraph. Invoices shall document the days of travel by including the name of the traveler, itinerary, airfare receipt, hotel receipt, and ground transportation receipts. All travel must be pre-approved by the COUNTY Officer-in-Charge.

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d. CONTRACTORS with an office located on the same island as the site of the services to be provided pursuant to this Contract are not entitled to per diem or transportation expense reimbursement unless expressly specified in the Contract.

17. PAYMENT PROCEDURES; FINAL PAYMENT; TAX CLEARANCE.

a. Original invoices required. All payments under this Contract shall be made only upon submission by the CONTRACTOR of original invoices specifying the amount due and certifying that services requested under the Contract have been performed by the CONTRACTOR according to the Contract.

b. Subject to available funds. Such payments are subject to availability of funds, and all payments shall be made in accordance with and subject to Article 9 of the County of Maui Charter.

c. Payment only for work under contract. The COUNTY is not responsible to pay for work performed by CONTRACTOR or its subcontractors that is not in this Contract and any amendments or change orders thereto. CONTRACTOR must follow Paragraph 19, Contract Modifications, or Paragraph 20, Change Orders, and must have proper authorization before performing work outside the original Contract.

d. Final payment. Final payment under this Contract shall be subject to sections 103-53 and 103D-328, HRS, which require a tax clearance from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR have been paid. Further, in accordance with section 3-122-112, HAR, CONTRACTOR shall provide a certificate affirming that the CONTRACTOR has remained in compliance with all applicable laws as required by this section.

18. **FEDERAL OR STATE FUNDS.** If this Contract is payable in whole or in part from federal or state of Hawaii ("State") funds, CONTRACTOR agrees that, as to the portion of the compensation under this Contract to be payable from federal or State funds, the CONTRACTOR shall be paid only from such funds received from the federal or State government, and shall not be paid from any other funds. Failure of the County to receive anticipated federal or

State funds shall not be considered a breach by the County or an excuse for nonperformance by the CONTRACTOR.

19. CONTRACT MODIFICATIONS.

a. Modification in writing; no verbal modification. At any time, and without notice to any surety, the head of the purchasing agency, subject to mutual agreement of the parties to the Contract in writing and all appropriate adjustments, may make modifications within the general scope of this Contract to include any one or more of the following:

- 1) Drawings, designs, or specifications, for the goods to be furnished or services to be performed;
- 2) Method of shipment or packing;
- 3) Place of delivery;
- 4) Description of services to be performed;
- 5) Time of performance (i. e., hours of the day, days of the week, etc.);
- 6) Place of performance of the services; or
- 7) Other provisions of the contract accomplished by mutual action of the parties to the contract.

b. No verbal modification. No verbal modification, alteration, amendment, change or extension of any term, provision or condition of this Contract shall be permitted or acknowledged.

c. Adjustment of price or time for performance. If any modification increases or decreases the CONTRACTOR'S cost of, or the time required for, performance of any part of the work under this Contract, an adjustment shall be made and this Contract modified in writing accordingly. Any adjustment in price made pursuant to this clause shall be determined, where applicable, in accordance with the price adjustment clause of this Contract or as negotiated.

d. Claim barred after final payment. No claim by the CONTRACTOR for an adjustment hereunder shall be allowed if the claim is not received by the head of the purchasing agency prior to final payment under this Contract.

e. Other claims not barred. In the absence of a written modification to the Contract, nothing in this clause shall be deemed to restrict the CONTRACTOR'S right to pursue a claim under this Contract or for a breach of contract.

f. Professional Services Contract. If this is a professional services contract awarded pursuant to Section 103D-304, HRS, any modification, alteration, amendment, change or extension of any term, provision or extension

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of this Contract which increases the amount payable to the CONTRACTOR by at least \$25,000.00 and ten per cent (10%) or more of the initial Contract price must receive the prior approval of the County Director of Finance.

g. Tax clearance. The COUNTY may, at its discretion, require the CONTRACTOR to submit to the COUNTY, prior to the COUNTY's approval of any modification, alteration, amendment, change or extension of any term, provision or condition of the Contract, a tax clearance from the Director of Taxation, State of Hawaii, showing that all delinquent taxes, if any, levied or accrued against the CONTRACTOR have been paid.

h. Sole source agreements. Amendments to sole source agreements that would change the original scope of the agreement, or increase the original contract price by ten percent or more, may only be made with the approval of the Chief Procurement Officer. Annual renewal of a sole source agreement for services shall not be submitted as an amendment.

20. CHANGE ORDERS. A change order is a written order signed by the head of the purchasing agency, directing the CONTRACTOR to make changes which the "changes clause" described below authorizes the head of the purchasing agency to order without the consent of the CONTRACTOR.

a. Changes Clause Generally. By written order, at any time, and without notice to any surety, the head of the purchasing agency may, unilaterally, order of the CONTRACTOR:

- 1) Changes in the work within the scope of the Contract; and
- 2) Changes in the time of performance of the Contract that do not alter the scope of the contract work.

b. Adjustments of price or time for performance. If any change order increases or decreases the CONTRACTOR'S cost of, or the time required for, performance of any part of the work under this Contract, an adjustment shall be made and the Contract modified in writing accordingly. Any adjustment in contract price made pursuant to this clause shall be determined, where applicable, in accordance with the price adjustment provision of this Contract. Failure of the parties to agree to an adjustment in contract price shall be resolved in accordance with Subparagraph a.5) of Paragraph 21 on Price Adjustment. Failure of the parties to agree to an adjustment in time shall not excuse the CONTRACTOR from proceeding with the Contract as changed, provided that the head of the purchasing agency, within fourteen days after the changed work commences, makes the provisional adjustments in time as the head of the purchasing agency deems reasonable. The right of the CONTRACTOR to dispute the contract price or time required for performance or both shall not be waived by its performing the work, provided however, that it follows the written notice requirements for disputes and claims established by the Contract.

c. Time period for claim. Except as may be provided otherwise by section 103D-501(b), HRS, the CONTRACTOR must file a written claim disputing the contract price or time provided in a change order within ten days after receipt of a written change order, unless such period for filing is extended by the head of the purchasing agency in writing. The requirement for filing a timely written claim cannot be waived and shall be a condition precedent to the assertion of a claim.

1) Claim barred after final payment. No claim by the CONTRACTOR for an adjustment hereunder shall be allowed if the claim is not received by the head of the purchasing agency prior to final payment under this Contract.

2) Other claims not barred. In the absence of such a change order, nothing in this clause shall be deemed to restrict the CONTRACTOR'S right to pursue a claim under the Contract or for breach of contract.

21. PRICE ADJUSTMENT.

a. Price adjustment. Any adjustment in the Contract price pursuant to a provision in this Contract shall be made in one or more of the following ways:

- 1) By agreement on a fixed price adjustment before commencement of the pertinent performance;
- 2) By unit prices specified in the Contract or subsequently agreed upon before commencement of the pertinent performance;
- 3) By the costs attributable to the events or situations covered by the provision, plus appropriate profit or fee, all as specified in the Contract or subsequently agreed upon before commencement of the pertinent performance;
- 4) In such other manner as the parties may mutually agree upon before commencement of the pertinent performance; or
- 5) In the absence of agreement between the parties, the adjustment shall be made pursuant to 103D-501(b)(5), HRS.

b. Submission of cost or pricing data. The CONTRACTOR shall be required to submit cost or pricing data for any price adjustment subject to the provisions of subchapter 15, chapter 3-122, HAR. A fully executed change order

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or other document permitting billing for the adjustment in price under any method listed in Subparagraph (a)(1) through (a)(4) of this Paragraph shall be issued within ten days after agreement on the method of adjustment.

22. VARIATIONS IN QUANTITY FOR ANY DEFINITE QUANTITY CONTRACT. If this is a definite quantity goods or services contract, upon the agreement of the COUNTY and the CONTRACTOR, the quantity of goods or services, or both, specified in this Contract, may be increased by a maximum of ten per cent (10%), provided (1) the unit prices will remain the same except for any price adjustments otherwise applicable; and (2) the head of the purchasing agency makes a written determination that such an increase will either be more economical than awarding another Contract or that it would not be practical to award another agreement.

23. CHANGES IN COST-REIMBURSEMENT CONTRACT. If this Contract is a cost-reimbursement contract, the following provisions shall apply:

a. The head of the purchasing agency may at any time by written order, and without notice to the sureties, in any, make changes within the general scope of the Contract in any one or more of the following:

- 1) Description of performance;
- 2) Time of performance (i.e., hours of the day, days of the week, etc.)
- 3) Place of performance of services;
- 4) Drawings, designs, or specifications when the supplies to be furnished are to be specially manufactured for the COUNTY in accordance with the drawings, designs, or specifications;
- 5) Method of shipment or packing of supplies; or
- 6) Place of delivery.

b. If any change causes an increase or decrease in the estimated cost of, or the time required for performance of, any part of the performance under this Contract, whether or not changed by the order, or otherwise affects any other terms and conditions of this Contract, the head of the purchasing agency shall make an equitable adjustment in the 1) estimated cost, deliver or completion schedule, or both; 2) amount of any fixed fee; and 3) other affected terms and shall modify the Contract accordingly.

c. The CONTRACTOR must assert the CONTRACTOR's rights to an adjustment under this provision within 30 days from the day of receipt of the written order. However, if the head of the purchasing agency decides that the facts justify it, the head of the purchasing agency may receive and act upon a proposal submitted before final payment under the Contract.

d. Failure to agree to any adjustment shall be a dispute under the provision on Dispute herein. However, nothing in this provision shall excuse the CONTRACTOR from proceeding with the Contract as changed.

e. Notwithstanding the terms and conditions of Subparagraphs a. and b. of this Paragraph, the estimated cost of this Contract and, if this Contract is incrementally funded, the funds allotted for the performance of this Contract, shall not be increased or considered to be increased except by specific written modification of the Contract indicating the new contract estimated cost and, if the contract is incrementally funded, the new amount allotted to the contract.

24. PROMPT PAYMENT OF SUBCONTRACTORS.

a. Generally. Any money paid to a CONTRACTOR shall be disbursed to subcontractors within ten days after receipt of the money in accordance with the terms of the subcontract; provided that the subcontractor has met all the terms and conditions of the subcontract and there are no bona fide disputes on which the procurement agency has withheld payment.

b. Final payment. Upon final payment to the CONTRACTOR, full payment to the subcontractor, including retainage, shall be made within ten days after receipt of the money; provided that there are no bona fide disputes over the subcontractor's performance under the subcontract.

c. Penalty. The procurement officer or the CONTRACTOR, as applicable, will be subject to a penalty of one and one-half per cent per month upon outstanding amounts due that were not timely paid by the responsible party under the following conditions. Where a subcontractor has provided evidence to the CONTRACTOR of satisfactorily completing all work under their subcontract and has provided a properly documented final payment request as described in Subparagraph d. of this Paragraph, and:

- 1) Has provided to the CONTRACTOR an acceptable performance and payment bond for the project executed by a surety company authorized to do business in the State, as provided in section 103-32.1, HRS; or
- 2) The following has occurred:

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(A) A period of ninety days after the day on which the last of the labor was done or performed and the last of the material was furnished or supplied has elapsed without written notice of a claim given to CONTRACTOR and the surety, as provided for in section 103D-324, HRS; and

(B) The subcontractor has provided to the CONTRACTOR, an acceptable release of retainage bond, executed by a surety company authorized to do business in the State, in an amount of not more than two times the amount being retained or withheld by the CONTRACTOR, any other bond acceptable to the CONTRACTOR; or any other form of mutually acceptable collateral, then, all sums retained or withheld from a subcontractor and otherwise due to the subcontractor for satisfactory performance under the subcontract shall be paid by the procurement officer to the CONTRACTOR and subsequently, upon receipt from the procurement officer, by the CONTRACTOR to the subcontractor within the applicable time periods specified in Subparagraph b. of this Paragraph and section 103-10, HRS. The penalty may be withheld from future payment due to the CONTRACTOR, if the CONTRACTOR was the responsible party. If a CONTRACTOR has violated Subparagraph b. three or more times within two years of the first violation, the Contractor shall be referred by the procurement officer to the contractors license board for appropriate action, including action under section 444-17(14), HRS.

d. A properly documented final payment request from a subcontractor, as required by Subparagraph c., shall include:

- 1) Substantiation of the amounts requested;
- 2) A certification by the subcontractor, to the best of the subcontractor's knowledge and belief, that:

(A) The amounts requested are only for performance in accordance with the specifications, terms, and conditions of the subcontract;

(B) The subcontractor has made payments due to its subcontractors and suppliers from previous payments received under the subcontract and will make timely payments from the proceeds of the payment covered by the certification, in accordance with their subcontract agreements and the requirements of this section; and

(C) The payment request does not include any amount that the subcontractor intends to withhold or retain from a subcontractor or supplier in accordance with the terms and conditions of their subcontract; and

3) The submission of documentation confirming that all other terms and conditions required under the subcontract agreement have been fully satisfied.

The procurement officer shall return any final payment request that is defective to the CONTRACTOR within seven days after receipt, with a statement identifying the defect.

c. This section shall not be construed to impair the right of a CONTRACTOR or a subcontractor at any tier to negotiate and to include in their respective subcontracts provisions that provide for additional terms and conditions that are requested to be met before the subcontractor shall be entitled to receive final payment under Subparagraph c. of this Paragraph; provided that any such payments withheld shall be withheld by the procurement officer.

25. ACCEPTANCE OF GOODS AND SERVICES. The COUNTY shall accept goods and services or give CONTRACTOR notice of rejection within a reasonable time, notwithstanding any payment, prior test, or inspection. No inspection, test, delay or failure to inspect or test, or failure to discover any defect or other nonconformance with the specifications, shall relieve CONTRACTOR of any obligations under this Contract or impair any rights or remedies of the COUNTY.

26. OBSOLETE PARTS/LONG TERM PARTS AVAILABILITY. Contractor shall timely report on the status of end of life (EOL) hardware that has been procured for the purchased or leased product. EOL hardware includes the following: electronic components/piece parts and mechanical hardware. Contractor shall provide advanced notification in writing to the Officer-in-Charge of any changes to tooling, facilities, materials, availability of parts, or processes that could affect the contracted product. This includes but is not limited to fabrication, assembly, handling, inspection, acceptance, testing, facility relocation, or introduction of a new manufacturer. Contractor shall notify the COUNTY of any pending or contemplated future action to discontinue articles purchased or replacement parts for the articles purchased pursuant to this Contract and shall work with the COUNTY to determine the need to stockpile any parts for the likely life of the product and offer those parts to the COUNTY prior to the actual discontinuance. Contractor shall extend opportunities to the COUNTY to place last time buys of such articles with deliveries not to exceed twelve months after the last time buy date.

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27. CONFIDENTIALITY OF MATERIAL.

a. All material given to or made available to the CONTRACTOR by virtue of this Contract, which is identified as proprietary or confidential information, will be safeguarded by the CONTRACTOR and shall not be disclosed to any individual or organization without the prior written approval of the COUNTY.

b. All information, data, or other material provided by the CONTRACTOR to the COUNTY is subject to the Uniform Information Practices Act, chapter 92F, HRS.

28. **PUBLICITY.** The CONTRACTOR shall not refer to the COUNTY or any office, agency, or Officer thereof, or any COUNTY employee, including the head of the purchasing agency, the County procurement officers, the COUNTY council members, or members or directors of any County Board, or to the services or goods, or both, provided under this Contract, in any of the CONTRACTOR's brochures, advertisements, or other publicity of the CONTRACTOR without the explicit written consent of the COUNTY. All media contacts with the CONTRACTOR about the subject matter of this Contract shall be referred to the head of the purchasing agency.

29. **OWNERSHIP RIGHTS AND COPYRIGHT.** The COUNTY shall have complete ownership of all material, both finished and unfinished, which is developed, prepared, assembled or conceived by the CONTRACTOR pursuant to this Contract and all such material shall be considered "works for hire." All such materials shall be delivered to the COUNTY upon expiration or termination of this Contract. The COUNTY, in its sole discretion, shall have the exclusive right to copyright any product, concept, or material developed, prepared, assembled or conceived by the CONTRACTOR pursuant to this Contract.

30. **INSURANCE.** During the term of this Contract, CONTRACTOR shall maintain at all times or cause to be maintained general and professional liability insurance coverage for CONTRACTOR and its employees rendering services to the COUNTY under this Contract. The insurance policies shall be issued by a company or companies authorized to do business in Hawaii and approved by the COUNTY, with combined single limits of not less than ONE MILLION DOLLARS (\$1,000,000) per occurrence and TWO MILLION DOLLARS (\$2,000,000) in the aggregate for Contracts with a total certified amount of \$1,000,000 or less, and THREE MILLION DOLLARS (\$3,000,000) in the aggregate for Contracts with a total certified amount of \$1,000,001 or more, or such greater amount as may be required from time to time by the COUNTY. CONTRACTOR shall provide COUNTY not less than thirty (30) days notice prior to any cancellation or material change or reduction in coverage. No such material change or reduction may be made without approval from the COUNTY. The COUNTY shall be listed as an additional insured on all policies, with the exception of professional liability. Prior to the commencement of this Contract, CONTRACTOR shall provide the COUNTY with a certificate of insurance. Thereafter, prior to the expiration of each policy period, the insurance carriers for CONTRACTOR shall provide the COUNTY with certificates of insurance evidencing the foregoing coverage and provisions. The COUNTY reserves the right to request and receive a certified copy of the policies. CONTRACTOR shall also carry workers' compensation insurance for CONTRACTOR'S employees in the amounts required by applicable law. Failure to maintain the necessary insurance in accordance with the provisions set forth herein shall constitute a material breach of this Contract and the COUNTY shall thereafter have the options of pursuing remedies for such breach and/or immediate termination of this Contract.

31. LIENS AND WARRANTIES.

a. Liens. All products provided under this Contract shall be free of all liens and encumbrances.

b. Warranties for products and services. In the event this Contract is for the provision of products (goods or equipment), CONTRACTOR warrants that it has all rights, title and interest in and to all products sold, leased or licensed to the COUNTY. CONTRACTOR also warrants that the products shall substantially conform to all descriptions, specifications, statements of work and representations set forth in the Contract, schedules, publications of CONTRACTOR and/or any order(s) and will be free from defects in materials, performance, workmanship and design. CONTRACTOR further warrants that it will perform any services required with promptness, diligence and in accordance with prevailing standards in the industry to the reasonable satisfaction of the COUNTY. The Warranty period shall commence after Acceptance, as defined in this Contract. Any specific warranty periods shall be as set forth in the proposals, schedules, orders or Special Conditions pertaining to this Contract but in any event such warranty period shall not be less than one (1) year.

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32. AUDIT OF BOOKS AND RECORDS OF THE CONTRACTOR. The COUNTY may, at reasonable times and places, audit the books and records of the CONTRACTOR, prospective contractor, subcontractor, or prospective subcontractor which are related to:

- a. The cost or pricing data, and
- b. A county contract, including subcontracts, other than a firm fixed-price contract.

33. COST OR PRICING DATA.

a. Cost or pricing data must be submitted to the head of the purchasing agency and timely certified as accurate for contracts over \$100,000 unless the contract is for a multiple-term or as otherwise specified by the head of the purchasing agency.

b. If certified cost or pricing data are subsequently found to have been inaccurate, incomplete, or noncurrent as of the date stated in the certificate, the County is entitled to an adjustment of the contract price, including profit or fee, to exclude any significant sum by which the price, including profit or fee, was increased because of the defective data. It is presumed that overstated cost or pricing data increased the contract price in the amount of the defect plus related overhead and profit or fee. Therefore, unless there is a clear indication that the defective data was not used or relied upon, the price will be reduced in such amount.

34. AUDIT OF COST OR PRICING DATA. When cost or pricing principles are applicable, the County may require an audit of cost or pricing data.

35. RECORDS RETENTION.

a. Upon any termination of this Contract or as otherwise required by applicable law, CONTRACTOR shall, pursuant to chapter 487R, HRS, destroy all copies (paper or electronic form) of personal information received from the COUNTY.

b. The CONTRACTOR and any subcontractors shall maintain the files, books, and records that relate to the Contract, including any personal information created or received by the CONTRACTOR on behalf of the COUNTY, and any cost or pricing data, for at least three years after the date of final payment under the Contract. The personal information shall continue to be confidential and shall only be disclosed as permitted or required by law. After the three year or longer retention period as required by law has ended, the files, books, and records that contain personal information shall be destroyed pursuant to chapter 487R, HRS, or returned to the County at the request of the County.

36. ANTITRUST CLAIMS. The COUNTY and the CONTRACTOR recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the purchaser. Therefore, the CONTRACTOR hereby assigns to the COUNTY any and all claims for overcharges as to goods and materials purchased in connection with this Contract, except as to overcharges which result from violations commencing after the price is established under this Contract and which are not passed on to the COUNTY under an escalation clause.

37. PATENTED ARTICLES. The CONTRACTOR shall defend, indemnify, and hold harmless the COUNTY, and its officers, employees, and agents from and against all liability, loss, damage, cost, and expense, including all attorneys fees, and all claims, suits, and demands arising out of or resulting from any claims, demands, or actions by the patent holder for infringement or other improper or unauthorized use of any patented article, patented process, or patented appliance in connection with this Contract. The CONTRACTOR shall be solely responsible for correcting or curing to the satisfaction of the COUNTY any such infringement or improper or unauthorized use, including, without limitation a. furnishing at no cost to the COUNTY a substitute article, process, or appliance acceptable to the COUNTY; b. paying royalties or other required payments to the patent holder; c. obtaining proper authorizations or releases from the patent holder; and d. furnishing such security to or making such arrangements with the patent holder as may be necessary to correct or cure any such infringement or improper or unauthorized use.

38. POLLUTION CONTROL. If during the performance of this Contract, the CONTRACTOR encounters a "release" or a "threatened release" of a reportable quantity of a "hazardous substance," "pollutant," or "contaminant" as those terms are defined in section 128D-1, HRS, the CONTRACTOR shall immediately notify the COUNTY and all other appropriate state, county, or federal agencies as required by law. The CONTRACTOR shall take all necessary actions, including stopping work, to avoid causing, contributing to, or making worse a release of a hazardous substance, pollutant, or contaminant, and shall promptly obey any orders the Environmental Protection

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Agency or the state Department of Health issues in response to the release. In the event there is an ensuing cease-work period, and the COUNTY determines that this Contract requires an adjustment of the time for performance, the Contract shall be modified in writing accordingly.

39. CONFIDENTIALITY OF PERSONAL INFORMATION.

a. Definitions.

"Personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either name or data elements are not encrypted:

- 1) Social security number;
- 2) Driver's license number or Hawaii identification card number; or
- 3) Account number, credit or debit card number, access code, or password that would permit access to an individual's financial information.

Personal information does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

"Technological safeguards" means the technology and the policy and procedure for use of the technology to protect and control access to personal information.

b. Confidentiality of Material.

1) All material given to or made available to the CONTRACTOR by the COUNTY by virtue of this Contract which is identified as personal information shall be safeguarded by the CONTRACTOR and shall not be disclosed without the prior written approval of the COUNTY.

2) CONTRACTOR agrees not to retain, use, or disclose personal information for any purpose other than as permitted or required by this Contract.

3) CONTRACTOR agrees to implement appropriate "technological safeguards" that are acceptable to the COUNTY to reduce the risk of unauthorized access to personal information.

4) CONTRACTOR shall report to the COUNTY in a prompt and complete manner any security breaches involving personal information.

5) CONTRACTOR agrees to mitigate, to the extent practicable, any harmful effect that is known to CONTRACTOR because of a use or disclosure of personal information by CONTRACTOR in violation of the requirements of this Paragraph.

6) CONTRACTOR shall complete and retain a log of all disclosures made of personal information received from the COUNTY, or personal information created or received by CONTRACTOR on behalf of the COUNTY.

c. Security awareness training and confidentiality agreements.

1) CONTRACTOR certifies that all of its employees who will have access to the personal information have completed training on security awareness topics relating to protecting personal information.

2) CONTRACTOR certifies that confidentiality agreements have been signed by all of its employees who will have access to the personal information acknowledging that:

(A) The personal information collected, used, or maintained by the CONTRACTOR will be treated as confidential;

(B) Access to the personal information will be allowed only as necessary to perform the Contract; and

(C) Use of the personal information will be restricted to uses consistent with the services subject to this Contract.

d. Termination for Cause. In addition to any other remedies provided for by this Contract, if the COUNTY learns of a material breach by CONTRACTOR of this Paragraph by CONTRACTOR, the COUNTY may at its sole discretion:

- 1) Provide an opportunity for the CONTRACTOR to cure the breach or end the violation; or
- 2) Immediately terminate this Contract.

40. **GOVERNING LAW.** The validity of this Contract and any of its terms or provisions, as well as the rights and duties of the parties to this Contract, shall be governed by the laws of the State of Hawaii. Any action at law or in equity to enforce or interpret the provisions of this Contract shall be brought in a State court of competent jurisdiction in Wailuku, Maui, Hawaii.

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41. **COMPLIANCE WITH LAWS.** The CONTRACTOR shall comply with all federal, State, and county laws, ordinances, codes, rules, and regulations, as the same may be amended from time to time, that in any way affect the CONTRACTOR'S performance of this Contract. This specifically includes, without limitation, Sections 103-55 and 103-55.5, HRS, dealing with wages, hours and working conditions of employees of contractors providing services or construction.

42. **CONFLICT BETWEEN GENERAL CONDITIONS AND PROCUREMENT RULES.** In the event of a conflict between the General Conditions and the procurement rules in the HAR, the procurement rules in effect on the date this Contract became effective shall control and are hereby incorporated by reference.

43. **CAMPAIGN CONTRIBUTIONS.** CONTRACTOR acknowledges that it is unlawful under Section 11-355, HRS, unless specifically permitted under that law, for CONTRACTOR at any time between the execution of this Contract through the completion of the Contract to: (a) directly or indirectly make any contribution, or promise expressly or impliedly to make any contribution to any candidate committee or noncandidate committee, or to any candidate or to any person for any political purpose or use; or (b) knowingly solicit any contribution from any person for any purpose during any period.

44. **DRAFTING.** No provision of this Contract shall be interpreted for or against any party on the basis that such party was the draftsman of such provision, and no presumption of burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provision of this Contract.

45. **CAPTIONS.** The captions contained herein are used solely for convenience and shall not be deemed to define or limit the provisions of this Agreement.

46. **COUNTERPARTS.** This Contract may be executed in any number of counterparts with the same effect as if all of the parties had signed the same document. Such executions may be transmitted to the parties by facsimile or electronically and such facsimile or electronic execution and transmission shall have the full force and effect of an original signature. All fully executed counterparts, whether original executions or facsimile or electronic executions or a combination thereof shall be construed together and shall constitute one and the same Contract.

47. **SEVERABILITY.** In the event that any provision of this Contract is declared invalid or unenforceable by a court, such invalidity or non-enforceability shall not affect the validity or enforceability of the remaining terms of this Contract.

48. **WAIVER.** The failure of the COUNTY to insist upon the strict compliance with any term, provision, or condition of this Contract shall not constitute or be deemed to constitute a waiver or relinquishment of the COUNTY's right to enforce the same in accordance with this Contract. The fact that the COUNTY specifically refers to one provision of the law, and does not include other provisions shall not constitute a waiver or relinquishment of the COUNTY's rights or the CONTRACTOR's obligations under the law.

49. **ENTIRE AGREEMENT.** This Contract sets forth all of the agreements, conditions, understandings, promises, warranties, and representations between the COUNTY and the CONTRACTOR relative to this Contract. This Contract supersedes all prior agreements, conditions, understandings, promises, warranties, and representations, which shall have no further force or effect. There are no agreements, conditions, understandings, promises, warranties, or representations, oral or written, express or implied, between the COUNTY and the CONTRACTOR other than as set forth or as referred to herein.

[END OF GENERAL CONDITIONS OF PURCHASE OF GOODS AND SERVICES]

REQUEST FOR PROPOSALS

LANDFILL DIVERSION OF ORGANIC MATERIALS

MAUI, HAWAII

RFP No. 15-16/P71

PREPARED BY AND FOR:

**COUNTY OF MAUI
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT,
ENVIRONMENTAL PROTECTION AND SUSTAINABILITY DIVISION,
RECYCLING SECTION
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
(808) 270-7880**

February 23, 2016

REQUEST FOR PROPOSALS
RFP NO. 15-16/P71

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SECTION 00010

REQUEST FOR PROPOSALS
RFP No. 15-16/P71

LANDFILL DIVERSION OF ORGANIC MATERIALS
MAUI, HAWAII

Pursuant to Chapter 103D, HRS, sealed proposals for the following project "**LANDFILL DIVERSION OF ORGANIC MATERIALS**", will be received and time stamped by the Proposal Receiver, County of Maui, Purchasing Division, Wells Street Professional Center, 2145 Wells Street, Suite 104, Wailuku, Maui, Hawaii 96793 until 4:00 p.m. Hawaii Standard Time, on **MARCH 30, 2016**. Proposals shall be addressed to the Proposal Receiver, Finance Department, and shall be labeled "**LANDFILL DIVERSION OF ORGANIC MATERIALS**". Proposals will not be publicly read.

The work consists of the furnishing of all labor, materials, structures, and equipment for the landfill diversion of green waste, biosolids (sewage sludge), fats, oils, and grease (FOG) on the island of Maui. The work shall be performed on a 16 acre site, situated within the Central Maui Landfill in Pu`unene, Maui.

A copy of the RFP and proposal forms may be downloaded **after FEBRUARY 23, 2016** by registering online on the County of Maui's website at <http://www.mauicounty.gov/bids.aspx>.

No pre-proposal meeting will be conducted for the project. However, interested parties may contact Ms. Stacia Ash, Contract Manager, at (808) 270-7863, with questions about the project or to schedule a site visit at the Central Maui Landfill.

Proposers are required to comply with newest procurement code, HRS, Chapter 103D, any rules and regulations and policy directives issued with respect to Chapter 103D and any amendments thereof.

Proposers must correctly prepare and submit the documents listed in Section 00300, Proposal.

Proposers are requested to submit with their proposal, a State and Federal tax clearance certificate.

Date: _____

DANILO AGSALOG
DIRECTOR OF FINANCE
COUNTY OF MAUI

SECTION 00100

INSTRUCTIONS TO PROPOSERS

PART 1 – GENERAL

1.01 EXAMINATION OF RFP DOCUMENT

Each proposer shall thoroughly examine and be familiar with the contents of this document. Submission of a proposal shall constitute acknowledgment upon which the County may rely that the proposer has thoroughly examined and is familiar with the project. The proposer shall be responsible for verifying that each element contained in this solicitation has been considered and included as a component of the proposal. Failure or neglect of a proposer to examine any of the elements in this document shall in no way relieve him from any obligation with respect to his proposal or to the contract. No claim for additional compensation will be allowed which is based upon a lack of knowledge of the work.

1.02 INTERPRETATION OF RFP DOCUMENT

Pursuant to the General Conditions of the County of Maui, proposers may request interpretation of this RFP document no less than ten (10) calendar days prior to the date of proposal deadline. Requests shall be directed **in writing** no later than **MARCH 7, 2016** to:

Department of Environmental Management,
Environmental Protection and Sustainability Division,
Recycling Section
200 S. High Street
Wailuku, Maui, Hawaii 96793

Attention: Stacia Ash, Contract Manager
Phone: (808) 270-7863
Email: Stacia.ash@co.maui.hi.us

Requests to clarify the source of site logistics or any other such matter which does not modify, change, increase, or decrease the scope of work requires no action by the County other than a response to the proposer requesting the clarification. Requests to clarify possible ambiguous, conflicting or incomplete statements, or any other such clarification which modifies, changes, increases, or decreases the scope of work, require issuance of an addendum by the County for the interpretation to become effective.

1.03 PROPOSER DOCUMENTS

A. PROPOSER FORMS

1. GENERAL: Proposals shall be made on the blank proposal forms attached to this RFP. The proposal form included herein is for information only and is not to be used for the final proposal. Proposals shall give the prices proposed and all other information requested, and shall be signed by the proposer or his authorized representative, with his address. **One original and four (4) copies of the proposal shall be submitted.**
2. PROPOSAL PRICES: Proposal prices shall include everything necessary for the completion of the work including but not limited to, providing the materials, equipment, tools, and other facilities, and the management, labor, and services. Proposal prices shall be on a per ton basis and shall include federal, state, and local taxes.
3. PROPOSER'S SIGNATURE AND AUTHORITY: If the proposal is made by an individual, his name, signature, and post office address must be shown; if made by a firm or partnership, the name and post office address of the firm or partnership, a list of the partners, and the signature of at least one of the general partners must be shown; if made by a corporation, the proposal shall show the name of the state under the laws of which the corporation is chartered, the name and post office address of the corporation, and the title of the person who signs on behalf of the corporation. If the proposal is made by the corporation, a certified copy of the bylaws or resolution of the Board of Directors of the corporation shall be furnished showing the authority of the officer signing the proposal to execute contracts on behalf of the corporation. If the proposal is made by a joint venture, the proposal shall be signed by a representative of one of the joint venture firms. Additionally, the proposal shall include a copy of the resolution or agreement empowering the representative to execute the proposal and bind the joint venture.
4. PROPOSAL IRREGULARITIES: Each proposal and the information requested shall be enclosed in a sealed envelope and labeled as specified in the RFP. Proposers are warned against making erasures or alterations of any kind, and proposals which contain omissions, erasures, or irregularities of any kind may be rejected.

Proposals, prices, or modifications to proposals or prices shall not be submitted by telephone or facsimile transmission, and will not be accepted.

5. MODIFICATION OF PROPOSAL: Modification of a proposal already received will be considered only if the modification is received prior to the date and time established as the proposal deadline.

Any proposer may modify his proposal by written communications at any time, provided such communication is completely received by the proposal receiver prior to the proposal due time. The telegraphic or written communications should not reveal the proposal prices; it should, however, state the addition or subtraction or other modification so that the final prices or terms will not be known by the County until the proposal is opened.

Comments or questions regarding the proposal should be addressed to:

Proposal Receiver
County of Maui
Purchasing Division
Wells Street Professional Center
2145 Wells Street, Suite 104
Wailuku, Maui, Hawaii 96793
(808) 270-7830

6. WITHDRAWAL OF PROPOSALS

- a. PRIOR TO PROPOSAL OPENING: A proposal may be withdrawn at any time prior to the time fixed in the Request for Proposals for the deadline of submittal of proposals by filing with the Finance Director a written request for withdrawal executed by the proposer or his duly authorized representative. The withdrawal of such proposal shall not preclude the proposer from filing a new proposal.
- b. AFTER PROPOSAL OPENING: Within five days after the due date of proposals, a proposer may withdraw the proposal providing the proposer can establish to the County's satisfaction that a mistake was made in preparing the proposal. A proposer desiring to withdraw shall give written notice to the County, specifying, in detail, how the mistake occurred and how the mistake made the proposal materially different than it was intended to be. Withdrawal will not be permitted for mistakes resulting from errors in judgment or carelessness in inspecting the Request for Proposals.

1.04 PROPOSER'S CERTIFICATIONS

A. QUALIFICATIONS OF PROPOSER

The proposer certifies that the proposer is knowledgeable of the unusual and peculiar hazards associated with the general class and type of work required to execute the specified project within the terms given in this document. The proposer shall be competent and skilled in the protective measures necessary for the safe performance of the work with respect to such unusual and peculiar hazards. The proposer must demonstrate that the company has at least five years of operating experience with processing organic materials as contemplated in this RFP.

In addition, the proposer's attention is called to the requirements of Section 103D-310(c) Hawaii Revised Statutes, and Section 3-122-112, Hawaii Administrative Rules:

1. A certificate of compliance (DLIR form LIR#27) issued by the Department of Labor and Industrial Relations stating that contractor complies with Chapters 383, 386, 392, and 393 of the HRS, current within **six (6) months** of issuance date. This certificate is required prior to an award of a contract.
2. A certificate of good standing from the business registration division of the Department of Commerce and Consumer Affairs (DCCA), current within **six (6) months** of issuance date. This certificate is required prior to an award of a contract.
3. A certificate of compliance for final payment affirming that the proposer has, as applicable, remained in compliance with all laws required by this section (3-122-112 HAR). This certificate is required prior to final payment of the contract.
4. An original or certified copy of a tax clearance issued by the Hawaii State Department of Taxation (DOTAX) and the Internal Revenue Service (IRS) shall be submitted with the sealed proposal by the due date and time. The tax clearance shall be obtained on the two-part Tax Clearance Application (Form A-6 - available from the Maui District or other State Tax Offices) that combines DOTAX and IRS tax clearances. The tax clearance shall be valid for at least six (6) months.

The successful proposer is encouraged to use the Hawaii Compliance Express website to assist them in obtaining the above certificates. The state website is <http://vendors.ehawaii.gov>.

B. ADDENDA

Addenda may be issued during the proposal period and they shall be incorporated into the RFP.

Each proposal form shall include specific acknowledgment, in the space provided, of receipt of all addenda issued and mailed by the County during the proposal period. Failure to so acknowledge may result in the proposal being rejected as not responsive.

1.05 POSTPONEMENT OF RFP DEADLINE

The County reserves the right to postpone the date and time for receiving and/or the due date of proposals at any time prior to the date and time established in the RFP. Postponement notices shall be posted on the County's website in the form of addenda.

Each proposal shall include specific acknowledgment, in the space provided in Section 00300, of receipt of all addenda issued during the proposal period.

1.06 REJECTION OF PROPOSALS

A. IRREGULAR PROPOSALS

The County reserves the right to reject proposals which are incomplete, obscure, or irregular; proposals which omit a proposal on any one or more items for which proposals are required; proposals which omit unit prices if unit prices are required; proposals in which unit prices are unbalanced in the opinion of the County; and proposals from proposers who have previously failed to perform properly or to complete on time contracts of any nature.

B. COLLUSION

If the County has reason to believe that collusion exists among proposers, the County will reject the proposals of the known participants in such collusion and may, at its option, require that all proposers certify under penalty of perjury that no collusion has occurred or exists. The County also, at its option, may reject all proposals received.

1.07 AWARD OF CONTRACT

Within ninety (90) calendar days after evaluating of the proposals, the County will act either to accept a proposal or to reject all proposals. Acceptance of a proposal will be evidenced by a notice of award of contract in writing, delivered in person, or

by certified mail, to the proposer whose proposal is accepted. No other act of the County shall constitute acceptance of a proposal. The award of contract shall obligate the proposer, whose proposal is accepted, to furnish evidences of insurance, and to execute the agreement set forth in the RFP.

The award will be made by the County on the basis of the proposal from the highest rated responsive, responsible proposer, not necessarily the lowest priced proposer. The contract will be released by the County for signature by the qualified proposer after Notice of Award and upon the acceptance of his proposal. The contract will be executed within 90 days after the start of the next fiscal year (July 1, 2016).

The County reserves the right to reject all proposals, or any proposal not in compliance with the document herein, and to waive any informalities and irregularities in said proposals.

1.08 EXECUTION OF CONTRACT

The contract agreement shall be executed by the successful proposer and returned with the evidences of insurance, within 30 calendar days after receiving the contract documents. After execution by the County, one copy of the agreement shall be returned to the proposer.

1.09 POST-AWARD SUBMITTALS

In addition to the execution of the contract, the proposer will be responsible to submit or make available for inspection the following items within the time period specified below (unless otherwise negotiated following notice of award).

Facility and Operational Safety Plan	Within 120 days of notice of award
Stormwater Pollution Control Plan	Within 120 days of notice of award
DOH Solid Waste Permit	Within 180 days of notice of award
NDPES Permit	Within 180 days of notice of award
WWP	Within 180 days of notice of award
Clean Air Permit (if needed)	Within 180 days of notice of award

END OF SECTION

SECTION 00150
SUMMARY OF WORK

PART 1 - GENERAL

1.01 AUTHORIZATION

Acting on behalf of the County of Maui, the Environmental Protection and Sustainability Division (EP&S) has authorized this project entitled "**LANDFILL DIVERSION OF ORGANIC MATERIALS**".

PART 2 - PROJECT OBJECTIVE

2.01 The purpose of this RFP is to divert green waste and designated organic materials from the Central Maui Landfill (CML). Specifically, the work consists of the furnishing of all labor, materials, and equipment for the landfill diversion of green waste, biosolids (sewage sludge), and fats, oils, and grease (FOG) on the island of Maui. The work shall be performed on a 16 acre site, situated within the Central Maui Landfill in Pu`unene, Maui.

PART 3 – PROJECT BACKGROUND

3.01 For over the last two decades, the EP&S has contracted a landfill diversion program for organic materials. While the EP&S will not discriminate against non-composting proposers, it is anticipated that proposers will develop a composting operation for this landfill diversion project. As previously described, for this project, the EP&S has designated 16 acres at the Central Maui Landfill as shown in *Appendix A*, which is currently being utilized by the existing composting vendor, whose contract terminates on June 30, 2016. There exists an approximately 40 foot by 80 foot metal Butler building onsite, which is County owned and may be used by the successful proposer.

3.02 The historical tonnage for each organic material stream collected and processed through the existing County composting contract is as shown in *Appendix B* of this RFP.

3.03 An additional stream of residential curbside green waste is also part of this RFP. The curbside residential recycling program currently collects greenwaste for two South Maui refuse routes, servicing up to an estimated 1,750 residential accounts. *Appendix C* details the curbside greenwaste stats collected since the program commenced in August 2012. The County reserves the right to cancel or expand the curbside recycling program at any time. If the curbside program is expanded to include service to all residential routes on Maui, it is anticipated that the program may expand to other areas at a rate of approximately 5,000-8,000 homes per year, depending on funding approval. There are currently

approximately 22,000 customers in the residential refuse collection program on the island of Maui.

PART 4 – SCOPE OF SERVICES

- 4.01 The proposer will be responsible to furnish all labor, materials, and equipment for the landfill diversion of all green waste, biosolids (sewage sludge), fats, oils, and grease (FOG) received at the Central Maui Landfill. These incoming material streams become the responsibility and property of the proposer upon deposit at the facility. Section 00350; Proposed Diversion Facility Transition Plans details the proposers requirement to submit transition plans for the beginning and end of this contract.

If a compost facility will be developed, all compost produced from the operation must meet the U.S. Composting Council Seal of Testing Assurance. Requirements and information are available online at:

<http://www.compostingcouncil.org/programs/sta/>. Compost is an acceptable end product for the diverted organic materials. In addition, mulch is an acceptable end product. County biosolids must be processed in the diversion facility in accordance with Federal regulations pertaining to biosolids. Requirements and information are available online at:

<http://www.epa.gov/OWM/mtb/biosolids/503pe/index.htm>. The proposer will submit monthly reports to the Contract Manager verifying compliance with the U.S. Composting Council requirements.

- 4.02 The proposer must thoroughly screen all incoming loads to ensure to the greatest extent practicable that loads contain only the organic materials taken as part of this RFP and does not include hazardous waste, untreated human waste, non-organic materials, and other prohibited materials. The proposer shall have adequate personnel to direct and assist with the drop-off and unloading of materials to minimize unacceptable materials. The proposer shall notify the contract manager in writing about any customer or hauler who continues to unload unacceptable materials after being advised otherwise. Any customer with a load of unacceptable materials shall be directed to return to the County scale house for proper disposal and possible tipping fees.

It is the proposer's responsibility to secure signed waivers from the County project manager to dispose of the refuse at CML. Refuse tonnages must be reported monthly and weighed separately and the monthly report must be accompanied by copies of the landfill scale house weigh tickets. **The proposer shall not dispose of organic materials included in this RFP at County landfills without the approval of the County Director of Environmental Management or his designated representative.**

- 4.03 The proposer will be responsible for the safe and legal disposal of all contaminants found in the organic materials delivered. The proposer will remove

and store the residue as permitted by the State Department of Health until the refuse is delivered for disposal. Refuse removed from the organic materials delivered may be disposed of at the County's Central Maui Landfill at no charge with signed waivers.

- 4.04 The proposer will be provided with scale tickets by the County, which will detail the date and time of delivery and the type of material and tonnage received. A corresponding spreadsheet summarizing the deliveries received over the month shall be included in the monthly invoice provided to the EP&S for payment under this contract.
- 4.05 The proposer will be responsible to market any end product of the processing of organic materials. If the proposer develops a composting facility, prior to sale, compost shall meet State of Hawaii Department of Health requirements and all compost product sold shall bear the U.S. Composting Council's STA certified compost seal. Requirements and information are available online at <http://www.compostingcouncil.org/programs/sta/>. Compost may be sold in bulk form or in packages deemed most appropriate by the proposer.

All end product(s) will be the property of the proposer. The proposer may charge fees for end-market products including, loading and delivery fees. Any and all such fees shall be published and the Contract Manager shall be notified of these fees at least two (2) weeks prior to the implementation of a new fee or a change in fees. The proposer shall be solely responsible for billing and collection of any such fees.

- 4.06 The EP&S will not guarantee a minimum or maximum quantity of organic materials that will be delivered to the proposer over the contract term. The EP&S will guarantee that all greenwaste material collected from the County residential curbside recycling collection program, County sewage sludge, and FOG that is received at the CML will be delivered to the proposer. However, should the EP&S in the future decide to cease the County residential curbside recycling collection program, the County cannot be held liable for damages or lost revenue by the proposer.

PART 5 – REPORTING REQUIREMENTS

- 5.01 The proposer will be responsible to provide the following data monthly including but not limited to: separated total monthly tonnage of commercial green waste, biosolids, County residential curbside greenwaste, and fats, oils, and grease received and the tonnage of refuse delivered to the Central Maui Landfill. The report shall include the facility's monthly material capacity per the DOH Conditions as detailed in the proposers Solid Waste Permit. As previously stated, the proposer will also submit monthly reports verifying compliance with the U.S. Composting Council requirements.

The above information must be provided with the monthly invoice sent to the EP&S, submitted within two (2) weeks of the end of the month. Within two weeks of the end of a quarter and a year, the above information tabulated quarterly and annually, respectively, shall also be provided via email to the Contract Manager. Invoice payments may be delayed if the required documentation is incomplete.

- 5.02 The proposer will also be responsible to notify the EP&S of all complaints and accidents associated with operation of the diversion facility with respect to this contract within 24 hours of occurrence. The EP&S must be kept abreast as to resolution and corrective action associated with complaints and accidents, respectively.

PART 6 - FACILITY OPERATION & PERMITS

- 6.01 The proposer will be responsible for providing a diversion facility under its control on designated Central Maui Landfill lands and the necessary equipment to execute the landfill diversion of organic materials operations. County equipment will not be available for the diversion activities. The proposer will be responsible to have the facility open to receive incoming material under this contract during the hours of the Central Maui Landfill, which is currently Monday through Saturday from 6:00 am to 3:00 pm, including all holidays. CML hours are subject to change by the County. The County may consider opening on Sundays or 7 days per week.

At no time will the proposer turn away any material that is delivered to the proposer under this contract during receiving hours. Refusing delivered organic materials under this contract may result in the termination of the contract. The proposer is required to accept at the diversion facility organic materials from the general public, County haulers, and commercial haulers.

The proposer will be responsible to provide its personnel with on-site facilities from which to oversee and manage operations including room for employee breaks, toilets, and drinking water. There is currently no potable water or wastewater services available at the site and the installation of all utility services will be at the sole expense of the proposer. Electricity service is not currently available at the site.

- 6.02 The proposer will be responsible to obtain and comply with a State of Hawaii Solid Waste permit for the operation of the diversion facility as contemplated in this RFP. According to the State of Hawaii, Department of Health, Administrative Rules, Title 11, Chapter 58.1-04, "Solid Waste Management Control", it shall be unlawful for any person to establish, modify, or operate any solid waste management facility or a part thereof or any extension or addition hereto without

a permit issued by the DOH. Information and applications are available online at <http://hawaii.gov/health/environmental/waste/sw/swpermit.html>.

The proposer will also be responsible to maintain a permitted site with respect to County building permits and zoning ordinances. The proposer shall also operate the facility to minimize odor, litter, and vectors, and shall maintain sufficient equipment to provide a smooth and continuous operation, and shall maintain a clean facility.

Refer to Section 00100.1.09 for other permits that may be required.

- 6.03 The proposer shall comply with all applicable County, State and federal laws, statutes, ordinances, rules, and regulations for the development and operation of the diversion facility. All costs for complying with the above regulations will be borne by the proposer. The proposer is solely responsible for all due diligence in determining and complying with all requirements and shall communicate directly with all regulatory agencies. In addition, the proposer will be solely responsible for payment of any and all administrative, civil, and criminal penalties or fines imposed as a result of or in any way connected with the proposer's development and operations of the diversion facility and the sale of end products.
- 6.04 The proposer will also be responsible to notify EP&S and DOH prior to reaching the facility's maximum material capacity. EP&S must be kept abreast as to communication, resolution and corrective action associated with any instances of non-compliance with any of the required permits.

PART 7 - SPECIAL CONDITIONS

- 7.01 The proposer will be responsible for operating its facility unless a force majeure circumstance, such as hurricane or other natural catastrophe, arises. Should the proposer need to close the diversion facility for maintenance or repair, it is the proposer's responsibility to continue to receive organic material and to obtain necessary approvals with the State Department of Health to store the material until the diversion facility is back in service. If the diversion facility is not operational, the County shall be entitled to claim liquidated damages. Such damages are fixed at a sum of one thousand dollars (\$1,000) for each and every calendar day the facility is not operational (receiving organic materials), and the County expressly waives its right to claim that the liquidated damages amount to a penalty or are in the nature of a penalty and the County need not show or prove actual damages in claiming said liquidated damages.

PART 8 – CONTRACT TERM

- 8.01 The term of the contract for the project is scheduled to begin on July 1, 2016, and is for two (2) years (subject to budget availability) with a mutually agreeable

option between EP&S and the proposer to extend the contract for two renewals in increments of one (1) additional year each, at the same contract terms.

END OF SECTION

SECTION 00200

PROPOSAL EVALUATION

The proposals will be evaluated based on five evaluation criteria as described below. An award, if made, will go to the proposer whose proposal is most advantageous to EP&S, taking into consideration price and other factors set forth herein. EP&S reserves the right to conduct interviews of the proposers to better evaluate and understand the method of project execution contemplated by the proposers.

Evaluation Criteria	Weight
Processing Price Per Ton	40%
Proposer Qualifications and Experience	20%
Facility Processing Capability	20%
Methodology	10%
Proposer References	10%
Total	100%

The processing price per ton will be rated based on the Proposal Schedule (Section 00360) in the proposal. The processing price per ton will be a weighted average of the price based on the historical tonnage from the previous fiscal year and includes a projected estimated tonnage of the green waste / food waste portion of the residential curbside recycling program.

Proposer qualifications and experience will be rated based on the proposer's ability to demonstrate past and current performance and sound operational experience in the disposition of organic materials. EP&S will look favorably to those proposers who demonstrate effective and safe management of human and capital resources with respect to organic materials processing.

Facility processing capability will be rated based on the proposer's ability to efficiently manage resource throughput at the facility. Safe, timely, and efficient transfer of organic material from the vehicle to the tipping area is very important to EP&S. In addition, EP&S will evaluate the proposer's ability to effectively process material and prevent unnecessary organic material stockpiling and potential permit violations. Lastly, this evaluation criteria will consider the proposer's Proposed Diversion Facility Transition Plan (Section 00350).

Methodology will be rated based upon use of one or more established and proven methodologies for the disposition of organic materials. The proposal shall include a description of the system that will be used, including equipment, process methodologies, facilities for storage, processing, and the disposition of accepted organic materials, and the facilities' material capacity and backup systems, if any, in the event the primary methodology cannot be utilized due to equipment failure or other reasons.

Proposer references will be rated based on the three public or private references provided in the proposal. EP&S plans to ensure that past and current organic materials processing programs under the auspices of the proposer demonstrate the capability of the proposer to successfully complete the scope of work contemplated.

END OF SECTION

SECTION 00300

PROPOSAL

Director of Finance
County of Maui
Kalana O Maui Building
200 South High Street
Wailuku, Hawaii 96793

The undersigned, as proposer declares that we have received and examined the project specifications entitled "**LANDFILL DIVERSION OF ORGANIC MATERIALS**" and will contract with the County, to fulfill the contract for the "**LANDFILL DIVERSION OF ORGANIC MATERIALS**" at the prices and on the terms and conditions herein contained.

We agree that, at a minimum, the following shall form part of the proposal:

<u>Section</u>	<u>Title</u>
00300	Proposal
00310	Proposer Information
00320	Proposed Diversion Facility Information
00330	References
00340	Proposed Diversion Facility Site Plan
00350	Proposed Diversion Facility Transition Plan
00360	Proposal Schedule

We acknowledge that addenda numbers _____ through _____ have been received and have been examined as part of the RFP.

The undersigned, as proposer, hereby declares that this proposal is made in good faith without fraud or collusion with any person or persons proposing on the same contract; that proposer has carefully read and examined the contract documents including the RFP advertisement and Request for Proposals, and understands all the same and that the proposer or representative has made such personal investigation as is necessary to determine the character and difficulties involving the execution of the proposed work.

The proposer acknowledges that proposer has not received or relied upon any representations or warranties of any nature whatsoever from the County of Maui, its agents or employees, as to any conditions to be encountered in accomplishing the work and that this proposal is based solely upon the proposer's own independent business judgment.

The proposer recognizes that proposer will not be entitled to any additional compensation by reason of conditions being different from those anticipated, or by reason of failing to be fully acquainted with the conditions and the work now in place or on account of interference by the County's or by any other activities which affect the work of this contract.

Landfill Diversion of
Organic Materials

00300-1

Proposal

The undersigned hereby proposes and agrees that if this proposal be accepted, the proposer will contract with the County to furnish all necessary labor, materials, equipment, machinery, tools, apparatus, site, and other means for performing related work for the specific project proposed, and do all the work required to perform the work herein specified in complete conformity with the RFP advertisement, RFP and contract, and other portions of the RFP for the unit prices and for the calendar periods listed in this proposal.

The undersigned also agrees that if the foregoing proposal shall be selected by the County, proposer will meet with the County within five (5) days of selection to negotiate the final points of the contracts, and within thirty (30) days (Sundays and legal holidays excepted) after receiving notice of such selection, use best efforts to complete negotiation on outstanding issues, if any, for performing related work at the prices and for the time stated in this proposal and that proposer will furnish the County a certificate of insurance for coverage as stated in the RFP.

The undersigned agrees that if awarded the contract, proposer will start work July 1, 2016, or on such other date as the County and proposer shall agree.

In submitting this proposal, it is understood that the right is reserved by the County to reject any or all proposals, to waive irregularities and/or formalities, and in general, to make award in any manner deemed by it, in its sole discretion, to be in the best interest of the County.

If our proposal is accepted, we agree to sign the agreement without qualifications and to furnish the required evidences of insurance after receiving written notice of the award of the contract.

Name of Proposer

Signature of Proposer

Title of Signator

Witness

Address of Proposer

Title of Witness

State of Incorporation

END OF SECTION

Landfill Diversion of
Organic Materials

00300-2

Proposal

SECTION 00310

PROPOSER INFORMATION

The proposer must complete the following information as part of the proposal.

A. General Information

Firm: _____

Address: _____

Telephone: _____ Fax: _____

Contact: _____

Type of organization (corporation, joint venture, partnership, individual):

B. Facility Information

Primary Diversion Facility (provide type of facility, capacity [TPD, TPY],):
(attach additional sheets, if necessary)

C. Business Information

1. Have you ever failed to complete any contract awarded to you?

If so, where and why?

2. Has any officer or partner of your organization ever been an officer or partner of some other organization that failed to complete a contract?

If so, state name of individual, other organization, reason therefore, and bonding company.

3. Has any officer or partner of your organization ever failed to complete a contract handled in his or her own name?

If so, state name of individual, name of owner, reason therefore, and bonding company.

4. With what other lines of business are you directly or indirectly affiliated?

5. With what individuals or entities have you been associated as partner or otherwise during the past five years? Attach additional sheets as necessary.

6. Describe the nature of your current business.

7. State the length of time you have been in that business under your present name.

8. Has any facility that you operated been the subject of administrative or judicial action for alleged violation of environmental or public health laws or regulations? If so, state the details and disposition. Attach additional sheets as necessary.

9. Have you, your partners, members, joint venturers, parent corporation, or subsidiaries been a party to any lawsuits within the last three years? If so, list these lawsuits. Attach additional sheets as necessary.

D. Ambiguity

In case of ambiguity or lack of clarity in stating prices in the proposal, EP&S shall have the right to construe such prices in a manner most advantageous to EP&S or to reject the proposal.

END OF SECTION

SECTION 00320

PROPOSED DIVERSION FACILITY INFORMATION

The proposer must complete the following information as part of the proposal.

Total Site Acreage Required _____ acres

Proposed Processing Area (if applicable) _____ ft²

Proposed Processing Capacity (if applicable) _____ yd³

Proposed Finish Storage Area (if applicable) _____ ft²

Proposed Finish Storage Capacity (if applicable) _____ yd³

Odor Control System, Type (if any) _____

PROPOSED FIXED EQUIPMENT:

<u>Equipment Items</u>	<u>Quantity</u>	<u>Age</u>	<u>Manufacturer</u>	<u>Make/Model</u>

PROPOSED ROLLING STOCK:

<u>Vehicles</u>	<u>Quantity</u>	<u>Age</u>	<u>Manufacturer</u>	<u>Make/Model</u>

END OF SECTION

SECTION 00330

REFERENCES

The proposer must provide a minimum of three (3) references from customers for who similar landfill diversion work was performed by the proposer in a satisfactory manner. Name of customer, contact, address and phone number shall be provided for each reference.

Proposers shall include the following information for each reference:

- Start (and completion, if applicable) dates of contract
- Approximate value of contract
- Types of diversion materials processed
- Quantities of materials processed (by type of material) in each year of contract
- Types and quantities of material processed
- Description of sale of material processed
- Description of equipment used for processing (if different than that currently proposed)
- Number of employees at the landfill diversion facility (during contract, if different than that currently proposed)
- Names of major purchasers of processed material and description of contract structure for purchase and sale of materials
- Problems experienced and actions taken to resolve problems
- Evidence of customer satisfaction with service

Customers used as references in response to this RFP by proposers offering landfill diversion services should be served by a similar type of landfill diversion facility the proposer proposes to utilize for County landfill diversion of organic materials program.

Complete information, as requested above, on references meeting these criteria should be compiled and attached to the proposal submission. Names of references should be listed below.

Reference Names and contact information:

#1. _____

#2. _____

#3. _____

END OF SECTION

SECTION 00340

PROPOSED DIVERSION FACILITY SITE PLAN

The proposer must submit a facility site plan on a separate sheet, which shows the ingress and egress locations, the location of the drop-off for each material type, each processing area, finished product storage area (if applicable), compost loading areas and the directional flow path of public and commercial vehicles utilizing the facility.

END OF SECTION

SECTION 00360

PROPOSAL SCHEDULE

The Landfill Diversion of Organic Materials project consists of the diversion of organic material delivered to the Central Maui Landfill by County, public, and commercial vehicles. The proposer hereby certifies that the costs of all facility costs, labor, equipment, tools, materials, transportation, and taxes necessary for the proper completion of the scope of work, as described in the document herein, have been included in the prices on the following sheet.

The proposer understands that EP&S will pay the stated prices based on invoices of the associated tonnage of material (scale tickets) provided by the scale house attendant at the Central Maui Landfill.

The proposer must accept green waste collected as part of the County residential curbside recycling program. A price per ton to accommodate this program shall be part of the proposal. Depending on the success of the program, the County residential curbside recycling program may expand or cease in the near future.

Green waste delivered by private, non-commercial vehicles from the general public shall be accepted at no charge. If a private hauler appears to be dumping a commercial load into the facility at no charge, it is the proposer's responsibility to report the vehicle to the County. In addition, used cooking oil from the general public and private haulers shall be accepted at no charge.

As a point of reference, the current charges to commercial haulers and County biosolid haulers as stated in the County of Maui Fiscal Year 2016 budget are as follows:

Commercial Green Waste	\$ 20 per ton
Biosolids	\$ 83 per ton
Fats, Oils, and Grease	\$ 50 per ton

The above pricing schedule is reviewed and approved annually by the Maui County Council during its fiscal year budget deliberations.

Proposers are required to provide pricing for the listed items and must accommodate all organic waste streams (fractional solutions will not be considered). All organic waste streams means commercial green waste, biosolids, used cooking oil, grease trap waste, County curbside collected green waste, and private, non-commercial green waste.

The proposer understands and agrees that the County of Maui reserves the right to decrease or delete any item or portion of the work as may be required prior to the award of the contract due to budget constraints and that the proposer will make no claims for anticipated profit or compensation because of the decrease or deletion of work.

Landfill Diversion of Organic Materials Pricing			
Item	Description	Price	Unit
1	Commercial green waste		Per Ton
2	Biosolids		Per Ton
3	Grease trap waste		Per Ton
4	Used cooking oil	- 0 -	Per Ton
5	County curbside collected green waste		Per Ton
6	Private, non-commercial green waste	- 0 -	Per Ton

END OF SECTION

SECTION 00400

GENERAL CONDITIONS

PART 1 – GENERAL

- 1.01 A copy of the County of Maui General Terms and Conditions for Goods and Services, Revised June 2015, is included herein.

General Conditions are also available online at the County of Maui Website:

<http://www.mauicounty.gov/DocumentCenter/Home/View/3186>

END OF SECTION

**COUNTY OF MAUI
GENERAL CONDITIONS
FOR PURCHASE OF GOODS AND SERVICES**

1. COORDINATION OF SERVICES BY THE COUNTY. The Officer-in-Charge shall coordinate the services to be provided by the CONTRACTOR in order to complete the performance required in this Contract. The CONTRACTOR shall maintain communications with the Officer-in-Charge at all stages of the CONTRACTOR's work, and submit to the head of the purchasing agency for resolution any questions which may arise as to the performance of this Contract. "Purchasing agency" as used in these General Conditions means and includes any COUNTY department or division which is authorized to enter into contracts for the procurement of goods and services.

2. RELATIONSHIP OF PARTIES: INDEPENDENT CONTRACTOR STATUS AND RESPONSIBILITIES, INCLUDING TAX RESPONSIBILITIES.

a. In the performance of services required under this Contract, the CONTRACTOR is an "independent contractor," with the authority and responsibility 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 to determine whether, in the COUNTY's opinion, the services are being performed by the CONTRACTOR in compliance with this Contract. Unless otherwise provided by special condition, it is understood that the COUNTY does not agree to use the CONTRACTOR exclusively, and that the CONTRACTOR is free to contract to provide services to other individuals or entities while under contract with the COUNTY.

b. The CONTRACTOR and the CONTRACTOR's employees and agents are not by reason of this Contract, agents or employees of the COUNTY for any purpose, and the CONTRACTOR and the CONTRACTOR's employees and agents shall not be entitled to claim or receive from the COUNTY any vacation, sick leave, retirement, workers' compensation, unemployment insurance, or other benefits provided to the COUNTY employees.

c. The CONTRACTOR shall be responsible for the accuracy, completeness, and adequacy of the CONTRACTOR'S performance under this Contract. Furthermore, the CONTRACTOR intentionally, voluntarily, and knowingly assumes the sole and entire liability to the CONTRACTOR'S employees and agents, and to any individual not a party to this Contract, for all loss, damage, or injury caused by the CONTRACTOR, or the CONTRACTOR'S employees or agents in the course of their employment.

d. The CONTRACTOR shall be responsible for payment of all applicable federal, state, and county taxes and fees which may become due and owing by the CONTRACTOR by reason of this Contract, including but not limited to (i) income taxes, (ii) employment related fees, assessments, and taxes and (iii) general excise taxes. Unless provided otherwise by agreement between the parties, the CONTRACTOR also is responsible for obtaining all licenses, permits, and certificates that may be required in order to perform this Contract.

e. The CONTRACTOR shall obtain a general excise tax license from the Department of Taxation, State of Hawaii, in accordance with Section 237-9, Hawaii Revised Statutes ("HRS"), and shall comply with all requirements thereof. The CONTRACTOR shall obtain a tax clearance certificate with all requirements thereof. The CONTRACTOR shall obtain a tax clearance certificate from the Director of Taxation, State of Hawaii, showing that all delinquent taxes, if any, levied or accrued under State law against the CONTRACTOR have been paid and submit the same to the COUNTY prior to commencing any performance under this Contract. The CONTRACTOR shall also be solely responsible for meeting all requirements necessary to obtain the tax clearance certificate required for final payment under Section 103-53, HRS and Paragraph 17 of these General Conditions.

f. The CONTRACTOR is responsible for securing all employee-related insurance coverage for the CONTRACTOR and the CONTRACTOR's employees and agents that is or may be required by law, and for payment of all premiums, costs, and other liabilities associated with securing the insurance coverage.

g. The CONTRACTOR shall obtain a certificate of compliance issued by the Department of Labor and Industrial Relations, State of Hawaii, in accordance with section 103D-310, HRS, and sections 3-122-112, Hawaii Administrative Rules, ("HAR"), that is current within six months of the date of issuance.

h. The CONTRACTOR shall obtain a certificate of good standing issued by the Department of Commerce and Consumer Affairs, State of Hawaii, in accordance with section 103D-310, HRS, and section 3-122-112, HAR, that is current within six months of the date of issuance.

I. In lieu of the above certificates from the Department of Taxation, Labor and Industrial Relations, and Commerce and Consumer Affairs, the CONTRACTOR may submit proof of compliance through the State Procurement Office's designated certification process.

3. PERSONNEL REQUIREMENTS.

a. The CONTRACTOR shall secure, at the CONTRACTOR's own expense, all personnel required to perform this Contract.

b. The CONTRACTOR shall ensure that the CONTRACTOR's employees or agents are experienced and fully qualified to engage in the activities and perform the services required under this Contract, and that all applicable licensing and operating requirements imposed or required under Federal, State or County law, and all applicable accreditation and other standards of quality generally accepted in the field of the activities of such employees and agents are complied with and satisfied.

4. NONDISCRIMINATION. No person performing work under this Contract, including any subcontractor, employee, or agent of the CONTRACTOR, shall engage in any discrimination that is prohibited by any applicable Federal, State, or County law.

5. CONFLICTS OF INTEREST. The CONTRACTOR represents that neither the CONTRACTOR, nor any employees or agent of the CONTRACTOR, presently has any interest, and promises that no such interest, direct or indirect, shall be acquired, that would or might conflict in any manner or degree with the CONTRACTOR's performance under this Contract.

6. SUBCONTRACTS AND ASSIGNMENTS; CHANGE OF NAME.

a. No assignment without consent. The CONTRACTOR shall not assign or subcontract any of the CONTRACTOR'S duties, obligations, or interests under this Contract and no such assignment or subcontract shall be effective unless (1) the CONTRACTOR obtains the prior written consent of the COUNTY and (2) the CONTRACTOR'S assignee or subcontractor submits to the COUNTY a tax clearance certificate from the Director of Taxation, State of Hawaii, showing that all delinquent taxes, if any, levied or accrued under State law against the CONTRACTOR'S assignee or subcontractor have been paid. Additionally, no assignment by the CONTRACTOR of the CONTRACTOR'S right to compensation under this Contract shall be effective unless and until the assignment is approved by the COUNTY.

b. Recognition of a successor in interest. When in the best interests of the COUNTY, a successor in interest may be recognized in an assignment agreement in which the COUNTY, the CONTRACTOR and the assignee or transferee (hereinafter referred to as the "Assignee") agree that:

1) The Assignee assumes all of the CONTRACTOR'S obligations;

2) The CONTRACTOR remains liable for all obligations under this Contract but waives all rights under this Contract as against the COUNTY; and

3) The CONTRACTOR shall continue to furnish, and the Assignee shall also furnish, all required bonds.

c. Change of name. When the CONTRACTOR asks to change the name under which it holds this Contract with the COUNTY, the contract officer of the purchasing agency shall, upon receipt of a document acceptable or satisfactory to said officer indicating such change of name (for example, an amendment to the CONTRACTOR'S articles of incorporation), enter into an amendment to this Contract with the CONTRACTOR to effect such a change of name. The amendment to this Contract changing the CONTRACTOR'S name shall specifically indicate that no other terms or conditions of this Contract are thereby changed.

d. Reports. All assignment contracts and amendments to this Contract effecting changes of CONTRACTOR'S name or novations hereunder shall be reported to the chief procurement officer as defined in section 103D-203(b), HRS, within 30 days of the date that the assignment contract or amendment becomes effective.

e. Actions affecting more than one purchasing agency. Notwithstanding the provisions of Subparagraphs b. through d. herein, when the CONTRACTOR holds contracts with more than one purchasing agency of the COUNTY, the assignment contracts and the novation and change of name amendments herein authorized shall be processed only through the County Department of Finance

7. INDEMNIFICATION AND DEFENSE. Except as provided for in Section 103D-713, HRS, the CONTRACTOR shall defend, indemnify and hold harmless the COUNTY, the contracting department and their directors, employees and agents from and against all liability, loss, damage, cost and expense, including all attorneys' fees and costs, and all claims, suits and demands therefor, arising out of or in connection with any acts or omissions of the CONTRACTOR or the CONTRACTOR'S employees, officers, agents or subcontractors under this Contract. The provisions of this Paragraph shall remain in full force and effect notwithstanding the expiration or early termination of this Contract for any reason.

8. COST OF LITIGATION. In case the COUNTY shall, without any fault on its part, be made a party to any litigation commenced by or against the CONTRACTOR in connection with this Contract, the CONTRACTOR shall pay any cost and expense incurred by or imposed on the COUNTY, including attorneys' fees.

9. LIQUIDATED DAMAGES. When the CONTRACTOR is given notice of delay or nonperformance as specified in Paragraph 13 (Termination for Default) and fails to cure in the time specified, it is agreed the CONTRACTOR shall pay to the COUNTY the amount, if any, set forth in this Contract per calendar day from the date set for cure until either (I) the COUNTY reasonably obtains similar goods or services, or both, if the CONTRACTOR is terminated for default, or (ii) until the CONTRACTOR provides the goods or services, or both, if the CONTRACTOR is not terminated for default. To the extent that the CONTRACTOR's delay or nonperformance is excused under Subparagraph 13.d. (Excuse for Nonperformance or Delay Performance), liquidated damages shall not be assessable against the CONTRACTOR. The CONTRACTOR shall remain liable for damages caused other than by delay. This Paragraph is of no force and effect unless the amount of liquidated damages is specified in the Contract.

10. COUNTY'S RIGHT OF OFFSET. The COUNTY may offset against any monies or other obligations the COUNTY owes to the CONTRACTOR under this Contract, any amounts owed to the COUNTY by the CONTRACTOR under this Contract or any other contracts, or pursuant to any law or other obligation owed to the COUNTY by the CONTRACTOR, including, without limitation, the payment of any taxes or levies of any kind or nature. The COUNTY will notify the CONTRACTOR in writing of any offset and the nature of such offset. For purposes of this Paragraph, amounts owned to the COUNTY shall not include debts or obligations which have been liquidated, agreed to by the CONTRACTOR, and are covered by an installment payment or other settlement plan approved by the COUNTY, provided, however, that the CONTRACTOR shall be entitled to such exclusion only to the extent that the CONTRACTOR is current with, and not delinquent on, any payments or obligations owed to the COUNTY under such payment or other settlement plan.

11. DISPUTES. Disputes shall be resolved in accordance with Section 103D-703, HRS and Chapter 3-126, HAR.

12. SUSPENSION OF AGREEMENT. The COUNTY reserves the right at any time and for any reason to suspend this Contract for any reasonable period, upon written notice to the CONTRACTOR in accordance with the provisions herein.

a. Order to stop performance. The head of the purchasing agency may, by written order to the CONTRACTOR at any time, and without notice to any surety, require the CONTRACTOR to stop all or any part of the performance called for by this Contract. This order shall be for a specified period of time not exceeding sixty (60) days after the order is delivered to the CONTRACTOR, unless the parties agree to any further period. Any such order shall be identified specifically as a stop performance order issued pursuant to this section. Upon receipt of such an order, the CONTRACTOR shall forthwith comply with its terms and take all reasonable steps to minimize the occurrence of costs allocable to the performance covered by the order during the period of performance stoppage. Before the stop performance order expires, or within any further period to which the parties shall have agreed, the head of the purchasing agency shall either:

1) Cancel the stop performance order; or

2) Terminate the performance covered by such order as provided in the termination for default provision or the termination for convenience provision of this Contract.

b. Cancellation or expiration of the order. If a stop performance order issued under this section is cancelled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, the CONTRACTOR shall have the right to resume performance. An appropriate adjustment shall be made in the delivery or performance schedule or compensation, or both, and the Contract shall be modified in writing accordingly, if:

1) The stop performance order results in an increase in the time required for, or in the CONTRACTOR'S cost properly allocable to, the performance of any part of this Contract and

2) The CONTRACTOR asserts a claim for such adjustment within thirty (30) days after the end of the period of performance stoppage provided that if the head of the purchasing agency decides that the facts justify such action, any such claim asserted may be received and acted upon at any time prior to final payment under this Contract.

c. Termination of stopped performance. If a stop performance order is not cancelled and the performance covered by such order is terminated for default or convenience, the reasonable costs resulting from the stop performance order shall be allowable by adjustment or otherwise.

d. Adjustment of price. Any adjustment in contract price made pursuant to this Paragraph shall be determined in accordance with the price adjustment provisions of this Contract.

13. TERMINATION FOR DEFAULT.

a. Default. If the CONTRACTOR refuses or fails to perform any of the provisions of this Contract with such diligence as will ensure its completion within the time specified in this Contract, or any extension thereof, or otherwise fails to timely satisfy the Contract provisions, or commits any other substantial breach of this Contract, the head of the purchasing agency may notify the CONTRACTOR in writing of the delay or non-performance and if not cured in ten (10) days or any longer time specified in writing by the head of the purchasing agency, the head of the purchasing agency may terminate the CONTRACTOR's right to proceed with the Contract or such part of the Contract as to which there has been delay or failure to properly perform. In the event of termination in whole or in part the head of the purchasing agency may procure similar goods or services in a manner and upon the terms deemed appropriate by the head of the purchasing agency. The CONTRACTOR shall continue performance of the Contract to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods and services.

b. CONTRACTOR'S duties. Notwithstanding termination of the Contract and subject to any directions from the head of the purchasing agency, the CONTRACTOR shall take timely, reasonable, and necessary action to protect and preserve property in the possession of the CONTRACTOR in which the COUNTY has an interest.

c. Compensation. Payment for completed goods and services delivered and accepted by the COUNTY shall be at the price set forth in the Contract. Payment for the protection and preservation of property shall be in an amount agreed upon by the CONTRACTOR and the head of the purchasing agency. If the parties fail to agree, the head of the purchasing agency shall set the amount subject to the CONTRACTOR's rights under chapter 3-126, HAR. The COUNTY may withhold from amounts due the CONTRACTOR such sums as the head of the purchasing agency deems to be necessary to protect the COUNTY against loss because of outstanding liens or claims of former lien holders and to reimburse the COUNTY for the excess costs incurred by the COUNTY in procuring similar goods and services.

d. Excuse for nonperformance or delayed performance. Except with respect to defaults of subcontractors, the CONTRACTOR shall not be in default by reason of any failure in performance of this Contract in accordance with its terms, if the CONTRACTOR has notified the head of the purchasing agency within fifteen (15) days after the cause of the delay and the failure arises out of causes including acts of God; acts of the public enemy; acts of the State and any other governmental body in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather. If the failure to perform is caused by the failure of a subcontractor to perform or to make progress, and if such failure arises out of causes similar to those set forth above, the CONTRACTOR shall not be deemed to be in default, unless the goods and services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the CONTRACTOR to meet the requirements of the Contract. Upon request of the CONTRACTOR, the head of the purchasing agency shall ascertain the facts and extent of the failure, and, if he or she determines that any failure to perform was occasioned by any one or more of the excusable causes, and that, but for the excusable cause, the CONTRACTOR'S progress and performance would have met the terms of the Contract, the delivery schedule or the time of performance shall be revised accordingly, subject to the rights of the COUNTY under the clause entitled, in fixed-price contracts, "Termination for Convenience," and in cost-reimbursement contracts, "Termination." As used in this Paragraph the term "subcontractor" means subcontractor at any tier.

e. Erroneous termination for default. If, after notice of termination of the CONTRACTOR's right to proceed under this Paragraph, it is determined for any reason that the CONTRACTOR was not in default under this Paragraph, or that the delay was excusable under the provisions of Subparagraph d., "Excuse for nonperformance or delayed performance," the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Paragraph 14.

f. Additional rights and remedies. The rights and remedies provided in this Paragraph are in addition to any other rights and remedies provided by law or under this Contract.

14. TERMINATION FOR CONVENIENCE BY THE COUNTY.

a. Termination for convenience. The head of the purchasing agency may, when the interests of the COUNTY so require, terminate this Contract in whole or in part, for the convenience of the COUNTY. The head of the purchasing agency shall give written notice of the termination to the CONTRACTOR specifying the part of the Contract terminated and when such termination becomes effective.

b. CONTRACTOR's obligations. The CONTRACTOR shall incur no further obligations in connection with the terminated performance, and on the date(s) set in the notice of termination the CONTRACTOR shall stop performance to the extent specified. The CONTRACTOR shall also terminate outstanding orders and subcontracts as they relate to the terminated performance. The CONTRACTOR shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated performance subject to the County's approval. The head of the purchasing agency may direct the CONTRACTOR to assign the

CONTRACTOR'S right, title, and interest under terminated orders or subcontracts to the COUNTY. The CONTRACTOR must still complete the performance not terminated by the notice of termination and may incur obligations as are necessary to do so.

c. Right to goods and work product. The head of the purchasing agency may require the CONTRACTOR to transfer title and deliver to the COUNTY in the manner and to the extent directed by the head of the purchasing agency:

1) Any completed goods or work product or both; and
2) The partially completed goods and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "manufacturing material") as the CONTRACTOR has specifically produced or specially acquired for the performance of the terminated part of this Contract. The CONTRACTOR shall, upon direction of the head of the purchasing agency, protect and preserve property in the possession of the CONTRACTOR in which the COUNTY has an interest. If the head of the purchasing agency does not exercise this right, the CONTRACTOR shall use CONTRACTOR's best efforts to sell such goods and manufacturing materials. Use of this Paragraph in no way implies that the COUNTY has breached the Contract by exercise of the termination for convenience provision.

d. Compensation.

1) The CONTRACTOR shall submit a termination claim specifying the amounts due because of the termination for convenience, together with cost or pricing data to the extent required by subchapter 15, chapter 3-122 of the HAR, bearing on the claim. If the CONTRACTOR fails to file a termination claim within one year from the effective date of termination, the head of the purchasing agency may pay the CONTRACTOR, if at all, an amount set in accordance with d.(3) of this Paragraph.

2) The head of the purchasing agency and the CONTRACTOR may agree to a settlement provided the CONTRACTOR has filed a termination claim supported by cost or pricing data submitted to the extent required by subchapter 15, chapter 3-122 of the HAR, and that the settlement does not exceed the total Contract price plus settlement costs reduced by payments previously made by the COUNTY, the proceeds of any sales of goods and manufacturing materials under Subparagraph c. of this Paragraph, and the Contract price of the performance not terminated.

3) Absent complete agreement under Subparagraph d.2) above, the head of the purchasing agency shall pay the CONTRACTOR the following amounts, provided payments agreed to under Subparagraph d.2) shall not duplicate payments under this Subparagraph for the following:

(A) Contract prices for goods or services or both accepted under the Contract;

(B) Costs incurred in preparing to perform and performing the terminated portion of the work or performance plus a five per cent markup on actual direct costs on the portion of the work or performance, the markup shall not include anticipatory profit or consequential damages, less amounts paid or to be paid for accepted goods or services or both; provided, however, that if it appears that the CONTRACTOR would have sustained a loss if the entire Contract would have completed, no markup shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss;

(C) Subject to the prior approval of the head of the purchasing agency, costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to Subparagraph b. Subcontractors shall be entitled to a markup of no more than ten per cent on direct costs incurred to the date of termination. These costs must not include costs paid in accordance with Subparagraph d.3)(B).

(D) The total sum to be paid the CONTRACTOR under this Subparagraph shall not exceed the total Contract price reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under Subparagraph c.3) and the Contract price of performance not terminated.

4) Costs claimed, agreed to, or established under Subparagraphs d.2) and d.3) above shall be in accordance with Chapter 3-123, HAR.

15. CLAIMS BASED ON THE HEAD OF THE PURCHASING AGENCY'S ACTIONS OR OMISSIONS.

a. Change in scope. If any action or omission on the part of the head of the purchasing agency (which term includes the designee of such person) requiring performance changes within the scope of the Contract constitutes the basis for a claim by the CONTRACTOR for additional compensation, damages or an extension of time for completion, the CONTRACTOR shall continue with performance of the Contract in compliance with the directions or orders of proper officials, but by so doing, the CONTRACTOR shall not be deemed to have prejudiced any claim for additional compensation, damages or extension of time for completion, provided:

1) The CONTRACTOR shall have given written notice to the head of the purchasing agency:

(A) Prior to the commencement of the performance involved, if at that time the CONTRACTOR knows of the occurrence of such action or omission;

(B) Within thirty (30) days after the CONTRACTOR knows of the occurrence of such action or omission, if the CONTRACTOR did not have such knowledge prior to the commencement of the performance or

(C) Within such further time as may be allowed by the head of the purchasing agency in writing.

2) This notice shall state that the CONTRACTOR regards the act or omission as a reason which may entitle the CONTRACTOR to additional compensation, damages or an extension of time. The head of the purchasing agency or his or her designee, upon receipt of such a notice, may rescind such action, remedy such omission or take such other steps as may be deemed advisable in the discretion of the head of the purchasing agency or his or her designee.

3) The notice required by Subparagraph a.1) of this Paragraph must describe as clearly as practicable, at the time, the reasons why the CONTRACTOR believes that additional compensation, damages or an extension of time may be remedies to which the CONTRACTOR is entitled; and

4) The CONTRACTOR must maintain and, upon request, make available to the head of the purchasing agency within a reasonable time, detailed records to the extent practicable, and other documentation and evidence satisfactory to the COUNTY, of the claimed additional costs or an extension of time in connection with such changes.

b. Nothing herein contained, however shall excuse the CONTRACTOR from compliance with any rules or laws precluding any County officers and CONTRACTOR from acting in collusion or bad faith in issuing or performing change orders which are clearly not within the scope of the Contract.

c. Any adjustment in the price made pursuant to this Paragraph shall be determined in accordance with the price adjustment provisions of the Contract and these General Conditions.

16. COST AND EXPENSES. Any reimbursement due the CONTRACTOR for per diem and transportation expenses under this Contract shall be subject to chapter 3-123 (Cost Principles), HAR, and the following guidelines:

a. Reimbursement for air transportation shall be for actual cost or coach class airfare, whichever is less.

b. Reimbursement for ground transportation costs shall not exceed the actual cost of renting an intermediate-sized vehicle.

c. Unless prior written approval of the head of the purchasing agency is obtained, reimbursement for subsistence allowable allowance (i.e., hotel and meals) shall not exceed the applicable daily authorized rates for inter-island or out-of-state travel for County officers and employees in the executive branch who are excluded from collective bargaining coverage. No other travel or living expense (e.g., tips, entertainment, alcohol, etc.) shall be reimbursed by the COUNTY, other than those items listed in Subparagraphs a. and b. of this Paragraph. Invoices shall document the days of travel by including the name of the traveler, itinerary, airfare receipt, hotel receipt, and ground transportation receipts. All travel must be pre-approved by the COUNTY Officer-in-Charge.

d. CONTRACTORS with an office located on the same island as the site of the services to be provided pursuant to this Contract are not entitled to per diem or transportation expense reimbursement unless expressly specified in the Contract.

17. PAYMENT PROCEDURES; FINAL PAYMENT; TAX CLEARANCE.

a. Original invoices required. All payments under this Contract shall be made only upon submission by the CONTRACTOR of original invoices specifying the amount due and certifying that services requested under the Contract have been performed by the CONTRACTOR according to the Contract.

b. Subject to available funds. Such payments are subject to availability of funds, and all payments shall be made in accordance with and subject to Article 9 of the County of Maui Charter.

c. Payment only for work under contract. The COUNTY is not responsible to pay for work performed by CONTRACTOR or its subcontractors that is not in this Contract and any amendments or change orders thereto. CONTRACTOR must follow Paragraph 19, Contract Modifications, or Paragraph 20, Change Orders, and must have proper authorization before performing work outside the original Contract.

d. Final payment. Final payment under this Contract shall be subject to sections 103-53 and 103D-328, HRS, which require a tax clearance from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR have been paid. Further, in accordance with section 3-122-112, HAR, CONTRACTOR shall provide a certificate affirming that the CONTRACTOR has remained in compliance with all applicable laws as required by this section.

18. FEDERAL OR STATE FUNDS. If this Contract is payable in whole or in part from federal or state of Hawaii ("State") funds, CONTRACTOR agrees that, as to the portion of the compensation under this Contract to be payable from federal or State funds, the CONTRACTOR shall be paid only from such funds received from the

federal or State government, and shall not be paid from any other funds. Failure of the County to receive anticipated federal or

State funds shall not be considered a breach by the County or an excuse for nonperformance by the CONTRACTOR.

19. CONTRACT MODIFICATIONS.

a. Modification in writing; no verbal modification. At any time, and without notice to any surety, the head of the purchasing agency, subject to mutual agreement of the parties to the Contract in writing and all appropriate adjustments, may make modifications within the general scope of this Contract to include any one or more of the following:

- 1) Drawings, designs, or specifications, for the goods to be furnished or services to be performed;
- 2) Method of shipment or packing;
- 3) Place of delivery;
- 4) Description of services to be performed;
- 5) Time of performance (I. e., hours of the day, days of the week, etc.);
- 6) Place of performance of the services; or
- 7) Other provisions of the contract accomplished by mutual action of the parties to the contract.

b. No verbal modification. No verbal modification, alteration, amendment, change or extension of any term, provision or condition of this Contract shall be permitted or acknowledged.

c. Adjustment of price or time for performance. If any modification increases or decreases the CONTRACTOR'S cost of, or the time required for, performance of any part of the work under this Contract, an adjustment shall be made and this Contract modified in writing accordingly. Any adjustment in price made pursuant to this clause shall be determined, where applicable, in accordance with the price adjustment clause of this Contract or as negotiated.

d. Claim barred after final payment. No claim by the CONTRACTOR for an adjustment hereunder shall be allowed if the claim is not received by the head of the purchasing agency prior to final payment under this Contract.

e. Other claims not barred. In the absence of a written modification to the Contract, nothing in this clause shall be deemed to restrict the CONTRACTOR'S right to pursue a claim under this Contract or for a breach of contract.

f. Professional Services Contract. If this is a professional services contract awarded pursuant to Section 103D-304, HRS, any modification, alteration, amendment, change or extension of any term, provision or extension of this Contract which increases the amount payable to the CONTRACTOR by at least \$25,000.00 and ten per cent (10%) or more of the initial Contract price must receive the prior approval of the County Director of Finance.

g. Tax clearance. The COUNTY may, at its discretion, require the CONTRACTOR to submit to the COUNTY, prior to the COUNTY'S approval of any modification, alteration, amendment, change or extension of any term, provision or condition of the Contract, a tax clearance from the Director of Taxation, State of Hawaii, showing that all delinquent taxes, if any, levied or accrued against the CONTRACTOR have been paid.

h. Sole source agreements. Amendments to sole source agreements that would change the original scope of the agreement, or increase the original contract price by ten percent or more, may only be made with the approval of the Chief Procurement Officer. Annual renewal of a sole source agreement for services shall not be submitted as an amendment.

20. CHANGE ORDERS. A change order is a written order signed by the head of the purchasing agency, directing the CONTRACTOR to make changes which the "changes clause" described below authorizes the head of the purchasing agency to order without the consent of the CONTRACTOR.

a. Changes Clause Generally. By written order, at any time, and without notice to any surety, the head of the purchasing agency may, unilaterally, order of the CONTRACTOR:

- 1) Changes in the work within the scope of the Contract; and
- 2) Changes in the time of performance of the Contract that do not alter the scope of the contract

work.

b. Adjustments of price or time for performance. If any change order increases or decreases the CONTRACTOR'S cost of, or the time required for, performance of any part of the work under this Contract, an adjustment shall be made and the Contract modified in writing accordingly. Any adjustment in contract price made pursuant to this clause shall be determined, where applicable, in accordance with the price adjustment provision of this Contract. Failure of the parties to agree to an adjustment in contract price shall be resolved in accordance with Subparagraph a.5) of Paragraph 21 on Price Adjustment. Failure of the parties to agree to an adjustment in time shall not excuse the CONTRACTOR from proceeding with the Contract as changed, provided that the head of the purchasing agency, within fourteen days after the changed work commences, makes the provisional adjustments in time as the head of the purchasing agency deems reasonable. The right of the CONTRACTOR to dispute the

contract price or time required for performance or both shall not be waived by its performing the work, provided however, that it follows the written notice requirements for disputes and claims established by the Contract.

c. Time period for claim. Except as may be provided otherwise by section 103D-501(b), HRS, the CONTRACTOR must file a written claim disputing the contract price or time provided in a change order within ten days after receipt of a written change order, unless such period for filing is extended by the head of the purchasing agency in writing. The requirement for filing a timely written claim cannot be waived and shall be a condition precedent to the assertion of a claim.

1) Claim barred after final payment. No claim by the CONTRACTOR for an adjustment hereunder shall be allowed if the claim is not received by the head of the purchasing agency prior to final payment under this Contract.

2) Other claims not barred. In the absence of such a change order, nothing in this clause shall be deemed to restrict the CONTRACTOR'S right to pursue a claim under the Contract or for breach of contract.

21. PRICE ADJUSTMENT.

a. Price adjustment. Any adjustment in the Contract price pursuant to a provision in this Contract shall be made in one or more of the following ways:

1) By agreement on a fixed price adjustment before commencement of the pertinent performance;

2) By unit prices specified in the Contract or subsequently agreed upon before commencement of the pertinent performance;

3) By the costs attributable to the events or situations covered by the provision, plus appropriate profit or fee, all as specified in the Contract or subsequently agreed upon before commencement of the pertinent performance;

4) In such other manner as the parties may mutually agree upon before commencement of the pertinent performance; or

5) In the absence of agreement between the parties, the adjustment shall be made pursuant to 103D-501(b)(5), HRS.

b. Submission of cost or pricing data. The CONTRACTOR shall be required to submit cost or pricing data for any price adjustment subject to the provisions of subchapter 15, chapter 3-122, HAR. A fully executed change order or other document permitting billing for the adjustment in price under any method listed in Subparagraph (a)(1) through (a)(4) of this Paragraph shall be issued within ten days after agreement on the method of adjustment.

22. VARIATIONS IN QUANTITY FOR ANY DEFINITE QUANTITY CONTRACT. If this is a definite quantity goods or services contract, upon the agreement of the COUNTY and the CONTRACTOR, the quantity of goods or services, or both, specified in this Contract, may be increased by a maximum of ten per cent (10%), provided (1) the unit prices will remain the same except for any price adjustments otherwise applicable; and (2) the head of the purchasing agency makes a written determination that such an increase will either be more economical than awarding another Contract or that it would not be practical to award another agreement.

23. CHANGES IN COST-REIMBURSEMENT CONTRACT. If this Contract is a cost-reimbursement contract, the following provisions shall apply:

a. The head of the purchasing agency may at any time by written order, and without notice to the sureties, in any, make changes within the general scope of the Contract in any one or more of the following:

- 1) Description of performance;
- 2) Time of performance (i.e., hours of the day, days of the week, etc.)
- 3) Place of performance of services;
- 4) Drawings, designs, or specifications when the supplies to be furnished are to be specially manufactured for the COUNTY in accordance with the drawings, designs, or specifications;
- 5) Method of shipment or packing of supplies; or
- 6) Place of delivery.

b. If any change causes an increase or decrease in the estimated cost of, or the time required for performance of, any part of the performance under this Contract, whether or not changed by the order, or otherwise affects any other terms and conditions of this Contract, the head of the purchasing agency shall make a equitable adjustment in the 1) estimated cost, deliver or completion schedule, or both; 2) amount of any fixed fee; and 3) other affected terms and shall modify the Contract accordingly.

c. The CONTRACTOR must assert the CONTRACTOR'S rights to an adjustment under this provision within 30 days from the day of receipt of the written order. However, if the head of the purchasing agency decides that the facts justify it, the head of the purchasing agency may receive and act upon a proposal submitted before final payment under the Contract.

d. Failure to agree to any adjustment shall be a dispute under the provision on Dispute herein. However, nothing in this provision shall excuse the CONTRACTOR from proceeding with the Contract as changed.

e. Notwithstanding the terms and conditions of Subparagraphs a. and b. of this Paragraph, the estimated cost of this Contract and, if this Contract is incrementally funded, the funds allotted for the performance of this Contract, shall not be increased or considered to be increased except by specific written modification of the Contract indicating the new contract estimated cost and, if the contract is incrementally funded, the new amount allotted to the contract.

24. PROMPT PAYMENT OF SUBCONTRACTORS.

a. Generally. Any money paid to a CONTRACTOR shall be disbursed to subcontractors within ten days after receipt of the money in accordance with the terms of the subcontract; provided that the subcontractor has met all the terms and conditions of the subcontract and there are no bona fide disputes on which the procurement agency has withheld payment.

b. Final payment. Upon final payment to the CONTRACTOR, full payment to the subcontractor, including retainage, shall be made within ten days after receipt of the money; provided that there are no bona fide disputes over the subcontractor's performance under the subcontract.

c. Penalty. The procurement officer or the CONTRACTOR, as applicable, will be subject to a penalty of one and one-half per cent per month upon outstanding amounts due that were not timely paid by the responsible party under the following conditions. Where a subcontractor has provided evidence to the CONTRACTOR of satisfactorily completing all work under their subcontract and has provided a properly documented final payment request as described in Subparagraph d. of this Paragraph, and:

1) Has provided to the CONTRACTOR an acceptable performance and payment bond for the project executed by a surety company authorized to do business in the State, as provided in section 103-32.1, HRS; or

2) The following has occurred:

(A) A period of ninety days after the day on which the last of the labor was done or performed and the last of the material was furnished or supplied has elapsed without written notice of a claim given to CONTRACTOR and the surety, as provided for in section 103D-324, HRS; and

(B) The subcontractor has provided to the CONTRACTOR, an acceptable release of retainage bond, executed by a surety company authorized to do business in the State, in an amount of not more than two times the amount being retained or withheld by the CONTRACTOR; any other bond acceptable to the CONTRACTOR; or any other form of mutually acceptable collateral, then, all sums retained or withheld from a subcontractor and otherwise due to the subcontractor for satisfactory performance under the subcontract shall be paid by the procurement officer to the CONTRACTOR and subsequently, upon receipt from the procurement officer, by the CONTRACTOR to the subcontractor within the applicable time periods specified in Subparagraph b. of this Paragraph and section 103-10, HRS. The penalty may be withheld from future payment due to the CONTRACTOR, if the CONTRACTOR was the responsible party. If a CONTRACTOR has violated Subparagraph b. three or more times within two years of the first violation, the Contractor shall be referred by the procurement officer to the contractors license board for appropriate action, including action under section 444-17(14), HRS.

d. A properly documented final payment request from a subcontractor, as required by Subparagraph c., shall include:

1) Substantiation of the amounts requested;

2) A certification by the subcontractor, to the best of the subcontractor's knowledge and belief, that:

(A) The amounts requested are only for performance in accordance with the specifications, terms, and conditions of the subcontract;

(B) The subcontractor has made payments due to its subcontractors and suppliers from previous payments received under the subcontract and will make timely payments from the proceeds of the payment covered by the certification, in accordance with their subcontract agreements and the requirements of this section; and

(C) The payment request does not include any amount that the subcontractor intends to withhold or retain from a subcontractor or supplier in accordance with the terms and conditions of their subcontract; and

3) The submission of documentation confirming that all other terms and conditions required under the subcontract agreement have been fully satisfied.

The procurement officer shall return any final payment request that is defective to the CONTRACTOR within seven days after receipt, with a statement identifying the defect.

e. This section shall not be construed to impair the right of a CONTRACTOR or a subcontractor at any tier to negotiate and to include in their respective subcontracts provisions that provide for additional terms and conditions that are requested to be met before the subcontractor shall be entitled to receive final payment under Subparagraph c. of this Paragraph; provided that any such payments withheld shall be withheld by the procurement officer.

25. ACCEPTANCE OF GOODS AND SERVICES. The COUNTY shall accept goods and services or give CONTRACTOR notice of rejection within a reasonable time, notwithstanding any payment, prior test, or inspection.

No inspection, test, delay or failure to inspect or test, or failure to discover any defect or other nonconformance with the specifications, shall relieve CONTRACTOR of any obligations under this Contract or impair any rights or remedies of the COUNTY.

26. OBSOLETE PARTS/LONG TERM PARTS AVAILABILITY. Contractor shall timely report on the status of end of life (EOL) hardware that has been procured for the purchased or leased product. EOL hardware includes the following: electronic components/piece parts and mechanical hardware. Contractor shall provide advanced notification in writing to the Officer-in-Charge of any changes to tooling, facilities, materials, availability of parts, or processes that could affect the contracted product. This includes but is not limited to fabrication, assembly, handling, inspection, acceptance, testing, facility relocation, or introduction of a new manufacturer. Contractor shall notify the COUNTY of any pending or contemplated future action to discontinue articles purchased or replacement parts for the articles purchased pursuant to this Contract and shall work with the COUNTY to determine the need to stockpile any parts for the likely life of the product and offer those parts to the COUNTY prior to the actual discontinuance. Contractor shall extend opportunities to the COUNTY to place last time buys of such articles with deliveries not to exceed twelve months after the last time buy date.

27. CONFIDENTIALITY OF MATERIAL.

a. All material given to or made available to the CONTRACTOR by virtue of this Contract, which is identified as proprietary or confidential information, will be safeguarded by the CONTRACTOR and shall not be disclosed to any individual or organization without the prior written approval of the COUNTY.

b. All information, data, or other material provided by the CONTRACTOR to the COUNTY is subject to the Uniform Information Practices Act, chapter 92F, HRS.

28. PUBLICITY. The CONTRACTOR shall not refer to the COUNTY or any office, agency, or Officer thereof, or any COUNTY employee, including the head of the purchasing agency, the County procurement officers, the COUNTY council members, or members or directors of any County Board, or to the services or goods, or both, provided under this Contract, in any of the CONTRACTOR's brochures, advertisements, or other publicity of the CONTRACTOR without the explicit written consent of the COUNTY. All media contacts with the CONTRACTOR about the subject matter of this Contract shall be referred to the head of the purchasing agency.

29. OWNERSHIP RIGHTS AND COPYRIGHT. The COUNTY shall have complete ownership of all material, both finished and unfinished, which is developed, prepared, assembled or conceived by the CONTRACTOR pursuant to this Contract and all such material shall be considered "works for hire." All such materials shall be delivered to the COUNTY upon expiration or termination of this Contract. The COUNTY, in its sole discretion, shall have the exclusive right to copyright any product, concept, or material developed, prepared, assembled or conceived by the CONTRACTOR pursuant to this Contract.

30. INSURANCE. During the term of this Contract, CONTRACTOR shall maintain at all times or cause to be maintained general and professional liability insurance coverage for CONTRACTOR and its employees rendering services to the COUNTY under this Contract. The insurance policies shall be issued by a company or companies authorized to do business in Hawaii and approved by the COUNTY, with combined single limits of not less than ONE MILLION DOLLARS (\$1,000,000) per occurrence and TWO MILLION DOLLARS (\$2,000,000) in the aggregate for Contracts with a total certified amount of \$1,000,000 or less, and THREE MILLION DOLLARS (\$3,000,000) in the aggregate for Contracts with a total certified amount of \$1,000,001 or more, or such greater amount as may be required from time to time by the COUNTY. CONTRACTOR shall provide COUNTY not less than thirty (30) days notice prior to any cancellation or material change or reduction in coverage. No such material change or reduction may be made without approval from the COUNTY. The COUNTY shall be listed as an additional insured on all policies, with the exception of professional liability. Prior to the commencement of this Contract, CONTRACTOR shall provide the COUNTY with a certificate of insurance. Thereafter, prior to the expiration of each policy period, the insurance carriers for CONTRACTOR shall provide the COUNTY with certificates of insurance evidencing the foregoing coverage and provisions. The COUNTY reserves the right to request and receive a certified copy of the policies. CONTRACTOR shall also carry workers' compensation insurance for CONTRACTOR'S employees in the amounts required by applicable law. Failure to maintain the necessary insurance in accordance with the provisions set forth herein shall constitute a material breach of this Contract and the COUNTY shall thereafter have the options of pursuing remedies for such breach and/or immediate termination of this Contract.

31. LIENS AND WARRANTIES.

a. Liens. All products provided under this Contract shall be free of all liens and encumbrances.

b. Warranties for products and services. In the event this Contract is for the provision of products (goods or equipment), CONTRACTOR warrants that it has all rights, title and interest in and to all products sold, leased or licensed to the COUNTY. CONTRACTOR also warrants that the products shall substantially conform to all descriptions, specifications, statements of work and representations set forth in the Contract, schedules, publications of CONTRACTOR and/or any order(s) and will be free from defects in materials, performance, workmanship and design. CONTRACTOR further warrants that it will perform any services required with promptness, diligence and in accordance with prevailing standards in the industry to the reasonable satisfaction of the COUNTY. The Warranty period shall commence after Acceptance, as defined in this Contract. Any specific warranty periods shall be as set forth in the proposals, schedules, orders or Special Conditions pertaining to this Contract but in any event such warranty period shall not be less than one (1) year.

32. AUDIT OF BOOKS AND RECORDS OF THE CONTRACTOR. The COUNTY may, at reasonable times and places, audit the books and records of the CONTRACTOR, prospective contractor, subcontractor, or prospective subcontractor which are related to:

a. The cost or pricing data, and

b. A county contract, including subcontracts, other than a firm fixed-price contract.

33. COST OR PRICING DATA.

a. Cost or pricing data must be submitted to the head of the purchasing agency and timely certified as accurate for contracts over \$100,000 unless the contract is for a multiple-term or as otherwise specified by the head of the purchasing agency.

b. If certified cost or pricing data are subsequently found to have been inaccurate, incomplete, or noncurrent as of the date stated in the certificate, the County is entitled to an adjustment of the contract price, including profit or fee, to exclude any significant sum by which the price, including profit or fee, was increased because of the defective data. It is presumed that overstated cost or pricing data increased the contract price in the amount of the defect plus related overhead and profit or fee. Therefore, unless there is a clear indication that the defective data was not used or relied upon, the price will be reduced in such amount.

34. AUDIT OF COST OR PRICING DATA. When cost or pricing principles are applicable, the County may require an audit of cost or pricing data.

35. RECORDS RETENTION.

a. Upon any termination of this Contract or as otherwise required by applicable law, CONTRACTOR shall, pursuant to chapter 487R, HRS, destroy all copies (paper or electronic form) of personal information received from the COUNTY.

b. The CONTRACTOR and any subcontractors shall maintain the files, books, and records that relate to the Contract, including any personal information created or received by the CONTRACTOR on behalf of the COUNTY, and any cost or pricing data, for at least three years after the date of final payment under the Contract. The personal information shall continue to be confidential and shall only be disclosed as permitted or required by law. After the three year or longer retention period as required by law has ended, the files, books, and records that contain personal information shall be destroyed pursuant to chapter 487R, HRS, or returned to the County at the request of the County.

36. ANTITRUST CLAIMS. The COUNTY and the CONTRACTOR recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the purchaser. Therefore, the CONTRACTOR hereby assigns to the COUNTY any and all claims for overcharges as to goods and materials purchased in connection with this Contract, except as to overcharges which result from violations commencing after the price is established under this Contract and which are not passed on to the COUNTY under an escalation clause.

37. PATENTED ARTICLES. The CONTRACTOR shall defend, indemnify, and hold harmless the COUNTY, and its officers, employees, and agents from and against all liability, loss, damage, cost, and expense, including all attorneys fees, and all claims, suits, and demands arising out of or resulting from any claims, demands, or actions by the patent holder for infringement or other improper or unauthorized use of any patented article, patented process, or patented appliance in connection with this Contract. The CONTRACTOR shall be solely responsible for correcting or curing to the satisfaction of the COUNTY any such infringement or improper or unauthorized use, including, without limitation a. furnishing at no cost to the COUNTY a substitute article, process, or appliance acceptable to the COUNTY; b. paying royalties or other required payments to the patent holder; c. obtaining proper authorizations or releases from the patent holder; and d. furnishing such security to or making such arrangements with the patent holder as may be necessary to correct or cure any such infringement or improper or unauthorized use.

38. POLLUTION CONTROL. If during the performance of this Contract, the CONTRACTOR encounters a "release" or a "threatened release" of a reportable quantity of a "hazardous substance," "pollutant," or "contaminant" as those terms are defined in section 128D-1, HRS, the CONTRACTOR shall immediately notify the COUNTY and all other appropriate state, county, or federal agencies as required by law. The CONTRACTOR shall take all necessary actions, including stopping work, to avoid causing, contributing to, or making worse a release of a hazardous substance, pollutant, or contaminant, and shall promptly obey any orders the Environmental Protection Agency or the state Department of Health issues in response to the release. In the event there is an ensuing cease-work period, and the COUNTY determines that this Contract requires an adjustment of the time for performance, the Contract shall be modified in writing accordingly.

39. CONFIDENTIALITY OF PERSONAL INFORMATION.

a. Definitions.

"Personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either name or data elements are not encrypted:

- 1) Social security number;
- 2) Driver's license number or Hawaii identification card number; or

3) Account number, credit or debit card number, access code, or password that would permit access to an individual's financial information.

Personal information does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

"Technological safeguards" means the technology and the policy and procedure for use of the technology to protect and control access to personal information.

b. Confidentiality of Material.

1) All material given to or made available to the CONTRACTOR by the COUNTY by virtue of this Contract which is identified as personal information shall be safeguarded by the CONTRACTOR and shall not be disclosed without the prior written approval of the COUNTY.

2) CONTRACTOR agrees not to retain, use, or disclose personal information for any purpose other than as permitted or required by this Contract.

3) CONTRACTOR agrees to implement appropriate "technological safeguards" that are acceptable to the COUNTY to reduce the risk of unauthorized access to personal information.

4) CONTRACTOR shall report to the COUNTY in a prompt and complete manner any security breaches involving personal information.

5) CONTRACTOR agrees to mitigate, to the extent practicable, any harmful effect that is known to CONTRACTOR because of a use or disclosure of personal information by CONTRACTOR in violation of the requirements of this Paragraph.

6) CONTRACTOR shall complete and retain a log of all disclosures made of personal information received from the COUNTY, or personal information created or received by CONTRACTOR on behalf of the COUNTY.

c. Security awareness training and confidentiality agreements.

1) CONTRACTOR certifies that all of its employees who will have access to the personal information have completed training on security awareness topics relating to protecting personal information.

2) CONTRACTOR certifies that confidentiality agreements have been signed by all of its employees who will have access to the personal information acknowledging that:

(A) The personal information collected, used, or maintained by the CONTRACTOR will be treated as confidential;

(B) Access to the personal information will be allowed only as necessary to perform the Contract; and

(C) Use of the personal information will be restricted to uses consistent with the services subject to this Contract.

d. Termination for Cause. In addition to any other remedies provided for by this Contract, if the COUNTY learns of a material breach by CONTRACTOR of this Paragraph by CONTRACTOR, the COUNTY may at its sole discretion:

1) Provide an opportunity for the CONTRACTOR to cure the breach or end the violation; or

2) Immediately terminate this Contract.

40. GOVERNING LAW. The validity of this Contract and any of its terms or provisions, as well as the rights and duties of the parties to this Contract, shall be governed by the laws of the State of Hawaii. Any action at law or in equity to enforce or interpret the provisions of this Contract shall be brought in a State court of competent jurisdiction in Wailuku, Maui, Hawaii.

41. COMPLIANCE WITH LAWS. The CONTRACTOR shall comply with all federal, State, and county laws, ordinances, codes, rules, and regulations, as the same may be amended from time to time, that in any way affect the CONTRACTOR'S performance of this Contract. This specifically includes, without limitation, Sections 103-55 and 103-55.5, HRS, dealing with wages, hours and working conditions of employees of contractors providing services or construction.

42. CONFLICT BETWEEN GENERAL CONDITIONS AND PROCUREMENT RULES. In the event of a conflict between the General Conditions and the procurement rules in the HAR, the procurement rules in effect on the date this Contract became effective shall control and are hereby incorporated by reference.

43. CAMPAIGN CONTRIBUTIONS. CONTRACTOR acknowledges that it is unlawful under Section 11-355, HRS, unless specifically permitted under that law, for CONTRACTOR at any time between the execution of this Contract through the completion of the Contract to: (a) directly or indirectly make any contribution, or promise expressly or impliedly to make any contribution to any candidate committee or noncandidate committee, or to any

candidate or to any person for any political purpose or use; or (b) knowingly solicit any contribution from any person for any purpose during any period.

44. DRAFTING. No provision of this Contract shall be interpreted for or against any party on the basis that such party was the draftsman of such provision, and no presumption of burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provision of this Contract.

45. CAPTIONS. The captions contained herein are used solely for convenience and shall not be deemed to define or limit the provisions of this Agreement.

46. COUNTERPARTS. This Contract may be executed in any number of counterparts with the same effect as if all of the parties had signed the same document. Such executions may be transmitted to the parties by facsimile or electronically and such facsimile or electronic execution and transmission shall have the full force and effect of an original signature. All fully executed counterparts, whether original executions or facsimile or electronic executions or a combination thereof shall be construed together and shall constitute one and the same Contract.

47. SEVERABILITY. In the event that any provision of this Contract is declared invalid or unenforceable by a court, such invalidity or non-enforceability shall not affect the validity or enforceability of the remaining terms of this Contract.

48. WAIVER. The failure of the COUNTY to insist upon the strict compliance with any term, provision, or condition of this Contract shall not constitute or be deemed to constitute a waiver or relinquishment of the COUNTY's right to enforce the same in accordance with this Contract. The fact that the COUNTY specifically refers to one provision of the law, and does not include other provisions shall not constitute a waiver or relinquishment of the COUNTY's rights or the CONTRACTOR's obligations under the law.

49. ENTIRE AGREEMENT. This Contract sets forth all of the agreements, conditions, understandings, promises, warranties, and representations between the COUNTY and the CONTRACTOR relative to this Contract. This Contract supersedes all prior agreements, conditions, understandings, promises, warranties, and representations, which shall have no further force or effect. There are no agreements, conditions, understandings, promises, warranties, or representations, oral or written, express or implied, between the COUNTY and the CONTRACTOR other than as set forth or as referred to herein.

[END OF GENERAL CONDITIONS OF PURCHASE OF GOODS AND SERVICES]

SECTION 00500

PROJECT MEETINGS AND PUBLIC EDUCATION

PART 1 – GENERAL

1.01 MEETINGS

Project meetings will be conducted at monthly intervals or at some other frequency approved by the Contract Manager. These meetings shall be attended by the Contract Manager and applicable proposer personnel. Meetings shall include a discussion of current operations, the previous month's tallies of organic materials, the current material capacity, public education opportunities, and any issues/problems encountered. Additional project meetings may be called by the EP&S project manager or applicable proposer personnel as warranted by unforeseen developments during operation.

1.02 PUBLIC EDUCATION

To the extent possible, the proposer may be asked to make applicable personnel available to host diversion facility tours for schools and other interested groups, and to provide promotional information to educate the public on landfill diversion efforts occurring on the island of Maui.

END OF SECTION

SECTION 00600

FACILITY AND OPERATIONAL SAFETY PLAN

PART 1 – GENERAL

1.01 SAFETY AND HEALTH REGULATIONS

The proposer shall provide EP&S with a facility and operational safety plan to ensure the safe, sound operation of the organic diversion facility. The proposer shall also ensure that the facility and operational safety plan complies with the provisions of the Federal Occupational Safety and Health Act, as amended, and all state regulations relating to safety.

The proposer must provide EP&S with a copy of the facility and operational safety plan within 120 days of notice of award of the contract. The County project manager will provide comment within fifteen (15) days of receipt of the plan.

END OF SECTION

APPENDIX A

**LANDS AVAILABLE FOR THE DIVERSION FACILITY
AT THE CENTRAL MAUI LANFILL**

APPENDIX B

**ORGANIC MATERIALS TONNAGE
BY FISCAL YEAR**

EKO COMPOST

URNS DIRT INTO SOIL

ANNUAL REPORT

Period of July 2012 – June 2013

In accordance with the Request for Proposal (RFP) for the Operation of a Co-Composting Facility, and agreement with the County of Maui, Maui EKO Systems, Inc will provide an annual report with the following information.

1. Quantity of each material received:

Sludge received from:	Maui County	22,444.00 tons
	Private	403.70 tons

FOG: 6,849.07 tons

Estimated Green-waste/Pallets: approx 20,000 tons

Distribution Report: See Item (A)

2. Contamination levels (including amount and value) and problems i.e., fire

Fire: June 2, 2013 a fire originated at a finish pile upwind side of the plant. Strong winds spread embers to piles down wind. Only the top of the compost piles were burning, causing lots of smoke. The fire was extinguished on June 3rd around 8:00 p.m.

Releases/Spills: None during this reporting period.

3. Daily temperature monitoring logs will be kept on file at Maui EKO's office And will be available for review. These logs will be kept for a minimum of three years as indicated in the State Permit.
One extra monitoring point (side slope) was added which was requested by Department of Health.

EKO COMPOST

URNS DIRT INTO SOIL

ANNUAL REPORT

Period of July 2013 – June 2014

In accordance with the Request for Proposal (RFP) for the Operation of a Co-Composting Facility, and agreement with the County of Maui, Maui EKO Systems, Inc will provide an annual report with the following information.

1. Quantity of each material received:

Sludge received from:	Maui County	23,592.03 tons
	Private	614.56 tons

FOG: 5,457.89 tons

Estimated Green-waste/Pallets: approx 19,001.49 tons

Distribution Report: See Item (A)

2. Contamination levels (including amount and value) and problems i.e., fire

Fire: None during this reporting period.

Releases/Spills: None during this reporting period.

3. Daily temperature monitoring logs will be kept on file at Maui EKO's office And will be available for review. These logs will be kept for a minimum of three years as indicated in the State Permit.

One extra monitoring point (side slope) was added which was requested by Department of Health.

4. Staffing information

See attached item (B)



ANNUAL REPORT

Period of July 2014 – June 2015

In accordance with the Request for Proposal (RFP) for the Operation of a Co-Composting Facility, and agreement with the County of Maui, Maui EKO Systems, Inc will provide an annual report with the following information.

1. Quantity of each material received:

Sludge received from:	Maui County	22,364.46 tons
	Private	394.05 tons

FOG:	6,615.06 tons
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Estimated Green-waste/Pallets:	approx 22,035.14 tons
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Distribution Report: See Item (A)

2. Contamination levels (including amount and value) and problems i.e., fire

Fire: None during this reporting period.

Releases/Spills: None during this reporting period.

3. Daily temperature monitoring logs will be kept on file at Maui EKO's office And will be available for review. These logs will be kept for a minimum of three years as indicated in the State Permit. One extra monitoring point (side slope) was added which was requested by Department of Health.

4. Staffing information

See attached item (B)

APPENDIX C

**COUNTY RESIDENTIAL CURBSIDE RECYCLING
ORGANIC DATA**

COUNTY OF MAUI - 3 CAN PLAN - STATS REPORT

TONNAGE DATA FOR CENTRAL KIHEI & MAUI MEADOWS

Aug 2012 1/2 mo Totals	51.04
Sep 2012 Totals	47.85
Oct 2012 Totals	56.48
Nov 2012 Totals	51.13
Dec 2012 Totals	48.16
Jan 2013 Totals	57.22
Feb 2013 Totals	49.34
Mar 2013 Totals	61.30
Apr 2013 Totals	52.96
May 2013 Totals	57.94
Jun 2013 Totals	58.93
Jul 2013 Totals	55.61
Aug 2013 Totals	93.32
Sep 2013 Totals	47.23
Oct 2013 Totals	53.29
Nov 2013 Totals	55.52
Dec 2013 Totals	54.12
Jan 2014 Totals	85.83
Feb 2014 Totals	62.90
Mar 2014 Totals	58.64
Apr 2014 Totals	63.33
May 2014 Totals	61.83
Jun 2014 Totals	63.03
Jul 2014 Totals	69.24
Aug 2014 Totals	31.19
Sep 2014 Totals	55.19
Oct 2014 Totals	52.74
Nov 2014 Totals	51.46
Dec 2014 Totals	31.84
Jan 2015 Totals	65.66
Feb 2015 Totals (pilot cancelled)	0
Mar 2015 Totals (pilot cancelled)	0
Apr 2015 Totals (pilot cancelled)	0
May 2015 Totals (pilot cancelled)	0
Jun 2015 Totals (pilot cancelled)	0
Jul 2015 Totals (pilot cancelled)	0
Aug 2015 1/3 mo Totals (program resumed Aug-20th)	89.39
Sep 2015 Totals	71.51
Oct 2015 Totals	36.33
Nov 2015 Totals	65.24
Dec 2015 Totals	68.57