

KATHY L. KAOHU  
County Clerk



JAMES G.M. KRUEGER  
Deputy County Clerk

**OFFICE OF THE COUNTY CLERK**

COUNTY OF MAUI  
200 SOUTH HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.mauicounty.gov/county/clerk](http://www.mauicounty.gov/county/clerk)

July 26, 2021

RECEIVED  
2021 JUL 26 PM 12:43  
OFFICE OF THE  
COUNTY COUNCIL

Honorable Kelly T. King, Chair  
Climate Action, Resilience, and Environment Committee  
Council of the County of Maui  
Wailuku, Hawaii 96793

Dear Chair King:

By letter dated July 14, 2021 (County Communication No. 21-339), the Director of Finance transmitted 133 contracts/grants for filing with the County Clerk.

At the July 23, 2021 Council meeting, the foregoing communication was filed; however, Contract C6706-2 was referred to your Committee at your request. Transmitted is a copy of the contract.

Respectfully,

A handwritten signature in cursive script that reads "Kathy L. KaoHu".

KATHY L. KAOHU  
County Clerk

/jym

Enclosures

cc: Director of Council Services

## AMENDMENT TO CONTRACT CERTIFICATION

I, **SCOTT K. TERUYA**, 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.

<u>Appropriation Index</u>	<u>Title</u>	<u>Amount Required</u>
<u>315190</u>	<u>CW TRAFFIC/SFTY OHUKAI RD</u>	<u>(7190) \$3,350.00</u>

Contract No. C 6706 FUKUMOTO ENGINEERING, INC.

Amendment No. 2 Dated:

Dated this 23 day of JUNE 2021

Extension of Contract to: No Time Extension

Original Amount	\$ 121,429.00
Prior Amends/CO	\$ 0.00
This Amendment	\$ 3,350.00
Total contract	<u>\$ 124,779.00</u>

  
SCOTT K. TERUYA  
Director of Finance

Ohukai Road Sidewalk  
Improvements for DPW  
PW Eng Job #19-16  
QBS #Q-PW-19-15  
ORDINANCE #5099 (FY2021)

FY 2021

Jh

*ang 6/24*  
*2558*

*54*

## AMENDMENT NO. 2 TO CONTRACT NO. C6706

Department: Public Works – Engineering Division  
Project Title: Ohukai Road Sidewalk Improvements  
PW Eng Job No.: 19-16  
QBS No.: Q-PW-19-15  
Additional Certification Requested from County: \$3,350.00

This AMENDMENT NO. 2 TO 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 FUKUMOTO ENGINEERING, INC., a Hawaii corporation, whose mailing address is 1721 Wili Pa Loop, #203, Wailuku, Maui, Hawaii 96793, 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.

### RECITALS:

1. WHEREAS, the County and the Contractor entered into the following Contract and Amendment(s), if any, with certified availability of funds in the amount indicated and time of performance as indicated:

CONTRACT OR AMENDMENT NO.	DATE	ADDITIONAL CERTIFIED AMOUNT	TOTAL CERTIFIED AMOUNT	TIME OF PERFORMANCE/EXTENSION	RENEWAL OPTION FOR MULTI TERM CONTRACT
C6706	03/21/2019	NOT APPLICABLE	\$121,429.00	March 29, 2019 through December 31, 2020	None
Amend 1	12/17/2020	None	Same as above	Through December 31, 2022	None



## AMENDMENT NO. 2 TO CONTRACT NO. C6706

2. WHEREAS, the Contract and any Amendment(s) thereto listed above shall be hereafter collectively referred to as "Contract"; and

3. WHEREAS, the Contract is on file with the Director of Finance; and

4. WHEREAS, the Parties now desire to amend the Contract.

NOW, THEREFORE, the Parties mutually agree to amend the Contract as follows:

1. The scope of work as set forth in the Contractor's proposal dated May 3, 2021, and any attachments thereto, (hereinafter "Amended Proposal") is hereby added to the Scope of Work. A copy of said document is maintained and on file in the office of the Director of Finance of the County of Maui and incorporated herein by reference and hereby made a part of the Contract. 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.

2. Section 2., Time of Performance, is amended to read as follows:

2. Time of Performance. The Contractor shall commence performance under this Contract upon issuance of the Notice to Proceed, and shall continue performance through December 31, 2022, unless sooner completed, terminated, or extended in compliance with the terms of this Contract. Where the contract work is structured into phases or discrete work items, if the commencement of a phase or work item is triggered not by the completion of the prior phase or work item, but by some other event not under the control of the Contractor, the time between the completion of one phase or work item and the commencement of the next shall not count towards the time of performance within which the Contractor agreed to complete its performance under the Contract. The Contractor agrees to cooperate and coordinate with the County to accurately compute and document the time of performance.

**AMENDMENT NO. 2 TO CONTRACT NO. C6706**

3. The total not-to-exceed amount as stated in the Contract is hereby increased by the amount of additional certification requested as set forth hereinabove, subject to appropriation and inclusive of all taxes. The fee or compensation schedule as set forth in the Amended Proposal is hereby added to the Compensation provision of the Contract.

4. This Amendment may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same instrument. The parties agree that they may utilize and shall be bound by their electronic signatures, pursuant to Chapter 489E, Hawaii Revised Statutes.

The entire Contract, as amended herein, shall remain in full force and effect.

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

**[EXECUTION PAGES TO FOLLOW]**

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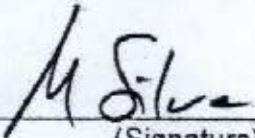
AMENDMENT NO. 2 TO CONTRACT NO. C6706

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:

FUKUMOTO ENGINEERING, INC.

By   
(Signature)

Michael Silva  
(Print Name)

Its Vice President  
(Title)

Date 05/27/2021

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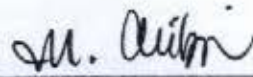


AMENDMENT NO. 2 TO CONTRACT NO. C6706

COUNTY EXECUTION PAGE

COUNTY OF MAUI

By

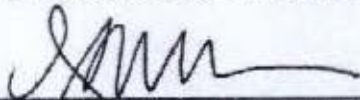


~~SCOTT K. TERUYA~~ MAY-ANNE A. ALIBIN  
Its ~~Director of Finance~~ Deputy Director

Date

JUN 24 2021

REVIEWED AND APPROVED:



ROWENA M. DAGDAG-ANDAYA  
Director  
Department of Public Works

Date

JUN 02 2021

APPROVED AS TO FORM  
AND LEGALITY:

/s/ Michael J. Hopper

Deputy Corporation Counsel  
County of Maui

Date

6/18/21

LF2019-0136  
Amd #2 C6706

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