

ALAN M. ARAKAWA  
Mayor

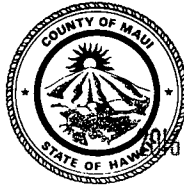
DAVID C. GOODE  
Director

ROWENA M. DAGDAG-ANDAYA  
Deputy Director

Telephone: (808) 270-7745  
Fax: (808) 270-7975

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2016 AUG 26 AM 9:42

OFFICE OF THE MAYOR

RECEIVED AUG 29 2016

GLEN A. UENO, P.E., P.L.S.  
Development Services Administration

CARY YAMASHITA, P.E.  
Engineering Division

LESLI L. OTANI, P.E., L.S.  
Highways Division

OFFICE OF THE  
COUNTY CLERK

COUNTY OF MAUI  
DEPARTMENT OF PUBLIC WORKS  
ENGINEERING DIVISION  
200 SOUTH HIGH STREET  
WAILUKU, MAUI, HAWAII 96793



COPIED

August 24, 2016

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

For Transmittal to:

Honorable Mike White  
Council Chair  
Maui County Council  
200 South High Street  
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL

*Al Arakawa*  
Mayor

8/28/16  
Date

Dear Council Chair White:

**SUBJECT: A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN AMENDMENT TO AN EXISTING INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF HAWAII REGARDING FEDERAL AID PROJECTS**

We are transmitting the proposed bill entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN AMENDMENT TO AN EXISTING INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF HAWAII REGARDING FEDERAL AID PROJECTS".

We respectfully request that this matter be referred to the appropriate Council Committee for review and discussion. As this document ensures the County of Maui's access to Federal Aid funds for projects, we further ask for your immediate attention to this matter.

Thank you for your continued assistance and support. Should you have any questions, please contact me at Ext. 7845.

Sincerely,

*David C. Goode*

DAVID C. GOODE  
Director of Public Works

CY:(ED16-781)

S:\ENG\DIVSUPPORT\STIP Program\STATE-COUNTY MEMORANDUM OF AGREEMENT\081616 - Modification No. 1\2016 Revision to Intergovernmental Agreement.wpd

Attachment

COUNTY COMMUNICATION NO. 16-212

ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_ (2016)

A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF  
MAUI TO ENTER INTO AN AMENDMENT TO AN EXISTING  
INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF HAWAII  
REGARDING FEDERAL AID PROJECTS

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Purpose. The County of Maui ("County") wishes to amend an existing Intergovernmental Agreement with the State of Hawaii, Department of Transportation ("State"), which Agreement is attached hereto as Exhibit "1". The proposed amendment to the agreement is attached hereto as Exhibit "2". The purpose of the amendment is to authorize the execution of subagreements between the County of Maui and State of Hawaii for Federal Aid Projects as set forth in the amendment.

SECTION 2. Council Authorization – Intergovernmental Agreement. Pursuant to Section 2.20.020 of the Maui County Code, the Council hereby authorizes the Mayor to execute the amendment to the Intergovernmental Agreement attached as Exhibit "2".

SECTION 3. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM  
AND LEGALITY:



MICHAEL J. HOPPER  
Deputy Corporation Counsel  
County of Maui

2015-4164

2016-08-22 Ordinance Amending Intergovernmental Agreement

**STATE-COUNTY MEMORANDUM OF AGREEMENT  
IMPLEMENTATION OF COUNTY FEDERAL-AID HIGHWAY PROJECTS AND  
PROGRAMS**

This AGREEMENT, made and entered into this 25<sup>th</sup> day of June, 2015, by and between the State of Hawaii Department of Transportation hereinafter referred to as the "STATE", and the City and County of Honolulu, the County of Hawaii, the County of Maui, and the County of Kauai, each individually hereinafter referred to as the "COUNTY", with the STATE and the COUNTY hereinafter collectively referred to as the "PARTIES."

**WITNESSETH THAT:**

WHEREAS, Title 23, United States Code ("Title 23") and other related federal laws authorize federal funds to carry out Federal-aid highway programs for COUNTY Federal-aid roads; and

WHEREAS, the STATE, as the grantee of federal transportation funds for the State of Hawaii ("SOH"), is responsible for ensuring that all such federal transportation funds are expended in accordance with applicable laws and regulations; and

WHEREAS, when the STATE passes federal transportation funds through to a subgrantee COUNTY to carry out a federal-aid road project, it is the responsibility of the STATE to ensure that the subgrantee is aware of all federal and state laws and regulations that apply to the project and that the subgrantee complies with them in order not to jeopardize federal and/or local funding; and

WHEREAS, the PARTIES to this AGREEMENT deem it desirable to use such funds to undertake improvements on such COUNTY roads; and

WHEREAS, the COUNTY recognizes the benefits that the Federal-aid highway programs will provide; and

WHEREAS, the COUNTY recognizes that to be eligible to receive such federal transportation funds from the STATE as a subgrantee, it must comply with all federal and state laws and is subject to complying with such conditions and requirements that may be placed upon it by the STATE; and

WHEREAS, the PARTIES recognize the benefits of this AGREEMENT which provides: consistent guidelines, procedures, and processes; identification of requirements; and defines the roles and responsibilities of each party.

EXHIBIT " 1 "

NOW, THEREFORE, in consideration of the benefits to be obtained from the various Federal-aid highway programs, the PARTIES do hereby mutually agree as follows:

**SECTION 1 - AGREEMENT.** The PARTIES agree to enter into this AGREEMENT to proceed in full accord with its provisions in the implementation of COUNTY Federal-aid projects for eligible roads and activities. The provisions of this AGREEMENT shall apply to eligible COUNTY projects or activities financed with Federal-aid funds under Title 23, or non-Title 23 projects financed with federal discretionary (earmarked) funds.

**SECTION 2 – COUNTY’S RESPONSIBILITY.** The COUNTY is responsible to provide administrative personnel and technical supervision to insure that the initiation, development, implementation, and performance reporting of all eligible activities financed by federal transportation funds under this AGREEMENT are done in conformance with: all applicable federal laws, regulations, policies, circulars and standards prescribed by the Federal Highway Administration (“FHWA”) or the United States government; all applicable SOH laws, rules, policies and standards; all applicable COUNTY ordinances and regulations; and all procedures, specifications or other documents approved by the STATE and/or FHWA. Eligible activities include, but are not limited to the following activities of COUNTY federal-aid projects: planning, environmental, design, rights-of-way (“ROW”), utility adjustments and accommodations, equal employment opportunity, labor provisions, accounting procedures, public hearings, and construction administration.

**SECTION 3 – STATE’S RESPONSIBILITY.** The STATE is responsible to the federal government for the administration of Federal-aid projects and programs and will review, advise, approve, and assist the COUNTY with conformance to STATE and FHWA procedures. The STATE may provide technical support to the COUNTY in the form of training, reviews and procedures, and will process approval requests in a reasonably timely manner as to not unreasonably delay COUNTY projects as required on behalf of the COUNTY.

Delegation of certain Title 23 approval actions to the STATE are specified in the LETTER OF AGREEMENT AND STEWARDSHIP PLAN (STEWARDSHIP AGREEMENT) between the STATE and FHWA attached in APPENDIX K for reference. COUNTY projects or activities may fall under the oversight of the STATE and/or FHWA, depending on the scope, size, financing method, contracting method, risk, or unusual circumstances and will be subject to the appropriate approval actions by the STATE and/or FHWA.



Interim procedures to implement this AGREEMENT are provided in the attached appendices to this AGREEMENT during the interim period when the Local Public Agency Manual ("LPA Manual") is being developed by the STATE.<sup>1</sup> Such interim procedures shall apply until replaced by written agreement of the PARTIES to replace the same by the LPA Manual.

**SECTION 4 – POINTS OF CONTACT.** The COUNTY shall designate a qualified full-time public employee to be responsible and serve as the overall Point of Contact ("POC") for federal undertakings conducted under this AGREEMENT. The designated COUNTY POC shall coordinate project development and implementation activities with the appropriate STATE POCs listed in APPENDIX A. The POC list in APPENDIX A shall be updated periodically as required due to changes in personnel or functions as required.

**SECTION 5 – FEDERAL FUNDING LEVELS.** The STATE, based upon anticipated annual apportionment of federal funds to the SOH and based on prevailing federal laws or regulations as applicable, shall establish a multi-year budgetary estimate of federal funds to be made available to the COUNTY. Federal funding levels will also consider historical amounts provided to the COUNTY; the COUNTY's past performance, current capacity, and ability to effectively deliver projects; and the COUNTY's priorities and needs. Based on the estimated federal funding levels and the COUNTY's ability to provide the local matching funds, the COUNTY will develop and submit a multi-year prioritized program of its needs. The PARTIES shall work collaboratively to develop a program that includes the COUNTY's prioritized projects into the fiscally constrained Statewide Transportation Improvement Program ("STIP") and/or Transportation Improvement Plan ("TIP") as described in SECTION 6 below.

To avoid lapsing of obligation authority and to provide the STATE adequate time to plan for and utilize such funds, the COUNTY shall strive to submit all projects for obligation no later than May 31<sup>st</sup> of any given Federal fiscal year. In the event the COUNTY is unable to submit all 100% plans, specifications or estimates ("PS&Es") by May 31<sup>st</sup> to fully obligate its share of funds for that Federal fiscal year, the STATE may reallocate, at its sole discretion, such anticipated unobligated amounts after consultation with the COUNTY to other projects. The COUNTY shall endeavor to notify the STATE as early as possible regarding the possibility or certainty that the COUNTY will be unable to obligate its share of Federal funds.

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<sup>1</sup> The LPA Manual developed by the STATE will provide detailed: instructions, procedures, samples and timelines for COUNTY to use and follow in implementing Federal-aid projects and ensuring that federal requirements are fulfilled.

**SECTION 6 – PLANNING AND PROGRAMMING OF PROJECTS.** With the exception of SOH planning and research<sup>2</sup> activities or emergency relief projects<sup>3</sup>, all projects and/or programs must be listed on the STIP and/or TIP to be eligible to receive federal funds and before federal funds can be obligated.

In response to the STATE's call for projects in preparing the STIP, the COUNTY shall submit a multi-year prioritized program to the STATE identifying the proposed project(s) and/or programs being requested to be placed into the STIP.

For the island of Oahu, appropriate coordination shall be made through the Oahu Metropolitan Planning Organization. The PARTIES understand that the establishment of a Maui Metropolitan Planning Organization along with the development of its operational procedures and processes is currently ongoing. For the island of Maui, if and when such a metropolitan planning organization is established and operational, appropriate coordination shall be made through such metropolitan planning organization.

Prior to requesting inclusion of a project and/or program onto the STIP and/or TIP, the COUNTY shall ensure that the project and/or program is consistent with appropriate planning documents and that roadways are functionally classified as appropriate to be eligible for federal funds.<sup>4</sup> Requests to include projects on roadways not yet functionally classified, but with active ongoing classification activities will be reviewed individually by the STATE and FHWA on a case-by-case basis.

Requests to include a new or modify, amend, delete or replace an existing project or program on the STIP and/or TIP shall be submitted to the STATE within the deadlines and format specified by the STATE (and to be specified in the LPA Manual). In addition, appropriate coordination for Oahu project modifications, amendments, deletion or replacement shall be made through OMPO. The PARTIES understand that the establishment of a Maui Metropolitan Planning Organization along with the development of its operational procedures and processes is currently ongoing. For the island of Maui, if and when such a metropolitan planning organization is established and operational, appropriate

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<sup>2</sup> SOH planning and research ("SPR") activities is a program to research new knowledge areas; adapt findings to practical applications by developing new technologies; and transfer these technologies, including the process of dissemination, demonstration, training, and adoption of innovations by users. The use of SPR funds by States and subrecipients is regulated by Title 23 Code of Federal Regulations, Part 420.

<sup>3</sup> Emergency relief projects are unplanned projects typically caused by natural disasters or sometimes man-made causes requiring immediate response, clean-up and restoration of affected roadways and highways. Some typical causes for emergency relief projects are: flooding events, earthquakes, rockfalls, or overpass damage by overheight freight movements.

<sup>4</sup> Federal earmarking for projects by the U.S. Senate Appropriations Committee may sometimes waive certain Title 23 eligibility requirements such as functional classification. The STATE may assist the COUNTY in determining eligibility requirements.

coordination to include a new or modify, amend, delete or replace existing projects shall be made through such metropolitan planning organization.

For the development, update, or modifications to the STIP and/or TIP, the COUNTY shall work within federal funding levels provided for its program as described in SECTION 5 to maintain financial constraint. The COUNTY may elect to utilize Advance Construction described in APPENDIX B to maximize the use of funds, with the understanding of associated risks.

SECTION 7 – OBLIGATION OF FEDERAL FUNDS. Upon inclusion of applicable projects or programs in the STIP/TIP, the COUNTY will submit a request to the STATE to obligate federal funds. Obligation requests shall be submitted by the COUNTY, then received and processed by the STATE in accordance with APPENDIX C. The obligation amount represents FHWA's estimated share of eligible cost for the project (or program) and will be reflected in a Federal Project Agreement between the STATE and FHWA. To provide flexibility and to maximize the use of federal funds, if permitted by County ordinances or policies, the COUNTY may request the use of advance construction as described in APPENDIX B.

All COUNTY Federal-aid projects must be authorized by FHWA by means of a signed project agreement before any costs incurred can become eligible federal participating activities. Costs incurred before authorization to proceed are not eligible for federal reimbursement.

Federal project agreement modification requests to obligate additional funds or deobligate (decrease) federal funds will be submitted by the COUNTY, then received and processed by the STATE in accordance with APPENDIX D.

[Mod.001 insertion]

SECTION 8 – PROJECT MANAGEMENT, CONSTRUCTION ADMINISTRATION, AND QUALITY ASSURANCE. For each project undertaken under this AGREEMENT, the COUNTY shall assign a qualified full-time COUNTY employee serving as project POC and responsible for the project overall on behalf of the County. The project POC shall be responsible for managing and monitoring the project to completion and closeout. The project POC shall report on the status of each phase of work to the STATE on a periodic basis as identified in accordance with APPENDIX E.

The COUNTY shall provide adequate resources to provide supervision, inspection, and materials sampling and testing for all construction projects under this AGREEMENT. Such activities may be performed by COUNTY forces or consultant services and shall be in accordance with APPENDIX J.

**SECTION 9 – FEDERAL REIMBURSEMENTS.** In an effort to ensure the expenditure of federal funds in a timely manner, the COUNTY shall submit requests for reimbursements in accordance with APPENDIX F.

**SECTION 10 – PROJECT CANCELLATIONS, WITHDRAWALS, “10-YEAR RULE”.** If the COUNTY, during the course of implementing a project, elects to withdraw or cancel the project, the COUNTY shall reimburse all federal funds expended on that project. COUNTY reimbursements for cancelled or withdrawn projects shall be made in accordance with the process outlined in APPENDIX F. If the COUNTY elects to withdraw from further federal participation, but the County intends to complete the project using non-federal funds, a meeting shall be held between the COUNTY, STATE and FHWA in a timely manner to determine COUNTY reimbursement requirements.

In accordance with 23 Code of Federal Regulations (“CFR”) 630.112(c)(2), in the event that right-of-way acquisition or actual construction of the project has not started by the close of the tenth (10<sup>th</sup>) fiscal year from which a project has been authorized for preliminary engineering, the COUNTY may be required by the STATE and/or FHWA to repay FHWA any reimbursed funds.

**SECTION 11 – STATE’S REVIEW COSTS.** The cost of services rendered by the STATE for the review of the COUNTY’s construction plans, specifications, estimates, environmental documentation, or other preconstruction work shall be reimbursed to the STATE by the COUNTY within 45 days upon receipt of invoice from the STATE. In addition to preconstruction work, the COUNTY shall reimburse the STATE for review and oversight administration of construction projects. Such reimbursements from the COUNTY will be processed in accordance with APPENDIX F.

**SECTION 12 – DESIGN, CONSTRUCTION ADVERTISEMENT, AWARD AND NOTICE TO PROCEED.** The COUNTY shall expeditiously undertake all design activities to meet schedules and goals in accordance with APPENDIX G.

Upon completion of design, obligation of federal funds, and authorization to advertise and receive bids, the COUNTY shall expeditiously advertise, receive bids, evaluate bids and award the construction projects. These activities shall occur as soon as possible and within timelines specified in any FHWA imposed conditions for obligation of funds. The COUNTY shall submit bid, bid evaluation and related documents to the STATE for review and concurrence. Upon receiving the STATE’s concurrence, the COUNTY shall expeditiously award and issue notice to proceed to the contractor. See APPENDIX J for interim procedures.

SECTION 13 – UTILITIES AND RIGHT OF WAY (“ROW”). Utility relocations and accommodations shall be in accordance with Hawaii Revised Statutes 264-33 and 264-33.5, and with Title 19, Subtitle 4, Chapter 105 - Accommodation and Installation of Utilities on State Highways and Federal-Aid County Highways, State of Hawaii dated May 30, 1981. Utility agreements, memorandum of agreements, memorandum of understanding, or letter of agreement, or other similar instruments as appropriate, shall be executed with the respective utility owners during the course of constructing, relocating, or removing utilities within the right-of-way and shall specify the terms of construction, use, occupancy and cost sharing.

ROW acquisitions, management, disposals and transfers shall be performed in accordance with 23 CFR Part 710 and 49 CFR Part 24 as outlined in APPENDIX I.

SECTION 14 – MAINTENANCE OF FEDERAL AID ROADWAYS. Projects constructed with Federal-aid funds shall be maintained by the COUNTY in accordance with Section 116 of Title 23 and 23 CFR Section 1.27. Preservation and use of these highway rights-of-way, including new utility installations, shall be in accordance with 23 CFR Section 1.23, and with the Accommodation and Installation of Utilities on State Highways and Federal-Aid County Highways described above. Such roadways shall meet standards and performance targets established under the new authorization act, Moving Ahead for Progress in the 21<sup>st</sup> Century (“MAP-21”).

SECTION 15 – RECONCILIATION OF EXPENDITURES AND REIMBURSEMENTS. Upon completion of all programmed phases of a project using Federal-aid funds and final acceptance of work issued by the COUNTY, the COUNTY shall render a final financial statement to the STATE showing the final cost of planning, design, right-of-way acquisition, construction, and other incidental costs incurred and paid by the COUNTY and federal funds reimbursed to the COUNTY. The final financial statement shall clearly show the total cost, federal share, COUNTY’s share, and any other’s share of funds.

SECTION 16 – AUDITS, INDIRECT COST AND RECORDS RETAINAGE. The COUNTY shall ensure that the single audit requirement for each fiscal year is met under the 2 CFR Part 200. A copy of the audit report and associated Management Letter<sup>5</sup> comments (auditor to the COUNTY) shall be provided to the STATE. The COUNTY shall issue a management plan of action to address each Federal audit finding which requires corrective action or other response within six

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<sup>5</sup> A Management Letter is a letter from the auditor to the auditee that highlights observations, findings and may provide recommendations. This letter typically accompanies the audit report.

months after receipt of the audit report and ensure that appropriate and timely corrective action is taken. See APPENDIX F for interim procedures.

**SECTION 17 – COMPLIANCE WITH LAWS.** All PARTIES shall observe and comply with all laws, ordinances, rules, and regulations now or hereafter made by the federal, state, and local governments with respect to actions performed in connection with this AGREEMENT. The PARTIES may voluntarily set more stringent requirements than those specified by laws, however it is understood that such *voluntary* goals, thresholds or requirements may not be legally binding or enforceable.

**SECTION 18– INDEMNIFICATION.** The STATE shall be responsible to the extent permitted by law, for damages or injury caused by the STATE'S officers and employees in the course of their employment related to this AGREEMENT to the extent that the STATE'S liability for such damage or injury has been determined by a court or otherwise agreed to by the STATE, and the STATE shall pay for such damage and injury to the extent permitted by law, provided that funds are appropriated and allotted for that purpose.

The COUNTY shall cause its contractor and/or consultant to indemnify, defend, and hold harmless the STATE and its officers, employees, and agents from and against actions, liabilities, claims, suits, damages, liens, judgments, attorney fees and costs arising out of or resulting from the acts or omissions of the COUNTY's contractor and/or consultant occurring during or in connection with the performance of services and obligations under this AGREEMENT provided that the COUNTY's contractor and/or consultant shall not be required to indemnify, defend, or hold harmless, the STATE, its officers, employees, and agents, from any actions, liabilities, claims, suits, damages, liens, judgments, attorney fees and costs when such arises out of the action or omission of the STATE and/or its officers, employees, and agents in conjunction with this AGREEMENT.

For activities not performed by the COUNTY's contractor and/or consultant, the COUNTY shall indemnify, defend, and hold harmless the STATE and its officers, employees, and agents from and against actions, liabilities, claims, suits, damages, liens, judgments, attorney fees and costs arising out of or resulting from the acts or omissions of the COUNTY, its officers, employees, or agents occurring during or in connection with the performance of services and obligations under this AGREEMENT provided that the COUNTY shall not be required to indemnify, defend, or hold harmless, the STATE, its officers, employees, and agents, from any actions, liabilities, claims, suits, damages, liens, judgments, attorney fees and costs when such arises out of the action or omission of the STATE and/or its officers, employees, and agents in conjunction with this AGREEMENT.

**SECTION 19 – SEVERABILITY.** If any provision of this AGREEMENT is judged by a court of competent jurisdiction to be void, invalid, illegal or unenforceable for any reason, the same shall in no way affect, to the maximum extent permissible by law, other provisions of this AGREEMENT, or the application of such provision under circumstances different from those adjudicated by the court, or the validity or enforceability of this AGREEMENT as a whole; and to the extent necessary, this AGREEMENT shall be construed as if the void, invalid, illegal or unenforceable provision had never been contained herein.

**SECTION 20 – WAIVERS AND REVISIONS.** Any waiver of the terms, conditions, or provisions of this AGREEMENT, or a party's right or remedies under this AGREEMENT, must be in writing to be effective. Waiver requests shall be by letter from the COUNTY's Transportation Director (or equivalent) to the STATE's Director of Transportation.

Failure, neglect, or delay by a party to enforce the terms, conditions or provisions of this AGREEMENT or such party's rights or remedies at any time will not be construed as a waiver of such party's rights under this AGREEMENT and will not in any way affect the validity of the whole or any part of this AGREEMENT or prejudice such party's right to any subsequent action. No exercise or enforcement by any party of that party's rights or remedies under this AGREEMENT will preclude the enforcement by such party of any of its other rights or remedies available under this AGREEMENT or by law.

PARTIES may request proposed changes or updates to the various provisions contained in this AGREEMENT in writing. The STATE will review and consult with all other PARTIES as required, and if all PARTIES support and agree that such changes will result in mutual benefits to everyone, the PARTIES will amend this AGREEMENT in writing, with signature by all PARTIES, to reflect such changes.

**SECTION 21 – DISPUTE RESOLUTION.** In the event any dispute arises between the COUNTY and the STATE concerning any aspect of this AGREEMENT, the COUNTY and the STATE will use their best efforts to address and resolve such disputes and the parties in dispute agree to negotiate within twenty-eight (28) calendar days of receipt of a letter describing the nature of the dispute and referencing the applicable paragraph of this AGREEMENT. The meeting will be held at a mutually agreed location, or if desired, by videoconference between the applicable program managers with the COUNTY and the STATE. In the event the matter is not resolved by such negotiations within twenty-eight (28) calendar days of this initial meeting, the parties in dispute agree to submit the matter to the COUNTY's Chief Engineer (for City and County


of Honolulu, the Director of Transportation Services) and the State Highways Administrator. If the matter is not resolvable within twenty-eight ( 28) days from submittal, the parties in dispute further agree to submit the matter to the COUNTY's Director of Public Works (or Director of Transportation Services, as applicable) and the STATE's Director of Transportation for resolution.

SECTION 22 – TERM OF AGREEMENT. Unless otherwise terminated in writing by the PARTIES, this AGREEMENT shall be effective for a period of ten (10) calendar years from the date of this AGREEMENT. The PARTIES may agree to extend the term of this AGREEMENT by written amendment of this AGREEMENT.



**SIGNATORIES ARE AS FOLLOWS:**

**COUNTY OF HAWAII**

By 

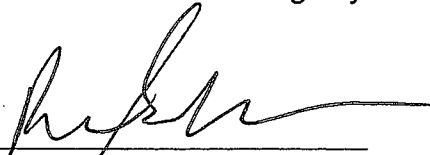
**WILLIAM P. KENOI  
MAYOR**

RECOMMEND APPROVAL:

  
Director of Public Works

Date: 4/20/15

Approved as to form and legality:

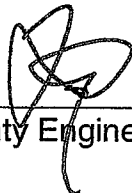
  
Deputy Corporation Counsel  
County of Hawaii

Date: 5/11/15

COUNTY OF KAUAI


By 

RECOMMEND APPROVAL:

  
County Engineer

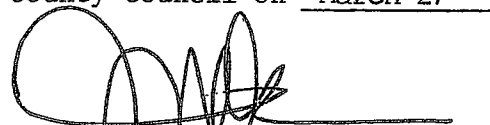
Date: 6-25-15

Approved as to form and legality:

  
Deputy Corporation Counsel  
County of Kauai

Date: 6/24/15

Approved and Accepted by the Kauai  
County Council on March 27, 20 14


  
Jade K. Fountain-Tanigawa  
County Clerk

Date: July 16, 2015

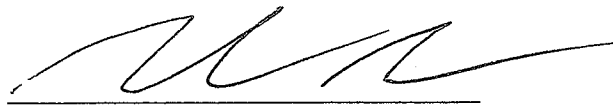
COUNTY OF MAUI

By   
ALAN M. ARAKAWA  
Mayor, County of Maui

RECOMMEND APPROVAL:

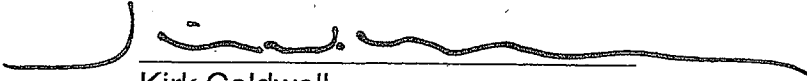
  
Director of Public Works  
DAVID C. GOODE  
Date: 4-23-15

Approved as to form and legality:

  
Deputy Corporation Counsel  
County of Maui  
MICHAEL J. HOPPER  
Date: 4/27/15

CITY & COUNTY OF HONOLULU

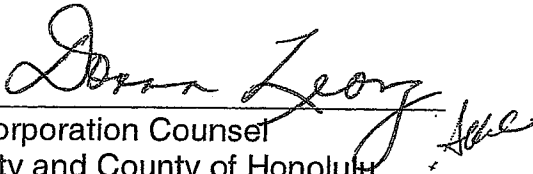
APPROVED:



Kirk Caldwell  
Mayor

Date: JUNE 22, 2015

Approved as to form and legality:



Corporation Counsel  
City and County of Honolulu  
**DONNA Y.L. LEONG**

Date: JUN 15 2015


STATE OF HAWAII

APPROVED:

  
\_\_\_\_\_  
FORD N. FUCHIGAMI  
Director of Transportation

Date: 5.15.15

Approved as to form:

  
\_\_\_\_\_  
Deputy Attorney General

Date: 5/20/15

April 8, 2015

## APPENDIX A – STATE & COUNTY POINT OF CONTACTS (POCS)

### STATE OF HAWAII

Type of Activity	Contact	Phone Number and email address
Overall Local Public Agency Agreement	<b>Robert Miyasaki</b> , HWY-A (Project Coord & Tech Services Branch Head)	(808) 587-2347 <a href="mailto:Robert.Miyasaki@hawaii.gov">Robert.Miyasaki@hawaii.gov</a>
LPA Manual	<b>Mike Medeiros</b> , HWY-AP (Section Head)	(808)587-2336 <a href="mailto:Mike.Medeiros@hawaii.gov">Mike.Medeiros@hawaii.gov</a>
Statewide Transportation Improvement Program (TIP/STIP)	<b>Patrick Tom</b> , HWY-PA (STIP Manager)	(808)587-6355 <a href="mailto:Patrick.Tom@hawaii.gov">Patrick.Tom@hawaii.gov</a>
Obligation of Federal Funds City & County of Honolulu Kauai, Maui, Hawaii	<b>Kam Kin Sin</b> , HWY-SM  <b>Scot Urada</b> , HWY-SM (Federal Program Engineers)	(808)587-2226 <a href="mailto:Kam.Kin.Sin@hawaii.gov">Kam.Kin.Sin@hawaii.gov</a>  (808)587-2222 <a href="mailto:Scot.T.Urada@hawaii.gov">Scot.T.Urada@hawaii.gov</a>
Submission of Single Audit & Related Documents	<b>Cathy Hiranaka</b> , HWY-SF (Federal Aid Accountant)	(808)587-2196 <a href="mailto:Cathy.Hiranaka@hawaii.gov">Cathy.Hiranaka@hawaii.gov</a>
Design Procedures and Project Reviews  Consultant Procurement	<b>Marshall Ando</b> , HWY-D (Design Branch Head)	(808)692-7559 <a href="mailto:Marshall.Ando@hawaii.gov">Marshall.Ando@hawaii.gov</a>
Right of Way	<b>(vacant)</b> , HWY-R (Rights of Way Manager)	(808)692-7325
Roadway Jurisdiction and Maintenance	<b>Jamie Ho</b> , HWY-C (Construction & Maintenance Branch Head)	(808)587-2185 <a href="mailto:Jamie.Ho@hawaii.gov">Jamie.Ho@hawaii.gov</a>
Construction Administration Hawaii Maui Kauai Oahu	<b>Sal Panem</b> , HWY-H (Hawaii District Engineer) <b>Ferdinand Cajigal</b> , HWY-M (Maui District Engineer) <b>Ray McCormick</b> , HWY-K (Kauai District Engineer) <b>Pratt Kinimaka</b> , HWY-O (Oahu District Engineer)	(808)933-8620 <a href="mailto:Sal.Panem@hawaii.gov">Sal.Panem@hawaii.gov</a> (808)873-3535 <a href="mailto:Ferdinand.Cajigal@hawaii.gov">Ferdinand.Cajigal@hawaii.gov</a> (808)241-3006 <a href="mailto:Raymond.J.McCormick@hawaii.gov">Raymond.J.McCormick@hawaii.gov</a> (808)831-6703 <a href="mailto:Pratt.Kinimaka@hawaii.gov">Pratt.Kinimaka@hawaii.gov</a>

Construction Procedures	<b>Blaine Kawamura</b> , HWY-CC (Construction Engineer)	(808)587-2630
Materials Testing & Certification	<b>Casey Abe</b> , HWY-L (Materials Testing Branch Head)	(808)483-2515

<b>COUNTY MAIN POINT OF CONTACT</b>	<b>Contact</b>	<b>Phone Number and email address</b>
County of Hawaii	<b>Ben Ishii</b> (Division Chief Engineer)	(808)961-8423 <a href="mailto:bishii@co.hawaii.hi.us">bishii@co.hawaii.hi.us</a>
County of Maui	<b>Cary Yamashita</b> (Division Chief Engineer)	(808)270-7430 <a href="mailto:Cary.Yamashita@co.maui.hi.us">Cary.Yamashita@co.maui.hi.us</a>
City & County of Honolulu	Deputy Director	(808)768-8304
County of Kauai	<b>Larry Dill</b> (County Engineer)	(808)241-4996 <a href="mailto:ldill@kauai.gov">ldill@kauai.gov</a>

April 8, 2015

## **APPENDIX B –ADVANCE CONSTRUCTION**

To maximize the use of funds and to maintain financial constraint in the STIP and/or TIP, the COUNTY may consider using the benefits of advance construction, with the understanding of the associated risks. Attention is directed to 23 CFR Part 630.106(c).

Unless otherwise specified by the COUNTY, the STATE may convert advance construction balances to regular obligation and give this a higher priority over other new or unfunded projects shown in the COUNTY's program during the current working fiscal year.



April 8, 2015

## **APPENDIX C – INTERIM PROCEDURES FOR OBLIGATION OF FEDERAL FUNDS**

Upon receipt of the COUNTY's request, the STATE will prepare and process REQUEST FOR PROJECT AUTHORIZATION, AGREEMENT, AND/OR MODIFICATION ("PR-1240") for FHWA's approval and authorization for the obligation of federal funds for the project or program. Upon authorization and approval by FHWA, the STATE will transmit an advance copy of the authorized and approved PR-1240 by email to the applicable contacts listed below, followed by the final hard copy through the mail.

Receipt of an advance copy of the approved PR-1240 for construction obligation of federal funds does not automatically imply or represent an approval to advertise the project. In addition to the satisfactory completion of PS&E, the COUNTY may advertise the project for bids only after receipt of the original hard copy of the STATE's transmittal of the FHWA approved PR-1240 with a cover letter containing and listing any applicable conditions that must be satisfied prior to project advertisement.

With the exception of advance construction or other items stated in 23 CFR 630.106 (c)(1) – (4), the execution of a PR-1240 with FHWA's authorization to proceed as evidenced by appropriate FHWA signatures on the PR-1240 shall be considered as contractual obligation of the Federal government under Title 23 Section 106 for federal funding and reimbursements. For exceptions listed in 23 CFR 630.106 (c)(1) – (4), the federal authorization to proceed is not a commitment or obligation to provide federal funds for that portion of the undertaking not fully funded in accordance with 23 CFR 630.106(d).

The COUNTY may request consideration of (flexible) soft matching of previously purchased or donated lands, consultant services, materials or funds in accordance with 23 U.S.C. Section 120 and Section 323. Such requests shall be substantiated by proper appraisal and accounting documentation and will be reviewed by the STATE and approved by FHWA. All approvals of soft (flexible) match shall be provided by letter. Refer to APPENDIX H for additional information on consultant service fees and soft matching.

For the obligation of project planning funds, aside from the project phase shown in the approved TIP or the STIP, there is no prerequisite for the COUNTY to complete prior project phases or project activities that are approved by the STATE or FHWA. Requests to obligate project planning funds shall be submitted to the STATE's Federal Program Engineer at the Highways Division Staff Services Office ("HWY-SM") along with the necessary documents specified by the STATE.

For the obligation of design funds where the design work scope includes; preliminary engineering, environmental coordination and consultation, preparing environmental clearance documents, and performing final design, the obligation of such project activities requires the project design phase to be shown in the approved TIP or the STIP. Typical projects are those with anticipated federal categorical exclusion environmental clearance.

For typically larger or more complex projects where a planning phase resulting in an environmental impact statement or a 'major' environmental assessment is performed, the obligation of *final project design* funds will occur upon the completion of the federal environmental requirements such as the National Environmental Policy Act ("NEPA") in accordance with 23 CFR Part 771, Section 106 of the National Historic Preservation Act, Section 4(f) of the Department of Transportation Act, Section 6(f) of the Land and Water Conservation Act, Section 7 of the Endangered Species Act, and Hawaii Revised Statutes (HRS) Chapter 343 and 6E, as applicable, and the design phase of the project must be on the approved TIP and/or STIP.

Requests to obligate project design funds shall be submitted to the STATE's Federal Program Engineer at HWY-SM along with the documents specified by the STATE.

Obligation of Right of Way ("ROW") funds may occur in 2 phases: pre-ROW and final acquisition.

- Federal funds for pre-ROW may be used for any ROW acquisition activities with the exception of negotiating and making offers to property owners or negotiating and making offers for relocations. Obligation of Pre-ROW funds is not contingent upon completion of NEPA.
- Federal funds for final acquisition may be used for the purchase of property interest (easement, license, title, access), or for the payment of relocations. Obligation of funds to be used for final acquisition will occur upon completion of NEPA.

Additionally, the pre-ROW and/or ROW phase of the project must be shown in an approved TIP and/or STIP. Requests to obligate ROW funds shall be submitted to the STATE's Federal Program Engineer at HWY-SM along with the documents specified by the STATE.

Obligation of construction funds for design-bid-build or design-build projects may be requested upon completion of the following items:

- Listing the project phase on the approved TIP and/or STIP,
- Appropriate environmental clearances for the project in accordance with 23 CFR Part 771 and HRS 343, and written approval by FHWA,
- ROW certification prepared in accordance with 23 CFR 710.311 for acquisitions as required by 23 CFR 636.309. For design-build projects (23 CFR 710.313) a ROW certification in accordance with 23 CFR 309(p),

- PS&E, design exceptions, project checklists, reports, Request for Proposals ("RFP"), and other applicable documents have been reviewed and approved by the STATE and/or FHWA.

Obligation of design and/or construction funds for Emergency Relief ("ER") projects may be requested upon completion of the following items:

- Preparation of Detailed Damage Inspection Reports ("DDIR") by the COUNTY and submitted to the STATE and FHWA,
- Completion of site visit with STATE and FHWA,
- FHWA acknowledgement of emergency event,
- FHWA approval of submitted DDIRs,
- Agreement and understanding of 100% immediate work items and 80% permanent work items appropriately documented in the DDIR.
- ER construction projects competitively bid (in most cases for permanent repairs) shall be subject to the same requirements described in the preceding paragraph for appropriate environmental clearances, ROW certification, and approved PS&Es.

Requests to obligate construction funds shall be submitted to the STATE's Federal Program Engineer at HWY-SM along with the documents specified by the STATE.

### **DISTRIBUTION OF PR-1240s (ADVANCE COPIES)**

<b>County</b>	<b>Contact</b>	<b>Email address</b>
City & County of Honolulu	Primary: Deputy Director Secondary: <b>Merle Loui-Sakamoto</b>	<a href="mailto:mgarrity@honolulu.gov">mgarrity@honolulu.gov</a> <a href="mailto:mloui@honolulu.gov">mloui@honolulu.gov</a>
County of Hawaii	Primary: <b>Ben Ishii</b> Secondary: <b>Alan Simeon</b>	<a href="mailto:bishii@co.hawaii.hi.us">bishii@co.hawaii.hi.us</a> <a href="mailto:asimeon@co.hawaii.hi.us">asimeon@co.hawaii.hi.us</a>
County of Maui	Primary: <b>Cary Yamashita</b> Secondary: <b>Rodrigo Rabara</b>	<a href="mailto:Cary.Yamashita@co.maui.hi.us">Cary.Yamashita@co.maui.hi.us</a> <a href="mailto:Rodrigo.Rabara@co.maui.hi.us">Rodrigo.Rabara@co.maui.hi.us</a>
County of Kauai	Primary: <b>Larry Dill</b> Secondary: <b>Lyle Tabata</b>	<a href="mailto:ldill@kauai.gov">ldill@kauai.gov</a> <a href="mailto:ltabata@kauai.gov">ltabata@kauai.gov</a>

April 8, 2015

## **APPENDIX D – INTERIM PROCEDURES FOR PROJECT AGREEMENT MODIFICATIONS**

For agreement modifications involving the obligation of additional or the reduction of Federal funds, the COUNTY shall provide the following to the STATE in writing:

- Requested amount,
- Reason for the cost change,
- For project cost increases, confirmation that the increase is for the original project purpose and need. For project cost decreases, reason(s) for decrease along with a revised project estimate,
- For modification to a construction project, a revised Detail Estimate Summary Sheet,
- Schedule when adjustments to funds must be completed,
- Confirmation that any cost increase will not be applied to any previously completed work already paid for by the FHWA and thus considered as double payment,
- STATE's District Construction Engineer's approval (for construction change orders), and
- FHWA's approval, when required.

For COUNTY design project requests will be submitted to the STATE's Project Manager overseeing the COUNTY's Federal Aid project. For COUNTY construction projects, requests will be submitted to the STATE's construction engineer overseeing the COUNTY's construction program.

For cost increases to previously obligated and ongoing projects, the funds to be added to the project do not need to be shown on the STIP if the project scope is not expanded beyond the original purpose and need, and the amount is within established thresholds for administrative STIP amendments. Provided that funds are for eligible purposes, the obligation of funds under these circumstances does not require any prior STIP amendments.

If the additional funds expands the project beyond the original purpose and need (example: adding ¼ mile of paving beyond the original limits, or adding a traffic signal for safety or operational improvements that was not part of the original scope), or if the amount of funds to be added exceeds established thresholds for administrative STIP amendments, the STIP shall be amended to show the additional funds to be added. A non-administrative STIP amendment shall be completed and approved by FHWA and Federal Transit Administration ("FTA") before additional funds can be obligated for the project.

Upon determination by the STATE that the COUNTY's request is justified, the STATE will process a modification to the project agreement for FHWA's

authorization and obligation of the requested funds. The STATE may request additional justification of documentation as required to support the COUNTY's request.

For project agreement modifications involving the deobligation of excess funds related to low bid opening, less than anticipated project needs, or closing of projects, such deobligations will occur within the timelines specified in 23 CFR 630.106, or within ninety (90) calendar days after a determination of funding needs have been made by the COUNTY. If the COUNTY desires to use deobligated funds for another eligible and ready Federal-aid project shown on the TIP or STIP, the obligation of released funds must occur within the same federal fiscal year when the deobligations take place. If the COUNTY does not have an eligible project that is ready to use all or a portion of the deobligated funds, to avoid the possible lapsing of formula obligation authority, the STATE may use those released funds for the STATE's own projects.

April 8, 2015

## **APPENDIX E –INTERIM PROCEDURES FOR PROJECT MONITORING AND TRACKING**

The COUNTY shall monitor all projects with federal obligations and track the implementation of the project to its completion. Monitoring shall include but not be limited to:

- Maintaining a system to set and track project milestone dates. This may include developing and maintaining a project schedule with sufficient details that shows all major activities and milestones, and clearly show all activities occurring concurrently or sequentially.
- Reviewing fiscal activity on a monthly basis. If no expenditure of funds have occurred, the appropriate COUNTY personnel shall provide documentation explaining the reasons for the inactivity from the Project Manager,
- Participating in the STATE's project status meetings and quarterly "over the shoulder" meetings.
- If requested by the STATE with reasonable notice, meeting with the STATE to discuss progress of specific Federal-aid projects on an as-needed basis.
- The STATE may request monthly status updates in the event there are no project status meetings or "over the shoulder" meetings scheduled. Typically information for such project status requests will be submitted to the STATE on the last working day of the month.
- In addition to project level monitoring, the COUNTY shall maintain a list of all ongoing Federal-aid projects with a summary of project status. The STATE may request for an updated list on a monthly basis.

The STATE will monitor the COUNTY reimbursement activity and if no activity has been noted for a pre-determined period established by the STATE, the STATE will notify the COUNTY. The COUNTY will investigate the reasons for inactivity and will provide a remediation plan to the STATE within one week, or other mutually agreed timeframe, if required.

In accordance with 23 CFR Section 630.106(a)(5), all projects will be monitored for inactivity (no claims for reimbursements). FHWA is anticipated to initiate the formal rulemaking process to revise this section of 23 CFR to define inactive tiers as follows:

- unexpended balances \$150,000 or more and inactive for 12 months or more, and
- new project obligations inactive for 12 months or more since project authorization, regardless of amount

During this interim period where the formal rulemaking process to modify this section of the CFR is being conducted by FHWA, the STATE and the COUNTY will comply with the above proposed tiers of inactivity.

It should be noted that a project may initially reside in a lower tier based on the initial amount of funds obligated. However when additional funds are obligated (example: an obligation adding construction funds to a project that had only design funds previously obligated) to a project, this activity may move the project beyond the \$150,000 threshold for inactivity.

If the COUNTY is unable to provide reasonable justification for inactivity to the STATE, or the COUNTY does not take timely action to resolve inactivity, the STATE or FHWA may deobligate funds from the inactive project. To avoid inactivity, for any time spent on the project, the COUNTY shall bill to and claim Federal reimbursements on a timely basis as described in APPENDIX F.

April 8, 2015

**APPENDIX F –INTERIM PROCEDURES FOR FINANCIAL  
MANAGEMENT, REIMBURSEMENTS AND  
RECORDS RETAINAGE**

Indirect Cost: The COUNTY shall provide documentation of its fringe and indirect cost rates computation and approval for use in accordance with 2 CFR 225 – Cost Principles for State, Local, and Indian Tribal Government to the STATE.

Records Retention: All project documents shall be kept for a minimum of 3 years from the date the final voucher is submitted to FHWA. When requested by the STATE or FHWA, such records shall be made available for review or audits.

Federal Reimbursement Claims: If anticipated claim(s) for reimbursement by the COUNTY is expected to exceed \$50,000.00, or if the project or activity is funded by any economic stimulus related funds, the COUNTY shall submit semi-monthly requests for reimbursements. If processing of semi-monthly federal reimbursement requests will create severe hardship to the COUNTY, the STATE, FHWA and the COUNTY shall meet to discuss the circumstances and agree on a mutually determined billing frequency.

The COUNTY shall prepare monthly requests for federal reimbursements for amounts from \$10,000.00 to \$50,000.00.

For amounts less than \$10,000.00, the COUNTY will be provided the option to accumulate such amounts from one month to the next. A reimbursement request shall be submitted to the STATE upon reaching this \$10,000.00 threshold, or within a time period of three consecutive months has elapsed from the last billing, whichever is first.

In the event there are no reimbursement requests from the COUNTY for a period of three consecutive months, the COUNTY shall provide to the STATE the reason(s) for not claiming any federal reimbursements.

COUNTY reimbursement requests will be reviewed and processed by the STATE and will be submitted to FHWA for approval and reimbursement. Request for reimbursements shall not exceed the amounts and participation rates shown in the original PR-1240 and subsequent approved modifications. All reimbursement requests shall clearly show the total funds expended by the COUNTY during the reimbursement period and the amount of federal funds requested, the amount paid and reimbursed to date, and all documents to support the reimbursement request. Supporting documents may include: paid invoices, receipts, copies of agreements, timesheets, certified payrolls, and other documents as necessary. The STATE may specify a standard reimbursement format to increase efficiency in the processing of federal reimbursements to the COUNTY.



Return of funds to FHWA: All costs and expenditures properly recorded to a project but ruled ineligible for financing with federal funds shall be borne by the COUNTY. For retroactive adjustments of reimbursed federal funds, such ineligible amounts may be deducted from future COUNTY reimbursement requests for the project in question, or from other COUNTY Federal-aid projects if necessary. If deduction(s) from future COUNTY reimbursements is not feasible, the COUNTY shall provide cash reimbursement to the STATE within sixty (60) days. In the event such payment(s) from the COUNTY creates severe financial hardship, the COUNTY may request an extension to the repayment period, subject to approval by FHWA and the STATE.

Cancelled or withdrawn projects with federal reimbursements may require a return of funds to FHWA. If it is determined that a reimbursement from the COUNTY to FHWA is due, such COUNTY reimbursement shall be processed as described in the preceding paragraph.

STATE review costs: If programmed for federal-aid, preconstruction and construction costs furnished by the STATE may be considered a part of the normal project cost and included in the COUNTY's project estimate and budget. If these costs are not programmed for federal-aid, such services rendered by the STATE on COUNTY projects shall be reimbursed by the COUNTY using non-federal funds.

An accounts receivable will be established by the STATE that will describe the services furnished by the STATE to the COUNTY, and whether such services are federal participating or not. The COUNTY shall provide a purchase order to the STATE, when requested by the STATE, within thirty (30) calendar days. In the event a purchase order is not received from the COUNTY and the STATE begins to incur review or other support costs, the STATE will notify the COUNTY of its intent to stop supporting services until a purchase order is received by the STATE. The STATE's direct labor charges will be based on the STATE's personnel providing such services to the COUNTY and the STATE's prevailing indirect cost rate. The STATE will maintain timesheets and accounting to support review or administrative costs billed to the COUNTY.

April 8, 2015

## **APPENDIX G –INTERIM PROCEDURES FOR DESIGN**

In accordance with 23 CFR 625.3, project design shall comply with all applicable federal laws, regulations, policies, standards and guidelines applicable to Title 23, American Association of State Highway and Transportation Officials (“AASHTO”); adopted STATE standards and policies, and COUNTY design standards, ordinances, and policies.

Construction PS&Es shall be submitted to the STATE at the 60%, 90% and 100% design stages for review. For low risk projects with routine and straightforward work scope, the COUNTY may request the STATE to require submittals at the 90% and 100% design stages for review. Such requests shall be made in writing by the COUNTY at the time a request is made to place the proposed project on the TIP or the STIP. The written request shall be accompanied by a detailed description of the proposed work scope, a map identifying the project location, and the project schedule. The STATE will have sole discretion to approve or disapprove the request.

In addition to PS&Es, the COUNTY shall provide copies of all correspondence, consultation letters or other documents to support NEPA environmental clearances, ROW, and a completed PS&E checklist for review.

For design-build projects or other competitive sealed proposals [such as Request for Proposals (“RFP”)], the following shall be submitted to the STATE: a clear description of the project scope, scoring and award process incorporated into the initial draft document; an intermediate submittal that addresses any STATE or FHWA comments received on the initial submittal; and a final submittal (100%) for review. Similar to design-bid-build construction PS&E, the COUNTY shall provide copies of all correspondence, consultation letters or other documents to support NEPA environmental clearances, ROW certification, and a completed PS&E checklist.

Submittal of 100% PS&Es and/or RFPs along with supporting documents from the COUNTY will be made to the STATE no later than May 31<sup>st</sup> of any given year to ensure review and processing by the STATE personnel in time for federal obligation of funds that same federal fiscal year. In the event the COUNTY submits incomplete PS&Es and/or documentation that requires resubmittals after May 31<sup>st</sup>, or submits 100% PS&E's to the STATE after May 31<sup>st</sup>, it is understood that the STATE will work to review and process such COUNTY PS&Es but may give such projects a lower priority in review and processing due to the STATE's own workload requirements.

For planning studies, master planning documents, or other similar undertakings that will not directly result into a construction project(s), the COUNTY shall submit all deliverables specified in the consultant contract for STATE review.

April 8, 2015

## **APPENDIX H –INTERIM PROCEDURES FOR CONSULTANT PROCUREMENT**

To be eligible for Federal-aid funds, all consultant procurements shall be made in accordance with 23 CFR Part 172 and the Brooks Act (23 U.S.C. §112 (b)(2)(A)). The COUNTY may elect to adopt the STATE's consultant procurement procedures or develop its own consultant procurement procedures that shall be approved by the STATE and FHWA in accordance with 23 CFR 172.9(a).

Alternatively, the COUNTY may elect to procure consultant services using non-FHWA approved procedures and utilize all COUNTY funds. This route eliminates the option of utilizing such expended COUNTY funds for soft-matching in future project phases.

COUNTY's submittals for consultant selection and approvals will be processed and approved by the FHWA and/or the STATE (if such authority is delegated in accordance with 23 CFR 172.9).

In the event the STATE becomes aware of changes to federal consultant procurement requirements, the STATE will notify the COUNTY of such changed requirements.

April 8, 2015

**APPENDIX I –INTERIM PROCEDURES FOR RIGHTS-OF-WAY  
ACQUISITIONS, MANAGEMENT, DISPOSALS,  
AND TRANSFERS**

The COUNTY shall acquire, manage, relocate, or dispose of ROW in accordance with 23 CFR Part 710 and 49 CFR Part 24. Alternatively the COUNTY may elect to utilize ROW procedures developed and used by the STATE.

In addition to purchasing ROW, the COUNTY may receive land donations in accordance with 23 CFR 710.505 that may be used as credits for the COUNTY's matching share based on fair market value. Eligibility and application of soft matching for donated land shall be in accordance with 23 U.S.C. Section 120. The STATE will give the COUNTY authorization to proceed with ROW activities when federal funds are used in the acquisition of ROW.

The COUNTY may request the STATE's assistance in the appraisal or acquisition of ROW by STATE personnel. The STATE will notify the COUNTY of its ability to assist given the current circumstances at the time of request and if such assistance by the STATE is provided, the COUNTY agrees to reimburse such costs incurred by the STATE. Reimbursement of such costs to the STATE will be processed in accordance with accounts receivable provisions contained in APPENDIX F.

In the event the COUNTY and the STATE agrees that jurisdiction and/or ownership of a particular route should be transferred to either party, the COUNTY shall coordinate such transfer activities with the STATE Highways' Construction and Maintenance Branch ("HWY-C"). The transferring party shall be responsible and bear all costs to prepare all land transaction documents, including any legal costs, notification costs, escrow, filing fees, or any other costs related to transfer of property. All record plans, property descriptions, ROW maps, easement documents, licenses or other documents that describe title, encumbrances, ownership and/or jurisdiction shall be provided to the receiving party in paper (2 copies) and electronic format.

April 8, 2015

**APPENDIX J –INTERIM PROCEDURES FOR CONSTRUCTION  
ADVERTISEMENT, AWARD, NOTICE-TO-  
PROCEED, AND CONSTRUCTION  
ADMINISTRATION**

Upon completion of design, obligation of federal funds, and authorization to advertise and receive bids by FHWA as shown on the approved PR-1240, the COUNTY shall expeditiously advertise, receive bids, evaluate bids and award the construction projects. These activities shall occur as soon as possible and within timelines specified in any FHWA imposed conditions for obligation of funds. The COUNTY shall submit bid, bid evaluation and related documents to the STATE for review and concurrence.

When required, the PR-1240 will be modified to reflect award amount by the STATE for FHWA approval. Upon FHWA approval, the STATE will furnish a copy of the modified PR-1240 to the COUNTY, and the COUNTY will expeditiously award and execute the construction contract. The COUNTY shall provide to the STATE the date when the project was advertised and a copy of the award letter to the contractor. Construction Notice to Proceed ("NTP") shall be issued by the COUNTY to its contractor within the timeframes specified in the construction specifications. The COUNTY will provide a copy of the NTP letter to the STATE for its records. Copies of each letter shall be submitted to the STATE in accordance with the STATE's Construction Procedures Manual - Volume 10.

All Federal-aid projects are subject to the goals of: awarding the project within 120 calendar days, and issuing NTP within 180 calendar days from the time construction funds are obligated.

Construction administration shall comply with the STATE's Construction Procedures Manual - Volume 10, STATE/SOH's Quality Assurance Manual, and the STATE/SOH Highways Testing Laboratory's guidelines and procedures for the Quality Assurance for Materials. Alternatively, the COUNTY may develop its own construction administration procedures in compliance with 23 CFR 635 that is submitted to and approved by the STATE and FHWA. Similarly the COUNTY may develop its own Quality Assurance Program in accordance with 23 CFR 637 that is submitted to and approved by the STATE and FHWA.

The STATE's District Engineer or assigned representative may participate in preconstruction meetings, field inspections, reviews, or final inspections as specified in the STATE's Construction Procedures Manual - Volume 10.

All construction and material records shall be made available for inspection by STATE or FHWA personnel. The STATE or FHWA may perform periodic process reviews or audits of ongoing COUNTY construction projects to verify

conformance with approved construction administration procedures and contract requirements.

Upon completion of construction work, the COUNTY shall endeavor to settle all costs with the contractor, the STATE, utility companies and other parties as required in a timely manner, and proceed to close out the project so that the project does not appear on any inactive list described in SECTION 9 and unused federal funds can be released for use in other Federal-aid projects in a timely fashion. Actual release (deobligation) of federal funds will be coordinated with the STATE Federal Program Engineer. Final project close-out shall be in accordance with the STATE's Construction Procedures Manual - Volume 10, Section 10-2-22.

April 8, 2015

**APPENDIX K –LETTER OF AGREEMENT AND STEWARDSHIP  
PLAN (“STEWARDSHIP AGREEMENT”)**

The STEWARDSHIP AGREEMENT contained in this appendix is provided for reference only.

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PUBLIC WORKS



## **AGREEMENT MODIFICATION NO. 001**

The STATE-COUNTY MEMORANDUM OF AGREEMENT – IMPLEMENTATION OF COUNTY FEDERAL-AID HIGHWAY PROJECTS AND PROGRAMS, executed June 25, 2015 ("AGREEMENT") is hereby amended as follows:

1. The following paragraphs are added to **SECTION 7 - Obligation of Federal Funds** following the last paragraph in said Section 7:

"Subawards and subagreements: The STATE will execute, as applicable, a new or modified REQUEST FOR PROJECT AUTHORIZATION, AGREEMENT AND/OR MODIFICATION, HI-FMIS 1240.3 ("PR-1240") upon a request by the COUNTY to the STATE to obligate federal funds for:

- (i) a new COUNTY project,
- (ii) a new phase of a COUNTY project, or
- (iii) an ongoing COUNTY project requiring funding adjustments within the same project phase.

Provided, however, that for modifications that do not require the addition of funds into an ongoing County project, the STATE will execute a modification of a previous version of a PR-1240 form with the FHWA (which modified previous version shall be included in the term "PR-1240").

The new or modified PR-1240 is a legal contract between the FHWA and the STATE. As a recipient, the STATE is responsible for the expenditure of funds shown in the PR-1240 and other supporting documents submitted, approved and authorized by the FHWA. Sample PR-1240s and supporting document for a typical COUNTY project are provided in APPENDIX L for the three scenarios described in the previous paragraph.

As a subrecipient, the COUNTY hereby agrees to receive and expend all federal funds for purposes of the project (including, but not limited to, work phase, work scope, amount, participation rate, and period of performance) and to comply with any and all conditions specified by the STATE and/or the FHWA as set forth in the PR-1240 or other project-specific written documents and correspondence between the STATE and the COUNTY and as required pursuant to any and all applicable laws including, but not limited to, 2 CFR 200.331, as the same may be amended. The conditions specified in the PR-1240 and any other project specific written conditions shall be consistent with this AGREEMENT and shall not alter or expand the responsibilities under this AGREEMENT.

As confirmation of and to document the COUNTY's commitment set forth in the preceding paragraph, the COUNTY hereby agrees to be bound by the terms and conditions of all such PR-1240s applicable to such COUNTY projects entered into pursuant to this AGREEMENT by the STATE. The COUNTY hereby agrees that by inclusion of the following language, or materially similar language, in any such PR-1240, the COUNTY's agreement herein shall apply to such PR-1240 and the COUNTY shall be bound to the STATE as to the terms of such PR-1240 as an executed and binding subagreement between the STATE and the COUNTY:

"By signature of its authorized signatory herein, the County of (complete appropriate county) hereby affirms its agreement to the terms herein as a subagreement between the State of Hawaii and the County of (complete appropriate county) in accordance with

and as set forth in Agreement Modification No. 001 of the STATE-COUNTY MEMORANDUM OF AGREEMENT-IMPLEMENTATION OF FEDERAL-AID HIGHWAY PROJECTS AND PROGRAMS. (signature line with printed name of signatory below)."

In furtherance thereof, the COUNTY hereby authorizes each of the following COUNTY personnel to affirm the COUNTY's agreement on such PR-1240.

Any conditions specified in the PR-1240 and any other project specific written conditions shall be consistent with this AGREEMENT and shall not alter or expand the responsibilities under this MOA.

COUNTY AUTHORIZED SIGNATORIES for PR-1240:

COUNTY OF KAUAI:

County Engineer for County of Kauai or designee

COUNTY OF MAUI:

Director of Public Works or designee

COUNTY OF HAWAII:

Director of Public Works or designee

CITY AND COUNTY OF HONOLULU:

Director of Transportation Services or designee

**2. Add a new: "APPENDIX L – SAMPLE PR-1240 AND SUPPORTING DOCUMENTS"**

All other provisions of the AGREEMENT shall remain in full force and effect, except as amended by this Agreement Modification No. 1, and upon complete execution of this Agreement Modification No. 1, the AGREEMENT shall include this Agreement Modification No. 1.

By their signature below, the parties hereto agree to the terms and conditions of this Agreement Modification No. 1.

**STATE OF HAWAII**

APPROVED

\_\_\_\_\_  
Ford N. Fuchigami  
Director of Transportation

Date: \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
Deputy Attorney General

Date: \_\_\_\_\_

**COUNTY OF HAWAII**  
**Duns No: 094636073**

By: \_\_\_\_\_  
William P. Kenoi  
Mayor

**RECOMMEND APPROVAL:**

\_\_\_\_\_  
Director of Public Works

Date: \_\_\_\_\_

Approved as to form and legality:

\_\_\_\_\_  
Deputy Corporation Counsel  
County of Hawaii

Date: \_\_\_\_\_

**COUNTY OF KAUAI**  
**Duns No. 113218945**

By: \_\_\_\_\_

RECOMMEND APPROVAL:

\_\_\_\_\_  
County Engineer

Date: \_\_\_\_\_

\_\_\_\_\_  
Director of Finance

Date: \_\_\_\_\_

Approved as to form and legality:

\_\_\_\_\_  
Deputy County Attorney  
County of Kauai

Date: \_\_\_\_\_

**COUNTY OF MAUI**  
**Duns No: 077680155**

By: \_\_\_\_\_  
Alan M. Arakawa  
Mayor, County of Maui

**RECOMMEND APPROVAL:**

\_\_\_\_\_  
Director of Public Works  
David C. Goode

Date: \_\_\_\_\_

Approved as to form and legality:

\_\_\_\_\_  
Deputy Corporation Counsel  
County of Maui

Date: \_\_\_\_\_

**CITY & COUNTY OF HONOLULU**  
**Duns No. 614644565**

By: \_\_\_\_\_  
Kirk Caldwell  
Mayor

Approved as to form and legality:

\_\_\_\_\_  
Deputy Corporation Counsel  
City and County of Honolulu  
Donna Y.L. Leong

Date: \_\_\_\_\_

## APPENDIX L – SAMPLE PR-1240 AND SUPPORTING DOCUMENTS

### Typical New Project Sample Authorization (Construction Phase)

- M1-9 REQUEST FOR PROJECT AUTHORIZATION AGREEMENT AND/OR MODIFICATION (HI-FMIS 1240.3)
- M1-10 FEDERAL AID IDENTIFICATION NUMBER
- M1-11 FEDERAL-AID PROGRAM DATA (DOT 4-494)
- M1-12 DETAIL ESTIMATE FOR A FEDERAL-AID PROJECT AGREEMENT
- M1-13 ENGINEER'S PRELIMINARY DETAIL ESTIMATE – SUMMARY SHEET
- M1-14 PROJECT LOCATION MAP
- M1-15 JUSTIFICATION OF CONSTRUCTION PERFORMANCE PERIOD
- M1-16 CONSTRUCTION SCHEDULE
- M1-17 PS&E CHECKLIST FOR FEDERAL-AID PROJECTS

### Typical New Project *Phase or additional funds* Sample - Project Sample Modification

- M1-18 REQUEST FOR PROJECT AUTHORIZATION AGREEMENT AND/OR MODIFICATION (HI-FMIS 1240.3)

Note: Other supporting documents such as M1-10, M1-11, M1-12, M1-13, M1-15, M1-16 & M1-17 listed above may accompany a project modification request that adds a new phase and funds to a project

### Typical Ongoing Project Sample Modification (*not adding funds*)

- M1-19 REQUEST FOR PROJECT AUTHORIZATION AGREEMENT AND/OR MODIFICATION (HI-FMIS 1240.2)

Note: Other supporting documents such as M1-12 listed above may accompany an ongoing project modification request that does not involve adding funds to a project.



<b>From: HAWAII DEPARTMENT OF TRANSPORTATION HIGHWAYS DIVISION</b>  <b>To: FEDERAL HIGHWAY ADMINISTRATION HAWAII DIVISION OFFICE</b>  "In accordance with HDOT/FHWA Stewardship Oversight Agreement"			<b>REQUEST FOR PROJECT AUTHORIZATION, AGREEMENT, AND/OR MODIFICATION</b>  <input checked="" type="checkbox"/> Authorization <input type="checkbox"/> Modified Project Agreement <input checked="" type="checkbox"/> Project Agreement      Modification No. _____  <small>The state agrees that as a condition to payment of the Federal funds obligated, it accepts and will comply with the agreement provisions set forth in 23 CFR 630; and its signature constitutes the making of the certificates.</small>			
FEDERAL PROJECT NO. <b>0700069</b>	RECIPIENT PROJECT NO. <b>STP-0700(069)</b>	HDOT ITEM NO. <b>16006</b>	DUNS <b>168818466</b>	COUNTY <b>Kauai County</b>		
Period of Performance End Date: <b>CON 5/17/2018</b>	INDIRECT COST RATE (%) <b>not applicable</b>	STIP REFERENCE <b>2016 KC4</b>	PODI <input type="checkbox"/> Yes <input type="checkbox"/> No		CFDA Number <b>20.205</b>	
Project Title: <b>Kauai Cnty - Lydgate Park to Kapaa Bike/Pedestrian Path, Kawaihau Elevated Boardwalk, Phase A-1</b>						
Project Description (2000 characters max): <b>Construction of a shared use path from the previously completed path adjacent to Kawaihau Road to the the completed path near Gore Park.</b>						
<b>AUTHORIZED TO PROCEED WITH THE WORK CHECKED BELOW:</b> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input type="checkbox"/> PRELIMINARY ENGINEERING (PE1) - Preliminary Design and NEPA  <input type="checkbox"/> PRELIMINARY ENGINEERING (PE2) - Final Design  <input type="checkbox"/> PRELIMINARY RIGHT-OF-WAY  <input type="checkbox"/> ACQUISITION OF RIGHT-OF-WAY         </div> <div style="width: 45%;"> <input type="checkbox"/> CONSTRUCTION - Advertise for Receipt of Bids  <input type="checkbox"/> CONSTRUCTION - Proceed on an agreed price and/or force account basis  <input type="checkbox"/> OTHER (R&amp;D, specify) _____         </div> </div>						
FUNDING	DATE (MM/DD/YY)	TOTAL ESTIMATE PROJECT COST (\$)	FEDERAL PARTICIPATION AMOUNT (\$)	FEDERAL FUNDS(\$)	PGM CODE	RATIO(%)
PREVIOUS AUTHORIZATIONS	<b>NEW PROJECT SAMPLE</b>	<b>NEW PROJECT SAMPLE</b>	<b>NEW PROJECT SAMPLE</b>	<b>NEW PROJECT SAMPLE</b>		
THIS AUTHORIZATION		\$224,390.83	\$224,390.83	\$224,390.83	H220	100%
		\$326,605.42	\$326,605.42	\$326,605.42	33B0	100%
		\$343,503.08	\$343,503.08	\$343,503.08	L220	100%
		\$1,723,716.76	\$1,723,716.76	\$1,723,716.76	L22E	100%
PROGRAM CODE TOTALS		\$224,390.83	\$224,390.83	\$224,390.83	H220	100%
		\$326,605.42	\$326,605.42	\$326,605.42	33B0	100%
		\$343,503.08	\$343,503.08	\$343,503.08	L220	100%
		\$1,723,716.76	\$1,723,716.76	\$1,723,716.76	L22E	100%
GRAND TOTAL		\$2,618,216.09	\$2,618,216.09	\$2,618,216.09		
<b>Remarks/Reason for Project Agreement Modification</b> <div style="display: flex;"> <div style="width: 45%;"> <b>STATE COMMENTS:</b>            This agreement is subject to the following award terms:  <a href="http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf">http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf</a>            and <a href="http://edocket.access.gpo.gov/2010/pdf/2010-22706.pdf">http://edocket.access.gpo.gov/2010/pdf/2010-22706.pdf</a>.         </div> <div style="width: 45%;"> <b>FHWA COMMENTS:</b>           </div> </div>						
<b>C o u n t y</b>	By signature of its authorized signatory herein, the County of Kauai hereby affirms its agreement to the terms herein as a subagreement between the State of Hawaii and the County of Kauai in accordance with and set forth in Agreement Modification No. 001 of the STATE-COUNTY AGREEMENT OF FEDERAL HIGHWAY PROJECTS AND PROGRAM.					
	by: COUNTY OF KAUAI      Date _____ DUNS No. _____					
<b>H D O T</b>	<b>Electronically signed in FMIS</b> Authorized by _____ Date _____					
	<div style="display: flex;"> <div style="width: 10%; text-align: center;"> <b>F H W A</b> </div> <div style="width: 90%;"> <b>Authorization</b>             by: _____ Date _____            (Title)   <b>Agreement</b>            by: _____ Date _____            For Division Administrator         </div> </div>					

<b>FEDERAL AID IDENTIFICATION NUMBER (FAIN)</b>			Date Prepared: <b>XX/XX/201X</b>				
			Modification No. <b>NEW Authorization</b>				
FEDERAL PROJECT NO. <b>0700069</b>		RECIPIENT PROJECT NO. <b>STP-0700(069)</b>				SUB RECIPIENT <b>Kauai County</b>	
Project Title: <b>Kauai Cnty - Lydgate Park to Kapaa Bike/Pedestrian Path, Kawaihau Elevated Boardwalk, Phase A-1</b>							
FUNDING	DATE (MM/DD/YY)	TOTAL ESTIMATE PROJECT COST (\$)	FEDERAL PARTICIPATION AMOUNT (\$)	FEDERAL FUNDS(\$)	PGM CODE	FMIS DETAIL LINE NO.	FAIN No.
PREVIOUS AUTHORIZATIONS	<b>SAMPLE</b>	\$0.00	\$0.00	\$0.00			<b>SAMPLE</b>
		\$0.00	\$0.00	\$0.00			
		\$0.00	\$0.00	\$0.00			
		\$0.00	\$0.00	\$0.00			
THIS AUTHORIZATION (SUBAWARD)	<b>SAMPLE</b>	\$224,390.83	\$224,390.83	\$224,390.83	H220	1	150700069H2201
		\$326,605.42	\$326,605.42	\$326,605.42	33B0	1	15070006933B01
		\$343,503.08	\$343,503.08	\$343,503.08	L220	1	150700069L2201
		\$350,000.00	\$350,000.00	\$350,000.00	L22E	1	150700069L22E1
		\$1,373,716.76	\$1,373,716.76	\$1,373,716.76	L22E	2	150700069L22E2
CURRENT TOTAL	<b>SAMPLE</b>	\$224,390.83	\$224,390.83	\$224,390.83	H220		<b>SAMPLE</b>
		\$326,605.42	\$326,605.42	\$326,605.42	33B0		
		\$343,503.08	\$343,503.08	\$343,503.08	L220		
		\$350,000.00	\$350,000.00	\$350,000.00	L22E		
		\$1,373,716.76	\$1,373,716.76	\$1,373,716.76	L22E		
		\$2,618,216.09	\$2,618,216.09	\$2,618,216.09			

FOR ALL COUNTY PROJECTS, ATTACH THIS WITH THE PR-1240



FEDERAL-AID PROGRAM DATA										STATE OF HAWAII DEPARTMENT OF TRANSPORTATION HIGHWAY DIVISION			
PROJECT LOCATION (45)  Kawaihau, Hawaii; vicinity of Gore Park						COUNTY		STANDARD PLACE CODE	STATE		ITEM NO.		
						NAME	CODE		NAME	CODE			
						Kauai County		007	Hawaii	15	16006		
CHARACTER OF PROPOSED WORK (85)  CON for shared use path / facility				EMERG YR	DEMO ID	PROJECT NUMBER			PROJECT OVERSIGHT				
						PREFIX LETTER(S)	NUMBER	AGR. NO.	<input checked="" type="checkbox"/> Delegated / Locally Administered <input type="checkbox"/> FHWA full oversight (on NHS) <input type="checkbox"/> Not on NHS, FHWA full oversight				
						STP	0700	(069)					
CLASS OF FEDERAL FUNDS					PROGRAM CODE		PARENT CODE	RURAL/URBAN	NAME OF URBAN AREA				
STP-ENHANCE-STEAO3, STP-ENHANCE, STP-ENHANCEMENT, STP-ENHANCE S-LU EXT					H220, 33B0, L220, L22E			Small Urban	Kawaihau				
ROUTE NO. AND NAME			INVENTORY NO.	MILEPOINT TO	MILEPOINT	FUNCTIONAL SYSTEM		FEDERAL-AID SYSTEM		CONGRESSIONAL DISTRICT			
NOT APPLICABLE						None		Not on Federal Aid system		2			
PHASE	TERMINI (FULL DESCRIPTION) (INCLUDE NBI BRIDGE STRUCTURE NO.)	MILES	ESTIMATED PROJECT COST BY PHASES					DESCRIPTION OF PROPOSED WORK					
			TOTAL ESTIMATED COST	PARTICIPATING AMOUNT	FEDERAL FUNDS ( 100%)	STATE FUNDS	OTHER FUNDS						
PE	Kawaihau, vicinity of Gore Park	SAMPLE						CON for a shared use path from the previously completed path adjacent to Kawaihau Road to the completed path near Gore Park, a distance of approximately 1,600 feet, 10-12 feet wide.					
ROW						SAMPLE							
CON			\$2,618,216.09	\$2,618,216.09	\$2,618,216.09	\$0.00	\$0.00						
PREPARED BY D. Haigh		PROJECT TOTALS		\$2,618,216.09	\$2,618,216.09	\$2,618,216.09	\$0.00		\$0.00				
PROJECT TITLE: Kawaihau Elevated Boardwalk, Kawaihau Elevated Boardwalk Phase A-1									ANTICIPATED ENVIRONMENTAL CLEARANCE (CLASS OF ACTION)				
RELATED PROJECTS:									<input type="checkbox"/> EIS      CATEGORICAL EXCLUSION: <input checked="" type="checkbox"/> EA <input type="checkbox"/> PROGRAMMATIC - 23 CFR-771.117(c)(1) <input type="checkbox"/> FONSI <input type="checkbox"/> STATE DOCUMENTED - 23 CFR 771.117(d)				
IMPROVEMENT TYPE: 28 - Facilities for Pedestrian and Bikes, 17 - Construction Engineering													
REMARKS: Project KC4, Phase A-1 on the 2016 STIP. Location Map attached. Project uses \$654,554.02 in flexible match from donated land / interests; \$2,618,216.09 estimated federal share. Construction to be performed by Hawaii Air National Guard personnel using donated labor and equipment. Materials and supplies to be purchased with Federal funding.													
Subrecipient: County of Kauai		Subaward Period of Performance Start Date: See PR1240.3 "THIS AUTHORIZATION date stamp by FHWA"		Subaward Period of Performance End Date: 4/15/2018		Date prepared by DOT: _____		REQUIRED FOR OBLIGATING CONSTRUCTION PHASE					
								Estimated Construction NTP date (mm/yyyy): 8/2016					

HAWAII DEPARTMENT OF TRANSPORTATION  
HIGHWAYS DIVISION

DETAIL ESTIMATE FOR  
A FEDERAL-AID PROJECT AGREEMENT

SAMPLE

FOR

SAMPLE  
Lydgate Park to Kapaa Bike/Pedestrian Path, Kawaihau Elevated Boardwalk, Phase A-1

Federal Aid Project No. STP-0700(069)

SAMPLE

06/16/16

	<u>TOTAL COST</u>	<u>PAR COST</u>	<u>FEDERAL SHARE (100%)</u>	<u>COUNTY SHARE</u>	<u>OTHER SHARE</u>
<b>PRG CODE H220 @ 100% (STP-Enhance-STEAO3)</b>					
28 - Facilities for Pedestrians & Bikes	\$224,390.83	\$224,390.83	\$224,390.83	\$0.00	\$0.00
<b>PRG CODE 33B0 @ 100% (STP - Enhance)</b>					
28 - Facilities for Pedestrians & Bikes	\$326,605.42	\$326,605.42	\$326,605.42	\$0.00	\$0.00
<b>PRG CODE L220 @ 100% (STP Enhancement)</b>					
28 - Facilities for Pedestrians & Bikes	\$343,503.08	\$343,503.08	\$343,503.08	\$0.00	\$0.00
<b>PRG CODE L22E @ 100% (STP - Enhance S-LU Ext.)</b>					
28 - Facilities for Pedestrians & Bikes	\$1,373,716.76	\$1,373,716.76	\$1,373,716.76	\$0.00	\$0.00
17 - CENG - County Forces & State Review	\$350,000.00	\$350,000.00	\$350,000.00	\$0.00	\$0.00
Total CENG	\$350,000.00	\$350,000.00	\$350,000.00	\$0.00	\$0.00
<b>PRG CODE L22E TOTAL</b>	<b>\$1,723,716.76</b>	<b>\$1,723,716.76</b>	<b>\$1,723,716.76</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>PROJECT TOTAL</b>	<b>\$2,618,216.09</b>	<b>\$2,618,216.09</b>	<b>\$2,618,216.09</b>	<b>\$0.00</b>	<b>\$0.00</b>

Notes:

SAMPLE

1. Federal Share (Billing ratio) is 100% because the in-kind contribution of land is sufficient to cover the local share.  
See below for calculation of billing ratio.

\*\*\*\*\*

SUMMARY

The following estimate is for the purpose of calculating the billing ratio taking into account the in-kind contribution of donated land.

SAMPLE

	<u>TOTAL COST</u>	<u>PAR COST</u>	<u>FEDERAL SHARE (80%)</u>	<u>COUNTY SHARE</u>	<u>OTHER SHARE</u>
CONSTRUCTION	\$2,618,216.09	\$2,618,216.09	\$2,094,572.87	\$523,643.22	\$0.00
Required in-kind match to be 100% Fed	\$654,554.02	\$654,554.02	\$523,643.22	\$130,910.80	\$0.00
<b>TOTAL PROJECT</b>	<b>\$3,272,770.11</b>	<b>\$3,272,770.11</b>	<b>\$2,618,216.09</b>	<b>\$654,554.02</b>	<b>\$0.00</b>

SAMPLE

Remarks:

The value of donated land for the Lihue - Anahola Multi-Use Path is \$7,449,000 plus additional amounts approved by FHWA. The path will be constructed in segments. The value of the donated land and easement is to be allocated among the various segments (projects). This project is one segment of the path. The land value used for this segment is \$654,554.02. Since the value of the donated land allocated to this segment is equal to the local share in the above calculation, the billing ratio for the Lydgate - Kapaa Bike/Pedestrian Path Phase B project shall be 100%. See attached allocation table for tracking the value of the donated land.

The above equates to the following:

	<u>TOTAL COST</u>	<u>PAR COST</u>	<u>FEDERAL SHARE (100%)</u>	<u>COUNTY SHARE</u>	<u>OTHER SHARE</u>
Donated Land	\$654,554.02	\$0.00	\$0.00	\$654,554.02	\$0.00
CONSTRUCTION	\$2,618,216.09	\$2,618,216.09	\$2,618,216.09	\$0.00	\$0.00
<b>TOTAL PROJECT</b>	<b>\$3,272,770.11</b>	<b>\$2,618,216.09</b>	<b>\$2,618,216.09</b>	<b>\$654,554.02</b>	<b>\$0.00</b>

**SAMPLE**

## SUMMARY SHEET

**SAMPLE**

	CONTRACT ITEMS	CONTIN- GENCIES	CONSTR. ENGINEERING	TOTAL PROJ. COST	PAR. COST	FED-SHARE (100% PAR)	COUNTY SHARE
FACILITIES FOR PEDESTRIANS & BICYCLES Type Code - 28	\$ 2,160,205.80	\$ 108,010.29	(\$350,000.00)	\$ 2,268,216.09	\$2,268,216.09	\$2,268,216.09	\$0.00
CONSTR ENGR Type Code - 17					<b>SAMPLE</b>		
Consult (CM/CSS)			\$250,000.00		\$250,000.00	\$250,000.00	\$0.00
Consult (Post Design)			\$0.00		\$0.00	\$0.00	\$0.00
Staff Non-Labor			\$0.00		\$0.00	\$0.00	\$0.00
Subtotal			\$250,000.00		\$250,000.00	\$250,000.00	\$0.00
Staff Labor Incl. State Review			\$100,000.00		\$100,000.00	\$100,000.00	\$0.00
Total CENG			\$350,000.00	\$350,000.00	\$350,000.00	\$350,000.00	\$0.00
TOTAL PROJECT COST	\$2,160,205.80	\$108,010.29	\$350,000.00	\$2,618,216.09	\$2,618,216.09	\$2,618,216.09	\$0.00

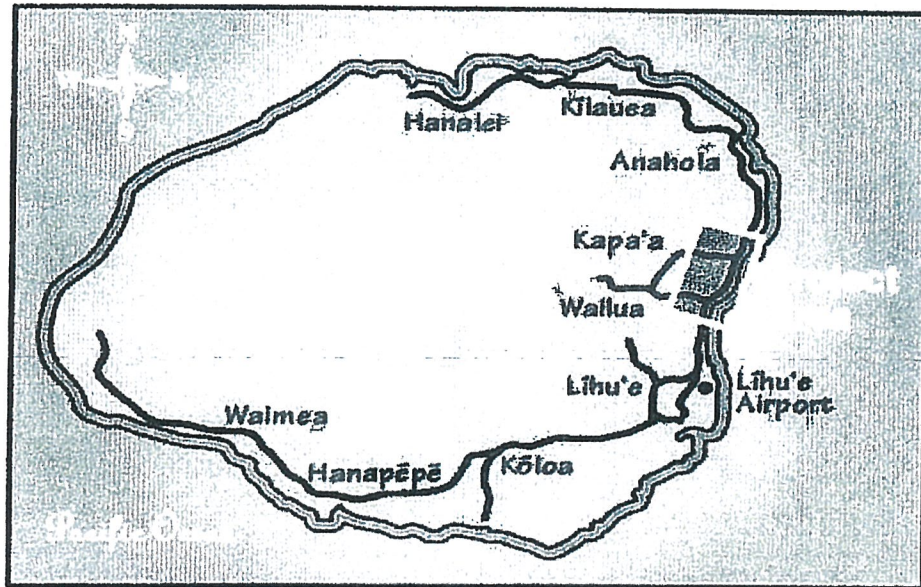
FEDERAL FUNDS REQUESTED =  
 COUNTY FUNDS REQUESTED =

\$2,618,216.09  
 \$0.00

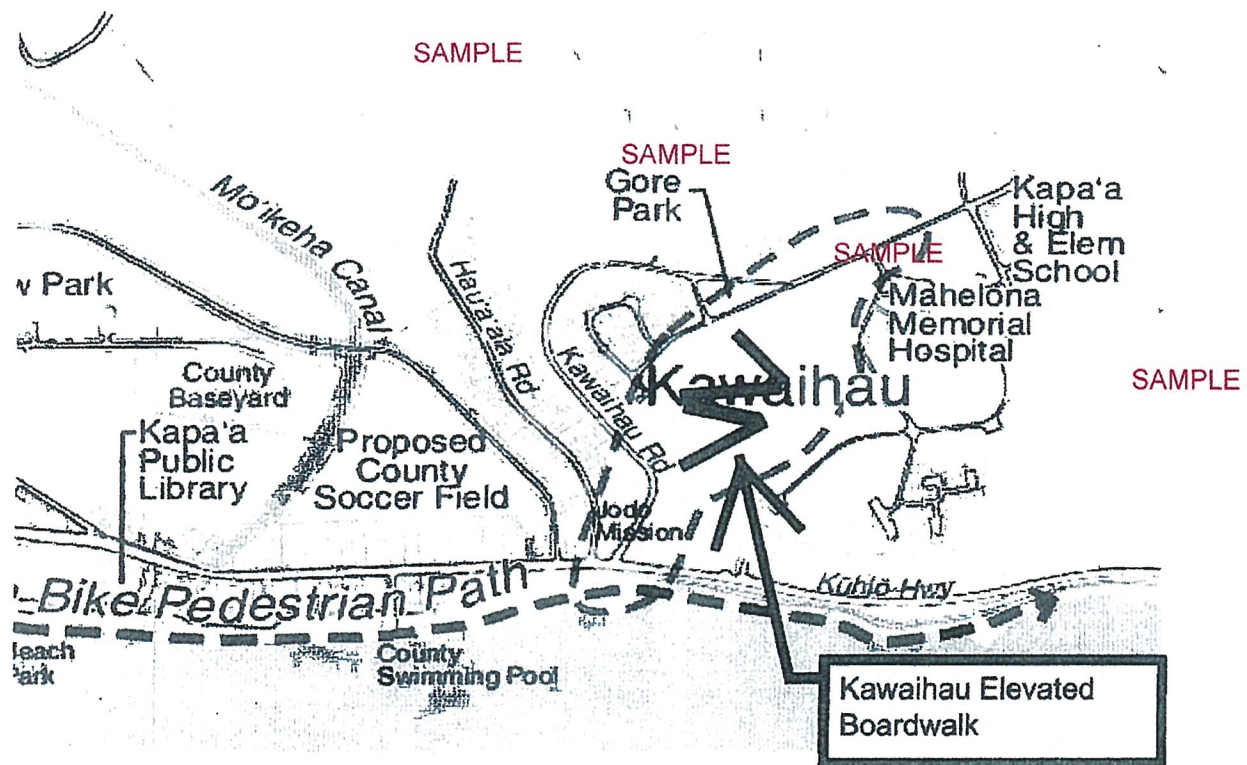
**SAMPLE**



STP-0700(069)



SAMPLE



## Justification of Construction Performance Period

(to be submitted with any obligation of Federal Funds for a new construction request)

LEGEND: Orange, Red, Blue = calc. dates Green = input field

Project No: STP-0700(069)

Project Title: Lydgate to Kapaa Bike/Ped Path, Kawaihau Elevated Boardwalk

Date Prepared: June 16, 2016

By: Doug Haigh

Reviewed:

By:

SAMPLE

SAMPLE

SAMPLE

SAMPLE

SAMPLE

SAMPLE

SAMPLE

SAMPLE

SAMPLE

SAMPLE

(A.) Construction  
Obligation of  
Fed CON Funds  
6/17/2016

(B.) 180 days (maximum)  
FHWA HIDIV Policy

(B.) Construction  
Notice to  
Proceed  
8/25/2016

(C.) Contract Time + (D.) Contingency

(E.) Construction Final  
Acceptance  
5/17/2017

(F.) 365 days (maximum)  
FHWA HIDIV Policy

(G.) Project Performance  
End Date (Closeout in  
FMIS)  
5/17/2018

(60 d. state)

(70 d. counties)

-> -> -> TIMELINE -> -> ->

A. FHWA PR-1240 Anticipated Approval:

6/17/2016

Assume 2 weeks (FHWA HIDIV Assistant DA verbally requested 30 days to allow FHWA processing 1240), therefore assume 5 weeks from the time a construction obligation request is sent to HWY-SM from the State PM to obligate funds.

B. Time to Notice to Proceed:

69 8/25/2016  
Assume 180 Calendar days.

Sometimes this might be affected by environmental and other factors (bird nesting seasons, etc.) and may require discussions with FHWA transportation engineers if 180 days cannot be achieved.

C. Contract time: (convert WD to CD as needed)

Plant Maintenance Period? (enter "Y" for yes) 241 0 4/23/2017

Estimate for Construction Substantial Completion and Plant Maintenance Period (if applicable) of 9 months. This is very important as this time is noted in the Project's PS&E, which is what the contractor is obligated to meet for substantial completion. Also consider time allotment for Lane Closure Restrictions when determining Contract Time and completion of Punchlist work from the Pre-Final Inspection.

D. Contingency

Rain-Outs 10% 24  
CCOs 0% 0

Estimate/allow for: rain-outs (5%-10%) and CCOs (5%-15%) that would add time for Contingency. If a project does NOT have Plant Establish/Plant Maintenance, adjust CCO range from (5% to 20%). Obtain input from the assigned Construction Resident Engineer when completing these fields.

E. Construction Final Acceptance

5/17/2017

Contractor is given substantial completion from the State Construction Office with construction time ended.

F. Time to make final payments to: Contractor, CM/CSS and/or Post design consultants; settle agreements and accounts receivables; make final ROW & labor payments; and final bill to FHWA. Finalize Utility Agreements, Finalize As-Builts, and Finalize Project Material Certification, which should have already started in the contract time period.

365  
Calendar days.

Note: Counties need to submit final project reimbursement request 60 days prior to the construction performance end date, so State can bill the FHWA before the date FHWA requires the State to close the project.

G. Project Perform. End Date:

5/17/2018

Deadline for State to Close Project with FHWA in FMIS.

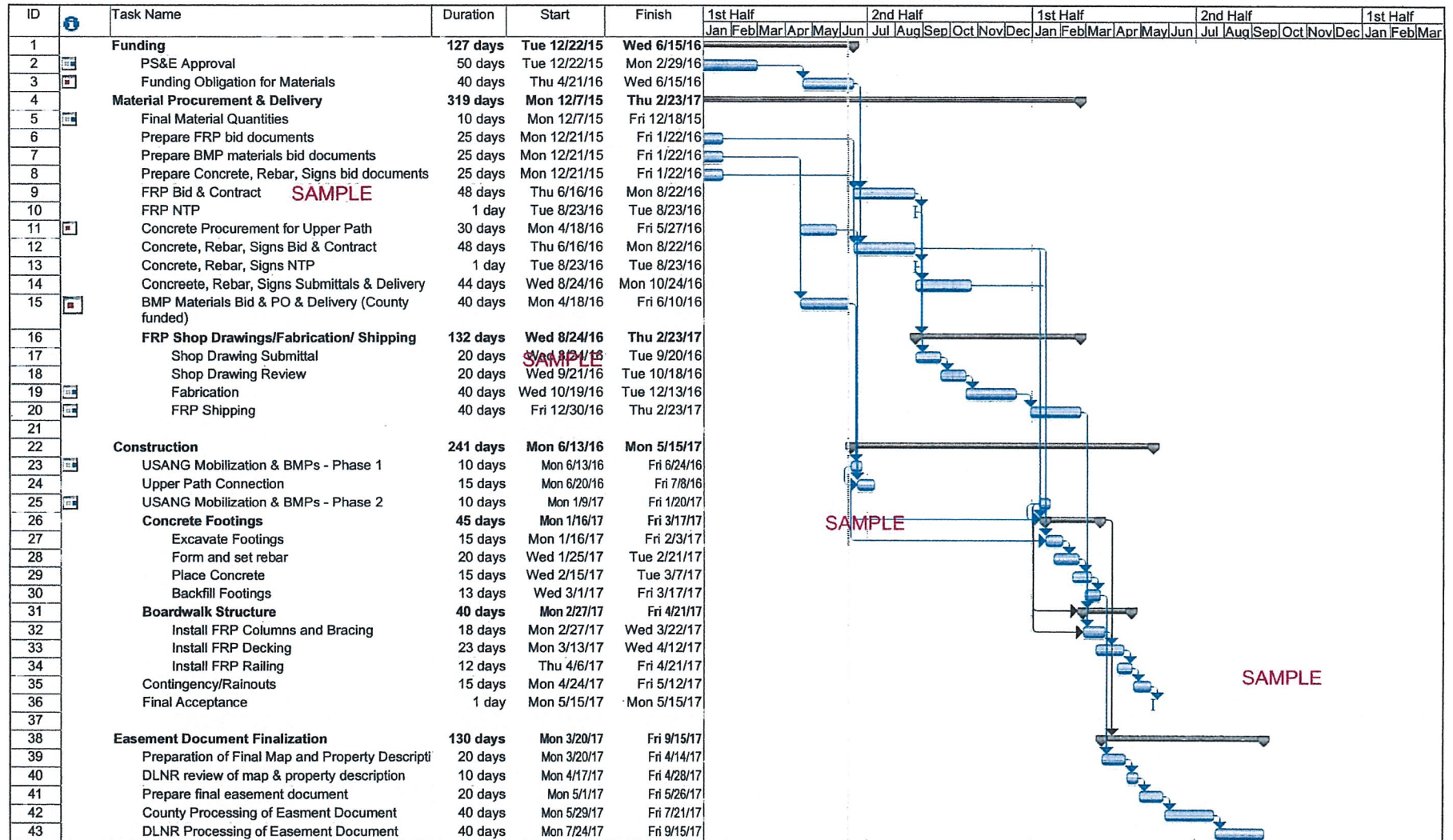
H. Last date when any time extension request must be received by FHWA from the State.

3/18/2018

One Extensions allowed, received by FHWA 10 60 days before performance end date -maximum of 265 days with justification.

Note: Counties should submit any extension request 10 days prior to the Construction Performance End Date (G.) above to the State.





Project: Kawaihau Elevated Boardwalk  
Date: Thu 6/9/16

Task Milestone External Tasks   
Split Summary External Milestone   
Progress Project Summary Deadline



**PS&E CHECKLIST FOR FEDERAL-AID PROJECTS**  
(To be submitted with PS&E to FHWA)

Project: Lydgate Park to Kapa'a Bike/Pedestrian Path, Kawaihau Elevated Boardwalk Phase  
Federal-aid Project No.: STP-0700(069)

Description	Action Taken (Letter No.)	Date of Submittal
STIP	2016	
Innovative Financing	N/A	
Environmental Documents		
A. CZM Permit	N/A	
B. SMA Permit	N/A	
C. Section 404 Permit	N/A	
D. Section 401 Water Quality Certification (WQC)	N/A	
E. Section 106	Log No: 2015.02185, Doc No:1506MN16	150622
F. Section 4(f)	N/A	
G. Section 7 of the Endangered Species Act	2015-I-0174	150316
H. CE, FONSI, or ROD Approval	CatEx for Re-Evaluation	150720
I. Noise Study Report	N/A	
J. Coast Guard Permit	N/A	
K. NPDES Permit	Renewal NGPC (File No. HI R10D483)	131209
L. 6(f) SAMPLE	N/A	
M. SCAP	N/A	
Environmental Mitigations		
Noise Abatement Measures	N/A	
Right-of-Way Certification	Right Of Way Certification with a request for exception in accordance with Section 23 DVR 635.309 (c) 2	150513
Utility Agreement or Memorandum of Understanding	SAMPLE	
A. Electric	N/A	
B. Telephone	N/A	
C. Gas	N/A	
D. Water	N/A	
E. Sewer	N/A	SAMPLE
F. Cable T.V.	N/A	
DCAB Project Review	DCAB Clean Document Review	151016
Soils Engineering Report	Attached	090814
Structural Foundation Investigation Report	N/A	
Bridge Sufficiency Rating	N/A	
Hydraulic Report, with any Scour Evaluations	N/A	
Permanent BMP Checklist	Attached	150810
Pavement Justification Report	N/A	
Traffic Signal Warrants	N/A	
Proprietary Materials	N/A	
Design Exceptions	N/A	
Transportation Management Plan	Attached	160114
Construction Personnel (CM vs. State)	CM	
Justification for Contract Time	Attached	150731
Value Engineering	N/A	
Landscape Maintenance Plan	N/A	

Prepared by: [Signature]  
Design Project Engineer

Date: 1/15/16

Reviewed by: [Signature]  
Supervising Design Engineer

Date: 1/15/16

<b>From: HAWAII DEPARTMENT OF TRANSPORTATION HIGHWAYS DIVISION</b>  <b>To: FEDERAL HIGHWAY ADMINISTRATION HAWAII DIVISION OFFICE</b>  "In accordance with HDOT/FHWA Stewardship Oversight Agreement"		<b>REQUEST FOR PROJECT AUTHORIZATION, AGREEMENT, AND/OR MODIFICATION</b>  <input type="checkbox"/> Authorization <input checked="" type="checkbox"/> Modified Project Agreement <input type="checkbox"/> Project Agreement      Modification No. <u>1</u>  <small>The state agrees that as a condition to payment of the Federal funds obligated, it accepts and will comply with the agreement provisions set forth in 23 CFR 630; and its signature constitutes the making of the certificates.</small>				
FEDERAL PROJECT NO. <b>3210001</b>	RECIPIENT PROJECT NO. <b>STP-3210(001)</b>	HDOT ITEM NO. <b>15009</b>	DUNS <b>168818466</b>	COUNTY <b>Maui County</b>		
Period of Performance End Date: <b>CON 12/18/2018</b>	INDIRECT COST RATE (%) <b>not applicable</b>	STIP REFERENCE <b>2016 MC16</b>	PODI <input type="checkbox"/> Yes <input type="checkbox"/> No		CFDA Number <b>20.205</b>	
Project Title: <b>Maui Cnty - Kuikahi Drive Pavement Rehabilitation, Honoapiilani Highway to Kualau Street (P, C)</b>						
Project Description (2000 characters max): <b>Roadway rehabilitation work that includes pavement reconstruction, curb ramps, sidewalks, utility adjustments, signage and pavement markings.</b>						
AUTHORIZED TO PROCEED WITH THE WORK CHECKED BELOW: <div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <input type="checkbox"/> PRELIMINARY ENGINEERING (PE1) - Preliminary Design and NEPA  <input type="checkbox"/> PRELIMINARY ENGINEERING (PE2) - Final Design  <input type="checkbox"/> PRELIMINARY RIGHT-OF-WAY  <input type="checkbox"/> ACQUISITION OF RIGHT-OF-WAY         </div> <div style="width: 48%;"> <input type="checkbox"/> CONSTRUCTION - Advertise for Receipt of Bids  <input type="checkbox"/> CONSTRUCTION - Proceed on an agreed price and/or force account basis  <input type="checkbox"/> OTHER (R&amp;D, specify)         </div> </div>						
FUNDING	DATE (MM/DD/YY)	TOTAL ESTIMATE PROJECT COST (\$)	FEDERAL PARTICIPATION AMOUNT (\$)	FEDERAL FUNDS(\$)	PGM CODE	RATIO(%)
PREVIOUS AUTHORIZATIONS	3/13/2015	\$185,000.00 <b>SAMPLE MODIFIED PROJECT ADD</b>	\$10,000.00 <b>FUNDS AND/OR NEW</b>	\$8,000.00 <b>PHASE</b>	M2E1	80%
THIS AUTHORIZATION		\$2,869,600.18 <b>SAMPLE MODIFIED PROJECT ADD</b>	\$2,560,262.72 <b>FUNDS AND/OR NEW</b>	\$2,048,210.18 <b>PHASE</b>	M2E1	80%
PROGRAM CODE TOTALS		\$3,054,600.18 <b>SAMPLE MODIFIED PROJECT ADD</b>	\$2,570,262.72 <b>FUNDS AND/OR NEW</b>	\$2,056,210.18 <b>PHASE</b>	M2E1	80%
GRAND TOTAL		\$3,054,600.18	\$2,570,262.72	\$2,056,210.18		
Remarks/Reason for Project Agreement Modification						
STATE COMMENTS:  Modification #1 adds funds for construction. Requesting authorization for construction.			FHWA COMMENTS:			
<b>C o u n t y</b>	By signature of its authorized signatory herein, the County of Maui hereby affirms its agreement to the terms herein as a subagreement between the State of Hawaii and the County of Maui in accordance with and set forth in Agreement Modification No. 001 of the STATE-COUNTY AGREEMENT OF FEDERAL HIGHWAY PROJECTS AND PROGRAM.					
	by: COUNTY OF MAUI      Date _____ DUNS No. _____					
<b>H D O T</b>	<b>Electronically signed in FMIS</b>					
	Authorized by _____ Date _____					
<b>F H W A</b>	<b>Authorization</b>					
	by: _____ Date _____ (Title)					
<b>F H W A</b>	<b>Agreement</b>					
	by: _____ Date _____ For Division Administrator					

<b>From: HAWAII DEPARTMENT OF TRANSPORTATION HIGHWAYS DIVISION</b>  <b>To: FEDERAL HIGHWAY ADMINISTRATION HAWAII DIVISION OFFICE</b>  <b>"In accordance with HDOT/FHWA operating partnership"</b>		<b>REQUEST FOR PROJECT AUTHORIZATION, AGREEMENT, AND/OR MODIFICATION</b>  <input type="checkbox"/> Authorization <input checked="" type="checkbox"/> Modified Project Agreement <input type="checkbox"/> Project Agreement                      Modification No. <u>4</u>  <small>The state agrees that as a condition to payment of the Federal funds obligated, it accepts and will comply with the agreement provisions set forth in 23 CFR 630; and its signature constitutes the making of the certificates.</small>				
FED AID PROJECT NO. 0900083	STATE PROJECT NO. STP-0900(083)	HDOT/HWY ITEM NO. 12057	DUNS NO. 168818466	COUNTY Maui County		
PROJECT DESCRIPTION (Max. of 130 Characters, to include brief description of project location and character of work)						
Maui Cnty – Lahaina Watershed Project Diversion Channel, Phase 3A (P, C)						
<u>YOU ARE AUTHORIZED TO PROCEED WITH THE WORK CHECKED BELOW:</u> <div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <input type="checkbox"/> PRELIMINARY ENGINEERING TO DETERMINE LOCATION ONLY  <input type="checkbox"/> PRELIMINARY ENGINEERING FOR CONTRACT PLAN PREPARATION  <input type="checkbox"/> PRELIMINARY RIGHT-OF-WAY  <input type="checkbox"/> ACQUISITION OF RIGHT-OF-WAY </div> <div style="width: 48%;"> <input type="checkbox"/> CONSTRUCTION – ADVERTISE FOR RECEIPT OF BIDS  <input type="checkbox"/> CONSTRUCTION – PROCEED ON AN AGREED PRICE AND/OR FORCE ACCOUNT BASIS  <input type="checkbox"/> OTHER (specify) _____ </div> </div>						
<b>SAMPLE ONGOING PROJECT (NO ADDITION OF FUNDS)</b>						
DATE AUTHORIZATION EFFECTIVE		STIP REFERENCE (Optional; include year)				
FUNDING	DATE (MM/DD/YY)	TOTAL ESTIMATED PROJECT COST(\$)	FEDERAL PARTICIPATION AMOUNT	FEDERAL FUNDS(\$)	PGM CODE	RATIO(%)
PREVIOUS AUTHORIZATIONS	8/30/13	\$2,443,223.43	\$1,935,634.00	\$1,935,634.00	H660	100%
THIS AUTHORIZATION		(-) \$8,249.87	\$0.00	\$0.00	H660	100%
PROJECT TOTALS		\$2,434,973.56	\$1,935,634.00	\$1,935,634.00	H660	100%
GRAND TOTAL		\$2,434,973.56	\$1,935,634.00	\$1,935,634.00		
STATE COMMENTS:		Remarks/Reason for Project Agreement Modification FHWA COMMENTS:				
Modification #4 updates estimate to reallocate funds within project to cover ongoing costs.						
County of Maui  By: _____ DUNS No: _____ Date _____		By signature of its authorized signatory herein, the County of Maui hereby affirms its agreement to the terms herein as a subagreement between the State of Hawaii and the County of Maui in accordance with and set forth in Agreement Modification No. 001 of the STATE-COUNTY AGREEMENT OF FEDERAL HIGHWAY PROJECTS AND PROGRAM.				
Hawaii Department of Transportation Highways Division  _____ Authorized by Date _____ _____ Administrative Services Officer Title		U.S. Department of Transportation Federal Highway Administration  <b>Authorization</b> by _____ (Title) Date _____ <b>Agreement</b> by _____ For Division Administrator Date _____				



FORD N. FUCHIGAMI  
DIRECTOR

RECEIVED

2016 MAR 17 PM 8: 27

STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097

DEPT. OF  
PUBLIC  
WORKS

CL  
▲

## ACTION

SEE 1E

226

EDWIN H. SNIFFEN  
DARRELL T. YOUNG

IN REPLY REFER TO:  
HWY-SM 2.1849

DIRECTOR  
DEPUTY DIR.  
FISCAL ANALYST  
PERSONNEL  
DSA  
ENGR.  
HWY.  
SECTY.

Return to \_\_\_\_\_ Due \_\_\_\_\_  
By: \_\_\_\_\_ Date: \_\_\_\_\_

March 9, 2016

Mr. David Goode, Director  
Department of Public Works  
County of Maui  
200 South High Street, 4<sup>th</sup> Floor  
Wailuku, Hawaii 96793

Subject: Proposed Modification No. 001 to State-County Memorandum of Agreement (Agreement) - Implementation of County Federal-Aid Highway Projects and Programs

The Federal Highway Administration has verbally noted a deficiency that the State is lacking an agreement between the State and the County (Subagreement) for funds that are obligated by the State towards a County project citing 31 United States Code §1501. Recently the auditor performing the State's single audits have also inquired how State-County Subagreements are handled. After reviewing the various federal regulations and laws, the State has determined that 2 CFR §200.92, 200.93, 200.330, and 200.331 appear to be the applicable and governing regulations.

To comply with the federal requirements, the State considered the following three options:

1. Execute project-specific Subagreements between the State and the County, requiring signatures by the State and the County
2. Develop a boiler plate attachment outlining Subagreement terms and conditions that would accompany the PR-1240 form, and on the PR-1240, include a County signature line
3. Modify the current STATE-COUNTY MEMORANDUM OF AGREEMENT – IMPLEMENTATION OF COUNTY FEDERAL-AID HIGHWAY PROJECTS AND PROGRAMS, executed on June 25, 2015, to include language that by the State and County agencies endorsing this modification, any PR-1240 executed for a County project by the State will be considered as an executed and binding Subagreement

In consideration with minimizing processing time, Counties obtaining required project specific authorizations and approvals from their respective County Councils and legal counsels, and avoiding possible delays to project obligations, the State is proposing that the third option be pursued, provided that all Counties agree with the proposed modification.

We request your review and comments to the proposed modification documents by April 15, 2016. Enclosed are the following for your review and reference:

1. Proposed AGREEMENT MODIFICATION NO. 001
2. Proposed new APPENDIX L – SAMPLE PR-1240 AND SUPPORTING DOCUMENTS
3. Various Federal regulations and laws
4. Copy of original State-County MOA

Should you have any further questions concerning this agreement modification, please contact Scot Urada, Highways Division at (808) 587-2222.

Sincerely,



FORD N. FUCHIGAMI  
Director of Transportation

Enclosures

## **AGREEMENT MODIFICATION NO. 001**

The STATE-COUNTY MEMORANDUM OF AGREEMENT – IMPLEMENTATION OF COUNTY FEDERAL-AID HIGHWAY PROJECTS AND PROGRAMS, executed June 25, 2015 shall be amended as follows:

**Add** the following paragraphs to **SECTION 7**:

“Subawards and subagreement: When requested by the COUNTY, the STATE will execute a new or modified REQUEST FOR PROJECT AUTHORIZATION, AGREEMENT AND/OR MODIFICATION, HI-FMIS 1240.3 (“PR-1240”) for each new COUNTY’s Federal Aid undertaking (“PROJECT”), or for a new phase of a COUNTY PROJECT. For ongoing COUNTY PROJECTS requiring funding adjustments within the same PROJECT phase, the STATE will execute a PR-1240 modification with the FHWA that may involve earlier versions of the document.

The new or modified PR-1240 is a legal contract between the FHWA and the STATE. As a grantee, the STATE is responsible for the expenditure of funds shown in the PR-1240 and other supporting documents submitted, approved and authorized by the FHWA. Sample PR-1240s and supporting document for a typical COUNTY PROJECT is provided in APPENDIX L for the three scenarios described in the previous paragraph.

As a subgrantee, the COUNTY agrees to receive and expend federal funds for purposes of the PROJECT, work phase, work scope, amount, participation rate, period of performance, and comply with conditions specified by the STATE and/or the FHWA as shown in the PR-1240 or other PROJECT specific written correspondence between the STATE and the COUNTY. The execution of a new or modified PR-1240 for the COUNTY’s PROJECT by the STATE when requested by the COUNTY, and by the COUNTY endorsing this AGREEMENT MODIFICATION NO. 001 will be considered as an executed and binding subaward.”

**Add a new: “APPENDIX L – SAMPLE PR-1240 AND SUPPORTING DOCUMENTS”**

## **STATE OF HAWAII**

APPROVED

\_\_\_\_\_  
Ford N. Fuchigami  
Director of Transportation

Date: \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
Deputy Attorney General

Date: \_\_\_\_\_

**COUNTY OF HAWAII**  
Duns No: \_\_\_\_\_

By: \_\_\_\_\_  
William P. Kenoi  
Mayor

RECOMMEND APPROVAL:

\_\_\_\_\_  
Director of Public Works

Date: \_\_\_\_\_

Approved as to form and legality:

\_\_\_\_\_  
Deputy Corporation Counsel  
County of Hawaii

Date: \_\_\_\_\_

**COUNTY OF MAUI**  
Duns No: \_\_\_\_\_

By: \_\_\_\_\_  
Alan M. Arakawa  
Mayor, County of Maui

RECOMMEND APPROVAL:

\_\_\_\_\_  
Director of Public Works  
David C. Goode

Date: \_\_\_\_\_

Approved as to form and legality:

\_\_\_\_\_  
Deputy Corporation Counsel  
County of Maui

Date: \_\_\_\_\_

**COUNTY OF KAUAI**  
Duns No. \_\_\_\_\_

By: \_\_\_\_\_

RECOMMEND APPROVAL:

\_\_\_\_\_  
County Engineer

Date: \_\_\_\_\_

Approved as to form and legality:

\_\_\_\_\_  
Deputy Corporation Counsel  
County of Kauai

Date: \_\_\_\_\_

**CITY & COUNTY OF HONOLULU**  
Duns No. \_\_\_\_\_

By: \_\_\_\_\_  
Kirk Caldwell  
Mayor

Approved as to form and legality:

\_\_\_\_\_  
Deputy Corporation Counsel  
City and County of Honolulu  
Donna Y.L. Leong

\_\_\_\_\_  
Date: \_\_\_\_\_

## **APPENDIX L – SAMPLE PR-1240 AND SUPPORTING DOCUMENTS**

### Typical New Project Sample Authorization (Construction Phase)

- M1-4 REQUEST FOR PROJECT AUTHORIZATION AGREEMENT AND/OR MODIFICATION (HI-FMIS 1240.3)
- M1-5 DETAIL ESTIMATE FOR A FEDERAL-AID PROJECT AGREEMENT
- M1-6 ENGINEER'S PRELIMINARY DETAIL ESTIMATE – SUMMARY SHEET
- M1-7 FEDERAL-AID PROGRAM DATA (DOT 4-494)
- M1-8 PROJECT LOCATION MAP
- M1-9 JUSTIFICATION OF CONSTRUCTION PERFORMANCE PERIOD
- M1-10 JUSTIFICATION OF CONSTRUCTION SCHEDULE
- M1-11 PS&E CHECKLIST FOR FEDERAL-AID PROJECTS

### Typical New Project Phase Sample - Project Sample Modification

- M1-12 REQUEST FOR PROJECT AUTHORIZATION AGREEMENT AND/OR MODIFICATION (HI-FMIS 1240.3)
- M1-13 DETAIL ESTIMATE FOR A FEDERAL-AID PROJECT AGREEMENT

### Typical Ongoing Project Sample Modification

- M1-14 REQUEST FOR PROJECT AUTHORIZATION AGREEMENT AND/OR MODIFICATION (HI-FMIS 1240.2)
- M1-15 DETAIL ESTIMATE FOR A FEDERAL-AID PROJECT AGREEMENT
- M1-16 DETAIL ESTIMATE UPON WHICH A PROJECT AGREEMENT IS TO BE BASED - SUMMARY



<b>From: HAWAII DEPARTMENT OF TRANSPORTATION HIGHWAYS DIVISION</b>  <b>To: FEDERAL HIGHWAY ADMINISTRATION HAWAII DIVISION OFFICE</b>  "In accordance with HDOT/FHWA Stewardship Oversight Agreement"		<b>REQUEST FOR PROJECT AUTHORIZATION, AGREEMENT, AND/OR MODIFICATION</b>  <input checked="" type="checkbox"/> Authorization <input type="checkbox"/> Modified Project Agreement <input checked="" type="checkbox"/> Project Agreement      Modification No.  <small>The state agrees that as a condition to payment of the Federal funds obligated, it accepts and will comply with the agreement provisions set forth in 23 CFR 630; and its signature constitutes the making of the certificates.</small>				
FEDERAL PROJECT NO. <b>0700069</b>	RECIPIENT PROJECT NO. <b>STP-0700(069)</b>	HDOT ITEM NO. <b>16006</b>	DUNS <b>168818466</b>	COUNTY <b>Kauai County</b>		
Period of Performance End Date: <b>CON 7/15/2018</b>	INDIRECT COST RATE (%) <b>not applicable</b>	STIP REFERENCE <b>2016 KC4</b>	PODI <input type="checkbox"/> Yes <input type="checkbox"/> No	CFDA Number <b>20.205</b>		
Project Title: <b>Kauai Cnty - Lydgate Park to Kapaa Bike/Pedestrian Path, Kawaihau Elevated Boardwalk, Phase A-1</b>						
Project Description (2000 characters max): <b>Construction of a shared use path from the previously completed path adjacent to Kawaihau Road to the the completed path near Gore Park.</b>						
<b>AUTHORIZED TO PROCEED WITH THE WORK CHECKED BELOW:</b> <div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <input type="checkbox"/> PRELIMINARY ENGINEERING (PE1) - Preliminary Design and NEPA  <input type="checkbox"/> PRELIMINARY ENGINEERING (PE2) - Final Design  <input type="checkbox"/> PRELIMINARY RIGHT-OF-WAY  <input type="checkbox"/> ACQUISITION OF RIGHT-OF-WAY         </div> <div style="width: 48%;"> <input type="checkbox"/> CONSTRUCTION - Advertise for Receipt of Bids  <input type="checkbox"/> CONSTRUCTION - Proceed on an ar      re and/or force account basis  <input type="checkbox"/> OTHER (R&amp;D, specify)         </div> </div>						
FUNDING	DATE (MM/DD/YY)	TOTAL ESTIMATE PROJECT COST (\$)	FEDERAL PARTICIPATION* AMOUNT (\$)	FEDERAL FUNDS(\$)	PGM CODE	RATIO(%)
PREVIOUS AUTHORIZATIONS						
THIS AUTHORIZATION		\$224,390.83	\$224,390.83	\$224,390.83	H220	100%
		\$326,605.42	\$326,605.42	\$326,605.42	33B0	100%
		\$343,503.08	\$343,503.08	\$343,503.08	L220	100%
		\$1,723,716.76	\$1,723,716.76	\$1,723,716.76	L22E	100%
PROGRAM CODE TOTALS		\$224,390.83	\$224,390.83	\$224,390.83	H220	100%
		\$326,605.42	\$326,605.42	\$326,605.42	33B0	100%
		\$343,503.08	\$343,503.08	\$343,503.08	L220	100%
		\$1,723,716.76	\$1,723,716.76	\$1,723,716.76	L22E	100%
GRAND TOTAL		\$2,618,216.09	\$2,618,216.09	\$2,618,216.09		
<b>Remarks/Reason for Project Agreement Modification</b>						
STATE COMMENTS:  This agreement is subject to the following award terms: <a href="http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf">http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf</a> and <a href="http://edocket.access.gpo.gov/2010/pdf/2010-22706.pdf">http://edocket.access.gpo.gov/2010/pdf/2010-22706.pdf</a> .  Execution of this agreement is also considered a subagreement between the State and the County of Kauai in accordance with Modification 001 of the <b>STATE-COUNTY MEMORANDUM OF AGREEMENT - IMPLEMENTATION OF FEDERAL-AID HIGHWAY PROJECTS AND PROGRAMS.</b>			FHWA COMMENTS:			
H _____ D Authorized by _____ Date _____ O _____ T _____ Title _____			<b>Authorization</b>  F by _____ H (Title) _____ Date _____ <b>W Agreement</b> A by _____ For Division Administrator _____ Date _____			

HAWAII DEPARTMENT OF TRANSPORTATION  
HIGHWAYS DIVISION

DETAIL ESTIMATE FOR  
A FEDERAL-AID PROJECT AGREEMENT

FOR

Lydgate Park to Kapaa Bike/Pedestrian Path, Kawaihau Elevated Boardwalk, Phase A-1

Federal Aid Project No. STP-0700(069)

02/19/16

	<u>TOTAL COST</u>	<u>PAR COST</u>	<u>FEDERAL SHARE (100%)</u>	<u>COUNTY SHARE</u>	<u>OTHER SHARE</u>
<b>PRG CODE H220 @ 100% (STP-Enhance-STEAO3)</b>					
28 - Facilities for Pedestrians & Bikes	\$224,390.83	\$224,390.83	\$224,390.83	\$0.00	\$0.00
<b>PRG CODE 33B0 @ 100% (STP - Enhance)</b>					
28 - Facilities for Pedestrians & Bikes	\$326,605.42	\$326,605.42	\$326,605.42	\$0.00	\$0.00
<b>PRG CODE L220 @ 100% (STP Enhancement)</b>					
28 - Facilities for Pedestrians & Bikes	\$343,503.08	\$343,503.08	\$343,503.08		\$0.00
<b>PRG CODE L22E @ 100% (STP - Enhance S-LU Ext.)</b>					
28 - Facilities for Pedestrians & Bikes	\$1,373,716.76	\$1,373,716.76	\$1,373,716.76	\$0.00	\$0.00
17 - CENG - County Forces & State Review	\$350,000.00	\$350,000.00	\$0.00	\$0.00	\$0.00
Total CENG	\$350,000.00	\$350,000.00		\$0.00	\$0.00
<b>PRG CODE L22E TOTAL</b>	<b>\$1,723,716.76</b>	<b>\$1,723,716.76</b>	<b>\$1,723,716.76</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>PROJECT TOTAL</b>	<b>\$2,618,216.09</b>	<b>\$2,618,216.09</b>	<b>\$2,618,216.09</b>	<b>\$0.00</b>	<b>\$0.00</b>

Notes:

1. Federal Share (Billing ratio) is 100% because the in-kind contribution of donated land is sufficient to cover the local share.  
See below for calculation of billing ratio.

The following estimate is for the purpose of calculating the billing ratio taking into account the in-kind contribution of donated land.

	<u>TOTAL COST</u>	<u>PAR COST</u>	<u>FEDERAL SHARE (80%)</u>	<u>COUNTY SHARE</u>	<u>OTHER SHARE</u>
CONSTRUCTION	\$2,618,216.09	\$2,618,216.09	\$2,094,572.87	\$523,643.22	\$0.00
Required in-kind match to be 100% Fed	\$654,554.02	\$654,554.02	\$523,643.22	\$130,910.80	\$0.00
<b>TOTAL PROJECT</b>	<b>\$3,272,770.11</b>	<b>\$3,272,770.11</b>	<b>\$2,618,216.09</b>	<b>\$654,554.02</b>	<b>\$0.00</b>

Remarks:

The value of donated land for the Lihue - Anahola Multi-Use Path is \$7,449,000 plus additional amounts approved by FHWA. The path will be constructed in segments. The value of the donated land and easement is to be allocated among the various segments (projects). This project is one segment of the path. The land value used for this segment is \$654,554.02. Since the value of the donated land allocated to this segment is equal to the local share in the above calculation, the billing ratio for the Lydgate - Kapaa Bike/Pedestrian Path Phase B project shall be 100%. See attached allocation table for tracking the value of the donated land.

The above equates to the following:

	<u>TOTAL COST</u>	<u>PAR COST</u>	<u>FEDERAL SHARE (100%)</u>	<u>COUNTY SHARE</u>	<u>OTHER SHARE</u>
Donated Land	\$654,554.02	\$0.00	\$0.00	\$654,554.02	\$0.00
CONSTRUCTION	\$2,618,216.09	\$2,618,216.09	\$2,618,216.09	\$0.00	\$0.00
<b>TOTAL PROJECT</b>	<b>\$3,272,770.11</b>	<b>\$2,618,216.09</b>	<b>\$2,618,216.09</b>	<b>\$654,554.02</b>	<b>\$0.00</b>

## SUMMARY SHEET

	CONTRACT ITEMS	CONTIN- GENCIES	CONSTR. ENGINEERING	TOTAL PROJ. COST	PAR. COST	FED-SHARE (100% PAR)	COUNTY SHARE
FACILITIES FOR PEDESTRIANS & BICYCLES Type Code - 28	\$ 2,160,205.80	\$ 108,010.29	(\$350,000.00)	\$ 2,268,216.09	\$2,268,216.09	\$2,268,216.09	\$0.00
CONSTR ENGR Type Code - 17							
Consult (CM/CSS)			\$250,000.00		\$250,000.00	\$250,000.00	\$0.00
Consult (Post Design)			\$0.00		\$0.00	\$0.00	\$0.00
Staff Non-Labor			\$0.00		\$0.00	\$0.00	\$0.00
Subtotal			\$250,000.00		\$250,000.00	\$250,000.00	\$0.00
Staff Labor Incl. State Review			\$100,000.00		\$100,000.00	\$100,000.00	\$0.00
Total CENG			\$350,000.00	\$350,000.00	\$350,000.00	\$350,000.00	\$0.00
TOTAL PROJECT COST	\$2,160,205.80	\$108,010.29	\$350,000.00	\$2,618,216.09	\$2,618,216.09	\$2,618,216.09	\$0.00

FEDERAL FUNDS REQUESTED = \$2,618,216.09  
 COUNTY FUNDS REQUESTED = \$0.00

TYPICAL SAMPLE (NEW PROJECT)



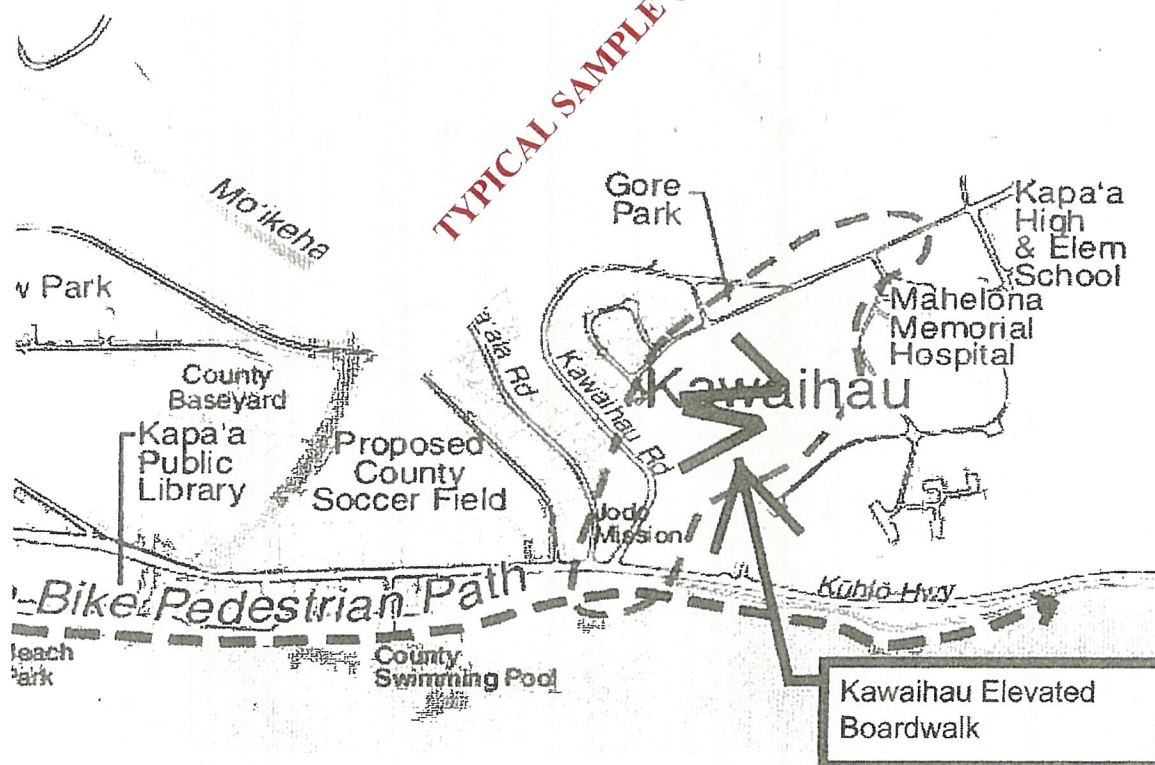
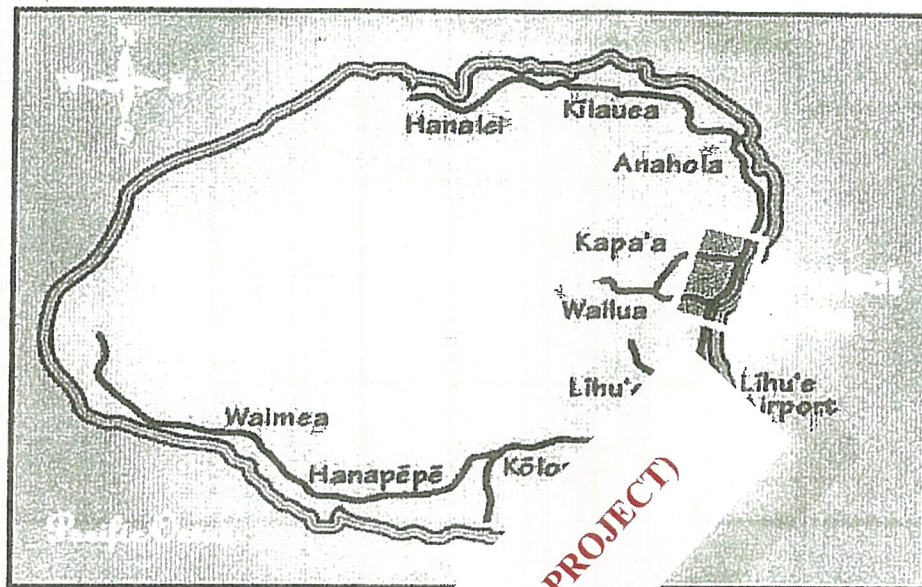
FEDERAL-AID PROGRAM DATA

STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
HIGHWAY DIVISION

PROJECT LOCATION (45) <b>Kawaihau, Hawaii; vicinity of Gore Park</b>				COUNTY NAME <b>Kauai County</b>		CODE <b>007</b>	STANDARD PLACE CODE	STATE NAME <b>Hawaii</b>		CODE <b>15</b>	ITEM NO. <b>16006</b>
CHARACTER OF PROPOSED WORK (85) <b>CON for shared use path / facility</b>				EMERG YR	DEMO ID	PROJECT NUMBER PREFIX LETTER(S) <b>STP</b>			NUMBER <b>0700</b>	AGR. NO. <b>(069)</b>	PROJECT OVERSIGHT <input checked="" type="checkbox"/> Delegated / Locally Administered <input type="checkbox"/> FHWA full oversight (on NHS) <input type="checkbox"/> Not on NHS, FHWA full oversight
CLASS OF FEDERAL FUNDS <b>STP-ENHANCE-STEAO3, STP-ENHANCE, STP-ENHANCEMENT, STP-ENHANCE-STEALU EXT</b>				PROGRAM CODE <b>H220, 33B0, L220, L22E</b>		PARENT CODE		RURAL/URBAN <b>Small Urban</b>	NAME OF URBAN AREA <b>Kawaihau</b>		
ROUTE NO. AND NAME <b>NOT APPLICABLE</b>			INVENTORY NO.	ENDPOINT	FUNCTIONAL SYSTEM <b>None</b>		FEDERAL-AID SYSTEM <b>Not on Federal Aid system</b>			CONGRESSIONAL DISTRICT <b>2</b>	
PHASE	TERMINI (FULL DESCRIPTION) (INCLUDE NBI BRIDGE STRUCTURE NO.)	MILES	ESTIMATED PROJECT COST BY PHASES				SCOPE OF PROPOSED WORK				
			PARTICIPATING AMOUNT	FEDERAL FUNDS ( 100%)	STATE FUNDS	OTHER FUNDS					
PE	<b>Kawaihau, vicinity of Gore Park</b>						<b>CON for a shared use path from the previously completed path adjacent to Kawaihau Road to the completed path near Gore Park, a distance of approximately 1,600 feet, 10-12 feet wide.</b>				
ROW											
CON			<b>\$2,618,216.09</b>	<b>\$2,618,216.09</b>	<b>\$16.09</b>	<b>\$0.00</b>		<b>\$0.00</b>			
PREPARED BY <b>D. Haigh</b>		PROJECT TOTALS	<b>\$2,618,216.09</b>	<b>\$2,618,216.09</b>	<b>\$2,618,216.09</b>	<b>\$0.00</b>		<b>\$0.00</b>			
PROJECT TITLE: <b>Kawaihau Elevated Boardwalk, Kawaihau Elevated Boardwalk Phase A-1</b>								ANTICIPATED ENVIRONMENTAL CLEARANCE (CLASS OF ACTION) EIS <input checked="" type="checkbox"/> EA <input type="checkbox"/> FONSI		CATEGORICAL EXCLUSION: <input type="checkbox"/> PROGRAMMATIC - 23 CFR 771.117(c)(1) <input type="checkbox"/> STATE DOCUMENTED - 23 CFR 771.117(d)	
RELATED PROJECTS: IMPROVEMENT TYPE: <b>28 - Facilities for Pedestrian and Bikes, 17 - Construction Engineering</b>								REQUIRED FOR OBLIGATING CONSTRUCTION PHASE Estimated Construction NTP date (mm/yyyy): <b>8/2016</b>			
REMARKS: <b>Project KC4, Phase A-1 on the 2016 STIP. Location Map attached. Project uses \$654,554.02 in flexible match from donated land / interests; \$2,618,216.09 estimated federal share. Construction to be performed by Hawaii Air National Guard personnel using donated labor and equipment. Materials and supplies to be purchased with Federal funding.</b>											

TYPICAL SAMPLE (NEW PROJECT)

Map of the Hanapepe area. The coastline is shown with Hanapepe and Kōlor labeled. Gore Park is also indicated. A red diagonal stamp across the map reads "TYPICAL SAMPLE (NEW PROJECT)".





# Justification of Construction Performance Period

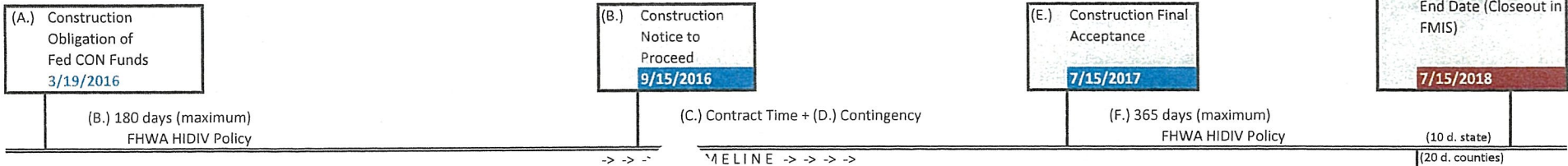
(to be submitted with any obligation of Federal Funds for a new construction request)

LEGEND: Orange, Red, Blue = calc. dates Green = input field

Project No: **STP-0700(069)**

Project Title: **LYDGATE TO KAPAA BIKE/PED PATH, KAWAIHAU ELEVATED BW**

Date Prepared: **February 3, 2016**  
By: **H. Yuen**  
Reviewed: **February 3, 2016**  
By: **Douglas Haigh**



A. FHWA PR-1240 Anticipated Approval:

**3/19/2016**

from the time a construction obligation request is sent to HWY-SM from the State PM  
FHWA ADA requested 30 days)

B. Time to Notice to Proceed:

180 **9/15/2016**  
Assume 180 Calendar days.

affected by environmental and other factors (bird nesting seasons, etc.) and may require discussions with FHWA  
90 days cannot be achieved.

C. Contract time: (convert WD to CD as needed)

Plant Maintenance Period? (enter "Y" for yes)

275 **6/17/2017**  
Y 0

Estimate  
time is not  
allotment for

ial Completion and Plant Maintenance Period (if applicable) of 9 months. This is very important as this  
which is what the contractor is obligated to meet for substantial completion. Also consider time  
when determining Contract Time and completion of Punchlist work from the Pre-Final Inspection.

D. Contingency

Rain-Outs **10%** 28  
CCOs **0%** 0

Estimate/allow for: rain,  
Establish/Plant Maintenance  
completing these fields.

5%-15%) that would add time for Contingency. If a project does NOT have Plant  
5% to 20%). Obtain input from the assigned Construction Resident Engineer when

E. Construction Final Acceptance

**7/15/2017**

Contractor is given substantial com,

struction Office with construction time ended.

F. Time to make final payments to: Contractor, CM/CSS and/or Post design consultants; settle agreements and accounts receivables; make  
Agreements, Finalize As-Builts, and Finalize Project Material Certification, which should have already sta.

payments; and final bill to FHWA. Finalize Utility  
contract time period.

365  
Calendar days.

Note: Counties need to submit final project reimbursement request 60 days prior to the construction performance end date, so State can bill  
the FHWA before the date FHWA requires the State to close the project.

G. Project Perform. End Date:

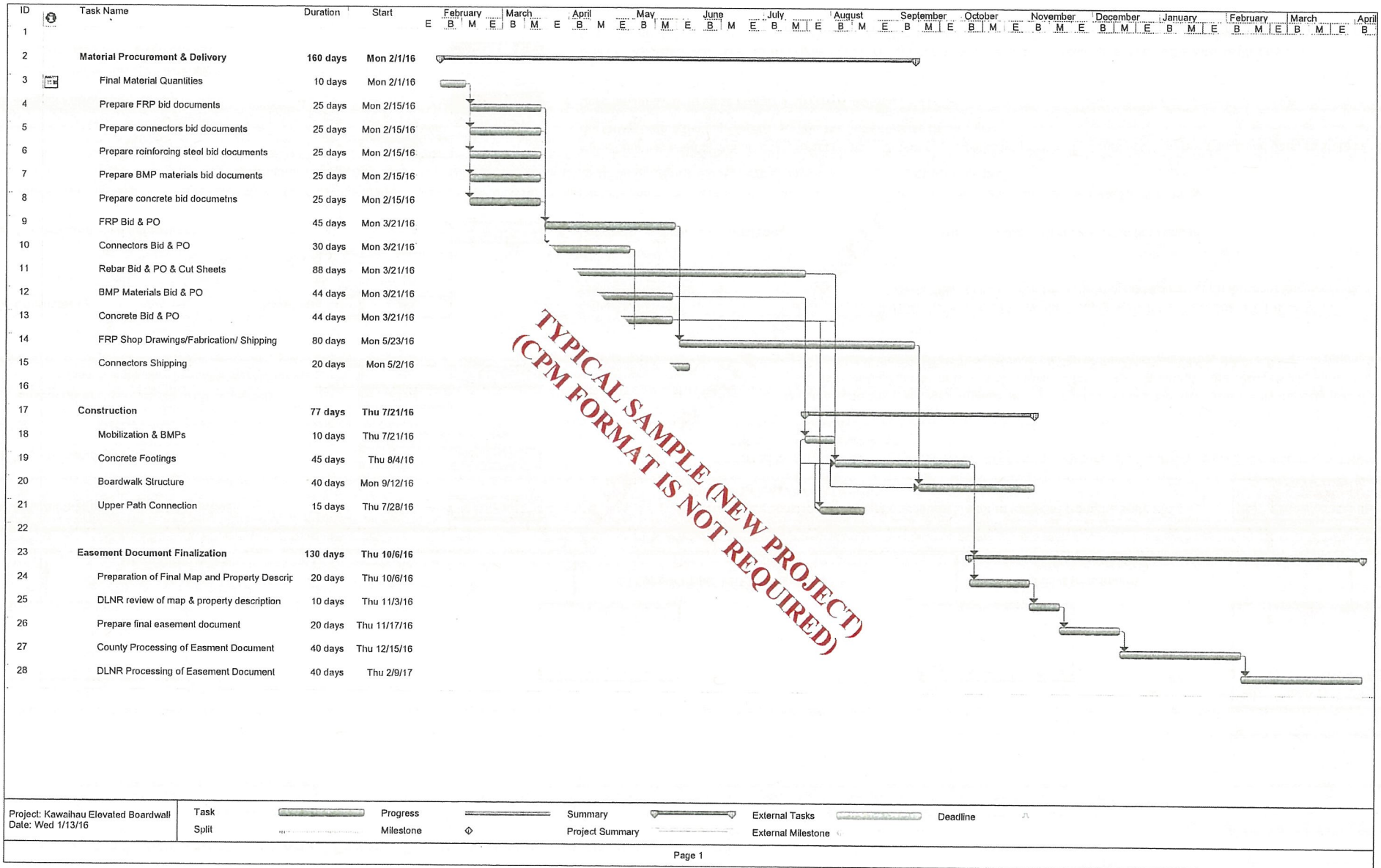
**7/15/2018**

Deadline for State to Close Project with FHWA in FMIS.

H. Last date when any time extension  
request must be received by FHWA  
from the State.

**7/5/2018**

One extension allowed, received by FHWA 10 days before performance end date, maximum of +365 days with justification.  
Note: Counties should submit any extension request 20 days prior to the Construction Performance End Date (G.) above to the State.



**PS&E CHECKLIST FOR FEDERAL-AID PROJECTS**  
(To be submitted with PS&E to FHWA)

Project: Lydgate Park to Kapa'a Bike/Pedestrian Path, Kawaihau Elevated Boardwalk Phase  
Federal-aid Project No.: STP-0700(069)

Description	Action Taken (Letter No.)	Date of Submittal
STIP	2016	
Innovative Financing	N/A	
Environmental Documents		
A. CZM Permit	N/A	
B. SMA Permit	N/A	
C. Section 404 Permit	N/A	
D. Section 401 Water Quality Certification (WQC)	N/A	
E. Section 106	Log No: 2015.02185, Doc No:1506MN16	150622
F. Section 4(f)	N/A	
G. Section 7 of the Endangered Species Act	2015-I-0174	150316
H. CE, FONSI, or ROD Approval	CatEx for Re-Evaluation	150720
I. Noise Study Report	N/A	
J. Coast Guard Permit	N/A	
K. NPDES Permit	Renewal NGPC (File No. HI R10D483)	131209
L. 6(f)	N/A	
M. SCAP	N/A	
Environmental Mitigations		
Noise Abatement Measures	N/A	
Right-of-Way Certification	Right-of-Way Section (c) 2	150513
Utility Agreement or Memorandum of Understanding		
A. Electric		
B. Telephone		
C. Gas	N/A	
D. Water	N/A	
E. Sewer	N/A	
F. Cable T.V.	N/A	
DCAB Project Review	DCAB Clean Document Review	151016
Soils Engineering Report	Attached	090814
Structural Foundation Investigation Report	N/A	
Bridge Sufficiency Rating	N/A	
Hydraulic Report, with any Scour Evaluations	N/A	
Permanent BMP Checklist	Attached	150810
Pavement Justification Report	N/A	
Traffic Signal Warrants	N/A	
Proprietary Materials	N/A	
Design Exceptions	N/A	
Transportation Management Plan	Attached	160114
Construction Personnel (CM vs. State)	CM	
Justification for Contract Time	Attached	150731
Value Engineering	N/A	
Landscape Maintenance Plan	N/A	

Prepared by: [Signature]  
Design Project Engineer

Date: 1/15/16

Reviewed by: [Signature]  
Supervising Design Engineer

Date: 1/15/16



<b>From: HAWAII DEPARTMENT OF TRANSPORTATION HIGHWAYS DIVISION</b>  <b>To: FEDERAL HIGHWAY ADMINISTRATION HAWAII DIVISION OFFICE</b>  "In accordance with HDOT/FHWA Stewardship Oversight Agreement"		<b>REQUEST FOR PROJECT AUTHORIZATION, AGREEMENT, AND/OR MODIFICATION</b>  <input type="checkbox"/> Authorization <input checked="" type="checkbox"/> Modified Project Agreement <input type="checkbox"/> Project Agreement      Modification No. <u>1</u>  <small>The state agrees that as a condition to payment of the Federal funds obligated, it accepts and will comply with the agreement provisions set forth in 23 CFR 630; and its signature constitutes the making of the certificates.</small>				
FEDERAL PROJECT NO. <b>70007X</b>	RECIPIENT PROJECT NO. <b>STP-0700(07X)</b>	HDOT ITEM NO. <b>1600X</b>	DUNS <b>168818466</b>	COUNTY <b>Kauai County</b>		
Period of Performance End Date: <b>ROW 8/31/2018</b>	INDIRECT COST RATE (%) <b>not applicable</b>	STIP REFERENCE <b>201x KC4</b>	PODI <input type="checkbox"/> Yes <input type="checkbox"/> No		CFDA Number <b>20.205</b>	
Project Title: <b>Kauai Cnty - Reconstruction of Various Collector Roads at Various Locations (P, R)</b>						
Project Description (2000 characters max): <b>Reconstruction of Hauaala Road (Route 5865): Kuhio Hwy (56) to Kawaihau Road (5860) and Mailihuna Road (Route 5870): Kuhio Hwy (56) to Kawaihau Road (5860).</b>						
<b>AUTHORIZED TO PROCEED WITH THE WORK CHECKED BELOW:</b> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input type="checkbox"/> PRELIMINARY ENGINEERING (PE1) - Preliminary Design and NEPA  <input type="checkbox"/> PRELIMINARY ENGINEERING (PE2) - Final Design  <input type="checkbox"/> PRELIMINARY RIGHT-OF-WAY  <input type="checkbox"/> ACQUISITION OF RIGHT-OF-WAY         </div> <div style="width: 45%;"> <input type="checkbox"/> CONSTRUCTION - A  <input type="checkbox"/> CONSTRUCTION - B  <input type="checkbox"/> OTHER ( )         </div> </div>						
FUNDING	DATE (MM/DD/YY)	TOTAL ESTIMATE PROJECT COST (\$)	FEDERAL FUNDING (\$)	FEDERAL FUNDS(\$)	PGM CODE	RATIO(%)
PREVIOUS AUTHORIZATIONS	7/1/2015	\$750,000.00	\$750,000.00	\$600,000.00	33D0	80%
		\$250,000.00	\$250,000.00	\$200,000.00	M240	80%
THIS AUTHORIZATION		\$200,000.00	\$200,000.00	\$160,000.00	M24E	80%
PROGRAM CODE TOTALS		\$750,000.00	\$750,000.00	\$600,000.00	33D0	80%
		\$250,000.00	\$250,000.00	\$200,000.00	M240	80%
	\$200,000.00	\$200,000.00	\$160,000.00	M24E	80%	
GRAND TOTAL		\$1,200,000.00	\$1,200,000.00	\$960,000.00		
<div style="display: flex;"> <div style="width: 45%;"> <b>STATE COMMENTS:</b>          Modification #1 updates estimate to add Preliminary ROW funds to the project.          Execution of this agreement modification is also considered a subagreement between the State and the County of Kauai in accordance with Modification 001 of the STATE-COUNTY MEMORANDUM OF AGREEMENT - IMPLEMENTATION OF FEDERAL-AID HIGHWAY PROJECTS AND PROGRAMS.       </div> <div style="width: 55%;"> <b>Remarks/Reason for Project Agreement Modification</b>   <b>FHWA COMMENTS:</b> </div> </div>						
<b>H</b> _____ <b>D</b> Authorized by _____ Date _____ <b>O</b> _____ <b>T</b> _____ Title			<b>Authorization</b> <b>F</b> by _____ <b>H</b> (Title) _____ Date _____ <b>W</b> Agreement <b>A</b> by _____ For Division Administrator _____ Date _____			

HAWAII DEPARTMENT OF TRANSPORTATION  
HIGHWAYS DIVISION

DETAIL ESTIMATE FOR  
A FEDERAL-AID PROJECT AGREEMENT

FOR

Reconstruction of Various Collector Roads at Various Locations

Modification #1

02/29/16

	<u>TOTAL COST</u>	<u>PAR COST</u>	<u>FEDERAL SHARE (80%)</u>	<u>COUNTY SHARE</u>	<u>OTHER SHARE</u>
<b>PRG CODE 33D0 @ 80% (STP State Flexible)</b>					
15 - Preliminary Engineering					
County Forces / consultant	\$735,000.00	\$735,000.00	\$588,000.00	0.00	\$0.00
State Review	\$15,000.00	\$15,000.00	\$12,000.00	0.00	\$0.00
	<b>\$750,000.00</b>	<b>\$750,000.00</b>	<b>\$600,000.00</b>	<b>0,000.00</b>	<b>\$0.00</b>
<b>PRG CODE M240 @ 80% (Surface Trans Flex - MAP-21)</b>					
15 - Preliminary Engineering					
County Forces / consultant	\$250,000.00	\$250,000.00	0.00	\$50,000.00	\$0.00
<b>PRG CODE M24E @ 80% (Surface Trans Flex - MAP-21 Ext)</b>					
16 - Preliminary Right-of-Way	\$200,000.00	0.00	\$160,000.00	\$40,000.00	\$0.00
<b>PROJECT TOTAL</b>	<b>\$1,200,000.00</b>	<b>0,200,000.00</b>	<b>\$960,000.00</b>	<b>\$240,000.00</b>	<b>\$0.00</b>

Notes:

Modification #1 updates estimate to reflect primary ROW funds to the project.



<b>From: HAWAII DEPARTMENT OF TRANSPORTATION HIGHWAYS DIVISION</b>			<b>REQUEST FOR PROJECT AUTHORIZATION, AGREEMENT, AND/OR MODIFICATION</b>			
<b>To: FEDERAL HIGHWAY ADMINISTRATION HAWAII DIVISION OFFICE</b>			<input type="checkbox"/> Authorization <input checked="" type="checkbox"/> Modified Project Agreement <input type="checkbox"/> Project Agreement                      Modification No. <u>4</u>			
<b>"In accordance with HDOT/FHWA operating partnership"</b>			The state agrees that as a condition to payment of the Federal funds obligated, it accepts and will comply with the agreement provisions set forth in 23 CFR 630; and its signature constitutes the making of the certificates.			
FED AID PROJECT NO. 0700053	STATE PROJECT NO. BR-0700(53)	HDOT/HWY ITEM NO. 04054	DUNS NO. 168818466	COUNTY Kauai County		
PROJECT DESCRIPTION (Max. of 130 Characters, to include brief description of project location and character of work)						
Kauai County - Kapahi Bridge Replacement (P, C)						
YOU ARE AUTHORIZED TO PROCEED WITH THE WORK CHECKED BELOW:						
<input type="checkbox"/> PRELIMINARY ENGINEERING TO DETERMINE LOCATION ONLY		<input type="checkbox"/> CONSTRUCTION - ADVERTISE FOR RECEIPT OF BIDS				
<input type="checkbox"/> PRELIMINARY ENGINEERING FOR CONTRACT PLAN PREPARATION		<input type="checkbox"/> CONSTRUCTION - PROCEED ON AN AGREED PRICE AND/OR FORCE ACCOUNT BASIS				
<input type="checkbox"/> PRELIMINARY RIGHT-OF-WAY		<input type="checkbox"/> OTHER (specify)				
<input type="checkbox"/> ACQUISITION OF RIGHT-OF-WAY						
DATE AUTHORIZATION EFFECTIVE			STIP REF: _____ (optional; include year)			
FUNDING	DATE (MM/DD/YY)	TOTAL ESTIMATED PROJECT COST(\$)	FEDERAL PARTICIPATION AMOUNT	FEDERAL FUNDS(\$)	PGM CODE	RATIO(%)
PREVIOUS AUTHORIZATIONS	8/12/15	\$411,434.00	\$411,434.00	\$329,147.00	H060	80%
		\$132,378.49	\$132,378.49	\$105,902.79	1170	80%
		\$1,187.51	\$1,187.51	\$950.21	Q110	80%
		\$522,270.71	\$522,270.71	\$401,816.57	L24E	80%
		\$1,074,574.80	\$1,074,574.80	\$859,659.84	L11E	80%
THIS AUTHORIZATION		(+)\$111,033.61	(+)\$111,033.61	(+)\$88,826.89	L24E	80%
		(+)\$102,988.20	(+)\$102,988.20	(+)\$82,390.56	M233	80%
PROJECT TOTALS		\$411,434.00	\$411,434.00	\$329,147.00	H060	80%
		\$132,378.49	\$132,378.49	\$105,902.79	1170	80%
		\$1,187.51	\$1,187.51	\$950.21	Q110	80%
		\$633,304.32	\$633,304.32	\$490,643.46	L24E	80%
		\$1,074,574.80	\$1,074,574.80	\$859,659.84	L11E	80%
		\$102,988.20	\$102,988.20	\$82,390.56	M233	80%
GRAND TOTAL		\$2,355,867.32	\$2,355,867.32	\$1,868,693.86		
STATE COMMENTS: Modification #4 updates estimate to reflect anticipated award amount. Execution of this agreement modification is also considered a subagreement between the State and the County of Kauai in accordance with Modification 001 of the STATE-COUNTY MEMORANDUM OF AGREEMENT - IMPLEMENTATION OF FEDERAL-AID HIGHWAY PROJECTS AND PROGRAMS.			Remarks/Reason for Project Agreement Modification FHWA COMMENTS:			
Hawaii Department of Transportation Highways Division			U.S. Department of Transportation Federal Highway Administration			
Authorized by _____ Date _____  Administrative Services Officer Title			Authorization by _____ Date _____ (Title)  Agreement by _____ Date _____ For Division Administrator			

HAWAII DEPARTMENT OF TRANSPORTATION  
HIGHWAYS DIVISION

DETAIL ESTIMATE FOR  
A FEDERAL-AID PROJECT AGREEMENT

FOR

Kapahi Bridge Replacement

Federal-Aid Project No. BR-0700(53)

Modification #4

12/16/2015

	<u>TOTAL COST</u>	<u>PAR COST</u>	<u>FEDERAL SHARE (80%)</u>	<u>COUNTY SHARE</u>	<u>OTHER SHARE</u>
<b>PRG CODE H060 @ 80% (Bridge Discretionary)</b>					
15 - PRELIMINARY ENGINEERING					
Consultant	\$391,434.00	\$391,434.00	\$313,147.20	\$78,287.00	\$0.00
County Forces	\$10,000.00	\$10,000.00	\$8,000.00	\$2,000.00	\$0.00
State Review	<u>\$10,000.00</u>	<u>\$10,000.00</u>		<u>\$2,000.00</u>	<u>\$0.00</u>
Total Prg Code H060	<b>\$411,434.00</b>	<b>\$411,434.00</b>		<b>\$82,287.00</b>	<b>\$0.00</b>
<b>PRG CODE 1170 @ 80% (Bridge Repl - 15% Off Sys-Mand)</b>					
15 - PRELIMINARY ENGINEERING					
Consultant	\$132,378.49		\$105,902.79	\$26,475.70	\$0.00
<b>PRG CODE Q110 @ 80% (Br Repl - 15% Off Sys - TEA21)</b>					
15 - PRELIMINARY ENGINEERING					
Consultant		\$1,187.51	\$950.21	\$237.30	\$0.00
<b>PRG CODE L24E @ 80% (Surface Trans F')</b>					
17 - CONSTRUCTION ENGINEERING					
County Forces	\$53,467.32	\$53,467.32	\$42,773.86	\$10,693.46	\$0.00
Consultant DSSdC	\$75,000.00	\$75,000.00	\$60,000.00	\$15,000.00	\$0.00
Consultant CM/CSS	\$51,150.00	\$51,150.00	\$40,920.00	\$10,230.00	\$0.00
Non Labor /State Revis	<u>\$30,000.00</u>	<u>\$30,000.00</u>	<u>\$24,000.00</u>	<u>\$6,000.00</u>	<u>\$0.00</u>
Subtotal	\$209,617.32	\$209,617.32	\$167,693.86	\$41,923.46	\$0.00
43 - Utility	\$30,000.00	\$10,000.00	\$8,000.00	\$2,000.00	\$20,000.00
04 - Reconstruction - No Added Capacity	<u>\$393,687.00</u>	<u>\$393,687.00</u>	<u>\$314,949.60</u>	<u>\$78,737.40</u>	<u>\$0.00</u>
Total Prg Code L24E	<b>\$633,304.32</b>	<b>\$613,304.32</b>	<b>\$490,643.46</b>	<b>\$122,660.86</b>	<b>\$20,000.00</b>
<b>PRG CODE L11E @ 80% (Bridge Prog 15% OFF S-LU Ext)</b>					
11 - Bridge Replace. - No Added Capacity	\$834,724.80	\$834,724.80	\$667,779.84	\$166,944.96	\$0.00
17 - Construction Engineering					
Consultant CM/CSS	<u>\$239,850.00</u>	<u>\$239,850.00</u>	<u>\$191,880.00</u>	<u>\$47,970.00</u>	<u>\$0.00</u>
Total Prg Code L11E	<b>\$1,074,574.80</b>	<b>\$1,074,574.80</b>	<b>\$859,659.84</b>	<b>\$214,914.96</b>	<b>\$0.00</b>
<b>PRG CODE M233 @ 80% (STP Off-System Bridge)</b>					
11 - Bridge Replace. - No Added Capacity	\$102,988.20	\$102,988.20	\$82,390.56	\$20,597.64	\$0.00
<b>PROJECT TOTAL</b>	<b>\$2,355,867.32</b>	<b>\$2,335,867.32</b>	<b>\$1,868,693.86</b>	<b>\$467,173.46</b>	<b>\$20,000.00</b>

Remarks: Modification #4 updates estimate to reflect anticipated award amount.



Detail Estimate Upon Which A Project Agreement Is To Be Based

Federal Aid Project No. BR-0700(53)

December 16, 2015

Page 6

## SUMMARY

DESCRIPTION	CONTRACT ITEMS	CONTINGENCIES	CONSTRUCTION ENGINEERING	WORK BY OTHERS	TOTAL PROJECT COST	UTILITIES' SHARE	PARTICIPATING COST	FEDERAL SHARE (80%)	COUNTY SHARE (20%)
Reconstruction Type Code - 04	\$374,940.00	\$18,747.00	(\$145,200.00)	\$0.00	\$393,687.00	\$0.00	\$393,687.00	\$314,949.60	\$78,737.40
Bridge Replacement Type Code - 11	\$893,060.00	\$44,653.00	(\$304,186.09)	\$0.00	\$937,713.00	\$0.00	\$937,713.00	\$750,170.40	\$187,542.60
KIUC - UA # 9196 Type Code - 43	\$0.00	\$0.00		\$30,000.00	\$30,000.00	\$20,000.00	\$10,000.00	\$8,000.00	\$2,000.00
Subtotal	\$1,268,000.00	\$63,400.00	(\$449,467.32)	\$30,000.00	\$1,361,400.00	\$20,000.00	\$1,341,400.00	\$1,073,120.00	\$268,280.00
Construction Engineering Type Code - 17									
Consultant CM/CSS			\$291,000.00	\$0.00	\$291,000.00	\$0.00	\$291,000.00	\$232,800.00	\$58,200.00
Consultant DSSdC			\$75,000.00	\$0.00	\$75,000.00	\$0.00	\$75,000.00	\$60,000.00	\$15,000.00
Non-Labor & State Review			\$30,000.00	\$0.00	\$30,000.00	\$0.00	\$30,000.00	\$24,000.00	\$6,000.00
County Staff Labor			\$53,467.32	\$0.00	\$53,467.32	\$0.00	\$53,467.32	\$42,773.86	\$10,693.46
Total CENG			\$449,467.32	\$0.00	\$449,467.32	\$0.00	\$449,467.32	\$359,573.86	\$89,893.46
TOTAL	\$1,268,000.00	\$63,400.00	\$449,467.32	\$30,000.00	\$1,810,867.32	\$20,000.00	\$1,790,867.32	\$1,432,693.86	\$358,173.46

Federal Share Requested (80%) =	\$1,432,693.86
County Share Requested (20%) =	\$358,173.46

\* Consultant CM/CSS: \$291,000.00 (Negotiated fee)

\*\* DSSdC Maximum fee not to exceed \$75,000 based on actual hourly rates

**ELECTRONIC CODE OF FEDERAL REGULATIONS****e-CFR data is current as of February 4, 2016**

Title 2 → Subtitle A → Chapter II → Part 200 → Subpart A → §200.86

Title 2: Grants and Agreements

PART 200—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

Subpart A—Acronyms and Definitions

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**§200.86 Recipient.**

*Recipient* means a non-Federal entity that receives a Federal award directly from a Federal awarding agency to carry out an activity under a Federal program. The term recipient does not include subrecipients. See also §200.69 Non-Federal entity.

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**§200.92 Subaward.**

*Subaward* means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.

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**§200.93 Subrecipient.**

*Subrecipient* means a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

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## ELECTRONIC CODE OF FEDERAL REGULATIONS

e-CFR data is current as of February 4, 2016

Title 2 → Subtitle A → Chapter II → Part 200 → Subpart D → §200.330

Title 2: Grants and Agreements

PART 200—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

Subpart D—Post Federal Award Requirements

**§200.330 Subrecipient and contractor determinations.**

The non-Federal entity may concurrently receive Federal awards as a recipient, a subrecipient, and a contractor, depending on the substance of its agreements with Federal awarding agencies and pass-through entities. Therefore, a pass-through entity must make case-by-case determinations whether each agreement it makes for the disbursement of Federal program funds casts the party receiving the funds in the role of a subrecipient or a contractor. The Federal awarding agency may supply and require recipients to comply with additional guidance to support these determinations provided such guidance does not conflict with this section.

(a) *Subrecipients.* A subaward is for the purpose of carrying out a portion of a Federal award and creates a Federal assistance relationship with the subrecipient. See §200.92 Subaward. Characteristics which support the classification of the non-Federal entity as a subrecipient include when the non-Federal entity:

- (1) Determines who is eligible to receive what Federal assistance;
- (2) Has its performance measured in relation to whether objectives of a Federal program were met;
- (3) Has responsibility for programmatic decision making;
- (4) Is responsible for adherence to applicable Federal program requirements specified in the Federal award; and
- (5) In accordance with its agreement, uses the Federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity.

(b) *Contractors.* A contract is for the purpose of obtaining goods and services for the non-Federal entity's own use and creates a procurement relationship with the contractor. See §200.22 Contract. Characteristics indicative of a procurement relationship between the non-Federal entity and a contractor are when the contractor:

- (1) Provides the goods and services within normal business operations;
- (2) Provides similar goods or services to many different purchasers;
- (3) Normally operates in a competitive environment;
- (4) Provides goods or services that are ancillary to the operation of the Federal program; and
- (5) Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.

(c) *Use of judgment in making determination.* In determining whether an agreement between a pass-through entity and another non-Federal entity casts the latter as a subrecipient or a contractor, the substance of the relationship is more important than the form of the agreement. All of the characteristics listed above may not be present in all cases, and the pass-through entity must use judgment in classifying each agreement as a subaward or a procurement contract.

[78 FR 78608, Dec. 26, 2013, as amended at 80 FR 54409, Sept. 10, 2015]

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Title 2 → Subtitle A → Chapter II → Part 200 → Subpart D → §200.331

Title 2: Grants and Agreements

PART 200—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

Subpart D—Post Federal Award Requirements

**§200.331 Requirements for pass-through entities.**

All pass-through entities must:

(a) Ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the following information at the time of the subaward and if any of these data elements change, include the changes in subsequent subaward modification. When some of this information is not available, the pass-through entity must provide the best information available to describe the Federal award and subaward. Required information includes:

- (1) Federal Award Identification.
  - (i) Subrecipient name (which must match the name associated with its unique entity identifier);
  - (ii) Subrecipient's unique entity identifier;
  - (iii) Federal Award Identification Number (FAIN);
  - (iv) Federal Award Date (see §200.39 Federal award date) of award to the recipient by the Federal agency;
  - (v) Subaward Period of Performance Start and End Date;
  - (vi) Amount of Federal Funds Obligated by this action by the pass-through entity to the subrecipient;
  - (vii) Total Amount of Federal Funds Obligated to the subrecipient by the pass-through entity including the current obligation;
  - (viii) Total Amount of the Federal Award committed to the subrecipient by the pass-through entity;
  - (ix) Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA);
  - (x) Name of Federal awarding agency, pass-through entity, and contact information for awarding official of the Pass-through entity;
  - (xi) CFDA Number and Name; the pass-through entity must identify the dollar amount made available under each Federal award and the CFDA number at time of disbursement;
  - (xii) Identification of whether the award is R&D; and
  - (xiii) Indirect cost rate for the Federal award (including if the de minimis rate is charged per §200.414 Indirect (F&A) costs).
- (2) All requirements imposed by the pass-through entity on the subrecipient so that the Federal award is used in accordance with Federal statutes, regulations and the terms and conditions of the Federal award;
- (3) Any additional requirements that the pass-through entity imposes on the subrecipient in order for the pass-through entity to meet its own responsibility to the Federal awarding agency including identification of any required financial and performance reports;
- (4) An approved federally recognized indirect cost rate negotiated between the subrecipient and the Federal Government or, if no such rate exists, either a rate negotiated between the pass-through entity and the subrecipient (in compliance with this part), or a de minimis indirect cost rate as defined in §200.414 Indirect (F&A) costs, paragraph (f);



(5) A requirement that the subrecipient permit the pass-through entity and auditors to have access to the subrecipient's records and financial statements as necessary for the pass-through entity to meet the requirements of this part; and

(6) Appropriate terms and conditions concerning closeout of the subaward.

(b) Evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring described in paragraphs (d) and (e) of this section, which may include consideration of such factors as:

(1) The subrecipient's prior experience with the same or similar subawards;

(2) The results of previous audits including whether or not the subrecipient receives a Single Audit in accordance with Subpart F—Audit Requirements of this part, and the extent to which the same or similar subaward has been audited as a major program;

(3) Whether the subrecipient has new personnel or new or substantially changed systems; and

(4) The extent and results of Federal awarding agency monitoring (e.g., if the subrecipient also receives Federal awards directly from a Federal awarding agency).

(c) Consider imposing specific subaward conditions upon a subrecipient if appropriate as described in §200.207 Specific conditions.

(d) Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. Pass-through entity monitoring of the subrecipient must include:

(1) Reviewing financial and performance reports required by the pass-through entity.

(2) Following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and other means.

(3) Issuing a management decision for audit findings pertaining to the Federal award provided to the subrecipient from the pass-through entity as required by §200.521 Management decision.

(e) Depending upon the pass-through entity's assessment of risk posed by the subrecipient (as described in paragraph (b) of this section), the following monitoring tools may be useful for the pass-through entity to ensure proper accountability and compliance with program requirements and achievement of performance goals:

(1) Providing subrecipients with training and technical assistance on program-related matters; and

(2) Performing on-site reviews of the subrecipient's program operations;

(3) Arranging for agreed-upon-procedures engagements as described in §200.425 Audit services.

(f) Verify that every subrecipient is audited as required by Subpart F—Audit Requirements of this part when it is expected that the subrecipient's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in §200.501 Audit requirements.

(g) Consider whether the results of the subrecipient's audits, on-site reviews, or other monitoring indicate conditions that necessitate adjustments to the pass-through entity's own records.

(h) Consider taking enforcement action against noncompliant subrecipients as described in §200.338 Remedies for noncompliance of this part and in program regulations.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75885, Dec. 19, 2014; 80 FR 54409, Sept. 10, 2015]

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**31 U.S.C.**

United States Code, 2010 Edition

Title 31 - MONEY AND FINANCE

SUBTITLE II - THE BUDGET PROCESS

CHAPTER 15 - APPROPRIATION ACCOUNTING

SUBCHAPTER I - GENERAL

Sec. 1501 - Documentary evidence requirement for Government obligations

From the U.S. Government Printing Office, [www.gpo.gov](http://www.gpo.gov)**§1501. Documentary evidence requirement for Government obligations**

(a) An amount shall be recorded as an obligation of the United States Government only when supported by documentary evidence of—

- (1) a **binding agreement** between an agency and another person (including an agency) that is—
  - (A) in writing, in a way and form, and for a purpose authorized by law; and
  - (B) executed before the end of the period of availability for obligation of the appropriation or fund used for specific goods to be delivered, real property to be bought or leased, or work or service to be provided;
- (2) a loan agreement showing the amount and terms of repayment;
- (3) an order required by law to be placed with an agency;
- (4) an order issued under a law authorizing purchases without advertising—
  - (A) when necessary because of a public exigency;
  - (B) for perishable subsistence supplies; or
  - (C) within specific monetary limits;
- (5) a grant or subsidy payable—
  - (A) from appropriations made for payment of, or contributions to, amounts required to be paid in specific amounts fixed by law or under formulas prescribed by law;
  - (B) under an agreement authorized by law; or
  - (C) under plans approved consistent with and authorized by law;
- (6) a liability that may result from pending litigation;
- (7) employment or services of persons or expenses of travel under law;
- (8) services provided by public utilities; or
- (9) other legal liability of the Government against an available appropriation or fund.

(b) A statement of obligations provided to Congress or a committee of Congress by an agency shall include only those amounts that are obligations consistent with subsection (a) of this section.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 927.)

## HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1501(a)	31:200(a).	Aug. 26, 1954, ch. 935, §1311(a), (e), 68 Stat. 830, 831.
1501(b)	31:200(e).	

In subsection (a), before clause (1), the words “After August 26, 1954” are omitted as executed. In clause (1), the words “an agency and another person (including an agency)” are substituted for “the parties thereto, including Government agencies” for clarity. In clause (2), the word “valid” is omitted as unnecessary. In

clause (6), the words "brought under authority of law" are omitted as surplus. In clause (9), the word "legally" is omitted as surplus.

In subsection (b), the words "consistent with" are substituted for "as defined in" for clarity and for consistency with section 1108 of the revised title. The word "valid" is omitted as unnecessary.