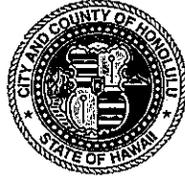


SOLICITATION DOCUMENT NO. RGP-MAY-OED2016



Description: Mayor's Office of Economic Development Grant Program

Requesting Agency: Mayor's Office, City & County of Honolulu, Hawaii.

GRANT PROPOSALS shall be received up to:

Close Time: 4:00 p.m. HST

Close Date: December 18, 2015 HST

Location: City and County of Honolulu
Division of Purchasing
530 South King Street, Room 115
Honolulu, Hawaii 96813

Grant proposals received after the Close Date and Time or received at a location other than the above location will not be accepted.

Questions shall be emailed to bfspurchasing@honolulu.gov.



WENDY K. IMAMURA
Purchasing Administrator
Wf

THIS SOLICITATION IS NOT SUBJECT TO HAWAII REVISED STATUTES §103D.

TABLE OF CONTENTS

NOTICE TO GRANT PROPOSERS

- Schedule of Events
- Instructions to Grant Proposers
- Evaluation Criteria
- Exhibit 1: Sample Grant Agreement

ATTACHMENT A: GRANTEE'S PROPOSAL **[TO BE SUBMITTED]**

SCHEDULE OF EVENTS

All times indicated are Hawaii Standard Time (HST).

Deadline to Submit Request for Clarifications:	December 4, 2015
Last Day to Issue Addenda:	December 9, 2015
DEADLINE FOR GRANT PROPOSALS: Proposal shall be received ONLY at:	December 18, 2015 at 4:00 p.m. HST

City and County of Honolulu
Division of Purchasing
530 South King Street, Room 115
Honolulu, Hawaii 96813

Proposals received after the specified date and time, or received at a location other than the above address **will not be accepted.**

INSTRUCTIONS TO GRANT PROPOSERS

1. EXEMPTION FROM 103D

This solicitation is being conducted in accordance with the Revised Ordinances of Honolulu (ROH) and is exempt from chapter 103D of the Hawaii Revised Statutes (HRS). HRS 103D's procurement requirements including protest procedures shall not apply to this Request for Grant Proposal solicitation (RGP).

2. OVERVIEW

Community Economic Revitalization is about city-community partnerships and turning community ideas into practical and achievable actions. The goal is to stimulate economic opportunities, strengthen the unique character of O`ahu's diverse communities, and improve quality of life of our residents. The Mayor's Office of Economic Development (OED) works directly with businesses and communities to focus efforts on concrete actions and foster the partnerships that will implement these actions. OED provides the essential coordination and support needed to bring the community together by convening economic summits, sharing progress, and encouraging more businesses and individuals to get involved.

OED is requesting proposals from community groups seeking support for projects that stimulate economic opportunities, strengthen the unique character of O`ahu's diverse ethnic communities and improve the quality of life of our residents.

OED grants are awarded to organizations located in the City and County of Honolulu that are registered as a non-profit organization in the State of Hawaii. These grants are intended to benefit people on the Island of O`ahu by supporting activities that promote diversity and growth within O`ahu's economy. Grant support is intended for partial funding of a project as a means of encouraging collaboration with the community and local businesses. Grants are limited and highly competitive. Funds are not granted for religious programs or for operating support of the organization.

3. CLARIFICATION AND INQUIRIES

Prospective grantees (Grant Proposer) shall carefully review this Request for Grant Proposals solicitation for inconsistencies and ambiguities. Requests for clarification must be made in writing no later than the date listed in the Schedule of Events. The City and County of Honolulu (CITY) shall not be obligated to respond to requests for clarification or interpretation not received on a timely basis.

Inquiries shall be transmitted to: Email address: bfspurchasing@honolulu.gov.

Except as otherwise authorized in this solicitation, Grant Proposers shall not make any contact or have communication in regards to this solicitation with any City department or employee directly involved with this solicitation.

4. SOLICITATION ADDENDA

A. Written addendum

Oral interpretations, clarifications, changes or approved substitutions will be without legal effect. Only interpretations, clarifications, changes or approved substitutions provided by formal written addendum to the solicitation shall be binding.

B. Notification of addenda

Notifications of addenda will be issued to all prospective Grant Proposers known to have downloaded the solicitation from the CITY.

5. CANCELLATION OF SOLICITATION

The CITY reserves the right to cancel the solicitation in whole or in part and at any time during the solicitation process.

6. NON-DISCLOSURE OF PROPRIETARY INFORMATION

It is recognized that proposals submitted in response to this solicitation may contain technical, financial, or other data whose public disclosure would cause substantial injury to a Proposer's organization or that significantly impacts the privacy interest of an individual. Proposers, therefore, should specifically identify those pages of its grant proposal that contain such data by properly marking the applicable pages "CONFIDENTIAL" on every copy submitted. After completion of the grant selection process, all proposals, except those portions validly designated as containing trade secrets or other propriety data, shall be open to public inspection and copying. The CITY assumes no liability for disclosure or use of unmarked data for any purpose.

Note that price and the provision of services are not considered confidential and will not be withheld.

7. PREPARATION OF GRANT PROPOSALS

The Grant Proposer shall complete the solicitation's Attachment A: Grantee's Proposal.

The CITY requests that one original Attachment A plus (4) copies be provided.

The CITY requests that grant proposals be sealed in envelopes. The CITY requests that the following be printed on the outside of the envelope:

1. Solicitation Number
2. Grant Proposer's Name

All costs to prepare and submit a grant proposal and copies shall be at the Grant Proposer's expense. The CITY will not reimburse any costs incurred by any Grant Proposer, any prospective Grant Proposer, or any other person.

8. SUBMITTAL OF PROPOSALS

Grant proposals must be submitted and time stamped at the Mayor's Office of Economic Development. The Office of Economic Development is located at:

City and County of Honolulu
Division of Purchasing

530 South King Street, Room 115
Honolulu, Hawaii 96813

9. LATE PROPOSALS.

Any proposals received at the place designated for receipt after the time and date set for receipt of proposal shall be late and will not be considered. The Grant Proposer is responsible for ensuring that their grant proposal is received and time stamped by the Mayor's Office of Economic Development by the submission deadline.

10. REJECTION OF GRANT PROPOSALS.

The CITY reserves the right to reject any or all grant proposals when, in the CITY's opinion such rejection will be in the best interest of the CITY.

11. DISCUSSIONS AND/OR NEGOTIATIONS WITH PROPOSERS.

The CITY reserves the right to conduct discussions and/or negotiations with Grant Proposers. Grant Proposer may be required to submit a best and final offer that incorporates the topics covered during discussion and/or negotiations. However, the CITY reserves the right to make its selection and award based on the initial submitted.

12. METHOD OF AWARD.

Award shall be made to the grant proposal(s) that are determined to provide the best value based on the evaluation criteria set forth in this solicitation and are the most advantageous to the CITY.

13. AVAILABLE FUNDS.

The City may issue an individual award up to \$15,000.00, pending availability of funds.

14. RESERVATION OF RIGHTS BY CITY

The CITY expressly reserves the right at any time, and from time to time, and for its own convenience to do any of the following where it is in its best interests:

- (a) Waive or correct any immaterial defect or technical error in any response, proposal, or proposal procedures, as part of the solicitation, grant proposal or any subsequent negotiation process.
- (b) Waive any of the requirements contained in this solicitation, provided that the waiver and the reasons for it are specified in writing.
- (c) Reject any and all grant proposals.
- (d) Request Grant Proposers to supplement or modify all or certain aspects of the information or proposals submitted.
- (e) Reissue a RGP Solicitation.
- (f) Modify this RGP Solicitation.

- (g) Extend deadlines for accepting grant proposals, requesting amendments to or clarifications of grant proposals, or approving final documents.
- (h) Withdraw this RGP Solicitation or any award prior to entering into final agreements with any successful grant proposer.

15. SAMPLE AGREEMENT

A sample of the CITY's grant agreement is included as Exhibit 1. Any questions regarding the CITY's agreement shall be submitted prior to the solicitation's deadline to submit Request for Clarifications.

16. ADDITIONAL DOCUMENTATION TO BE SUBMITTED BY SUCCESSFUL GRANTEE.

While the following documents are not required at the time of proposal submission, the documents shall be provided upon the City Request. Failure to provide the documents shall remove the organization's grant proposal from consideration.

- (a) Statement of Hawaii Attorney General Charitable Organization Registration, Current Filing or Exemption.
- (b) Corporate Resolution indicating signatory authority.

EVALUATION CRITERIA

MANDATORY REQUIREMENTS:

- The Grant Proposer must be registered as a non-profit organization in the State of Hawaii.
- The grant proposal must benefit people on the Island O`ahu.
- The grant proposal's activities must promote diversity and growth within O`ahu's economy.

GRANT PROPOSAL ASSESSMENT:

The grant proposals will be evaluated on the following evaluation criteria:

Evaluation Criteria	Maximum points
Provides tangible economic development benefits.	30 points
Provides entrepreneurial opportunities for residents.	25 points
Adds to the economic revitalization of a community.	20 points
Fosters public-private sector partnerships.	15 points
Grant Proposer has funding in place and/or a proven track record for securing funds.	10 points
Total:	100 points

**THE FOLLOWING PAGES SHALL BE DETACHED FROM
THE SOLICITATION DOCUMENT AND SUBMITTED.**

ATTACHMENT A: GRANTEE'S PROPOSAL

SOLICITATION NO. RGP-MAY-OED2016

DESCRIPTION: Mayor's Office of Economic Development Grant Program

PROJECT TITLE:	
AMOUNT REQUESTED:	\$
EVENT OR PROGRAM DATE(S)	

The undersigned represents: **(Check one only)**

TYPE OF ORGANIZATION:	
Private Institution:	<input type="checkbox"/> Non Profit

Respectfully submitted,

Legal Name (Organization)

Authorized Signature

Print or Type Name and Title of Above

CONTACT INFORMATION:

Business address: _____
(Street address)

City, State, Zip Code: _____

Mailing address: _____
(If other than street address above)

City State, Zip Code: _____

Payment address: _____
(If other than street address above)

City State, Zip Code: _____

Business/ P.O.C. Telephone Number: _____

Business Cellular Telephone Number: _____

Business Fax No.: _____

Business/ P.O.C. E-Mail Address: _____

Person to Contact if Awarded: _____

Last 4 numbers of Federal Identification No.: XX-XXX _____

- Or - Last 4 numbers of Social Security No. if Sole Proprietor: XXX-XX- _____

TECHNICAL PROPOSAL:

The following information shall be attached to this Attachment A. Technical proposal shall be on double-spaced, single-sided, 8.5 x 11 inch pages with 12 point text font and 1 inch margins.

GENERAL BACKGROUND:

1. **DESCRIPTION OF ORGANIZATION:** Provide a brief history of the establishment, development, and accomplishments of the organization.
2. **QUALIFICATIONS AND EXPERTISE:** Describe the qualifications and expertise of the individuals responsible for implementing the project.

PROJECT DESCRIPTION:

3. **DESCRIPTION OF PROPOSED PROJECT:** Provide an overview of the proposed project. Provide a work plan describing the activities/tasks you will undertake to implement the project.
4. **TARGET AUDIENCES AND PROMOTIONAL PROGRAM:** Describe your target audience(s) and how you plan to reach your targeted audience. Include a schedule of all promotional and advertising activities, if applicable.
 - a. Write a one sentence promotional description to assist in representing your event
 - b. Please provide links to any marketing content for your event when the event date nears
 - c. Outline the basic marketing/promotional plan
 - i. Timeline
 - ii. Tactics
 - iii. Outreach locations
5. **COMMUNITY/GOVERNMENTAL SUPPORT AND INVOLVEMENT:** Discuss the following:
 - a. What is the need in the community for this project?
 - b. What is the value to the community?
 - c. Identify all entities that support or are directly involved in this project.
 - d. List of current and past agreements, leases, grants, or contracts with the City and County of Honolulu and/or the State of Hawai'i
 - i. What years were you previously awarded these grants and what was the award amount?
 - e. Do you plan to invite the Mayor, other elected officials and/or any dignitaries to the event?
 - i. Will the City and County of Honolulu be acknowledged for support? If so, how will you do so?

6. PROJECT BUDGET: Provide a detailed budget showing how funds will be used.

PROJECT IMPACT:

7. BENEFITS AND OUTCOMES: How will you measure whether or not the proposed project was successful? What do you expect to be the benefits and outcomes of the project? While some measures may be qualitative, please provide detailed quantifiable values where possible. Suggested measures could include, but are not limited to:
- a. Economic development in the community (i.e. new business startups, expansion of existing business, etc);
 - b. Economic stimulus (e.g. growth of business and sales, increased customer traffic in area);

Supporting Documents Checklist

- A. Certificate of Vendor Compliance (dated within 6 months): To obtain this form, please visit Hawai'i Compliance Express (HCE) online at <http://vendors.ehawaii.gov>.
 - a. Under Hawai'i law, you must provide proof of compliance in order to receive a contract greater than \$2, 500.00 with state and county government entities in Hawai'i. HCE is an electronic system that allows vendors doing business with state or county agencies to quickly and easily obtain proof that they are compliant with applicable laws. With a subscription fee of \$12, registered HCE vendors receive a full year of service, automatic email notifications of status changes, unlimited access by state and county government entities to print certificate for use. It will take a newly registered vendor about 10 business days to receive true compliant status. If a vendor shows not compliant, vendor is responsible to contact the respective department to resolve the issue.

- B. Non-profit Organization:
 - a. Verification of Non-profit Status: Internal Revenue Service (IRS) Letter
 - b. List of Board of Directors
 - c. Corporate Resolution and/or By-laws or the Organization
 - d. Most Recent Audited Financial Statement: If your by-laws state that you need to audit your organization intermittently, then please submit that last audited financial statement. In addition, you should submit your most recent financial statement, whether or not it was audited.
 - e. W-9

EXHIBIT 1 – SAMPLE GRANT AGREEMENT

CITY AND COUNTY OF HONOLULU AGREEMENT FOR GRANTS

THIS AGREEMENT, made and entered into on _____, by and between the CITY AND COUNTY OF HONOLULU, a municipal corporation existing under and by virtue of the laws of the State of Hawaii, whose principal place of business is 530 SOUTH KING STREET ROOM 208, HONOLULU, HAWAII 96813, hereinafter the "CITY," and GRANTEE LEGAL NAME, whose principal place of business is GRANTEE'S ADDRESS, hereinafter the "GRANTEE."

RECITALS

WHEREAS, Article 29 of Chapter 6, Revised Ordinances of Honolulu 1990 (hereinafter "ROH"), establishes standards for the appropriation of public funds to private organizations to provide programs and services which the CITY has determined to be in the public interest; and

WHEREAS, pursuant to HRS 103D-102(b) (2) (A), the services under this Agreement are exempt from HRS Chapter 103D; and

WHEREAS, the GRANTEE is a private non-profit corporation or association chartered or authorized to do business in Hawaii for the purpose of providing social, health, educational, manpower or training or services to, or of meeting the social, cultural or economic needs of, the people of the City and County of Honolulu; and

WHEREAS, the CITY wishes to support and help sustain the GRANTEE in **[Grant Activity Description]**, (hereinafter "Project") for the benefit and enjoyment of all citizens of the City and County of Honolulu; and

WHEREAS, the CITY finds the Project proposed by the GRANTEE, which is attached hereto and made a part hereof as Attachment A (Grantee's Proposal), meets the criteria for receiving funding pursuant to Article 29 of Chapter 6, ROH; and

WHEREAS, the grant amount shall be **[TO BE DETERMINED AT TIME OF AWARD (\$XX,XXX.00)]**; and

WHEREAS, the Grantee is willing and able to provide the services set forth in this Agreement;

NOW, THEREFORE, the CITY and the GRANTEE in consideration for mutual promises hereinafter set forth, the sufficiency and adequacy of which are hereby acknowledged, and intending to be legally bound, hereby mutually agree as follows:

1. Scope of Performance. The GRANTEE shall perform all of the services required for the Project as set forth in this Agreement, and Attachment A, which is attached and made a part of this Agreement.

2. Period of Agreement. This Agreement shall be effective upon execution of this Agreement by all the parties and shall continue until **December 31, 2016**.
3. Disbursement of Grant Funds. Grant funds shall be disbursed as follows:
 - a. The CITY's contribution to this project shall be \$_____.
 - b. The CITY's share of \$_____ shall be primarily expended to achieve maximum benefits for the citizens of the City and County of Honolulu.
 - c. Payment of the CITY's share of \$_____ will be made upon submittal of an original invoice and (2) copies to the Mayor's Office of Economic Development, Attention: Executive Director, 530 King Street, Room 306, Honolulu Hawaii, 96813 upon execution of this Agreement in accordance with subsection (d) below.
 - d. The City's share of \$_____ shall be allocated out as follows and paid upon submission of invoices as stated above:
 - 1) Eighty percent of total amount (\$_____) upon execution of this Agreement by the Director of Budget & Fiscal Services; and
 - 2) Twenty percent of total amount (\$_____) upon presentation of the Year End Report or in-lieu report as outlined in Section 6(f) of this Agreement.
 - e. GRANTEE shall use Grant funds to make payment for allowable costs. Allowable costs are defined as being reasonable AND allocable to the Grant.
 - 1) A cost is considered to be reasonable if, in its nature or amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.
 - 2) A cost is considered to be allocable if:
 - i. The cost is incurred specifically for the Grant, OR
 - ii. In the case a direct relationship cannot be shown, the cost is necessary to the overall operation of the Grant and the cost can be distributed in a reasonable proportion to the relative benefit received.
4. Expenditure of City Grant Funds. In using the City grant funds, the following restrictions will apply:
 - a. All organizations will be welcomed to join in any event funded in whole or in part with the grant funds subject to reasonable, viewpoint-neutral, non-discriminatory conditions for participation in the event; including, but not limited to, conditions relating to the theme or purpose of the event, the number of participants, and the duration of the event.
 - b. No organization will be denied the right to participate in any event funded in whole or in part with the grant funds, based upon the viewpoint of the organization or on the basis of the race, color, sex, marital status, religion, national origin, ancestry, age, disability, sexual orientation, or any other legally protected characteristic of its members.

- c. No event funded in whole or in part with the grant funds may be predominately religious in nature or advance or inhibit religion.
5. Modification of Agreement. This Agreement may not be modified except in writing and upon written consent by both parties.
6. Compliance Requirements. In accordance with Sections 6-29.3 and 6-29.4, ROH, the GRANTEE agrees to the following conditions:
- a. To comply with all applicable federal and state laws prohibiting discrimination against any person on the grounds of race, color, national origin, religion, creed, sex, disability or age, in employment and any condition of employment with the GRANTEE or in participation in the benefits of any program or activity funded in whole or in part by the State of Hawaii;
 - b. To comply with all applicable licensing requirements of the county, state and federal governments and with all applicable accreditation and other standards of quality generally accepted in the field of the GRANTEE's activities;
 - c. To have in its employ or under contract such persons as are professionally qualified to engage in the activity funded in whole or in part by the State of Hawaii;
 - d. To comply with such other requirements as the Director of Budget and Fiscal Services may prescribe to ensure adherence by the provider or GRANTEE with county, federal and state laws and to ensure quality in the service or activity rendered by the GRANTEE, including specifically, compliance with the City's sexual harassment policy, Section 1-18.1 et seq., Revised Ordinances of Honolulu;
 - e. To allow the expending or related county agency, or a committee of the council, or the council full access to records, reports, files and other related documents in order that they may monitor and evaluate the management and fiscal practices of the GRANTEE organization to assure proper and effective expenditure of CITY funds; and
 - f. To keep these funds financially separate in GRANTEE's book of accounts and submit quarterly program and financial reports on the use of these funds, due on or before the 15th of the month following the close of the quarter; and a year-end report on the same within 90 days following the close of the fiscal year in which the money is appropriated. In lieu of a year-end report, the CITY may elect to require a final report be submitted within 90 days following the completion of the program or services for which the grant was awarded. In lieu of quarterly and year-end reports for grants in the amount of \$10,000 or less, only a final report is required and shall be submitted within 90 days following the close of the fiscal year in which the money is appropriated or the completion of the program or services, whichever is later. The reports shall contain, but are not limited to:
 - 1) Program status summary;
 - 2) Program data summary;
 - 3) Summary of participant characteristics;
 - 4) Financial status report of the city and county funds used;
 - 5) Financial status report of the remaining balance of city and county funds, if any;

and

6) A narrative report.

Documents shall be submitted to the Mayor's Office of Economic Development, Attention: Executive Director, 530 South King Street, Room 306, Honolulu, Hawaii 96813.

The GRANTEE shall provide the CITY with reports as provided in Section 6(f) of this Agreement in a format that demonstrates measures of effectiveness and any other information that may be useful in evaluating the public purpose served by this project.

The failure to file on a timely basis any of the required reports will reflect unfavorably upon the City's final evaluation of the GRANTEE and may adversely affect the Grantee's eligibility for CITY grant funds in the future.

7. Project Date. GRANTEE shall complete Project by the Project Date set forth in Attachment A. Upon the failure of GRANTEE to complete this Project by the Project Date, the City shall terminate disbursement of any remaining Grant funds under this Agreement and shall require GRANTEE to repay to the City all Grant funds disbursed prior to termination; provided that the City may determine, upon its sole discretion, waiver of the repayment of Grant funds used to pay for appropriate and allowable costs.
8. Warranty of Services.
 - a. The GRANTEE warrants that it is a not-for-profit organization or association chartered or otherwise authorized to do business in the State of Hawaii for charitable purposes, that the purposes of the organization provide direct benefits to the people of the City and County of Honolulu, and that these purposes include services to meet a definitive cultural, social or economic need within the City and County of Honolulu not being met by any other private organization.
 - b. The GRANTEE warrants that all activities performed under this project shall be conducted in a safe and prudent manner.
9. Advertising and Promotion.

The CITY shall review and approve all advertising content prior to media materials being published or released, including any acknowledgment that financial support for the event is provided in part by the CITY.
10. Indemnification.

GRANTEE shall indemnify the City, its officers, employees, contractors and agents, and shall defend them and shall hold them harmless individually and in their official capacities, from all claim of liability for damages made by any person or entity for death, personal injury or injury to real or personal property arising from or connected with the performance of GRANTEE'S officers, directors, partners, employers, contractors and agents or other entities in their performance of its obligations stated in this instrument.
11. Miscellaneous.

- a. CITY's Right to Amend. Notwithstanding any provision herein to the contrary, during the term of this Agreement, the CITY reserves the right, at any time, to amend this Agreement in order to assure compliance with all City and County of Honolulu, State of Hawaii and federal statutes, ordinances, regulations and guidelines. All such amendments shall be within the general scope of this Agreement. The CITY shall provide all such amendments in writing to the GRANTEE. The GRANTEE agrees that it shall immediately take any and all reasonable steps to comply with such amendments and not to jeopardize the grant or loan as the case maybe.
- b. Assignment. Neither the entire agreement which is stated in this Agreement nor any interest in it may be assigned by any party for any purpose without the prior written consent of each other party.
- c. Authorization. Each party warrants to each other party that the individuals executing this Agreement on behalf of the respective parties are authorized to do so. The GRANTEE and the person signing for the GRANTEE below represent and warrant that there are no restrictions, agreement, limitations on the GRANTEE's right or ability to enter into and perform the terms of this Agreement.
- d. Binding Effect. Upon its execution by each party, this Agreement shall become binding and enforceable according to its provisions. If more than one party is obligated by any provisions stated in this Agreement, those parties shall be jointly and severally liable for the performance of those obligations. The rights and obligations of each party named in this Agreement shall bind and inure to the benefit of that party, the respective heirs, personal representatives, successors, and assigns of that party.
- e. Consent; Subsequent Agreement. If a subsequent consent or agreement required of any party by the provisions of this Agreement is requested by a party, it shall not be unreasonably withheld by the party to whom the request is made.
- f. Construction. Each party named in this Agreement acknowledges and agrees that:
 1. Each party is of equal bargaining strength;
 2. Each party has actively participated in the negotiation and preparation of this instrument;
 3. Each party has consulted with their respective legal counsel and other professional advisors as each party has deemed appropriate;
 4. Each party and the party's legal counsel and advisors have reviewed this instrument; and
 5. Each party has agreed to be bound by the terms stated in this instrument following its review and obtaining advice.
- g. Dates. If any date stated in this instrument falls on a Saturday, Sunday, or legal holiday, such date shall be the next following business day.

- h. **Defined Terms.** Certain terms where they initially are used in this Agreement are set off by quotation marks inside parentheses and subsequently are capitalized. Those designated terms shall have the same meaning throughout this Agreement, unless clearly inappropriate in context.
- i. **Execution of the Grant Agreement.** This Agreement shall not be considered binding upon the CITY until an Agreement, in form and substance satisfactory to the CITY has been fully and properly executed by the CITY and the GRANTEE.
- j. **Force Majeure.** If any party is prevented from performing its obligations stated in this Agreement by any cause not within the reasonable control of that party, including, but not limited to, fire, an act of God, public enemy, or war, an act or failure to act of a government entity (except on the part of the CITY), unavailability of materials, or actions by or against labor unions, it shall not be in default of its obligations stated in this Agreement; provided, however, any party delayed by such an event shall request an extension of time to perform its obligations stated in this Agreement by notifying the party to which it is obligated within ten (10) days following the event. If the notified party agrees that the event was the cause of the delay, the time to perform the obligations stated in this Agreement shall be extended by the number of days of delay caused by the event. If no notice is given by the delayed party, no time extension shall be granted.
- k. **Gender; Number.** In this Agreement, the use of any gender shall include all genders and the use of any number in reference to nouns and pronouns shall include the singular or plural, as context dictates.
- l. **Governing Law and Venue.** The provisions of the Grant shall be interpreted in accordance with the laws of the State of Hawai'i as those laws are construed and amended from time to time. All disputes arising out of or relating to this Grant shall be subject to the jurisdiction and venue of the state and federal courts in Honolulu, Hawai'i.
- m. **Independent Contractor/Non-Agency.** The parties acknowledge that the GRANTEE is an independent contractor, and neither party hereto is a partner, agent and/or employee of the other.
- n. **Integration.** This Agreement contains all of the agreements of the parties pertaining to its subject matter. Each party acknowledges that no person or entity has made any oral or written representation on which it has relied in entering into this Agreement which set forth herein.
- o. **Legal Action and Fees.** In the event of any controversy, claim or dispute between the parties hereto arising out of or relating to this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party its reasonable expenses, including attorneys' fees and costs.
- p. **No Drafter.** No party shall be deemed to have drafted this Agreement. No provision stated in this Agreement shall be construed against any party as its drafter.
- q. **No Obligations to Third Parties.** Unless there is a provision stated in this Agreement to the contrary, the execution and delivery of this Agreement shall not confer rights on any person or entity except the parties herein or obligate either party herein to any person or entity except another party herein.

- r. No Offer. The provisions stated in this Agreement shall not bind any party until each party has executed it. The mere delivery of this Agreement is not an offer.
- s. No Waiver. No consent or waiver, expressed or implied, by either party to or of any breach or default by the other party in the performance of its obligations hereunder, shall be valid unless in writing. No such consent or waiver shall be deemed or construed to be a consent or waiver to or of any other breach or default in the performance by such other party of any other obligations of such party hereunder. The failure of any party to declare the other party in default shall not constitute a waiver by such party of its rights hereunder, irrespective of how long such failure continues.
- t. Paragraph Titles. The titles of each provision stated in this Agreement are included only for the convenience of the parties. They shall not be considered in the construction and interpretation of the provisions stated in this Agreement.
- u. Required Actions by the Parties. Each party named in this Agreement agrees to execute the instruments and to diligently undertake the acts necessary to consummate the transaction contemplated by this Agreement. Each party shall use its best efforts to consummate the transaction contemplated by this Agreement.
- v. Severability. If any provision stated in this Agreement subsequently is determined to be invalid, illegal, or unenforceable, that determination shall not affect the validity, legality, or enforceability of the remaining provisions stated in this Agreement unless that is made impossible by the absence of the omitted provision.
- w. Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the respective successors and assigns of the parties hereto (as permitted pursuant to the provisions of this Agreement).
- x. Survival. Any representation and warranty stated in this Agreement made by each party shall survive the termination of this Agreement.
- y. Time is of the Essence. Time is of the essence with this Agreement.

[END OF PAGE]

IN WITNESS WHEREOF, the CITY and the GRANTEE have executed the Agreement effective as of the date first above written.

APPROVED AS TO CONTENT:

CITY AND COUNTY OF HONOLULU

Nicole A. Velasco
Executive Director
Mayor's Office of Economic Development

NELSON H. KOYANAGI, JR.
Director
Department of Budget and Fiscal Services

APPROVED AS TO FORM AND LEGALITY:

GRANTEE'S LEGAL NAME

Deputy Corporation Counsel

Signature

APPROVAL RECOMMENDED:

Print Name

Title

GEORGETTE T. DEEMER
Deputy Managing Director
Office of the Managing Director

