

FOR ACTION

I. REQUEST

Consider Authorizing the Executive Director to Enter into a Memorandum of Agreement (MOA) with the Hawaii Emergency Management Agency (“HI-EMA”) for the Hawaii Community Development Authority (HCDA) to Provide Project Management Assistance to HI-EMA Relating to HI-EMA’s Proposed Facility at the First Responder Technology Campus (“FRTC”) Project Site at Mililani, Oahu, TMK Parcel No. (1) 9-5-002:057.

II. BACKGROUND

The FRTC project is proposed on land owned by the Hawaii Technology Development Corporation (“HTDC”) adjacent to the Mililani Technology Park. Currently the project is in planning and infrastructure design phase. The Hawaii Community Development Authority (HCDA) is assisting HTDC in managing the planning and design of infrastructure improvements. Nineteen federal, state, and county agencies are interested in building their facilities at the FRTC.

At the January 5, 2022 Authority meeting, staff presented HI-EMA’s request for project management assistance from the HCDA for initial planning and design of HI-EMA’s facility at the proposed FRTC campus. HCDA staff also provided an overview of the FRTC project to the board.

III. DISCUSSION

The “initial planning and design” of the HI-EMA facility is envisioned to encompass two Phases, Phase 1 (Scoping) and Phase 2 (schematic design). Subsequent work necessary to complete the project such as preparation of construction bid documents, bidding, and construction management are not part of the currently proposed MOA since these are dependent on HI-EMA being able to obtain additional funding for completing the design and construction of its facility.

HCDA’s role during the initial design stages will be to work with HI-EMA to confirm and define the spatial and functional needs for the facility, evaluate and negotiate fees for the design consultant, prepare a design scope of work, retain and enter into a professional services contract with the design consultant, and work toward the completion of schematic and conceptual drawings by March 2023.

Staff capacity exists currently to assist HI-EMA for Phases 1 and 2. Should HI-EMA require assistance from HCDA for the subsequent phases, Authority approval will be sought to assist with those subsequent phases. A draft MOA is provided as Exhibit A.

IV. RECOMMENDATION

Authorize the Executive Director to enter into a memorandum of agreement with HI-EMA, substantially in the form attached as Exhibit A, and undertake all tasks necessary to effectuate the purpose(s) of this For Action:

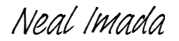
Attachment

Exhibit A – Draft MOA between HI-EMA and HCDA

Prepared By: Cara Kimura, Architect, HCDA Project Director



Reviewed By: Neal Imada, PE, Interim Dir. of Planning and Dev., Kakaako



Reviewed By: Craig K. Nakamoto, Comp. Assurance/Community Outreach Officer



EXHIBIT A

MEMORANDUM OF AGREEMENT
BETWEEN
THE STATE OF HAWAI‘I
HAWAI‘I COMMUNITY DEVELOPMENT AUTHORITY
AND
THE STATE OF HAWAI‘I
HAWAI‘I EMERGENCY MANAGEMENT AGENCY

This MEMORANDUM OF AGREEMENT (hereinafter referred to as “MOA made by and between the HAWAI‘I COMMUNITY DEVELOPMENT AUTHORITY (hereinafter referred to as “HCDA”), a body corporate and public instrumentality of the State of Hawai‘i, whose business address is 547 Queen Street, Honolulu, Hawai‘i 96813, and the HAWAI‘I EMERGENCY MANAGEMENT AGENCY, (hereinafter referred to as “HI-EMA”), an agency established within the Department of Defense, State of Hawai‘i, whose business address is 3949 Diamond Head Road, Honolulu, Hawai‘i 96816, is executed on the respective dates indicated below and effective _____ HCDA and HI-EMA are each referred to herein individually as a “party” and collectively as the “parties”.

WHEREAS, HCDA is a body corporate and public instrumentality of the State of Hawai‘i responsible for establishing community development plans and rules in community development districts under HCDA’s regulatory jurisdiction, determining community development programs; and cooperating with private enterprise and the various components of federal, state, and county governments to bring community development plans to fruition;

WHEREAS, HCDA is permitted to assist other State agencies with projects located within or outside of HCDA’s established community development districts;

WHEREAS, HI-EMA is the emergency management agency for the State of Hawai‘i and serves as the coordinating agency for the four county emergency management agencies (Hawai‘i County Civil Defense, Maui County Emergency Management Agency, the City and County of Honolulu Department of Emergency Management, and the Kaua‘i Emergency Management Agency), and also is responsible through its (HI-EMA’s) Operations Section, for providing timely emergency alerts, warnings and notifications to state agencies, local governments and key federal partners through the Hawai‘i State Warning Point communications and warning center established by and within HI-EMA and staffed by HI-EMA Operations Section employees;

WHEREAS, HI-EMA intends to design and construct a facility (“Facility”) at the First Responders Technology Campus (“Project”) site in Mililani, O‘ahu, Hawai‘i and desires to retain the assistance of HCDA to provide procurement and management of consultant services; and

WHEREAS, HI-EMA has approached HCDA and requested assistance from HCDA relating to the following: development of the scope of services for the design phase, negotiating the scope of services and fee proposal with the chosen consultant, and reviewing the work product prepared by the consultant during the Project schematic design phase, all as more fully described herein.

NOW THEREFORE, the parties agree as follows:

1. Responsibilities of the Parties

a. HCDA

- i. Engage a consultant (“Consultant”) to prepare a design for the Project, including preparation of design documents for the Facility to facilitate the bidding and construction of the Facility and provide technical support and direction in obtaining required government agency approvals.
- ii. Provide technical planning and development guidance and project management services, including procurement of services, to HI-EMA during the design process, including:
 - a) Organize and lead project scope meetings with HI-EMA and Consultant to establish the Consultant’s scope of work (“Work”);
 - b) Develop the Consultant’s scope of Work in order for the Consultant to provide a fee proposal for professional design services;
 - c) Evaluate the Consultant’s fee proposal and prepare and execute a written contract between HCDA and Consultant to address the Work, fees, billing, and payment (“Professional Services Contract”), pursuant to HRS 103D-304;
 - d) Review the work product prepared by Consultant during Phases 1 and 2, as outlined below and as prescribed by the progress of the Project and needed for government agency approvals; and
 - e) Assist HI-EMA in initial review and evaluation of Consultant’s invoices for accuracy and satisfactory completion and delivery of services specified in the Professional Services Contract.

b. HI-EMA

- i. Provide funding for the Consultant’s and HCDA’s work for Phases 1 and 2. Remittance of payment, as identified herein, for the Work rendered by Consultant and the services described in Section 3 herein provided by HCDA.
- ii. Remittance of payment of Consultant’s invoices in accordance with the terms and conditions of the Professional Services Contract.
- iii. Remittance of payment to HCDA within 30 calendar days after receipt of HCDA’s invoices for professional services rendered.

- c. Provide assistance, as required, to facilitate the prompt delivery of any information or documents needed or required by HCDA or Consultant for the duration of the Project.

2. **Project Phases and Deliverables**

The parties and Consultant will endeavor to complete Phases 1 and 2 by no later than March 31, 2023:

- a. Phase 1: Scoping Fee Proposal and Services Contract Preparation
 - i. The Project Scope Meeting(s) include the following:
 - a) Preparation for Project Kick-Off.
 - 1} Discuss and define the agency's spatial and functional needs (including space planning) for the Project.
 - 2} Review past space planning exercises and documents and update as necessary for current staffing, functional and technological requirements.
 - 3} Discuss governmental approval requirements relating to planning and design of the Facility, including but not limited to, supplemental Environmental Impact Statement (EIS) or Environmental Assessment (EA); Archaeological Inventory Survey(s) (AIS); permits; and any other required approvals.
 - 4} Discuss and determine project timeline
 - 5} Discuss the funding that HI-EMA will need to secure for completion of the Project.
 - ii. Review of Fee Proposal and Contract Execution
 - a) Evaluate/negotiate Consultant's fee proposal for design services
 - b) Prepare Professional Services Contract for Execution
- b. Phase 2: Schematic Design
 - i. Design Development Meetings: HCDA will meet with HI-EMA and Consultant to assist with: refining program, developing design solutions and discussing project priorities and alternatives.
 - ii. Permits/Government Agency Approval Meetings: HCDA will meet with HI-EMA, Consultant and various government agencies to discuss requirements for permits, approvals and other actions and/or documents required for construction of the facility.
 - iii. Schematic Design Documents:
 - a) Consultant shall prepare schematic/conceptual design drawings, construction cost estimates and basis of design documents for HI-EMA's proposed Facility

- b) HCDA will provide technical review and evaluation of the schematic design documents and provide recommendations to HI-EMA regarding next steps
- iv. Schematic Design Review Meeting:

Post-schematic design completion, HCDA will meet with HI-EMA and Consultant to review schematic design, discuss strengths/weaknesses of design, and discuss next steps.
- c. Subsequent Phases:
 - i. The parties agree to proceed to the following phases of the Project, subject to the availability of sufficient HI-EMA funding, approval of the HCDA and execution of a memorandum of agreement for subsequent phases by both parties. HCDA's fee for subsequent phases is subject to negotiation and agreement, in writing, between HCDA and HI-EMA:
 - a) Phase 3: Preliminary Design
 - b) Phase 4: Final Design
 - c) Phase 5: Bidding
 - d) Phase 6: Construction/Construction Management
 - ii. Prior to the start of each phase, and subject to the conditions in subparagraph c(i) above, the parties shall address scope of work, budget, and other necessary details. The parties shall also negotiate Consultant's Professional Services Contract, to define the scope of work, timeline, and payment for the above subsequent phases of Work.

3. Budget and Payment

- a. Payment for services rendered by HCDA relating to Phases 1 and 2 of the Project, shall not exceed HI-EMA's funding cap of \$60,000, and payments due to HCDA shall be made by HI-EMA in accordance with the following:
 - i. Hourly Rate: \$75.00 per hour
 - ii. Pre-approved reimbursements: Reimbursements may include (but are not limited to) travel to the neighbor island for project-related tasks. For any approved travel, HCDA shall make all travel arrangements within a reasonable time frame and through the most economical, direct and cost-effective means. Reimbursable travel costs are based on actual costs only. HCDA will provide receipts to HI-EMA for reimbursement approval.
 - iii. HCDA will invoice HI-EMA in monthly progress payments. HI-EMA shall remit payment to HCDA at the following address by check, funds transfer, or other mechanism arranged and mutually agreed upon by the parties:

HCDA
Attn: Accounting
547 Queen Street
Honolulu, HI 96813

- iv. All payments remitted by HI-EMA to HCDA must reference the HCDA invoice number and Project title/name, which shall be issued by HCDA within 30 days of the effective date of this MOA. Payments remitted to HCDA via check shall be made payable to: “HCDA” and also note the HCDA Project title/name in the payment check memo line. Alternatively, payments to HCDA may be deposited directly via journal voucher as follows:

TC: 805
Appropriation S-22-352
CC: LM00
Source Code: 0828

4. **Relationship of Parties; Independent Contractor**

- a. Nothing in this MOA shall be deemed to create a partnership, joint venture, agency trust, or similar relationship between the parties, and neither party shall be deemed to be an agent of the other party. The relationship of the parties hereunder is that of independent contractors, and each party is an independent contractor and shall maintain sole and exclusive supervision and control over its respective personnel and operations involved in assisting in the performance of such obligations.

5. **Principal Representative and Central Point(s) of Contact for Intergovernmental Agency Communications**

- a. To facilitate consistent and effective communications between HI-EMA and HCDA, each party designates the following respective principal representative(s) and central point(s) of contact and communications on matters relating to services to be provided and the scope of work to be performed by each party under this MOA:

HI-EMA:

Billing and Administrative matters:

Kari Rachlin, Administrative Manager
Hawai‘i Emergency Management Agency
3949 Diamond Head Road
Honolulu, HI 96816
(808) 733-4300, Ext. 572
kari.k.rachlin@hawaii.gov

For Technical Matters:

Carlos Rowe, Logistics Branch Chief
Hawai'i Emergency Management Agency
3949 Diamond Head Road
Honolulu, HI 96816
(808) 733-4300, Ext. 530
carlos.o.rowe@hawaii.gov

HCDA:

Cara Kimura, Project Director
Hawai'i Community Development Authority
547 Queen Street
Honolulu, HI 96813
(808) 594-0334
caralynne.k.kimura@hawaii.gov

6. Amendment, Modification and Termination

- a. This MOA may be modified or amended only by written, mutual agreement of the parties. Either party may terminate this MOA by providing written notice to the other party. The termination shall be effective thirty (30) calendar days following written notice to the designated Principal Representative and Central Point of Contact and Communications for the respective parties listed in paragraph 5 herein, unless a later date is set forth by mutual agreement in writing.
- b. In the event of termination: (a) HCDA shall be responsible for transferring any ongoing work resulting from the termination of the MOA to HI-EMA, and (b) HI-EMA shall be responsible for payment of all costs incurred by HCDA and properly invoiced from the date of receipt of the written notice of termination in accordance with this MOA.

7. Term/ Effective Date

- a. This MOA shall be effective from the date of execution and shall continue in effect until the completion of Phases 1 and 2 of the Project to the mutual satisfaction of the parties, or until either party terminates the MOA.

8. Counterparts

- a. This MOA may be executed in any number of counterparts, each of which shall be deemed to be an original, but all such counterparts shall together constitute one and the same Agreement. Electronic signatures that comply with the Hawai'i Uniform Electronic Transactions Act, Chapter 489E, Hawai'i Revised Statutes, as amended from time to time, will be deemed original signatures for purposes of this Agreement. The counterparts of this Amendment may be executed and delivered by facsimile or other electronic

signature (including portable document format) by either of the parties and the receiving party may rely on the receipt of such document so executed and delivered electronically or by facsimile as if the original had been received.

9. **Entire Agreement**

- a. This MOA constitutes the entire agreement and understanding between the parties with respect to the subject matter hereof and shall supersede any and all prior communications, representations, or agreements, verbal or written between the parties regarding the subject matter hereof and may not be modified except by a written instrument signed by both parties as provided in paragraph 6 herein.

10. **Severability**

- a. In the event that any provision of this MOA, or the application thereof, becomes or is declared by a court of competent jurisdiction to be illegal, void or unenforceable, the remainder of this MOA shall continue in full force and effect and the application of such provision to other persons or circumstances will be interpreted so as reasonably to effect the intent of the parties hereto.

11. **Headings/Captions.** The headings and captions of paragraphs or other parts hereof are for convenience of reference only and are not to be used to construe, interpret, define, or limit the paragraphs to which the respective headings and captions may pertain.

12. **Governing Law**

- a. This MOA and the rights and obligations hereunder shall be governed by and construed in accordance with the laws of the State of Hawai'i.

***[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]
[SIGNATURES FOLLOW ON NEXT PAGE]***

IN WITNESS WHEREOF, the parties have caused this Memorandum of Agreement to be executed by their duly authorized representatives by their signatures below.

**HAWAI‘I EMERGENCY
MANAGEMENT AGENCY**

**HAWAI‘I COMMUNITY
DEVELOPMENT AUTHORITY**

By: _____

Luke Meyers
Executive Officer
Hawai‘i Emergency Management Agency

Date: _____

By: _____

Deepak Neupane, P.E., AIA
Executive Director
Hawai‘i Community Development
Authority

Date: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: _____

Deputy Attorney General

By: _____

Deputy Attorney General