

**AMENDMENT NO. 2  
TO  
CONTRACT NO. CT-HRT-1200106 (formerly Contract No. CT-DTS-1100194)  
BETWEEN  
THE CITY AND COUNTY OF HONOLULU  
AND  
HITACHI RAIL HONOLULU JV**

This AMENDMENT NO. 2, dated FEB 21 2020, to Contract No. CT-HRT-1200106 (formerly Contract No. CT-DTS-1100194), is entered into 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, with offices at Honolulu Hale, 530 South King Street, Honolulu, Hawaii 96813, hereinafter called the "CITY," the HONOLULU AUTHORITY FOR RAPID TRANSPORTATION, a semi-autonomous agency of the CITY, whose principal place of business is 1099 Alakea Street Suite 1700, Honolulu, Hawaii 96813, hereinafter called "HART", and Hitachi Rail Honolulu JV, whose principal place of business is 96-004 Ala 'Ike Street, Pearl City, Hawaii 96782, hereinafter called the "CONTRACTOR", collectively (the "Parties")

WITNESSETH THAT:

WHEREAS, HART and the CONTRACTOR hereto entered into a Contract identified as Contract No. CT-HRT-1200106 (formerly Contract No. CT-DTS-1100194), dated November 28, 2011, as amended by Amendment No. 1 dated October 29, 2012, Exhibit "I" Agreement (Name Change) dated April 15, 2019, but effective April 1, 2019, and Change Orders 1 through 52 (collectively, the "Contract"), for the design, construction, operation and maintenance of the Core Systems for the Honolulu High-Capacity Transit Corridor Project in Honolulu, Hawaii, from the East Kapolei Station to the Ala Moana Station; and

WHEREAS, Exhibit "I" Agreement (Name Change) was executed on April 15, 2019, but effective as of April 1, 2019, changing the CONTRACTOR's name from Ansaldo Honolulu JV to Hitachi Rail Honolulu JV; and

WHEREAS, pursuant to Sections 16-132 and 6-1703(a) of the Revised Charter of the City and County of Honolulu 1973 (2017 Edition), the CONTRACTOR acknowledges the CITY, through its Department of Transportation Services ("DTS"), as HART's successor-in-interest under the Contract with respect to the operations and maintenance portion of the Work, and the Parties desire to amend the Contract accordingly; and

WHEREAS, the Parties desire to make adjustments to the phasing and corresponding duration of operations and maintenance such that the Intermediate (Interim) O&M Period is increased in the aggregate to a total of approximately five (5) years, commencing December 31, 2020 and expiring December 19, 2025; the Full O&M Period remains a five (5) year period commencing December 20, 2025; and the Optional O&M Period is reduced from five (5) years to thirty-nine (39) months; and

WHEREAS, the CITY and CONTRACTOR also desire to increase station staffing and to modify train service levels to reflect the City's current passenger and train service objectives; and

WHEREAS, in order to accommodate the foregoing and delays that have elapsed, the parties have agreed to increase the Contract amount by the sum of NINETY TWO MILLION TWO HUNDRED TWENTY THOUSAND AND NO/100 DOLLARS (\$92,220,000.00) as stated herein; and

WHEREAS, the revisions in this AMENDMENT NO. 2 include, but are not limited to, updates to 1) support and mobilization plans, 2) staffing levels, 3) operating and maintenance pricing, 4) the Capital Asset Replacement Program, 5) pricing on Vehicle Preventative Maintenance ("PV Maintenance"), and 6) Station Maintenance Boundaries, and do not include adjustments to the Design-Build lump sum to reflect certain change orders; and

WHEREAS, Section 5.3 Change Orders of the General Conditions of Design-Build Contracts City and County of Honolulu dated 02/09, allows for such modifications to be made to the AGREEMENT; and

WHEREAS, the Parties agree that the modifications (to include, but not limited to all associated costs) to the operation and maintenance work only resulting from the previous fifty-two (52) design and construction change orders, are fully resolved with the execution of this AMENDMENT NO. 2;

WHEREAS, the CONTRACTOR is willing and able to perform the services under the amended conditions;

NOW, THEREFORE, the Parties, in consideration of the mutual agreement set forth herein, agree to amend the AGREEMENT as follows:

**1. MODIFICATION OF TERMS**

**A. MODIFICATIONS TO AGREEMENT.** The Contract is amended as follows:

1. Section 2 is amended by amending the last sentence only to read as follows:

"Wherever "HART", the "City and County of Honolulu", "CITY", "Rapid Transit Division", and "RTD" appear in the Contract, they shall be in reference to the appropriate party or parties (HART or the City) whose responsibility is defined by the Revised Charter of the City and County of Honolulu 1973 (2017 Edition), as amended; generally DTS being responsible for operation and maintenance Work and HART being responsible for design and construction Work."

2. Section 5 is amended by deleting the section in its entirety and replacing it with the following:

"5. This is a firm fixed-price contract, and subject to the provisions of this paragraph, and in accordance with Chapter 6 of the GCDB, as amended by Chapter 6 of the Special Provisions, HART or DTS, as applicable, agrees to pay the CORE SYSTEMS CONTRACTOR, for the satisfactory performance and completion of the Work the payments in accordance with the Schedule of Milestones. The aggregate amount of these lump sum payments shall not

exceed ONE BILLION FOUR HUNDRED EIGHTY-NINE MILLION SIX HUNDRED SEVEN THOUSAND NINETY-THREE AND 00/100 DOLLARS (\$1,489,607,093.00) (subject to adjustments to the Design-Build lump sum by change order). The lump sum payments for services and the Work performed under the Contract are all inclusive of direct labor overhead, general and administrative expenses, other direct costs, subcontractor costs, fixed fees, profit, and all applicable taxes, State general excise and use tax (GET) and county one-half percent (0.5%) GET Surcharge.

The total lump sum payments consist of the following:

\$573,782,793 for the Design-Build lump sum (as the same may be modified by change orders);  
\$319,885,236 for Intermediate O&M periods;  
\$375,489,491 for the full five-year O&M period;  
\$220,449,573 for the optional 39-month O&M period unless terminated by the CITY.

Payments related to maintenance for any Vehicles that have not arrived at the MSF, have not been certified for revenue service, or have not been maintained as per the Maintenance Plan and available for revenue service shall be reduced as follows:

\$2,000.00 per Train per week during Intermediate Period #1; and  
\$2,200.00 per Train per week during Intermediate Period #2

At the end of the full five-year O&M period, the CORE SYSTEMS CONTRACTOR's O&M performance on the O&M portion of the Work will be evaluated by the CITY. The CITY may terminate the Agreement at the end of the full five-year O&M period without any further obligations to the CITY if the CITY, in its sole discretion, determines that the CORE SYSTEMS CONTRACTOR's O&M performance is unsatisfactory. Such termination of the Agreement shall be in writing from the CITY to the CORE SYSTEMS CONTRACTOR. Any funds remaining at the end of this Agreement shall revert back to the CITY.

In accordance with the paragraphs above, the total aggregate amount of ONE BILLION FOUR HUNDRED EIGHTY-NINE MILLION SIX HUNDRED SEVEN THOUSAND NINETY-THREE AND 00/100 DOLLARS (\$1,489,607,093.00) (subject to adjustments to the Design-Build lump sum by change order) is established as the maximum payable under this Contract and is subject to the Special Provisions and the GCDB, including the provisions thereof relating to reducing or increasing the compensation of the CORE SYSTEMS CONTRACTOR."

B. MODIFICATIONS TO AMENDMENT NO. 1. Amendment No. 1 to the Contract is amended as follows:

1. Paragraphs 1 through 5 are amended as provided in subsection D below.
2. Paragraph 6 is deleted in its entirety.

C. MODIFICATIONS TO TECHNICAL PROVISIONS. The Technical Provisions of the Contract are amended as follows:

1. The following subsections of TP-1: Core Systems Description are deleted in their entirety, and replaced with the identically numbered provisions set forth in Amendment No. 2 -- Attachment 1, attached hereto ("Attachment 1"):
  - a. Table of Contents.
  - b. TP-1.5 Operation & Maintenance.
2. TP-1.4.5 Fare Vending System is deleted in its entirety.
3. The following subsections of TP-2: Verification Test and Acceptance or the specified portions thereof are deleted in their entirety, and replaced with the identically numbered provisions or corresponding content set forth in Attachment 1:
  - a. Table of Contents.
  - b. TP-2.2.2.1 VTA Program Outline, Paragraphs 1 and 2 only.
  - c. TP 2.6.1.1 Definitions.
  - d. TP 2.7.6 Station and Equipment.
  - e. Exhibit B - Verification, Test and Acceptance, Section 8 only.
4. TP-3 Operations & Maintenance Performance Requirements is deleted in its entirety and replaced with TP-3 set forth in Attachment 1.

D. MODIFICATIONS TO SPECIAL PROVISIONS. The Special Provisions, as set forth in Special Provisions (1-7) Addendum No. 46 Issued February 8, 2011, of the Contract, and as amended by Amendment No. 1, are further amended as follows:

1. SP-1 DEFINITIONS; REFERENCES; REPRESENTATIONS is amended by amending SP-1.1 DEFINITIONS as follows:
  - a. The definition of "Chief Procurement Officer" is deleted in its entirety and replaced with the following:

"Chief Procurement Officer" means the (1) Director of Budget and Fiscal Services of the City and County of Honolulu with respect to

Contract provisions relating to the operation and maintenance portion of the Work or (2) the HART Executive Director and CEO with respect to Contract provisions relating to the design and construction portion of the Work.”

- b. The definition of “Contract Administrator” is deleted in its entirety and replaced with the following:

““Contract Administrator” means the (1) Director of Transportation Services of the City and County of Honolulu or Designee with respect to Contract provisions relating to the operation and maintenance portion of the Work or (2) the HART Executive Director and CEO or Designee with respect to Contract provisions relating to the design and construction portion of the Work.”

- c. The definition of “Contracting Officer” is deleted in its entirety and replaced with the following:

““Contracting Officer” means the (1) Director of Budget and Fiscal Services of the City and County of Honolulu or Designee, with respect to Contract provisions relating to the operation and maintenance portion of the Work or (2) the HART Executive Director and CEO or Designee with respect to Contract provisions relating to the design and construction portion of the Work.”

- d. The definition of “Designee” is deleted in its entirety and replaced with the following:

““Designee” means a person appointed by the:

- (1) Director of Budget and Fiscal Services of the City and County of Honolulu; or
- (2) Director of the Department of Transportation Services; or
- (3) HART Executive Director and CEO

to act on its behalf with delegated authority.”

- e. The definition of “Officer-in-Charge” is deleted in its entirety and replaced with the following:

““Officer-in-Charge” means the (1) Director of the Department of Transportation Services of the City and County of Honolulu or Designee, with respect to Contract provisions relating to the operation and maintenance portion of the Work or (2) the HART Executive

Director and CEO or Designee with respect to Contract provisions relating to the design and construction portion of the Work.”

2. The following Special Provisions or specified portions thereof are deleted in their entirety, and replaced with the identically numbered provisions or corresponding content set forth in Attachment 1:
  - a. SP-3.3 Bid Security, Performance and Payment Bonds, Item No. 3 O&M Component.
  - b. Table 4.1 – Schedule Requirements, of SP 4.1, Time is of the Essence, Item Nos. 6, 7, 8 and 9 only.
  - c. SP-6.18 Monthly Payment, subsections (c) and (d) only.
  - d. SP-6.20 System Availability Requirements -- subparagraphs (1), (2), and (3) of subsection (c) and subsections (g) and (h) only.
  - e. SP-6.25 Economic Price Adjustments, subparagraphs (a)(1)(A), (a)(1)(B), (b) and (f) only.
3. SP-6.21 Deductions for Inoperable Fare Vending Equipment is deleted in its entirety.

**E. MODIFICATIONS TO MANAGEMENT PROVISIONS.** The Management Provisions of the Contract, dated March 2010, are amended as follows:

1. The following Management Provisions or specified portions thereof are deleted in their entirety, and replaced with the identically numbered provisions or corresponding content set forth in Attachment 1:
  - a. MP-2.1 Introduction, Paragraph 1 only.
  - b. MP-2.6 Inventory Control, Paragraph 1 only.
  - c. MP-2.7 Management Reports and Records, Paragraph 4, Item C only.
  - d. MP-2.8 O&M Contract Performance, subparagraph D only.
  - e. MP-2.11 Upgrades and Expansion Work, subparagraphs (B)(1), (B)(2), and (B)(3) only.
  - f. MP-2.14 Security Administrative Activities.
  - g. MP-2.15.2 Advertising on the System.
  - h. MP-2.15.3 User Guides and Maps.
  - i. MP-2.17 Limits of and Access to the O&M Work Area, item H of the third paragraph only.

**F. MODIFICATIONS TO CONTRACTOR'S PROPOSAL** (as amended by BAFO1 and BAFO2).

1. Volume 3, Section 3.17 CAPITAL ASSET REPLACEMENT PROGRAM is deleted in its entirety and replaced with the Capital Asset Replacement Program attached hereto as Amendment No. 2 – Attachment 2.
2. The following Volume 3 sections or specified portions thereof are deleted in their entirety, and replaced with the identically numbered provisions or corresponding content set forth in Amendment No. 2 – Attachment 3.
  - a. Section 3.10.2.2 Operation – Staffing Schedules
  - b. Section 3.10.3.2 Maintenance - Staffing Schedules,
    1. Table Staffing Schedule – Maintenance only.
    2. Table Staffing – Maintenance Department only.
    3. Table Staff Phasing during Mobilization Period for IOMP#1 only.
    4. Table Staff Phasing during Mobilization Periods for IOMP#2 and FOMP#1 only.
  - c. Section 3.11.1.3 OCC Manning, Table Manning of OCC only.
  - d. Section 3.11.3.3 Ticketing, Fare Collection and Revenue.
  - e. Section 3.11.3.4 Station and Trains Operations
3. Exhibit 17 is amended by deleting the following Exhibit 17 items in their entirety and replacing them with the Exhibit 17 items attached hereto as Amendment No. 2 – Attachment 4 (CONFIDENTIAL):
  - a. Exhibit 17 SCHEDULE OF PRICES for OPERATIONS AND MAINTENANCE (SPOM), Pages 1-3.
  - b. Exhibit 17a\_2 Pricing Backup for Labor, Materials, Management and Administration for Intermediate O&M Periods, Page 1.
  - c. Exhibit 17b Pricing Backup for Labor, Materials, Management and Administration for Full O&M Period, Pages 1-2.
  - d. Exhibit 17c Pricing Backup for Labor, Materials, Management and Administration for Optional O&M Period, Pages 1-2.
  - e. Exhibit 17d Capital Asset Replacement Program (CARP) Estimate, Page 1.

## 2. ALL OTHER TERMS

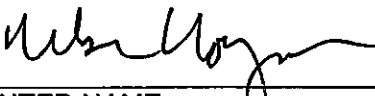
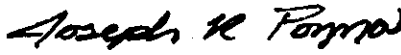
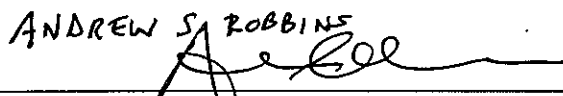
All terms and conditions of the Contract, not inconsistent with the terms and conditions of this AMENDMENT NO. 2, are herein incorporated and shall remain in full force and effect.

In the event of any conflict or inconsistency between the provisions of this AMENDMENT NO. 2 and any provisions of the Contract, the provisions of this AMENDMENT NO. 2 shall govern in all aspects.

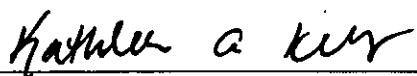
By signing below, the CONTRACTOR hereby certifies that, to the best of its knowledge and belief, cost or pricing data, as defined in Section 3-122-122, HAR, and submitted

pursuant to Section 3-122-125, HAR, either actually or by specific identification in writing to the Officer-in-Charge in support of this AMENDMENT NO. 2, is accurate, complete, and current as of the date of this AMENDMENT NO. 2. This certification includes the cost or pricing data supporting any advance agreement(s) between the CONTRACTOR and the CITY.

IN WITNESS WHEREOF, this AMENDMENT NO. 2 is executed herein by the duly authorized officers or agents of the CITY and the CONTRACTOR.

CITY AND COUNTY OF HONOLULU	HITACHI RAIL HONOLULU JV
BY: 	BY: 
PRINTED NAME: NELSON H. KOYANAGI, JR. <i>plc</i>	PRINTED NAME: Joseph R. Pozza
TITLE: Director, Department of Budget and Fiscal Services	TITLE: Managing Director
DATE: FEB 21 2020	DATE: 2/5/2020
HONOLULU AUTHORITY FOR RAPID TRANSPORTATION	
BY: 	
PRINTED NAME: ANDREW S. ROBBINS	
TITLE: Executive Director and CEO	

APPROVED AS TO FORM AND LEGALITY:

  
 Deputy Corporation Counsel  
 City and County of Honolulu

APPROVED AS TO CONTENT:

  
 WES FRYSZTACKI  
 Director, Department of Transportation  
 Services



STATE OF HAWAII

CONTRACTOR'S ACKNOWLEDGMENT

Province  
STATE OF Ontario, Canada )  
Regional Municipality Peel ) S.S.  
COUNTY OF Peel

On this 5th day of February, 2020, before me appeared  
Joseph R. Pozza, and   , to me  
known, to be the person(s) described in and, who, being by me duly sworn, did say that he/she/they is/are  
Managing Director and    of  
Hitachi Rail Honolulu JV  
the CONTRACTOR named in the foregoing instrument, and that he/she/they is/are authorized to sign  
said instrument on behalf of the CONTRACTOR, and acknowledges that he/she/they executed said  
instrument as the free act and deed of the CONTRACTOR.

    
(Notary Signature)

Ian Marshall  
(Print name)

(Notary Stamp or Seal)

Notary Public, State of Province Ontario

My Commission Expires: - no expiry -

NOTARY CERTIFICATE (Hawaii Administrative Rules §5-11-8)

Document Identification or Description: Amendment No. 2  
Contract No. ST-HRT-12001010  
Formerly, Contract No. ST-DTS-11001941  
between The City and County of Honolulu  
and Hitachi Rail Honolulu JV

Undated at time

Doc. Date:                          of notarization No. of Pages: 8 Jurisdiction:

    
Signature of Notary

    
Date of Certificate

(Notary Stamp or Seal)

Ian Marshall  
Printed Name of Notary