

Job# 2006-70-0304  
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BELT COLLINS HAWAII

May 16, 2011  
2006.70.0304 / 11P-083

Stephan Dollar, Ph.D.  
Marine Research Consultants, Inc.  
1039 Waakaua Place  
Honolulu, HI 96822

Dear Dr. Dollar:

**Marine Environmental Assessment for  
Kapalama Container Terminal  
Proposed Relocation of  
Pacific Shipyard to Pier 26  
Hawaii Department of Transportation  
Highways Division  
Honolulu Harbor, Oahu**

Thank you for your proposal for marine environmental assessment preparation services for the subject project. You are hereby given notice to proceed with the scope of services as documented in your proposal attached. Your fee for regular and contingency expenses for the project will be fixed at \$36,125.64 inclusive of Hawai'i state tax.

Enclosed please find a copy of our *Standard Agreement for Subconsultant Services*. Please return a signed and dated copy of the *Agreement*, along with a signed and dated copy of this letter to us. These documents will serve as our contract with you for services under the project.

Please contact us should you have any questions regarding the scope of services. Thank you.

Very truly yours,

BELT COLLINS HAWAII LTD.

Glen Koyama  
Project Planner

GTK:vps  
Enclosures

AGREED AND ACCEPTED:

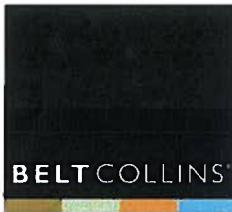
By:

Date: 5-18-11



**KAPALAMA CONTAINER TERMINAL - HONOLULU HARBOR  
MARINE ENVIRONMENTAL ASSESSMENTS**

Water Quality-Sediment-Marine Biota Surveys	Planning/Prep		Fieldwork		Report Prep		Water Quality Plan Prep		Meetings		TOTAL		
	RATE	hr	cost	hr	cost	hr	cost	hr	cost	hr	cost	hr	cost
<b>Labor</b>													
Principal Investigator	\$200.00	6	\$1,200.00	38	\$ 7,600.00	20	\$ 4,000.00	8	\$ 2,000.00	12	\$ 2,400.00	84	\$ 17,200.00
Assistant Investigator	\$100.00			38	\$ 3,800.00	20	\$ 2,000.00					58	\$ 5,800.00
<b>LABOR TOTAL</b>			<b>\$ 1,200.00</b>		<b>\$ 11,400.00</b>		<b>\$ 6,000.00</b>		<b>\$ 2,000.00</b>		<b>\$ 2,400.00</b>	<b>142</b>	<b>\$ 23,000.00</b>
<b>Reimbursable expenses</b>	<b>UNIT COST</b>	<b>#</b>											
Sediment Chemistry	\$ 2,000.00	2											\$ 4,000.00
Sediment physical characterization	\$ 500.00	4											\$ 2,000.00
Water Quality Sample Analysis	\$ 100.00	32											\$ 3,200.00
Boat rental	\$ 700.00	3											\$ 2,100.00
Field supplies	\$ 200.00	1											\$ 200.00
<b>EXPENSE TOTAL</b>													<b>\$ 11,500.00</b>
<b>SUBTOTAL</b>													<b>\$ 34,500.00</b>
<b>GET (4.712%)</b>													<b>\$ 1,625.64</b>
<b>TOTAL</b>													<b>\$ 36,125.64</b>



## **STANDARD AGREEMENT FOR SUBCONSULTANT SERVICES**

### **1. PAYMENT FOR SERVICES**

For contracted services on a fixed fee basis, payment for services will be as offered and accepted in the separate letter(s) of agreement or contract of which this standard agreement is a part. Description of services and dates of delivery are as specified in the basic agreement document. Changes to the scope of services may be made in supplemental written agreements.

For services on a salary classification rate (time and materials) basis, fees shall be based on the time expended on the project by professional and technical personnel multiplied by their appropriate charge rate.

For services performed on a time and materials basis not to exceed a certain amount, no payments above the not-to-exceed amount will be made for services rendered without prior written approval of Belt Collins Hawaii.

### **2. REIMBURSABLE EXPENSES**

All direct expenses, including applicable taxes, will be included in fees unless otherwise specified in the proposal and accepted by Belt Collins as reimbursable items.

### **3. INVOICES**

Belt Collins Hawaii engages subconsultants on behalf of its clients. Notwithstanding anything to the contrary contained in this Agreement, the Subconsultant understands and agrees that all amounts to be paid to Subconsultant under this Agreement, whether as payment for services, reimbursement for expenses or otherwise, is contingent upon and subject to the receipt of payment from the client for the Subconsultant's services, and such payment by the client shall be an express condition precedent of any obligation of Belt Collins Hawaii to make any payment to the Subconsultant.

Subconsultant shall submit progress invoices for services performed during the prior period, and a final bill upon completion of service. Following the project manager's approval of the invoice, Belt Collins Hawaii will invoice the client at its next regular billing period. Payment to Subconsultant shall be made following Belt Collins Hawaii's receipt of payment from the client.

### **4. DEFAULT BY CLIENT**

If reduced settlement is achieved, payment will be apportioned among Belt Collins Hawaii and all subconsultants proportional to the costs expended on the project to the time of work stoppage.

5. **RIGHT-OF-ENTRY AND SITE CONDITIONS**

Subconsultant is responsible for ensuring that right-of-entry is obtained prior to entering any property and that all necessary permits, licenses, and inspections are performed prior to performing services associated with this Agreement. Unless otherwise agreed to in writing, Subconsultant will ensure clearance from underground utilities and other hazards prior to performing sub-surface work, and will return work sites to their original condition upon completion of site investigations, unless previously agreed otherwise in writing. Subconsultant will take all reasonable precautions to minimize damage to property during its performance of services under this Agreement. Subconsultant has the obligation to immediately repair property damaged by the Subconsultant in performing its services, and to comply with applicable laws and regulations associated with its services.

6. **CUTTINGS, SAMPLES AND WASTE PRODUCTS**

Proper disposal of all samples, waste products, drilling fluids, contaminated soil and cuttings containing hazardous materials obtained or generated by subconsultants in the course of work performed under this Agreement is the responsibility of Subconsultant. All regulated materials will be disposed of in accordance with applicable laws and regulations. Subconsultant indemnifies Belt Collins and the client against all costs associated with its improper disposal of regulated materials associated with its services performed under this agreement.

7. **SITE SAFETY**

Subconsultant is solely responsible for evaluating site conditions for safety hazards prior to commencement of work, for ensuring the adequacy of training and equipment available to its staff, and for safely performing the required work under the conditions present. Where hazards may be created in the performance of work, Subconsultant is responsible for providing proper warning and adequate protection to prevent injury to its staff and to others.

8. **QUALITY OF WORK**

Subconsultant will perform work described in the scope of services in a manner consistent with that standard of technical competence and care normal to the professional practice. For work found to be professionally deficient or incorrect, the work will be corrected expeditiously to the mutual satisfaction of Belt Collins Hawaii and/or the client at no additional charge. Belt Collins Hawaii has the right to have deficient work completed by others and to deduct the expense from any amounts owed Subconsultant.

9. **OWNERSHIP OF WORK PRODUCT/DOCUMENTS**

Subconsultant agrees that all work performed and produced by Subconsultant under this Agreement including, but not limited to, all drawings, electronic files, data, studies, reports, plans, information, documents and completed work, shall be the property of Belt Collins Hawaii and all rights, title and interest therein shall vest exclusively in Belt Collins Hawaii and shall be deemed to be a "work made for hire" under the United States copyright laws.

**10. LIABILITY INSURANCE**

Subconsultant will maintain Workers Compensation Insurance for its workers, as required by law. In addition, Subconsultant shall maintain and provide proof of insurance coverage for professional liability, automobile, and general liability insurance coverages. Certificates of insurance will name Belt Collins Hawaii Ltd. as an additional insured and include the project for which Subconsultant is being engaged. Other specific coverage requirements or additional named insureds will be included in the written agreement for services of which this standard agreement is a part. Subconsultant will not allow coverage to lapse, cancel coverage, or decrease coverage amounts in the above policies during the course of the project, if requirement for or proof of such coverage was previously provided, without at least 30 days' written notice to Belt Collins.

**11. INDEMNIFICATION**

Belt Collins Hawaii and Subconsultant mutually agree, to the fullest extent permitted by law, to indemnify and hold each other harmless from any and all personal injury, damages, liability or costs (including reasonable attorneys' fees and costs of defense) arising from their own negligent acts, errors or omissions in their performance of services under this Agreement.

**12. CONFIDENTIALITY AND NON-DISCLOSURE OF PROJECT INFORMATION**

The Subconsultant agrees to keep confidential and shall not disclose to any person or entity other than Belt Collins, the Subconsultant's employees, consultants, and other consultants/contractors working on the project who have a need to know, any data or information not previously known to or generated by the Subconsultant or furnished to the Subconsultant in the course of performing work on this Project.

The Subconsultant further agrees that the technical methods, design details, techniques, pricing data and all information pertaining to this Project or this Agreement are considered proprietary information and shall not be released or otherwise made available to any third party without the express written consent of Belt Collins.

Should project information be (inadvertently) released to a third party, Subconsultant shall immediately notify Belt Collins, giving details of such release. Subconsultant agrees to defend Belt Collins and assume all costs for efforts to mitigate any situation associated with such release.

**13. SUBCONSULTANT IS AN INDEPENDENT CONSULTANT**

In carrying out the provisions of this Agreement, Subconsultant shall not be under the control or direction of Belt Collins Hawaii in any way as to the manner and means of performing the work to be done hereunder. Subconsultant shall select all of its employees who shall be and act under the exclusive and complete supervision and control of the Subconsultant. Subconsultant hereby acknowledges its responsibility for the full payment of the wages or other compensation of all employees, agents or servants engaged by Subconsultant in the performance of this Agreement. It is the intent of this Agreement that the relationship of Subconsultant to Belt Collins Hawaii shall solely be that of independent consultant, and that no relationship of any sort shall exist between the employees, agents and servants of Subconsultant and Belt Collins Hawaii.

**14. DISPUTES**

The parties agree that if a dispute arises out of the performance of this contract or otherwise relates to this contract, the parties will initially attempt to resolve that dispute through direct discussions among themselves. In the event that they are unable to do so, the parties agree that they will then settle the dispute through the process of mediation in accordance with the Mediation Procedures set forth in the American Arbitration Association Commercial Arbitration Rules and Mediation Procedures (Including Procedures for large, Complex Commercial Disputes) Amended and Effective September 15, 2005 (the "AAA Arbitration Rules"). In the event that the parties remain unable to resolve their dispute in mediation, the parties agree that the dispute may be resolved through arbitration in accordance with the AAA Arbitration Rules or either party may initiate litigation. The parties also agree that mediation, arbitration or litigation shall be conducted in Honolulu, Hawaii and that Hawaii law shall control.

If a dispute arises relating to the performance of the services and legal fees or other costs are incurred, it is agreed that the prevailing party shall be entitled to recover all of its reasonable fees and costs incurred in its pursuit of the claim, including staff time at current billing rates, court costs, attorneys' fees, and other claim-related expenses.

**15. TERMINATION**

The obligation to provide further services under this Agreement may be terminated by either party upon written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof or of the letter contract through no fault of the terminating party. In the event of any termination, Subconsultant will be paid for services rendered and qualifying reimbursable expenses incurred prior to the date of termination.

The obligation of parties to indemnify and properly dispose of regulated materials generated under this Agreement shall survive the expiration or termination of this Agreement.

Termination without cause may be made upon 30 days' written notice. In the event Belt Collins contract with the client is terminated, Belt Collins has the right to immediately terminate Subconsultant agreements without penalty or damages.

**16. USERRA**

Compliance with USERRA (Uniformed Services Employment and Re-employment Rights Act of 1994) applies to all U.S. employers regardless of size. It provides for re-employment rights with a pre-service employer following qualifying military service. Re-employment rights include full credit for seniority, seniority-related benefits, pay increases, pension credit, and other entitlements.

Consultants/subconsultants performing services on federal projects must also comply with Section 4311 of USERRA which states that "a person who is a member of, applies to be a member of, performs, has performed, applies to perform, or has an obligation to perform service in a uniformed service shall not be denied initial employment, re-employment, retention in employment, promotion, or any benefit of employment by an employer on the basis of that membership, application for membership, performance of service, application for service, or obligation." All subconsultants are expected to comply with this regulation.

**17. NON-SEGREGATED FACILITIES**

If the value of the work being performed exceeds \$10,000, Subconsultant certifies that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained.

**18. EQUAL EMPLOYMENT OPPORTUNITY**

Belt Collins Hawaii is a government contractor and is required under Executive Order 11246 to maintain an affirmative action plan and afford equal employment opportunity to all employees and applicants. In keeping with the intent of its policy, Belt Collins Hawaii administers all employment transactions including recruitment, hiring, promotion and personnel actions such as compensation, benefits, transfers, training, development and recreational programs without regard to race, color, religion, national origin, age, sex, marital status, disability, or sexual orientation, Vietnam Era veteran, disabled veteran status or other covered veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized ("other covered veterans") or any protected group status as defined by law and under the new VETS 100A Disabled Veteran, Other Protected Veteran, Armed Forces Service Medal Veteran, and Recently Separated Veteran categories.

Subconsultant is encouraged to adopt a similar policy of equal employment opportunity for existing and prospective employees.

Guidelines and requirements for subconsultants working on federal projects:

- a. If Subconsultant's fees from federal projects total more than \$100,000, Subconsultant is required to file annual VETS-100 and VETS-100A reports.
- b. If Subconsultant has more than 50 or more employees, Subconsultant must file an annual EEO-1 (SF-100) Report.
- c. If Subconsultant's fees from federal projects total more than \$100,000 and Subconsultant has 50 or more employees, Subconsultant is required to comply with Executive Order 11246 and its implementing regulations.

Subconsultant shall provide certification that it does not and will not maintain any facilities in a segregated manner, or permit its employees to perform their service at any location under its control where segregated facilities are maintained.

**19. SMALL DISADVANTAGED BUSINESS CERTIFICATION**

As a federal contractor, Belt Collins Hawaii is required to comply with Public Law 95-507 (amended) Section 8(d) of the Small Business Act of 1953 and FAR 52.219-8 and 52.219-9 to provide maximum practicable opportunities to small business concerns, including small business (SB); small disadvantaged business (SDB); women-owned small business (WOSB); veteran-owned small business (VOSB); service-disabled veteran-owned small business (SD/VOSB); and Historically Underutilized Business Zone small business concerns (HUBZoneSB).

In addition, any other than small business (OTSB) subcontractors who receive a single order or subcontract in excess of \$500,000 for goods and services must similarly implement a plan that complies with the requirements of FAR 52.219-9.

Subconsultants who perform services on federal projects and are determined to be a small disadvantaged business under the current Small Business Administration (SBA) guidelines or are located within historically underutilized business zones (HUBZones), shall obtain and submit certification of such status to Belt Collins Hawaii.

Under 15 U.S.C. 645(d), any person who misrepresents its size status shall (1) be punished by a fine, imprisonment or both; (2) be subject to administrative remedies; and (3) be ineligible for participation in programs conducted under the authority of the Small Business Act.

20. **ENTIRE AGREEMENT**

These Provisions shall be used in combination with a letter agreement, a proposal or a contract. These combined documents shall be the entire agreement and shall supersede any other agreement between Belt Collins Hawaii and the Subconsultant relating to the subject matter. In case of conflict or inconsistency between these Provisions and any other contract documents, these Provisions shall prevail. This agreement is governed by the laws of the State of Hawaii.

Accepted by:

For Belt Collins Hawaii Ltd. ("Belt Collins"):

For "Subconsultant":

*Suzan A. Sohan*  
Its: Vice President  
May 16, 2011  
Date

MARINE RESEARCH CONSULTANTS  
Company  
*Steven Dollar*  
Signature  
Steven Dollar  
Print  
PRESIDENT  
Title  
5-21-2011  
Date

Project Name: Kapalama Container Terminal

Project Number: 2006.70.0304