

Tuesday, November 29th, 2011

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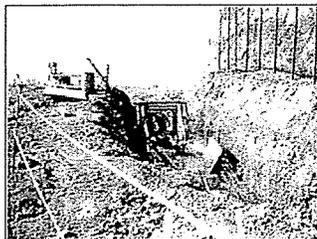
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City Pays Landfill Operator \$2.6M for Spill Cleanup

By Michael Levine 11/21/2011

City taxpayers have picked up the tab for nearly \$2.6 million worth of emergency cleanup after January rains washed garbage into the ocean from the Waimanalo Gulch Sanitary Landfill.

The city paid or approved payment for the amount of \$2.59 million, according to the Honolulu Department of Environmental Services. Waste Management, the company that manages the landfill, submitted 22 different invoices for reimbursement from Feb. 11 through Sept. 30.



Courtesy: Waste Management

The invoices submitted to the city, included at the bottom of this article, show that Waste Management charged the city a 10 percent "markup" for every expenditure.

Civil Beat previously reported that in its final report submitted to the Environmental Protection Agency (EPA) in August, Waste Management estimated costs at \$2.25 million. That figure included only costs paid to contractors hired to help but did not include internal costs like labor, Hawaii general excise tax or the markup.

The expenses — which include items like liner repair, pond pumping and even legal fees — stemmed from an administrative order issued by the EPA in late January.

The 22 invoices submitted to the city actually totalled \$2.67 million — meaning the city has not yet agreed to pay about \$78,000 requested by Waste Management. Environmental Services Department spokesman Markus Owens said those expenses were for things like legal fees and media relations — costs not covered by the city's contract with Waste Management.

Everything else required by the EPA-mandated cleanup falls under the contract, Owens said.

Owens said the city has no new information about potential fines or penalties stemming from the spill. Both the EPA and the Hawaii Department of Health have also said there has yet to be any enforcement action taken against the city or Waste Management for the January incident.

Read the invoices submitted by Waste Management as well as Waste Management's contract with the city, both provided to Civil Beat by the Department of Environmental Services:

[Waste Management Invoices](#)

CHANGE BEGINS WITH A QUESTION™

What questions do you have about Hawaii? Ask them here!

About the Author

Michael Levine
Honolulu Reporter-Host



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Solid Waste In Hawaii

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WAIMANALO GULCH SANITARY LANDFILL
 DIVISION OF WASTE MANAGEMENT OF HAWAII, INC.
 92-460 FARRINGTON HIGHWAY
 KAPOLE, HAWAII 96707
 (808) 265-6100

INVOICE NO. 2247
 Customer No. 76346
 To: Richard Dwyer
 Department of Environmental Services
 1000 Muehleisen Drive 212
 Honolulu HI 96707

Billing for the period: December 2010 PCS Services Reimbursement

WAIMANALO GULCH SANITARY LANDFILL

Description	Quantity
Equipment/Supplies/Tools/Parts/Storm clean up	\$11,660.12

PCS Sub total	\$11,660.12
10% Mark Up	\$1,166.01
Subtotal	\$12,826.13
GET 4.71%	\$600.22

TOTAL DUE THIS INVOICE \$13,426.35

By: *[Signature]*
 Joseph W. Wilson
 Director
 Waste Management Division

[Handwritten notes]
 1/10/11
 1/10/11

[View more documents from Civil Beat](#)

Waste Management Landfill Contract

CONTRACT NO. C4F6P9CF

CONTRACT NO. C-48689
 AMENDMENT NO. 6

THIS AGREEMENT, made this 24 day of July, 2008, by and between the CITY AND COUNTY OF HONOLULU, a municipal corporation of the State of Hawaii, hereinafter called the "CITY", and WASTE MANAGEMENT OF HAWAII, INC., whose business address is 92-460 Farrington Highway, Kapolee, Hawaii 96707, hereinafter call the "CONTRACTOR",

WITNESSETH THAT,

WHEREAS, the parties hereto entered into an Agreement identified as Contract No. C-48689, dated February 9, 1985 (the "Contract"), for the Contractor to Provide Services to Operate and Make Improvements to the Waimanalo Gulch Sanitary Landfill, Ewa, Oahu, Hawaii, for the City, and

WHEREAS, the Contract has been amended a number of times, and

WHEREAS, the parties hereto, on June 7, 1989, entered into a Memorandum of Understanding (the "MOU") to modify the Contract to reflect their understanding of certain provisions of the Contract; and

WHEREAS, the MOU effectively removed in its entirety from the Contract, Special Provisions, Section 18, PRICE ADJUSTMENT FOR UNFORESEEN COST INCREASES; and

WHEREAS, the Contractor has provided documentation demonstrating that certain unforeseen

[View more documents from Civil Beat](#)

DISCUSSION: Should taxpayers have to foot the bill for cleaning up the spill at Waimanalo Gulch landfill earlier this year? Join the conversation below.

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Discussion

Add a comment...

Comment



Lana Ululani Robbins · Top Commenter · University of Washington

The city used HARDWORKING local people's money in the form of TAXES to pay this bill.

Unfortunately the Democrat Regime in Hawai'i continue to INCREASE taxes and make new taxes which adversely affects women and children for what goes to the local, state, and federal government does NOT go to the keiki/children and mo'opuna/grandchildren.

Reply · Like · November 21 at 3:13pm

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All purchases subject to Hawaii and City and County of Honolulu General Excise Tax of 4.712%.

EXHIBIT K74



WAIMANALO GULCH SANITARY LANDFILL
 A DIVISION OF WASTE MANAGEMENT OF HAWAII, INC.
 92-460 FARRINGTON HIGHWAY
 KAPOLEI, HI 96707
 808 668 2985x10

INVOICE WGSL 2248

2/11/2011

Customer No. 703-5

To: Refuse Division
 Department of Environmental Services
 1000 Uluohia St., Suite 212
 Kapolei, HI 96707

Billing for the period December 2010 PCS Services Reimbursement

WAIMANALO GULCH SANITARY LANDFILL

Description

Charges

Equipment/Vacuum truck and Misc. storm clean up

\$11,580.12 ✓

PCS sub total	\$11,580.12 ✓
10% Mark Up	\$1,158.01 ✓
Subtotal	\$12,738.13 ✓
GET 4.71%	\$600.22 ✓

TOTAL DUE THIS INVOICE \$13,338.35

By: Joseph R. Whelan
 Joseph Whelan
 G.M./V.P.
 Waste Management of Hawaii, Inc.

Fy 11 - 250 - 2052 - 3049 = 6669.18^A
 Fy 11 - 255 - 2054 - 3049 = 6669.17
 Total = 13,338.35^A

Please Remit to:
 WASTE MANAGEMENT OF HAWAII, INC.
 92-460 Farrington Hwy.
 Kapolei, HI 96707

APPROVED FOR PAYMENT:
Frank J. Doyle 4/15/11
 FRANK J. DOYLE, CHIEF
 REFUSE DIVISION EXHIBIT K74
MyDennis 4/16/11
Frank 4/17/11



WAIMANALO GULCH SANITARY LANDFILL
 A DIVISION OF WASTE MANAGEMENT OF HAWAII, INC.
 92-460 FARRINGTON HIGHWAY
 KAPOLEI, HI 96707
 808 668 2985x10

INVOICE WGSL 2249 R

Revised 2/11/2011
 May 19, 2011

Customer No. 703-5

To: Refuse Division
 Department of Environmental Services
 1000 Uluohia St., Suite 212
 Kapolei, HI 96707

Billing for the period January 2011 E6 South Pond Reimbursement

WAIMANALO GULCH SANITARY LANDFILL

Description

Charges

E6 South Pond - Pump and miscellaneous services	\$ 178,678.17 ✓
Less pipes/hoses/chest wader	\$ (10,073.84) (11,727.79)
Mark-up - 10%	\$ 16,860.43 16,895.04
GET - 4.712%	\$ 8,739.10 8,653.37
TOTAL DUE THIS INVOICE	\$ 194,203.80 192,298.79

By: Joseph R. Whelan
 Joseph Whelan
 G.M.V.P.
 Waste Management of Hawaii, Inc.

Fy11 250-2052-3047 - 96,149.40
 250-2054-3049 - 96,149.39
192,298.79

Please Remit to:
 WASTE MANAGEMENT OF HAWAII, INC.
 92-460 Farrington Hwy.
 Kapolei, HI 96707

APPROVED FOR PAYMENT:

Franklin D. Doyle
 FRANKLIN DOYLE, CHIEF
 REFUSE DIVISION
 EXHIBIT K74
 5/21/11



WAIMANALO GULCH SANITARY LANDFILL
 A DIVISION OF WASTE MANAGEMENT OF HAWAII, INC.
 92-460 FARRINGTON HIGHWAY
 KAPOLEI, HI 96707
 808 668 2985 x10

INVOICE WGSJL 2257

3/17/2011

Customer No. 703-5

To: Refuse Division
 Department of Environmental Services
 1000 Uluohia St., Suite 212
 Kapolei, HI 96707

2011 Reimbursement request for unforeseen costs under Contract #C48689

Description

Charges

Geosynthetic Supply and Installation
 see attached back up

\$92,146.42

Mark Up - 10%
 Subtotal

\$9,214.65
 \$ 101,361.07

GET - 4.71%

\$4,776.14³

TOTAL DUE THIS INVOICE \$

106,137.21⁰

By:

Joseph R. Whelan

Joseph Whelan
 G.M.V.P.
 Waste Management of Hawaii, Inc.

FY11-250-2052-3049: \$53,008.60

FY11-255-2054-3049: \$53,008.60

Total \$106,136.20

Please Remit to:
 WASTE MANAGEMENT OF HAWAII, INC.
 92-460 Farrington Hwy.
 Kapolei, HI 96707

APPROVED FOR PAYMENT:

Frank J. Doyle 4/15/11
 FRANK J. DOYLE, CHIEF EXHIBIT K/4
 REFUSE DIVISION
W.M.H. 4/16/11

See later 4/7/11



WAIMANALO GULCH SANITARY LANDFILL
 A DIVISION OF WASTE MANAGEMENT OF HAWAII, INC.
 92-460 FARRINGTON HIGHWAY
 KAPOLEI, HI 96707
 808 668 2985 x10

INVOICE WGSL 2261

4/15/2011

Customer No. 703-5

To: Refuse Division
 Department of Environmental Services
 1000 Uluohia St., Suite 212
 Kapolei, HI 96707

December 2010 Reimbursement for Storm Related costs incurred under contract #C48689

<u>Description</u>	<u>Charges</u>
GBI Cell 6 Storm Water Response	\$103,322.45
Mark Up - 10%	\$10,332.20
Subtotal	\$113,654.65
GET 4.712%	\$5,355.41
TOTAL DUE THIS INVOICE	\$119,010.06

Fy 11 - 250 - 2052 - 3049 50%
Fy 11 - 255 - 2054 - 3049 50%

By: Joseph R. Whelan
 Joseph Whelan
 G.M./V.P.
 Waste Management of Hawaii, Inc.

APPROVED FOR PAYMENT:
Frank J. Doyle 6/17/11
 FRANK J. DOYLE, CHIEF
 REFUSE DIVISION
Joseph Whelan 6/13/11
MMJ 6/14/11

Please Remit to:
 WASTE MANAGEMENT of HAWAII, INC.
 92-460 Farrington Hwy.
 Kapolei, HI 96707

EXHIBIT K74



WAIMANALO GULCH SANITARY LANDFILL
 A DIVISION OF WASTE MANAGEMENT OF HAWAII, INC.
 92-460 FARRINGTON HIGHWAY
 KAPOLEI, HI 96707
 808 668 2985 x10

INVOICE WGSL 2262

4/15/2011

Customer No. 703-5

To: Refuse Division
 Department of Environmental Services
 1000 Uluohia St., Suite 212
 Kapolei, HI 96707

January 2011 Reimbursement for Storm Related costs incurred under contract #C48689

<u>Description</u>	<u>Charges</u>
GBI Cell 6 Storm Water Response	\$123,061.00
Repair liner in E6, West slope and North East Corner	\$66,400.00
E6 Sump; Work required to reactivate E6 Sump from storm damage	\$31,300.00
Handwritten: Fy11-252-2052-3049: SD ²⁰	
Handwritten: Fy11-255-2054-3049: SD ²⁰	
Mark Up - 10%	\$22,076.10
Subtotal	\$242,837.10
GET 4.712%	\$11,442.49
TOTAL DUE THIS INVOICE	\$254,279.59

By: Joseph R. Whelan
 Joseph Whelan
 G.M.V.P.
 Waste Management of Hawaii, Inc.

APPROVED FOR PAYMENT
Frank J. Doyle 6/17/11
 FRANK J. DOYLE, CHIEF
 REFUSE DIVISION
S. Seidler 9/13/11
W. J. Kama 4/14/11

Please Remit to:
 WASTE MANAGEMENT of HAWAII, INC.
 92-460 Farrington Hwy.
 Kapolei, HI 96707

EXHIBIT K74



WAIMANALO GULCH SANITARY LANDFILL
 A DIVISION OF WASTE MANAGEMENT OF HAWAII, INC.
 92-460 FARRINGTON HIGHWAY
 KAPOLEI, HI 96707
 808 668 2985 x10

INVOICE WGSL 2263

4/15/2011

Customer No. 703-5

To: Refuse Division
 Department of Environmental Services
 1000 Uluohia St., Suite 212
 Kapolei, HI 96707

February 2011 Reimbursement for Storm Related costs incurred under contract #C48689

<u>Description</u>	<u>Charges</u>
GBI Cell 6 Storm Water Response	\$142,258.40
Repair liner in E6, West slope and North East Corner	\$83,058.27
E6 Sump; Work required to reactivate E6 Sump from storm damage	\$128,210.06
Mark Up - 10%	\$35,352.67
Subtotal	\$388,879.40
	GET 4.712%
	\$18,324.00
TOTAL DUE THIS INVOICE	\$407,203.40

Fill - 200 - 2052 - 3049 : 50%
Fill - 205 - 2054 - 3049 : 50%

By: Joseph R. Whelan
 Joseph Whelan
 G.M.V.P.
 Waste Management of Hawaii, Inc.

APPROVED FOR PAYMENT:

 FRANK J. DOYLE, CHIEF
 REFUSE DIVISION

 S. Seidel 6/13/11

 6/16/11

Please Remit to:
 WASTE MANAGEMENT OF HAWAII, INC.
 92-460 Farrington Hwy.
 Kapolei, HI 96707

EXHIBIT K74



WAIMANALO GULCH SANITARY LANDFILL
 A DIVISION OF WASTE MANAGEMENT OF HAWAII, INC.
 92-460 FARRINGTON HIGHWAY
 KAPOLEI, HI 96707
 808 668 2985 x10

INVOICE WGS� 2267

4/30/2011

Customer No. 703-5

To: Refuse Division
 Department of Environmental Services
 1000 Uluohia St., Suite 212
 Kapolei, HI 96707

March 2011 Reimbursement for Storm Related Costs incurred under contract #C48689

Cell E6 Storm Related Liner Repairs

<u>Description</u>	<u>Charges</u>
See attached narrative	\$78,901.26

Mark Up - 10%	\$7,890.13
Subtotal	\$86,791.39

GET 4.712%	\$4,089.61
------------	------------

TOTAL DUE THIS INVOICE	\$90,881.00
-------------------------------	--------------------

By: Joseph B. Whelan
 Joseph Whelan
 G.M.V.P.
 Waste Management of Hawaii, Inc.

Fy11 - 250 - 2052 - 3049: 50% - 45940.50
 Fy11 - 255 - 2054 - 3049: 50% - 45440.50
 90,881.00

Please Remit to:
 WASTE MANAGEMENT OF HAWAII, INC.
 92-460 Farrington Hwy.
 Kapolei, HI 96707

APPROVED FOR PAYMENT:
Frank J. Doyle EXHIBIT K74
 FRANK J. DOYLE, CHIEF
 REFUSE DIVISION *5/18/11*



WAIMANALO GULCH SANITARY LANDFILL
 A DIVISION OF WASTE MANAGEMENT OF HAWAII, INC.
 92-460 FARRINGTON HIGHWAY
 KAPOLEI, HI 96707
 808 668 2985 x10

INVOICE WGS� 2269

4/30/2011

Customer No. 703-5

To: Refuse Division
 Department of Environmental Services
 1000 Uluohia St., Suite 212
 Kapolei, HI 96707

Reimbursement for Storm Related Costs incurred under contract #C48689

Storm Event Sampling by AECOM Jan. - Mar. 2011

<u>Description</u>	<u>Charges</u>
See attached narrative	\$17,935.67

Mark Up - 10%	\$1,793.57
Subtotal	<u>\$19,729.24</u>

GET 4.712%	\$929.64
------------	----------

TOTAL DUE THIS INVOICE	\$20,658.88
-------------------------------	--------------------

By: Joseph R. Whelan
 Joseph Whelan
 G.M./V.P.
 Waste Management of Hawaii, Inc.

Fy11-250 - 2052-3049. 50% - 10,329.44
 Fy11-255 - 2054-3049. 50% - 10,329.44
 20,658.88

Please Remit to:
 WASTE MANAGEMENT OF HAWAII, INC.
 92-460 Farrington Hwy.
 Kapolei, HI 96707

APPROVED FOR PAYMENT:
Frank J. Doyle
 FRANK J. DOYLE, CHIEF
 REFUSE DIVISION EXHIBIT K74
 8 Sent 5/18/11



WAIMANALO GULCH SANITARY LANDFILL
 A DIVISION OF WASTE MANAGEMENT OF HAWAII, INC.
 92-460 FARRINGTON HIGHWAY
 KAPOLEI, HI 96707
 808 668 2985 x10

INVOICE WGSL 2270

4/30/2011

Customer No. 703-5

To: Refuse Division
 Department of Environmental Services
 1000 Uluohia St., Suite 212
 Kapolei, HI 96707

Reimbursement for Storm Related Costs incurred under contract #C48689

Storm Event Work Plans By GEI Consultants, Jan. - Feb. 2011

<u>Description</u>	<u>Charges</u>
See attached narrative	\$19,204.75

Mark Up - 10%	\$1,920.48
Subtotal	<u>\$21,125.23</u>

GET 4.712%	\$995.42
------------	----------

TOTAL DUE THIS INVOICE	\$22,120.65
-------------------------------	--------------------

By: Joseph R. Whelan
 Joseph Whelan
 G.M./V.P.
 Waste Management of Hawaii, Inc.

Fy11-250 - 2052-3049: 50% 11,060.32
 Fy11-255 - 2054-3049: 50% 11,060.32
22,120.65

Please Remit to:
 WASTE MANAGEMENT OF HAWAII, INC.
 92-460 Farrington Hwy.
 Kapolei, HI 96707

APPROVED FOR PAYMENT:

Frank J. Wolfe
 FRANK J. WOLFE, CHIEF
 REFUSE DIVISION
 EXHIBIT K74
 5/18/11



WAIMANALO GULCH SANITARY LANDFILL
 A DIVISION OF WASTE MANAGEMENT OF HAWAII, INC.
 92-460 FARRINGTON HIGHWAY
 KAPOLEI, HI 96707
 808 668 2985 x10

INVOICE WGS L 2274

5/19/2011

Customer No. 703-5

To: Refuse Division
 Department of Environmental Services
 1000 Uluohia St., Suite 212
 Kapolei, HI 96707

April 2011 Reimbursement for Storm Related costs incurred under contract #C48689

<u>Description</u>	<u>Charges</u>
1) Repair Liner in E6:	\$ 58,376.00 ✓
2) E6 Leachate sump:	\$ 30,286.23 ✓
3) Repair Damage to slope of West Berm Phase III:	\$ 37,256.18
Sub total	\$ 125,918.41
Mark Up - 10%	\$ 12,591.84
	<u>\$ 138,510.25</u>
	GET 4.712% \$ 6,526.60
TOTAL DUE THIS INVOICE	\$ 145,036.85

By: Joseph R. Whelan
 Joseph Whelan
 G.M./V.P.
 Waste Management of Hawaii, Inc.

Fy 11 - 250 - 2052 - 3049 - 72,518.43
 Fy 11 - 265 - 2054 - 3049 - 72,518.42

6-100-11

Please Remit to:
 WASTE MANAGEMENT OF HAWAII, INC.
 92-460 Farrington Hwy.
 Kapolei, HI 96707

APPROVED FOR PAYMENT:

 FRANK J. DOYLE, CHIEF
 REFUSE DIVISION
 EXHIBIT K74
 5/27/11



WAIMANALO GULCH SANITARY LANDFILL
 A DIVISION OF WASTE MANAGEMENT OF HAWAII, INC.
 92-460 FARRINGTON HIGHWAY
 KAPOLEI, HI 96707
 808 668 2985 x10

INVOICE WGSL 2277

5/23/2011

Customer No. 703-5

To: Refuse Division
 Department of Environmental Services
 1000 Uluohia St., Suite 212
 Kapolei, HI 96707

AECOM CQA Reimbursement for Storm Event costs incurred under contract #C48689

<u>Description</u>	<u>Charges</u>
See attached back up for Storm Event Restoration Dec. 30th 2010 - February 25, 2011; Apr'11	\$ 40,008.62

Sub total	\$ 40,008.62
Mark Up - 10%	\$ 4,000.86
	\$ 44,009.48

GET 4.712% \$ 2,073.72 ✓

TOTAL DUE THIS INVOICE \$ 46,083.20

By: Joseph R. Whelan
 Joseph Whelan
 G.M.V.P.
 Waste Management of Hawaii, Inc.

FY11-250-2052-3049. 50% - 23,041.60
 FY11-255-2054-3049. 50% - 23,041.60

Please Remit to:
 WASTE MANAGEMENT OF HAWAII, INC.
 92-460 Farrington Hwy.
 Kapolei, HI 96707

APPROVED FOR PAYMENT:

 FRANK J. DOYLE, CHIEF OF REFUSE DIVISION
 EXHIBIT K74
 6/22/11



WAIMANALO GULCH SANITARY LANDFILL
 A DIVISION OF WASTE MANAGEMENT OF HAWAII, INC.
 92-460 FARRINGTON HIGHWAY
 KAPOLEI, HI 96707
 808 668 2985 x10

INVOICE WGSLS 2278

5/26/2011

Customer No: 703-5

To: Refuse Division
 Department of Environmental Services
 1000 Uluohia St., Suite 212
 Kapolei, HI 96707

Security Cost Increase due directly to Jan.'11 Storms under contract #C48689

Description	Charges
January excess security costs:	\$ 3,204.19
February excess security costs:	\$ 4,984.29
March excess security costs:	\$ 2,314.14
See enclosed backup from Dano50 security.	
Sub total	\$ 10,502.62
Mark Up - 10%	\$ 1,050.26
	\$ 11,552.88
	GET 4.712% \$ 544.37
TOTAL DUE THIS INVOICE	\$ 12,097.25

By: Joseph R. Whelan
 Joseph Whelan
 G.M.V.P.
 Waste Management of Hawaii, Inc.

Fy11 - 2052-3049: 50% - 6048.62
 Fy11 - 2054-3049: 50% - 6048.63

Please Remit to:
 WASTE MANAGEMENT OF HAWAII, INC.
 92-460 Farrington Hwy.
 Kapolei, HI 96707

ACCOUNTING BRANCH
 ACCOUNTING DIVISION

APPROVED FOR PAYMENT:
Frank J. Doyle
 FRANK J. DOYLE, CHIEF
 REFUSE DIVISION
 EXHIBIT K74
 7/7/11

11 JUN 14 11:11
 11 JUN 13 11:11



WAIMANALO GULCH SANITARY LANDFILL
 A DIVISION OF WASTE MANAGEMENT OF HAWAII, INC.
 92-460 FARRINGTON HIGHWAY
 KAPOLEI, HI 96707
 808 668 2985 x10

INVOICE WGSL 2279

5/24/2011

Customer No. 703-5

To: Refuse Division
 Department of Environmental Services
 1000 Uluohia St., Suite 212
 Kapolei, HI 96707

Feb.'11 Reimbursement Stormwater Pumping costs incurred under contract #C48689

<u>Description</u>	<u>Charges</u>
PCS Storm Water Sediment pond and Cell E6.	\$ 242,562.88 ✓
	Mark Up - 10% \$ 24,256.29 ✓
	Subtotal \$ 266,819.17
	GET 4.712% \$ 12,572.52 ✓
	TOTAL DUE THIS INVOICE \$ 279,391.68

By: Joseph B. Whelan
 Joseph Whelan
 G.M.V.P.
 Waste Management of Hawaii, Inc.

Full-250-2052-3049: 5020 139,695.84
Full-255-2054-3049: 5020 139,695.84

Please Remit to:
 WASTE MANAGEMENT OF HAWAII, INC.
 92-460 Farrington Hwy.
 Kapolei, HI 96707

ACCOUNTING DIVISION
 ACCOUNTING BRANCH

APPROVED FOR PAYMENT:

Frank J. Doyle
 FRANK J. DOYLE, CHIEF
 REFUSE DIVISION
 EXHIBIT K74
S. Sewer 7/11

11 2011 05 24 14 09 00



WAIMANALO GULCH SANITARY LANDFILL
 A DIVISION OF WASTE MANAGEMENT OF HAWAII, INC.
 92-460 FARRINGTON HIGHWAY
 KAPOLEI, HI 96707
 808 668 2985 x10

11 SEP 21 11:51
 5/23/2011
 ACCOUNTING BRANCH
 ACCOUNTING DIVISION

INVOICE WGSL 2280

Customer No. 703-5

To: Refuse Division
 Department of Environmental Services
 1000 Uluohia St., Suite 212
 Kapolei, HI 96707

Feb.'11 Reimbursement for Misc. Stormwater Improvements costs incurred under contract #C48689

Description	Charges
PCS Miscellaneous Storm Event charges, Feb'11	\$ 4,867.67

Note: I compared w/ Inv. # 2279 and this is not a double billing.

Mark Up - 10%	\$ 486.77
Subtotal	\$ 5,354.44

GET 4.712% \$ 252.31

TOTAL DUE THIS INVOICE \$5,606.75

By: Joseph R. Whelan
 Joseph Whelan
 G.M.V.P.
 Waste Management of Hawaii, Inc.

Fy 11 - 250 - 2052 - 3049: 50% - 2803.38
Fy 11 - 255 - 2054 - 3049: 50% - 2803.38

Please Remit to:
 WASTE MANAGEMENT of HAWAII, INC.
 92-460 Farrington Hwy.
 Kapolei, HI 96707

APPROVED FOR PAYMENT:

 FRANK J. DOYLE, CHIEF
 REFUSE DIVISION
 9/19/11
 7/20/11



WAIMANALO GULCH SANITARY LANDFILL
 A DIVISION OF WASTE MANAGEMENT OF HAWAII, INC.
 92-460 FARRINGTON HIGHWAY
 KAPOLEI, HI 96707
 808 668 2985 x10

INVOICE WGSLSL 2282

5/24/2011

Customer No. 703-5

To: Refuse Division
 Department of Environmental Services
 1000 Ulukouia St., Suite 212
 Kapolei, HI 96707

Mar. 11 Reimbursement Storm Water Pumping costs incurred under contract #C48689

<u>Description</u>	<u>Charges</u>
PCS Storm Water Sediment pond and Cell E6.	\$ 226,465.28 /
	Mark Up - 10% \$ 22,646.53 /
	Subtotal \$ 249,111.81
	GET 4.712% \$ 11,738.15 /
TOTAL DUE THIS INVOICE	\$260,849.96

260,849.96
 5/24/2011

By: Joseph R. Whelan
 Joseph Whelan
 G.M./V.P.
 Waste Management of Hawaii, Inc.

Fy11-250-2052-3049: 50% - 130,424.98
 Fy11-255-2054-3049: 50% - 130,424.98

Please Remit to:
 WASTE MANAGEMENT OF HAWAII, INC.
 92-460 Farrington Hwy.
 Kapolei, HI 96707

ACCOUNTING BRANCH
 ACCOUNTING DIVISION

APPROVED FOR PAYMENT:

Frank J. Doyle
 FRANK J. DOYLE, CHIEF
 REFUSE DIVISION
 EXHIBIT K74
 5/24/2011
 E. Sewell Valu

JUL 13 P1:08



WAIMANALO GULCH SANITARY LANDFILL
 A DIVISION OF WASTE MANAGEMENT OF HAWAII, INC.
 92-460 FARRINGTON HIGHWAY
 KAPOLEI, HI 96707
 808 668 2985 x10

INVOICE WGSJL 2291

6/13/2011

Customer No. 703-5

To: Refuse Division
 Department of Environmental Services
 1000 Uluohia St., Suite 212
 Kapolei, HI 96707

11 JUN 13 11:11

April'11 Reimbursement Storm Event Repair charges incurred under contract #C48689

<u>Description</u>	<u>Charges</u>
GBI Storm Event:	
Repair Liner in E6	\$ 58,376.00 /
E6 Leachate sump	\$ 30,286.23 /
West Berm Phase III Recap Restoration	\$ 37,256.18 /
Relocate E6 Leachate	\$ 34,410.44 /
Mark Up - 10%	\$ 16,032.88
Subtotal	\$ 176,361.74 3
GET 4.712%	\$ 8,310.16

TOTAL DUE THIS INVOICE \$ 184,671.90

Fy11-250-2052-3049.5026-92,335.95 89 92
 Fy11-255-2054-3049.5026-92,335.94

11 JUN 13 11:11

By: Joseph R. Whelan
 Joseph Whelan
 G.M.V.P.
 Waste Management of Hawaii, Inc.

Please Remit to:
 WASTE MANAGEMENT OF HAWAII, INC.
 92-460 Farrington Hwy.
 Kapolei, HI 96707

APPROVED FOR PAYMENT:

Frank J. Doyle
 FRANK J. DOYLE, CHIEF
 REFUSE DIVISION
 EXHIBIT K74
Joseph Whelan

ACCOUNTING BRANCH
 ACCOUNTING DIVISION

80: 1d 13 11

G&E 11000 2.00



WAIMANALO GULCH SANITARY LANDFILL
A DIVISION OF WASTE MANAGEMENT OF HAWAII, INC.
92-460 FARRINGTON HIGHWAY
KAPOLEI, HI 96707
808 668 2985 x10

INVOICE WGSLS 2283

5/24/2011

Customer No. 703-5

To: Refuse Division
Department of Environmental Services
1000 Uluohia St., Suite 212
Kapolei, HI 96707

Mar 11 Reimbursement Storm Water Misc. storm event charges incurred under contract #C48689

<u>Description</u>	<u>Charges</u>
PCS Storm Water Sediment pond and Cell E6.	\$ 32,565.76 ✓

ACCOUNTING BRANCH
ACCOUNTING DIVISION

11 SEP 12 10:00

Mark Up - 10%	\$ 3,256.58 ✓
Subtotal	\$ 35,822.34

GET 4.712% \$ 1,687.95 ✓

TOTAL DUE THIS INVOICE \$37,510.29

By: Joseph R. Whelan
Joseph Whelan
G.M./V.P.
Waste Management of Hawaii, Inc.

Fy 11 - 250 - 2052 - 3049 : 50% - 18,755.15 AL 1
Fy 11 - 255 - 2054 - 3049 : 50% - 18,755.14 AL 2

Please Remit to:
WASTE MANAGEMENT OF HAWAII, INC.
92-460 Farrington Hwy.
Kapolei, HI 96707

RECEIVED FOR PAYMENT:
Frank J. Doyle 8/9/11
FRANK J. DOYLE, EXHIBIT K74
REFUSE DIVISION
WMA 7/20/11

10/27/11



WAIMANALO GULCH SANITARY LANDFILL
A DIVISION OF WASTE MANAGEMENT OF HAWAII, INC.
92-460 FARRINGTON HIGHWAY
KAPOLEI, HI 96707
808 668 2985 x10

INVOICE WGS.L 2286

5/24/2011

Customer No. 703-5

To: Refuse Division
Department of Environmental Services
1000 Uluohia St., Suite 212
Kapolei, HI 96707

Mar.'11 Reimbursement Storm Event Repairs by GBI incurred under contract #C48689

<u>Description</u>	<u>Charges</u>
Storm Event Repairs:	
Storm water responses	\$ 71,354.60
Repair liner in Cell E6	\$ 40,377.20
E6 Leachate sump	\$ 12,529.50
West Berm Phase III Cap Restoration	\$ 126,303.00
	<hr/>
	\$ 250,564.30

ACCOUNTING BRANCH
ACCOUNTING DIVISION
*11 SEP 12 P 3:01

Mark Up - 10% \$ 25,056.43
Subtotal \$ 275,620.73

GET 4.712% \$ 12,987.25

TOTAL DUE THIS INVOICE \$288,607.98

Credit for overpayment: $\$ 288,607.98$
(See attached emails) $\$ 0.00$ WJH

By: Joseph R. Whelan
Joseph Whelan
G.M./V.P.
Waste Management of Hawaii, Inc.

Please Remit to:
WASTE MANAGEMENT OF HAWAII, INC.
92-460 Farrington Hwy.
Kapolei, HI 96707

APPROVED FOR PAYMENT:
Frank J. Doyle 9/12/11
FRANK J. DOYLE, CHIEF
REFUSE DIVISION EXHIBIT 74 9/9/11
WJH 9/6/11



WAIMANALO GULCH SANITARY LANDFILL
 A DIVISION OF WASTE MANAGEMENT OF HAWAII, INC.
 92-460 FARRINGTON HIGHWAY
 KAPOLEI, HI 96707
 808 668 2985 x10

INVOICE WGSL 2318

9/30/2011

Customer No. 703-5

To: Refuse Division
 Department of Environmental Services
 1000 Uluohia St., Suite 212
 Kapolei, HI 96707

September 2011 AECOM CQA Reimbursement for Storm Repairs incurred under contract #C48689

Description

Charges

AECOM CQA Charges for Storm Event Restoration: Mar'11 \$ 26,673.43
 See attached back up enclosed

FY 10 CHARGES:
 250-2052-3049: 50%
 255-2054-3049 50%

FY 11 CHARGES:
 250-2052-3049 25%
 255-2054-3049 50%

Administrative Mark UP 10% \$ 2,667.34

Subtotal \$ 29,340.77

GET 4.712% \$ 1,382.54

TOTAL DUE THIS INVOICE \$ 30,723.31

By: Joseph R. Whelan
 Joseph Whelan
 G.M.V.P.
 Waste Management of Hawaii, Inc.

APPROVED FOR PAYMENT
[Signature] 10/19/11
 E. O'LE, CHIEF
 REFUSE DIVISION
[Signature] 10/18/11

Please Remit to:
 WASTE MANAGEMENT OF HAWAII, INC.
 92-460 Farrington Hwy.
 Kapolei, HI 96707

EXHIBIT K74



WAIMANALO GULCH SANITARY LANDFILL
 A DIVISION OF WASTE MANAGEMENT OF HAWAII, INC
 92-460 FARRINGTON HIGHWAY
 KAPOLEI, HI 96707
 808 668 2985 x10

INVOICE WGSL 2319

9/30/2011

Customer No. 703-5

To: Refuse Division
 Department of Environmental Services
 1000 Uluohia St., Suite 212
 Kapolei, HI 96707

September 2011 Geosyntec Reimbursement for Storm Restoration incurred under contract #C48689

<u>Description</u>	<u>Charges</u>
Storm Restoration Work Plans & Reports See attached back up enclosed	\$ 63,992.94
	Administrative Mark UP 10% \$ 6,399.29
	Subtotal <u>\$ 70,392.23</u>
	GET 4.712% \$ 3,316.88
	TOTAL DUE THIS INVOICE \$ 73,709.11

By: Joseph R. Whelan
 Joseph Whelan
 G.M./V.P.
 Waste Management of Hawaii, Inc.

Fy11-250-2052-3049 50%
 Fy11-255-2054-3049 50%

Please Remit to:
 WASTE MANAGEMENT OF HAWAII, INC.
 92-460 Farrington Hwy.
 Kapolei, HI 96707

APPROVED FOR PAYMENTS
[Signature] 10/27/11
 DEPT. CHIEF
 REFUSE DIVISION
[Signature] 10/27/11
 EXHIBIT R014

CONTRACT NO. C48689 CF

CONTRACT NO. C-48689

AMENDMENT NO. 6

THIS AGREEMENT, made this 24 day of July, 2008, by and between the CITY AND COUNTY OF HONOLULU, a municipal corporation of the State of Hawaii, hereinafter called the "CITY", and WASTE MANAGEMENT OF HAWAII, INC., whose business address is 92-460 Farrington Highway, Kapolei, Hawaii 96707, hereinafter call the "CONTRACTOR";

WITNESSETH THAT:

WHEREAS, the parties hereto entered into an Agreement identified as Contract No. C-48689, dated February 9, 1985 (the "Contract"), for the Contractor to Provide Services to Operate and Make Improvements to the Waimanalo Gulch Sanitary Landfill, Ewa, Oahu, Hawaii, for the City; and

WHEREAS, the Contract has been amended a number of times; and

WHEREAS, the parties hereto, on June 7, 1989, entered into a Memorandum of Understanding (the "MOU") to modify the Contract to reflect their understanding of certain provisions of the Contract; and

WHEREAS, the MOU effectively removed in its entirety from the Contract, Special Provisions, Section 18, PRICE ADJUSTMENT FOR UNFORESEEN COST INCREASES; and

WHEREAS, the Contractor has provided documentation demonstrating that certain unforeseen market conditions beyond the Contractor's control have led to significant cost increases, above and beyond those reflected by the Consumer Price Index ("CPI") for Honolulu; and

WHEREAS, the Contractor has provided documentation demonstrating that certain unforeseen regulatory and environmental mandates, above and beyond those provided for by the Contractor's operational plans, have led to significant cost increases beyond the Contractor's control; and

WHEREAS, the City has reviewed the Contractor's documentation and agrees that it is appropriate and fair to compensate the Contractor to address significant cost increases caused by unforeseen conditions;

NOW, THEREFORE, in consideration of the mutual promises herein set forth, it is hereby understood and agreed by and between the parties hereto to further amend Contract No. C-48689, as previously amended, as follows:

1. In the MOU dated June 7, 1989, delete in its entirety "9 - PRICE ADJUSTMENT FOR UNFORESEEN COST INCREASES – SPECIAL PROVISIONS SECTION 18," and insert in lieu thereof the following:

"9. PRICE ADJUSTMENT FOR UNFORESEEN COST INCREASES – SPECIAL PROVISIONS SECTION 18

During the term of the Contract, the Contractor may submit requests for appropriate adjustments to the contract unit price(s) and/or appropriate direct reimbursements should the Contractor experience unforeseen cost increases beyond its control and not contemplated by the Parties when entering into the Contract and any amendments thereto. Said adjustments and/or reimbursements shall be as follows:

PRICE ADJUSTMENT. Any adjustment shall be made in one or more of the following ways:

- a. Price adjustment.

By agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;

By unit prices specified in the Contract or subsequently agreed upon;

By the costs attributable to the event or situation covered by the clause, plus appropriate profit or fee, all as specified in the Contract or subsequently agreed upon;

In such other manner as the parties may mutually agree; or

In the absence of agreement between the parties, by a unilateral determination by the Director of the costs attributable to the event or situation covered by the clause, plus appropriate profit or fee, all as computed by the Director in accordance with generally accepted accounting principles and applicable sections of Chapters 3-123 and 3-126, Hawaii Administrative Rules (HAR).

b. Submission of cost or pricing data. The Contractor shall provide cost or pricing data for any price adjustments subject to the provisions of Chapter 3-122, Subchapter 15, HAR."

2. As provided for on Page No. 2 of Amendment No. 5 dated May 1, 1999, add the following to the end of respective Paragraphs B, C, and D:

"B. For all ash and residue disposed between January 1, 2007, and December 31, 2007, the unit price will be \$13.36 per ton. From January 1, 2008 and every January 1 thereafter, the unit price shall be adjusted by 85% of the percentage change during the immediately preceding calendar year in the Consumer Price Second Half Index for All Urban Consumers (All Items) for Honolulu, Hawaii, as published by the U.S. Department of Labor, Bureau of Labor Statistics. If for any reason the Consumer Price Index Second Half Index for All Urban Consumers (All Items) for Honolulu becomes unavailable, the Consumer Price Index Average for All Urban Consumers (All Items) for Honolulu for the immediately preceding calendar year will be used. Payments to the Contractor for this price adjustment shall be made per a payment schedule mutually decided upon by the Contractor and the City.

- C. For all composite liner and MSW composite liner installed between January 1, 2007, and December 31, 2007, the unit price will be \$61.22 per square yard. From January 1, 2008 and every January 1 thereafter, the unit price shall be adjusted by 100% of the percentage change during the immediately preceding calendar year in the Consumer Price Second Half Index for All Urban Consumers (All Items) for Honolulu, Hawaii, as published by the U.S. Department of Labor, Bureau of Labor Statistics. If for any reason the Consumer Price Index Second Half Index for All Urban Consumers (All Items) for Honolulu becomes unavailable, the Consumer Price Index Average for All Urban Consumers (All Items) for Honolulu for the immediately preceding calendar year will be used. Payments to the Contractor for this price adjustment shall be made per a payment schedule mutually decided upon by the Contractor and the City.

D. For all municipal solid waste disposed between January 1, 2007, and December 31, 2007, the unit price will be \$15.78 per ton. From January 1, 2008 and every January 1 thereafter, the unit price shall be adjusted by 85% of the percentage change during the immediately preceding calendar year in the Consumer Price Second Half Index for All Urban Consumers (All Items) for Honolulu, Hawaii, as published by the U.S. Department of Labor, Bureau of Labor Statistics. If for any reason the Consumer Price Index Second Half Index for All Urban Consumers (All Items) for Honolulu becomes unavailable, the Consumer Price Index Average for All Urban Consumers (All Items) for Honolulu for the immediately preceding calendar year will be used. Payments to the Contractor for this price adjustment shall be made per a payment schedule mutually decided upon by the Contractor and the City."

3. Amend Paragraph 15.E. of the Minimum Specifications by adding the following to the end of the Minimum Specifications, Paragraph 15.E as amended by Amendment No. 5, dated May 1, 1999:

" For all cell excavation between January 1, 2007, and December 31, 2007, the unit price will be \$13.22 per cubic yard. From January 1, 2008 and every January 1 thereafter, the unit price shall be adjusted by 100% of the percentage change during the immediately preceding calendar year in the Consumer Price Second Half Index for All Urban Consumers (All Items) for Honolulu, Hawaii, as published by the U.S. Department of Labor, Bureau of Labor Statistics. If for any reason the Consumer Price Index Second Half Index for All Urban Consumers (All Items) for Honolulu becomes unavailable, the Consumer Price Index Average for All Urban Consumers (All Items) for Honolulu for the immediately preceding calendar year will be used. Payments to the Contractor for this price adjustment shall be made per a payment schedule mutually decided upon by the Contractor and the City."

4. Add the following Paragraph 19, DIRECT REIMBURSEMENTS FOR UNFORESEEN COSTS, to the Minimum Specifications of the Contract:

"19. DIRECT REIMBURSEMENTS FOR UNFORESEEN COSTS: The Contractor shall be allowed to submit for direct reimbursements for costs approved by the City under SPECIAL PROVISIONS SECTION 18, PRICE ADJUSTMENT FOR UNFORESEEN COST INCREASES."

This Amendment No. 6 shall take effect upon the date and year first written above, except as otherwise specifically provided herein, shall apply from such effective date. All other terms and conditions of Contract No. C-48689, as previously amended, shall remain in full force and effect.

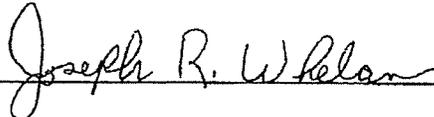
IN WITNESS WHEREOF, the parties hereto have caused this Amendment No. 6 to be executed as of the date first written above.

CITY AND COUNTY OF HONOLULU



Mary Patricia Waterhouse, Director
Department of Budget and Fiscal Services

WASTE MANAGEMENT OF HAWAII, INC.

By: 

Federal ID No.: 760638599

RECOMMEND APPROVAL:



Eric S. Takamura, Ph.D., P.E., Director
Department of Environmental Services

APPROVED AS TO FORM AND LEGALITY:

GARY Y. TAKEUCHI
Deputy Corporation Counsel

STATE OF HAWAII)
) SS:
CITY AND COUNTY OF HONOLULU)

On this 25 June 2008, before me personally appeared Joseph R Whelan Jr, known to me to be the person described in and who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.



Irlene Moniz Garcia
Notary Public, First Judicial Circuit Court
State of Hawaii
My commission expires: 10/07/2009



"This Notary Certificate is prepared on a separate page and is attached to the document entitled "Amendment No. 6" and is attached to that document by means of ONE staple/s.

AMENDMENT NO. 5

THIS AGREEMENT, made this 1st day of May, 1999, by and between the CITY AND COUNTY OF HONOLULU, a municipal corporation of the State of Hawaii, hereinafter called the "CITY," and WASTE MANAGEMENT OF HAWAII INC. whose business address is 92-460 Farrington Highway, Kapolei, Hawaii 96707, hereinafter called the "CONTRACTOR";

WITNESSETH THAT:

WHEREAS the parties hereto have entered into an Agreement identified as Contract No. C-48689, for the Contractor to Provide Services to Operate and Make Improvements to the Waimanalo Gulch Sanitary Landfill, Ewa, Oahu, Hawaii, for the City; and

WHEREAS, the City wishes to continue to dispose of municipal solid waste and ash at the Waimanalo Gulch Sanitary Landfill; and

WHEREAS, the Contractor has proposed a method of landfill expansion acceptable to the City;

NOW, THEREFORE, in consideration of the mutual promises herein set forth, it is hereby understood and agreed by and between the parties hereto to further amend Contract No. C-48689 as follows:

1. Exhibit I of Addendum 3 as amended by Exhibit I of Amendment No. 2: Unless otherwise noted in this amendment, upon the effective date of this amendment, in EXHIBIT I of Amendment No. 2, delete from lines 11 to the end of the page. EXHIBIT 1-A shall be substituted and is attached hereto as Exhibit "A" and is incorporated herein by reference and made a part of this contract. EXHIBIT 1-A provides:

- A. That the base tonnage for solid waste and ash and residue beginning the 1999 calendar year will be 335,000 tons, the sum of 165,000 tons of solid waste and 170,000 tons of ash and residue. This will be used for calculations under Section 15, Sub-Section E of the Minimum Specifications.
- B. Upon the effective date of this amendment, the unit price for disposal of ash and residue will be \$10.00 per ton and will be adjusted annually according to the terms previously set forth in this contract.
- C. That the unit price for composite liner and MSW composite liner will be \$28.51 per square yard upon the effective date of this amendment.
- D. Upon the effective date of this amendment, the unit price for municipal solid waste is \$12.00 per ton and will be adjusted annually according to the terms previously set forth in this contract.

2. MINIMUM SPECIFICATIONS

- A. Insert the following new paragraph after Paragraph 2. SCOPE OF WORK.

"Contractor shall increase the existing Landfill footprint and operate the Landfill for a period of fifteen (15) years from the date of receipt of all permits for the initial operation of the additional landfill area, hereinafter called the Permit Date, or until the landfill is completely filled as determined by mutual agreement of the parties, or closed by regulatory requirement imposed by a state or federal agency, whichever occurs first. Provided further that if the City elects to terminate this contract at any time before the landfill is completely filled, the Contractor shall remain liable for all work performed under its operation of the landfill, and shall have no responsibility or liability for any claims arising solely out of the subsequent operation of the landfill by the City or any operator other than Waste Management of Hawaii, Inc. or any successor to Waste Management of Hawaii, Inc."

- B. Insert the following new paragraph after 3. LANDFILL DEVELOPMENT, as amended by Addendum No. 3:

"Landfill shall be expanded to provide an additional capacity of 15.7 million cubic yards within the existing landfill site in accordance with the Scope of Services and Schedule for Site Expansion and Cells 4C and 8 Construction by Rust Environment and Infrastructure as part of a Services Agreement dated October 27, 1994, which is attached hereto as Exhibit "B" and is incorporated herein by reference and made a part of this Contract.

The Contractor will design, construct, and finance the expansion and obtain all permits required for its construction and operation. The Contractor will provide all preliminary and final engineering planning and prepare all environmental documents. The expansion will include drainage improvements, leachate collection system, gas collection and recovery system, gas monitoring system, excavation, access roads, visual barriers, landscaping and any other improvements.

The City shall support and cooperate with the Contractor in obtaining any necessary permits. In the event that the Contractor, after using its best efforts and through no fault of its own, is unable to obtain all the necessary permits for the expansion, the Contractor may file a claim with the City pursuant to Paragraph 34.(4)(A) for reasonable and necessary costs and expenses for engineering fees, cost of any environmental impact statements, attorneys' fees, permit processing fees, and consultant fees associated with attempting to obtain such permits."

- C. Delete Paragraph 4. D. in its entirety and insert the following in its place:

"D. Contractor shall also provide post-closure maintenance of the landfill site, (including, but not limited to, maintenance and monitoring of wells in accordance with the requirements of the Hawaii Department of Health as may be in effect from time to time, continued collection and treatment of leachate, recompact and re-covering of any waste exposed due to fractures or fissures at the landfill site and continued revegetation of the landfill) for a period of thirty (30) years

beyond the date of completion of closure of the landfill site. However, Contractor shall not be responsible for post-closure maintenance if City, during the aforesaid thirty (30) year period, elects to construct any residential, commercial, industrial, or any other development on any portion of the landfill site or pursuant to Section 10 of the Contract."

D. Delete Paragraph 15. C. in its entirety and insert the following in its place:

"C. Asbestos, large animals (over 70 lbs.), unsterilized (not heat treated) sewage sludge, and waste which commercial haulers wish to bury separately shall be treated as special handling. City shall pay Contractor an additional surcharge equal to the solid waste unit price per truckload for special handling."

E. Delete Paragraph 15.E. of the Minimum Specifications as amended by Addendum No. 3 and Amendment No. 1, and insert the following new paragraphs:

"15.E. Should the total tonnage for solid waste and ash and residue for each calendar year after 1999 vary more than 20% from that shown in Exhibit I-A (column a plus column d), each of the unit prices for solid waste and ash and residue shall be adjusted. For calculations beginning the calendar year of this amendment through the completion of the contract the base tonnage will be 335,000 tons. The new unit price shall be adjusted by the following formula:

New unit price = f x Base unit price

Base unit price = price shown on Exhibit I-A
f = adjustment factor

For tonnage less than 80% of that shown in Exhibit I-A:

$$f = 1 + 0.03 \times \frac{0.80 \times \text{base tonnage} - \text{actual tonnage}}{0.16 \times \text{base tonnage}}$$

but f shall not be more than 1.15

Where:

base tonnage = 335,000 tons total solid waste and ash and residue.

actual tonnage = actual total solid waste and ash and residue tonnage

For tonnage more than 120% of that shown in Exhibit I-A:

$$f = 1 - 0.03 \times \frac{\text{actual tonnage} - 1.2 \times \text{base tonnage}}{0.24 \times \text{base tonnage}}$$

but f shall not be less than 0.85

Adjustment for the previous year shall be within thirty (30) calendar days following the end of the calendar year. The first adjustment, if any, shall be for the first year of operation following the effective date of this amendment. Should a payment be owed to the Contractor, the Contractor shall submit an invoice for the amount owed. Should a payment be owed to the City, the City shall invoice the Contractor for the amount owed or, if the City elects, the City may credit the amount against future billings by the Contractor.

On or before the fifteenth (15th) day of each January and July during the excavation, the Contractor shall invoice the City for the

number of cubic yards of material excavated during the previous six month period. The number of cubic yards excavated can be estimated, provided that the Contractor provide annually each January a topographic map bearing a stamp of a registered professional surveyor or engineer with appropriate cross sections to show the total number of cubic yards excavated during the previous calendar year. The Contractor may submit such a topographic map more frequently. The Contractor will include as part of the invoice, any income payments received for sale of any excavated material. The contractor may allow excavated material to be hauled off the site at no charge if the City has no use for the material and it is the City's best interest to have the excavated material removed from the site.

The unit price shall be \$2.67 per cubic yard of excavated material from September 5, 1989, through December 31, 1993. Beginning January 1, 1994, and as of each January 1st thereafter until the day before the effective date of this amendment, the unit price shall be adjusted by 100% of the percentage change during the immediately preceding calendar year in the Consumer Price Second Half Index for All Urban Consumers (All Items) for Honolulu, Hawaii, as published by the U.S. Department of Labor, Bureau of Labor Statistics. If for any reason the Consumer Price Second Half Index for All Urban Consumers (All Items) for Honolulu becomes unavailable, the Consumer Price Index Average for All Urban

Consumers (All Items) for Honolulu for the immediately preceding calendar year will be used.

Upon the effective date of this amendment, the unit price shall be \$4.00 per cubic yard of excavated material. Beginning the following January 1 and every January 1 thereafter, the unit price shall be adjusted by 100% of the percentage change during the immediately preceding calendar year in the Consumer Price Second Half Index for All Urban Consumers (All Items) for Honolulu, Hawaii, as published by the U.S. Department of Labor, Bureau of Labor Statistics. If for any reason the Consumer Price Second Half Index for All Urban Consumers (All Items) for Honolulu becomes unavailable, the Consumer Price Index Average for All Urban Consumers (All Items) for Honolulu for the immediately preceding calendar year will be used."

3. SPECIAL PROVISIONS

A. Insert the following new paragraph after Paragraph 10:

"Unless this contract is terminated earlier pursuant to its terms, the term of the contract shall be for a period of fifteen (15) years after the Permit Date or until the landfill is completely filled as determined by mutual agreement of the parties, or closed by regulatory requirement imposed by a state or federal agency, whichever occurs first."

- B. Delete Paragraph 29 in its entirety, and insert the following new paragraph:

"The performance of work or services under this contract may be terminated, in whole or in part, whenever the Director shall determine that termination of the contract, in whole or in part, is in the best interest of the City. In such event, the City shall be liable only for payment for work or services performed prior to the effective date of termination and for payments provided for in Section 34, Termination for Convenience. The termination of work or services shall be effective upon thirty (30) calendar days prior written notice to the Contractor."

- C. Delete Paragraph 34, as amended by Addendum No. 3, and insert the following new paragraphs:

"34. Termination for convenience.

- (1) The City may, when the interests of the City so require, terminate this contract in whole or in part, for the convenience of the City. The City shall give written notice of the termination to the Contractor, specifying the part of the contract terminated and when termination becomes effective.

In the event that the City elects to terminate the Contractor in part for the convenience of the City and such partial termination has a material adverse impact on the Contractor, the Contractor shall have the right to require the City to terminate the entire contract for convenience.

(2) Contractor's obligations. The Contractor shall incur no further obligations in connection with the terminated work, and on the dates set in the notice of termination the Contractor will stop work to the extent specified. The Contractor shall also terminate outstanding orders and subcontracts as they relate to the terminated work. The Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work subject to the City's approval. The City may direct the Contractor to assign the Contractor's right, title, and interest under terminated orders or subcontracts to the City. The Contractor must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.

(3) Right to goods. The City may require the Contractor to transfer title and deliver to the City in the manner and to the extent directed by the City:

(A) Any completed goods; and

(B) The partially completed goods and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights, hereinafter called "manufacturing material," as the Contractor has

specifically produced or specially acquired for the performance of the terminated part of this contract. The Contractor shall, upon direction of the City, protect and preserve property in the possession of the Contractor in which the City has an interest. If the City does not exercise this right, the Contractor shall use the Contractor's best efforts to sell the goods and manufacturing materials. Use of this section in no way implies that the City has breached the contract by exercise of the termination for convenience clause.

(4) Compensation:

- (A) The Contractor shall submit a termination claim specifying the amounts due because of the termination for convenience by providing an accounting of all such cost to the level of detail acceptable to the City, including, but not limited to, a breakdown by craft or positions of all direct and indirect labor costs, all fringes, all material and equipment costs, substantiated by low price bid or competitive negotiations and unit price cost as applicable, as well as cost or pricing data to the extent required by subchapter 15, chapter 3-122, bearing on the claim. The same level of detail required

of the Contractor shall be provided by all subcontractors. If the Contractor fails to file a termination claim within one year from the effective date of termination, the City may pay the Contractor, if at all, an amount set in accordance with subparagraph (C).

- (B) The City and the Contractor may agree to settlement provided the Contractor has filed a termination claim supported by an accounting of all such cost to the level of detail acceptable to the City, including, but not limited to, a breakdown by craft or positions of all direct and indirect labor costs, all fringes, all material and equipment costs, substantiated by low price bid or competitive negotiations and unit price cost as applicable, as well as cost or pricing data to the extent required by subchapter 15, chapter 3-122, bearing on the claim, and that the settlement does not exceed the total contract price plus settlement costs reduced by payments previously made by the City, the proceeds of any sales of goods and manufacturing materials under subparagraph (3) of this clause, and the contract price of the work not terminated. The same

level of detail required of the Contractor shall be provided by all subcontractors.

(C) Absent complete agreement under subparagraph (B), the City shall pay the Contractor the following amounts, provided payments agreed to under subparagraph (B) shall not duplicate payments under this subparagraph for the following:

- (i) Contract prices for goods or services accepted under the contract;
- (ii) Costs incurred in preparing to perform and performing the terminated portion of the work plus a five per cent markup on actual direct costs on the portion of the work, the markup shall not include anticipatory profit or consequential damages, less amounts paid or to be paid for accepted goods or services; provided that if it appears that the Contractor would have sustained a loss if the entire contract would have been completed, no markup shall be allowed or included and the amount of

compensation shall be reduced to reflect the anticipated rate of loss;

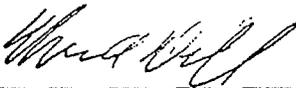
- (iii) Subject to the prior approval of the City the costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to paragraph (2). Subcontractors shall be entitled to a markup of no more than ten per cent on direct costs incurred to the date of termination. These costs must not include costs paid in accordance with clause (ii) of subparagraph (C).
- (iv) The total sum to be paid the Contractor under this subparagraph shall not exceed the total contract price reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under subparagraph (B), and the contract price of work not terminated.

(D) Cost claimed, agreed to, or established under subparagraphs (B) and (C) shall be in accordance with chapter 3-123."

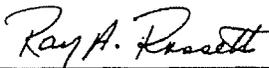
This Amendment No. 5 shall take effect upon the date and year first written above, and except as otherwise specifically provided herein, shall apply from such effective date. All other terms and conditions of Contract No. C-48689, as amended, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment No. 5
to be executed as of the day and year first above written.

CITY AND COUNTY OF HONOLULU

For By 
DIRECTOR OF BUDGET AND FISCAL SERVICES

WASTE MANAGEMENT OF HAWAII, INC.

By 
Ray A. Rossetti
Title Project Manager

Federal I.D. Number 99-0174324

APPROVAL RECOMMENDED:

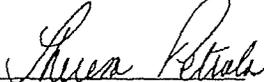

Officer-In-Charge
Director
Department of Environmental Services

APPROVED AS TO FORM AND LEGALITY:

MAILE R. CHUN
Deputy Corporation Counsel

STATE OF HAWAII)
) SS
CITY & COUNTY OF HONOLULU)

On this 26th day of April, 1999, before me personally appeared Ray A. Rossetti, Project Manager, to me known to be the person described in and who executed the foregoing instrument and acknowledged that he executed the same as his free act and deed.



Theresa Petrula
Notary Public, State of Hawaii

My commission expires: January 4, 2002

L.S.

APR-23-1999 FRI 07:51 AM WASTE MGMT WSTRN LEGAL
APR. 23. 1999 9:38AM SANIFILL

FAX NO. 2062648212 P. 02/03

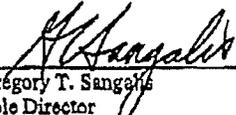
WASTE MANAGEMENT OF HAWAII, INC.

CONSENT OF SOLE DIRECTOR

The undersigned, being the Sole Director of Waste Management of Hawaii, Inc., a Hawaii corporation ("the Corporation"), hereby consents to the adoption of the following resolution without the necessity of holding a meeting of the Board of Directors of such corporation, such resolution to have full force and effect as if adopted at a meeting of the Board of Directors of the Corporation duly called and held:

RESOLVED, that Jonathan M. Angin be, and hereby is, authorized to negotiate and execute by and on behalf of the Corporation any and all agreements, instruments, documents or papers, as he may deem appropriate or necessary, pertaining to or relating to Amendment No. 5, amending Contract No. C-48689 between the Corporation and the City and County of Honolulu, and that any such action taken to date is hereby ratified and approved.

IN WITNESS WHEREOF, the undersigned has executed this consent effective this 21 day of April, 1999.



Gregory T. Sangalis
Sole Director



APR-23-1999 FRI 07:51 AM WASTE MGMT WSTRN LEGAL
APR 23 1999 WED 9:39 AM SANIFILL
APR 21 1999 WED 03:33 PM WASTE TRMT WSTRN LEGAL

FAX NO. 2062648212 P. 03/03
FAX NO. 2062648212 NO. 536 P. 03

ASSISTANT SECRETARY'S CERTIFICATE

WASTE MANAGEMENT OF HAWAII, INC.

I, Duane C. Woods, Assistant Secretary of Waste Management of Hawaii, Inc., a Hawaii corporation ("the Corporation"), do hereby certify that the following resolution was adopted by the Board of Directors of the Corporation and that such resolution has not been amended, modified or rescinded and is in full force and effect as of the date hereof:

RESOLVED, that Ray Rossett be, and hereby is, authorized to negotiate and execute by and on behalf of the Corporation any and all agreements, instruments, documents or papers, as he may deem appropriate or necessary, pertaining to or relating to Amendment No. 5, amending Contract No. C-48689 between the Corporation and the City and County of Honolulu, and that any such action taken to date is hereby ratified and approved.

Dated: April 21, 1999


Duane C. Woods
Assistant Secretary

EXHIBIT 1-A

	Year	a Solid Waste	b Unit Price	c a x b	d Ash & Residue	e Unit Price	f d x e	g c & f	h pw Factor	i g x h
(11)	1999	165,000	\$12.00	\$1,980,000.00	170,000	\$10.00	\$1,700,000	\$3,680,000.00	1.00000	\$3,680,000.00
(12)	2000	166,650	\$12.51	\$2,084,791.50	173,400	\$10.43	\$1,808,562	\$3,845,353.50	0.95238	\$3,707,952.81
(13)	2001	168,300	\$13.04	\$2,194,632.00	176,800	\$10.87	\$1,921,816	\$4,116,448.00	0.90703	\$3,733,741.83
(14)	2002	170,000	\$13.60	\$2,312,000.00	180,400	\$11.33	\$2,043,932	\$4,355,932.00	0.86384	\$3,762,828.30
(15)	2003	171,700	\$14.18	\$2,434,706.00	184,000	\$11.81	\$2,173,040	\$4,607,746.00	0.82270	\$3,790,792.63
(16)	2004	173,400	\$14.78	\$2,562,852.00	187,700	\$12.31	\$2,310,587	\$4,873,439.00	0.78353	\$3,818,485.66
(17)	2005	175,150	\$15.41	\$2,699,061.50	185,000	\$12.84	\$2,375,400	\$5,074,461.50	0.74622	\$3,786,664.66
(18)	2006	176,900	\$16.06	\$2,841,014.00	186,000	\$13.39	\$2,490,540	\$5,331,554.00	0.71068	\$3,789,028.80
(19)	2007	178,700	\$16.74	\$2,991,438.00	186,000	\$13.96	\$2,596,560	\$5,587,998.00	0.57684	\$3,782,180.51
(20)	2008	180,500	\$17.45	\$3,149,725.00	187,000	\$14.56	\$2,722,720	\$5,872,445.00	0.64461	\$3,785,436.77
(21)	2009	182,250	\$18.19	\$3,315,127.50	187,000	\$15.18	\$2,838,660	\$6,193,781.50	0.61391	\$3,777,871.68
(22)	2010	184,100	\$18.96	\$3,490,536.00	188,000	\$15.83	\$2,976,040	\$6,466,576.00	0.58468	\$3,780,877.66
(23)	2011	186,000	\$19.77	\$3,677,220.00	188,000	\$16.50	\$3,102,000	\$6,779,220.00	0.55684	\$3,774,940.86
(24)	2012	187,800	\$20.61	\$3,870,558.00	190,000	\$17.20	\$3,268,000	\$7,138,558.00	0.53032	\$3,785,720.08
(25)	Total (sum of lines 11 thru 24)									\$52,756,521.51
(26)	Composite liner 400,000 square yards @ \$28.51/square yard									\$11,404,000.00
(27)	Excavation 8,000,000 cubic yards @ \$4.00/cubic yard									\$32,000,000.00
(28)	Total (add lines 25 through line 27)									\$96,160,521.51

EXHIBIT A

SCOPE OF SERVICES AND SCHEDULE
WAIMANALO GULCH SANITARY LANDFILL
SITE EXPANSION AND CELLS 4C & 8 CONSTRUCTION

In accordance with the terms and conditions of the Services Agreement (SA) dated October 27, 1994, RUST Environment & Infrastructure (RUST E & I), Irvine, agrees to perform the services necessary to accomplish the following objective.

OBJECTIVE:

RUST E & I, Irvine, will develop a conceptual design for the horizontal and vertical expansion of the Waimanalo Gulch Sanitary Landfill based on the preliminary study that RUST E & I has already performed. A set of documents and drawings will be prepared by RUST E & I to obtain regulatory approval for the construction of cells 4C and 8 Liner and Leachate Collection and Removal System (LCRS) based on the conceptual design. These documents will be developed in accordance with USEPA Subtitle D, 40CFR258.40 (Design Criteria); Chapter 342H, Hawaii revised Statutes; and Title 11, Chapter 58, Solid Waste Management Control. RUST E & I will also provide technical support for the construction project.

The following tasks have been broken down into two phases of engineering work to be performed by RUST E & I. Estimated costs have been assigned to the tasks for the first phase of work; major tasks for the second phase of work have been identified, but no cost have been assigned to them since work for that phase may be performed in segments or each task as a whole as necessary at the time of execution.

PHASE I TASKS

The PHASE I tasks for RUST E & I to achieve the immediate project objective are as follows:

TASK 1:	PRELIMINARY STUDY AND CONCEPTUAL DESIGN DEVELOPMENT	\$ 300,000
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RUST E & I will perform the following subtasks under this task:

A: Preliminary Study

In April - May of 1994, RUST E & I had performed a preliminary study for expansion of the site at Waimanalo Gulch Sanitary Landfill. That study indicated that the site could yield an additional 6,770,000 cubic yards of airspace by excavating 3,820,000 cubic yards of native material outside the current permitted design excavation limits.

RUST E & I performed a second preliminary study in the month of October, 1994, for a similar TOTAL SITE EXPANSION (both horizontal and vertical). This study differed from the previous one in respect to using a 1:1 (horizontal : vertical) excavated and lined sideslopes and also utilizing the unlined areas of the currently permitted landfill footprint. According to this study, the site could yield approximately 15,570,000 cubic yards of airspace in addition to the currently permitted site capacity. This would require a site excavation of approximately 8,500,000 cubic yards as compared to July, 1994 topographic conditions. This estimated excavation quantity includes the proposed additional excavation for 1:1 sideslopes within the permitted landfill footprint area (currently unlined areas only).

B: Conceptual Design Development

RUST E & I will develop a conceptual design for the "TOTAL SITE EXPANSION" (both horizontal and vertical) for the site based on the preliminary study performed by RUST E & I (see attached drawings). This task will involve, but not limited to, the following activities:

- site visits and inspections to identify site conditions
- available geologic data analysis
- available weather data analysis
- preliminary surface water drainage calculations and design
- preliminary slope stability calculations
- development of conceptual grading plans for excavation and liner & LCRS
- conceptual design development of final fill grades
- conceptual design development of typical liner, LCRS, and cover details
- volumetric calculations to estimate the excavation quantities, airspace generated, refuse fill capacity, final cover volume, estimated soil requirements for daily and interim cover, and site life calculations.

The deliverables for this task will be, but not limited to, as follows:

- 1"=200' scale drawing showing the overall excavation grades for the site.
- 1"=200 scale drawing showing the liner grades and the LCRS layout.
- Site cross-sections at 1"=100' scale at 1000' intervals with a baseline shown on all the plans mentioned above.
- Preliminary details for Liner, LCRS, and final cover at suitable scales.
- Preliminary design report for the expansion project

All drawings mentioned in this scope of work will be developed by using the INTERGRAPH MICROSTATION CADD system, and all volumetric calculations will be performed by using the INTERGRAPH INROADS Digital Terrain Model. The volume calculations will be further checked manually for accuracy. The topography to be used for the conceptual design will be the July, 1994 aerial topography prepared by Walker & Associates of Seattle, Washington. All drawings will be presented in the standard 30" X 42" format.

C: Project Management and workplan

Project management for this project will be handled by Mohammed Quasem under the direction of Ali Mehr for the following RUST E & I activities related to the above mentioned subtasks:

- to develop a workplan for this project
- to arrange for meetings with site personnel
- to arrange and conduct project meetings with RUST personnel involved in this project
- to organize design development and preparation of plans and specifications
- to arrange and conduct periodic project progress reviews to ensure proper quality control
- to arrange for the production and delivery of project deliverables on a timely manner
- to coordinate the project with owner, contractor, and agency officials
- to track and manage the RUST E & I project expenses

RUST E & I proposes to begin work on this task starting in the first week of November, 1994 and estimates that the task will be completed by the end of March, 1995.

TASK 2: REGULATORY AGENCY APPROVAL FOR THE CONSTRUCTION OF CELLS 4C AND 8 *Project Completed RAB 4-26-99* \$ 50,000

The object of this task is to obtain approval from the regulatory agencies for the construction of Cell 4C and Cell 8 as redesigned based on the conceptual design developed according to task mentioned above. RUST E & I assumes that work on this task will begin immediately after the conceptual design has been approved and accepted by the owner. The estimated completion of this task is by the May, 1995. This task will involve the services of RUST E & I to perform the following:

- a) Develop a test plan to evaluate alternatives for methods for construction of the excavation and lining of the proposed 1:1 (horizontal : vertical) sideslopes.
- b) Execution of plan per item a) to identify method of construction.
- c) Develop configurations of slopes, roads, and landfill bottom grades for cells 4C and 8 based on the conceptual design mentioned above.
- d) Development of permit plans to be supported by technical documentation including:
 - Slope stability of the proposed cut slope
 - Sideslope liner stability
 - Feasibility of using gunite lining of the excavated sideslopes
 - Onsite review of construction methods with agency officials.
- e) Obtain regulatory approval for the revised design.

TASK 3: CONSTRUCTION DRAWINGS, QAP, AND TECHNICAL SUPPORT FOR CELLS 4C AND 8 CONSTRUCTION \$ 80,000

RUST E & I will perform the services for the following items under this task:

- a) Modify permit drawings to fit current topographic conditions and as-built conditions of neighboring cells (for liner and LCRS tie-ins).

- 1
- b) Prepare a set of construction drawings for cells 4C and 8 Liner & LCRS. The deliverables will include the following:
- 1"=40' scale drawing showing the excavation grades for the construction area, and a list of survey control points. This drawing will show the latest available aerial topography as the background existing condition.
 - 1"=40' scale drawing showing the grades for the top of liner and LCRS pipe trench layout. The excavation grades from the previous drawing will be shown as the background existing condition. A list of control points will be provided for survey staking and construction quality control.
 - A minimum of two site cross-sections will be provided for the area of development showing the existing grades, the excavation grades, and the top of liner grades. The sections will also show the location(s) of the LCRS pipe trench.
 - Construction details showing the bottom and sideslope liners, tie-in with existing liner systems of neighboring cells, LCRS pipe trench, and temporary drainage structures (if necessary), and liner anchor trenches will also be provided as part of the construction drawings.
- c) RUST E & I will develop the Quality Assurance Plan (QAP) for the construction and installation of the liner and LCRS for cells 4C and 8. The QAP shall contain the Technical Specifications and the Quality Assurance Manual (QAM) for this project. The QAP will have a section for Addenda issued by the engineer due to any change in the QAP before or during the construction of this project.
- d) RUST E & I will provide technical support during the pre-construction and the construction phases of this project. Services shall include the following :
- attending project meetings at the site to answer questions relating to the construction drawings and documents
 - support construction activities by being available to the site personnel to clarify any issues raised during construction
 - issue engineering changes, directives, minor revisions of drawings to reflect changes in actual field conditions
 - provide quantity calculations based on field survey information.

TASK 4: EXTRA WORK ALLOWANCE

\$ 50,000

RUST E&I will perform various engineering design and CQA services at the request of owner representatives. RUST E&I services will include but are not limited to preparation of work plans, engineering design, field and office CQA services, and reports; performing analysis and studies; attending meetings with the site and regulatory agencies; copying, drafting, mailing and travel expenses.

The scope, budget, and schedule for the work requested will be prepared and agreed by RUST E&I and Waimanalo Gulch Sanitary Landfill representatives prior to start of work by issuing the attached Work Order form.

The authorized RUST E&I representatives who will prepare the Work Order will be Ali Mehr and Mohammed Quasem.

The Work Order will be prepared and submitted by the following day that the work is requested.

No work will proceed until the Work Order has been submitted and agreed by the Owner's representative.

WAIMANALO GULCH SANITARY LANDFILL
TASK 4: EXTRA WORK ALLOWANCE
WORK ORDER NUMBER _____
WORK ORDER NAME _____

This Work Order (WO) is made this date _____ between RUST Environment & Infrastructure (CONSULTANT) and Waimanalo Gulch Sanitary Landfill (OWNER) for the above identified agreement.

Work Order Description

RUST E&I and Waimanalo Gulch Sanitary Landfill representatives acknowledge the following scope of work.

Budget to complete the work to satisfaction of WGS� representative \$ _____

Date to complete the work to satisfaction of WGS� representative _____ 199__

(Agreed by RUST E&I)

(Agreed by WGS� Rep)

By _____

By _____

Date _____

Date _____

101

TASK 5: SITE EXPANSION FINAL DESIGN
[ALLOWANCE ONLY - ON HOLD]

\$ 500,000

RUST E & I will develop the final design for the TOTAL SITE EXPANSION based on the conceptual design developed under TASK 1. This task will involve the following subtasks at the minimum:

A: Final Design Development

RUST E & I will perform the following activities for the development of the final design for the Waimanalo Gulch Sanitary Landfill TOTAL SITE EXPANSION:

- extensive research of all regulatory requirements, particularly the USEPA 40CFR258; Chapter 342H, Hawaii revised Statutes; and Title 11, Chapter 58, Solid Waste Management Control
- site visits and inspections to properly identify actual site conditions
- site geologic data analysis (Task 8 may be required)
- weather data research and analysis
- surface water drainage calculations and design including perimeter drainage channel and structures, drainage terraces and benches on the final fill slope, downdrains etc.
- groundwater hydrology data analysis (Task 9 may be required)
- HELP model analysis for leachate generation prediction and LCRS design including sump sizing and leachate collection pipe layout
- slope stability calculations for typical cut slopes and refuse fill slopes, sideslope and final cover
- design development of details for bottom and sideslope liners, LCRS, final cover, and drainage structures
- development of the detailed grading plan for site excavation
- development of the final design for the LCRS layout, sumps and risers

- development of the detailed final grades plan
- development of the construction, excavation, and fill phasing plans with input from the site personnel
- preparation of the revised SITE OPERATING PLAN based on the proposed changes to the site development plans
- preparation of a final design report for the project

B: Preparation of Plans

RUST E & I will prepare a complete set of the SITE DEVELOPMENT PLANS based on the proposed TOTAL SITE EXPANSION design mentioned above. The deliverables shall include, but not limited to, the following:

- 1" = 100' scale drawings of the overall site excavation
- 1" = 100' scale drawings of the liner and LCRS layout
- 1" = 100' scale drawings of the site final grades
- 1" = 100' scale drawings of the site drainage systems
- 1" = 50' scale site cross-sections at 500' intervals with a baseline shown on all the plans mentioned above
- 1" = 200' scale plan showing construction phases for the development of the site
- Finalized details of the liner system, LCRS, sumps, risers, drainage, and final cover at suitable scales
- Final design report for the expansion project

All drawings mentioned in this scope of work will be developed by using the INTERGRAPH MICROSTATION CADD system, and all volumetric calculations will be performed by using the INTERGRAPH INROADS Digital Terrain Model. The volume calculations will be further checked manually for accuracy. The topography to be used for the conceptual design will be the July, 1994 aerial topography prepared by Walker & Associates of Seattle, Washington. All drawings will be presented in the standard 30" X 42" format.

PHASE II TASKS

The tasks mentioned in this section are the identification of work for the second phase of engineering; costs for these tasks have not been assigned to them. The following are the tasks to be performed by RUST E & I as part of the PHASE II work:

TASK 6: ENVIRONMENTAL IMPACT STATEMENT

The Environmental Impact Statement (EIS) for the proposed TOTAL SITE EXPANSION of the Waimanalo Gulch Sanitary Landfill will be developed by a local (Hawaii) engineering consulting firm to be contracted to RUST E & I and agreed upon by the owner. The EIS should include the following items at the minimum (unless otherwise agreed upon):

- Description of the proposed project
- Description of the landfill site
- Relationship of the proposed action to land use plans, policies and controls for areas
- Anticipated environmental impacts and mitigative measures to be taken to minimize adverse impacts
- Probable adverse environmental impacts which cannot be avoided
- Alternatives to the proposed action
- An indication of what other interests and considerations of governmental policies are thought to offset the adverse environmental effects of the proposed action

TASK 7: CONSTRUCTION QUALITY ASSURANCE (CQA) SERVICES

RUST E & I will provide the CQA services to ensure the quality control for the construction of the liner and LCRS. This task will involve the following subtasks for each phase of construction:

A. CQA Project Management

This subtask will include project preparation and project management activities associated with construction quality assurance (CQA). The CQA Manager will be Douglas Brewer and he will represent RUST E & I under the direction of Ali Mehr. The following activities will be performed by Doug Brewer under this task:

- Review plans and specifications as required by the QAM
- Attend pre-construction meetings at the site
- Attend project meetings at the RUST E&I Irvine office to develop work plan
- Office preparation of field forms and assembly of field equipment,
- Schedule and coordinate CQA monitors to observe all field activities as required by the project QAM.
- Schedule and coordinate required soils and geosynthetics laboratory testing programs.
- Track and manage the CQA labor costs, laboratory costs and other necessary expenses.

The CQA project manager will be supported by administrative staff as necessary.

B: CQA Field Services - Subgrade Preparation

This subtask will include observations and documentation of the earthwork activities relating to the preparation of the liner subgrade. Activities will also include field surveying of the finished subgrade to ensure proper grading per project QAP.

C: CQA Field Services - Soils

This subtask will consist of providing a Soil Quality Assurance Engineer (QAE) and Soil QA monitors for quality assurance of the soil components construction of cell 4C and cell 8 project. The following activities will be performed under this task:

- Provide quality assurance observation and testing of the liner base placement in accordance with Section 4.0 of the QAM.
- Provide quality assurance observation of the protective soil cover placement in

accordance with section 6.0 of the QAM.

- Provide quality assurance observation and testing of the drainage layer placement and drain rock placement in the LCRS pipe trench in accordance with section 5.0 of the QAM.
- Preparation of daily field reports by field personnel and weekly reports by the Soils QAE.

D: CQA Laboratory Testing of Soils

Laboratory testing will be performed on the soil components of the projects to assure that the requirements of the QAP have been met. Test types and frequencies will be performed in accordance with the project specifications and Sections 5.3 and 6.3 of the QAM. Soils laboratory testing will be performed by RUST E & I's Palo Alto laboratory or a certified soils laboratory agreed upon by RUST E & I and the owner.

E: CQA Field Services - Geosynthetics

This subtask will consist of providing a Geosynthetic Quality Assurance Engineer (QAE) and Geosynthetic QA monitors for quality assurance of the geosynthetics components installation. The following activities will be performed under this task:

- The geosynthetic QAE and QA monitors will be on site full time to document, monitor, sample and test the Geosynthetic Clay Liner (GCL) during installation in accordance with Sections 1.2.7, and 13.0 of the project QAM.
- RUST personnel will be on site full time to document, monitor, sample and test the Geomembrane and Geotextile components of the liner system during installation accordance with Sections 1.2.7, 9.0, and 10.0 of the QAM.
- Preparation of daily reports by the QA staff and a weekly report by the QAE.

F: CQA Laboratory Testing of Geosynthetics

Laboratory testing will be performed on the geosynthetics components of the projects to assure the requirements of the QAP have been met. Test types and frequencies will be performed in accordance with Sections 9.0, 10.0 and 13.0 of the QAM. Geosynthetics laboratory testing will be performed by RUST E & I's Cincinnati laboratory or a certified geosynthetics laboratory agreed upon by RUST E & I and the owner.

G: CQA Survey Services

RUST E & I survey crew will assist the CQA crew to ensure proper grading per the project plans and specifications, and also to collect data for the preparation of Record Drawings (as-builts) to be included in the final CQA report.

H: Final CQA Documentation Report

This subtask will consist of preparing the final CQA documentation report at the conclusion of construction. The following activities will be performed under this task:

- Prepare a final CQA documentation report in accordance with Section 2.5 of the QAM.
- Office work to prepare the record drawings based on survey data obtained during field survey (Subtask G) will be performed to provide the record drawings.
- Provide record drawings of the subgrade, top of liner and details as required by the QAM and include in the final report.
- Provide project management, CADD, and administrative support toward preparation of the report.
- Administrative, drafting and graphic support toward preparation of the report.
- Provide a draft report, and upon review and approval of the site, the final report stamped by a registered professional engineer certifying the construction was performed in accordance with the project QAP.

The final documentation reports will be available within 15 working days after the completion of all construction and laboratory testing. If requested, a preliminary draft report can be issued earlier.

TASK 8: SITE GEOTECHNICAL INVESTIGATION

RUST E & I (or local engineering/geotechnical consultants contracted to RUST E & I and agreed upon by the owner) shall perform geotechnical investigation of the site according to requirements for design development of the expansion project. Specific deliverables have not been identified yet, but should include the following at the minimum:

- Site Geotechnical Plan (at least of the expansion area)
- Site Geotechnical Cross-sections
- Site Geotechnical Investigation Report

TASK 9: SITE HYDROGEOLOGICAL INVESTIGATION

RUST E & I (or local consultants contracted to RUST E & I and agreed upon by the owner) shall conduct a thorough hydrogeological investigation of the site pertaining to requirements for design development of the expansion project. Specific items to be investigated and task deliverables will be identified by RUST E & I (design engineer) as necessary.

TASK 10: GAS COLLECTION AND RECOVERY SYSTEM

RUST E & I shall perform design development and preparation of plans for a complete gas collection and recovery system for the Waimanalo Gulch Sanitary Landfill based on the final design for the expansion project. The major subtasks are, but not limited to, the following:

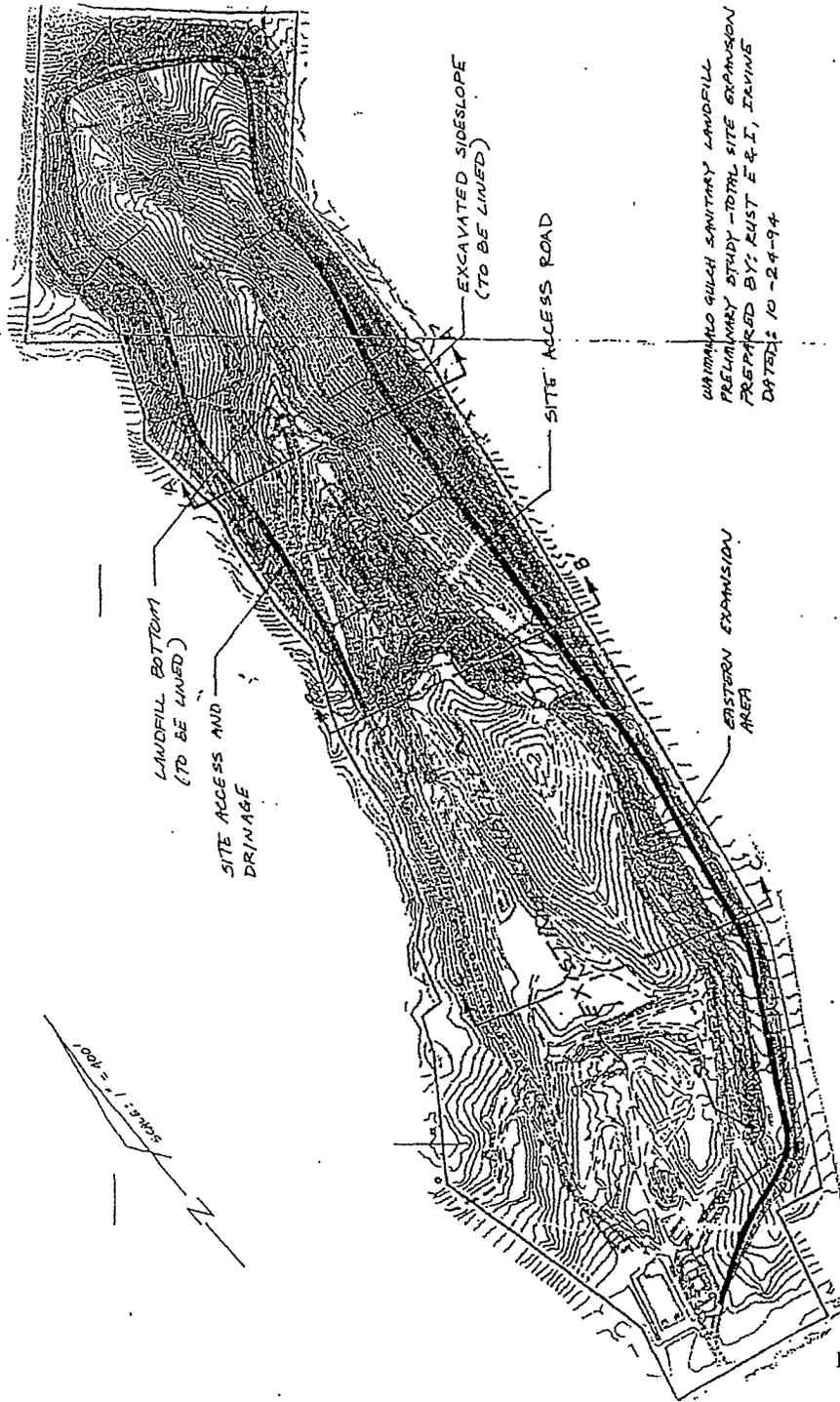
- A. Conceptual Gas Collection & Recovery System Plan
- B. Regulatory Agency Approval
- C. Gas Collection Wells Design & Installation
- D. Gas Collection Laterals and Headers Design and Installation
- E. Gas Flare Station Design & Installation

TASK 11: GAS MONITORING SYSTEM

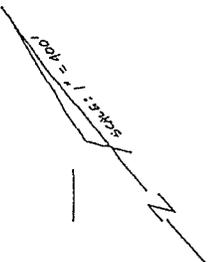
RUST E & I shall develop the design and prepare the plans for the Gas Monitoring System for the landfill. The primary subtasks for this tasks are, but not limited to, the following:

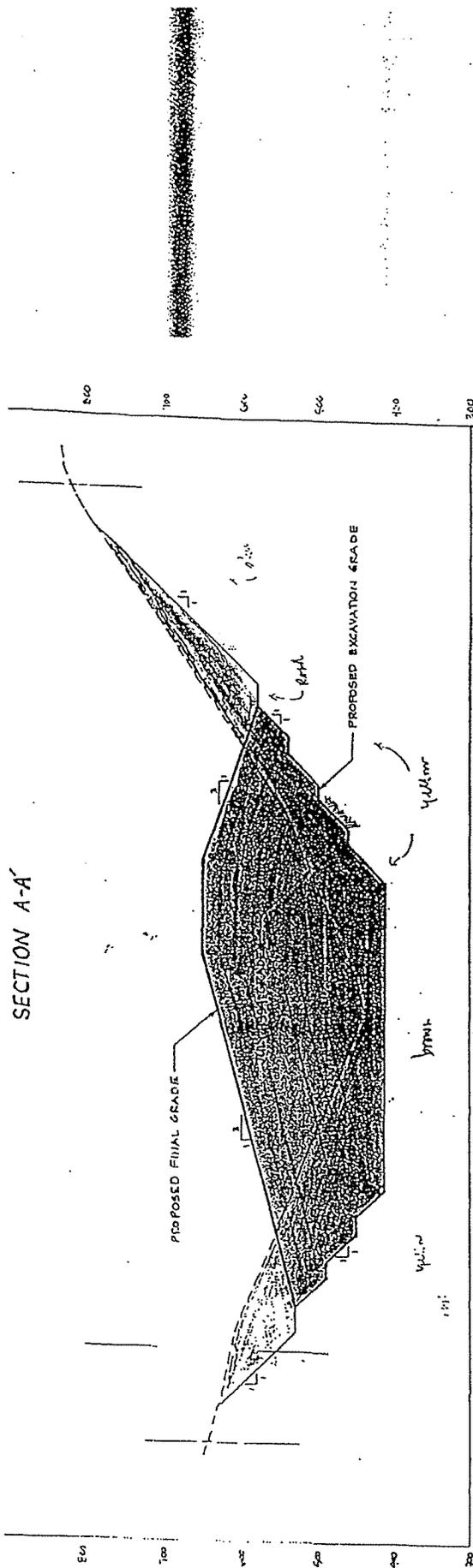
- A. Perimeter Probe Design & Installation
- B. Gas Monitoring Plan

DETAILED SCOPE OF WORK AND ASSOCIATED COSTS FOR EACH OF THE TASKS FOR THE PHASE II ENGINEERING SERVICES WILL BE DEVELOPED BY RUST E & I AS THE WORK BECOME NECESSARY.



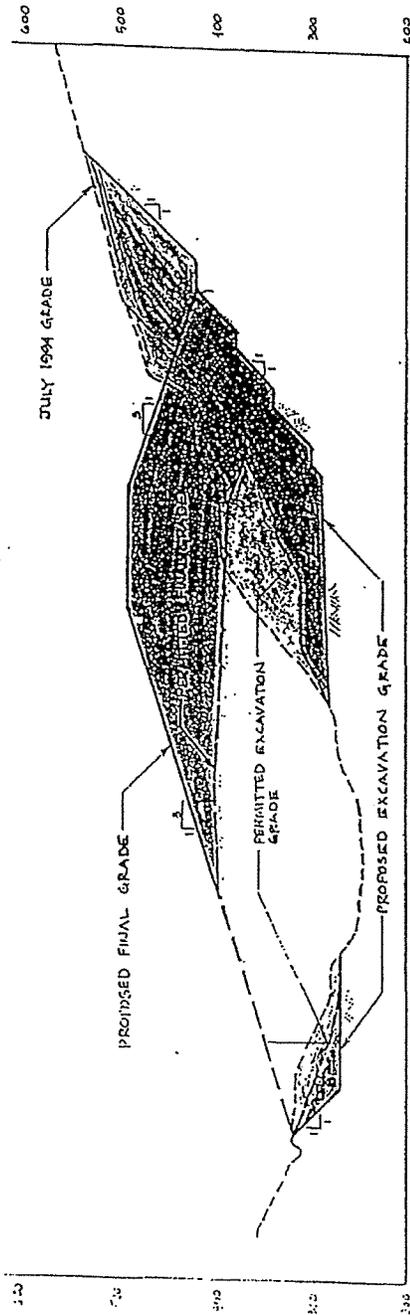
WASHINGTON GULCH SANITARY LANDFILL
 PRELIMINARY STUDY - TOTAL SITE EXPANSION
 PREPARED BY: RUST E & I, IRVING
 DATED: 10-24-94





WINNAND AULCH SANITARY LANDFILL
 PRELIMINARY STUDY FOR
 TOTAL SITE EXPANSION
 PREPARED BY RUST E & I, IRVINE
 DATED: 10-19-84

SECTION B-B'



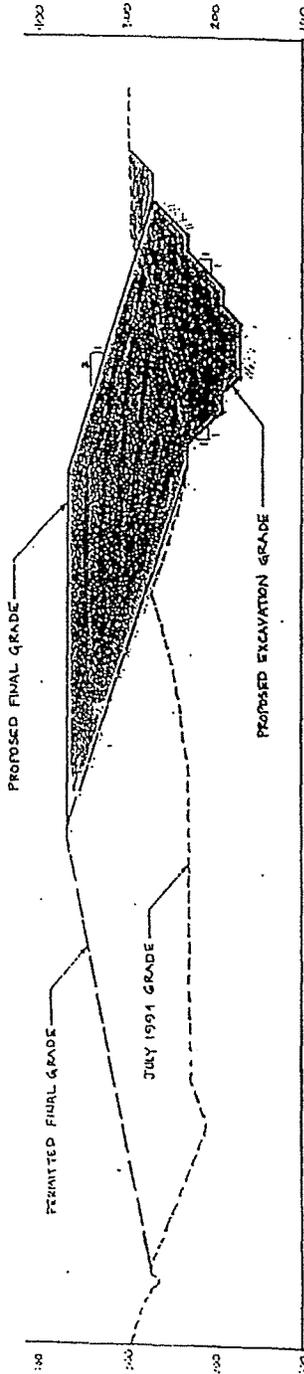
WAIMANALO GULCH SANITARY LANDFILL
PRELIMINARY STUDY FOR
TOTAL SITE EXPANSION
PREPARED BY RUST E+I, IRVINE
DATED: 10-19-94

EXHIBIT B

EXHIBIT K790

FIGURE 3

SECTION C-C



WINDMILL GULCH SANITARY LANDFILL
PRELIMINARY STUDY FOR
TOTAL SITE EXPANSION
PREPARED BY RUST E.T.I., IRVINE
DATED: 10-19-94

CONTRACT NO. C 48689 (D)

AMENDMENT NO. 4

THIS AGREEMENT, made this 25th day of April, 1996, by and between the CITY AND COUNTY OF HONOLULU, a municipal corporation of the State of Hawaii, hereinafter called the "CITY," and WASTE MANAGEMENT OF HAWAII INC. of 91-310 Hanua Street, Ewa Beach, Hawaii 96706, hereinafter called the "CONTRACTOR";

WITNESSETH THAT:

WHEREAS the parties hereto have entered into an Agreement identified as Contract No. C48689, for the Contractor to Provide Services to Operate and Make Improvements to the Waimanalo Gulch Sanitary Landfill, Ewa, Oahu, Hawaii, for the City; and

WHEREAS the payment for services is based on the landfill tonnage tabulated and reported by the City; and

WHEREAS in 1994, the tonnage reported was found to be incorrect for the period from January 1990 to October 1993, which resulted in the City overpaying the Contractor; and

WHEREAS both parties agreed to the amount of \$1,604,595.84 as the overpayment; and

WHEREAS the Department of Public Works now wishes to establish a repayment schedule; and

WHEREAS the Contractor is ready and willing to accept a repayment schedule;

NOW, THEREFORE, in consideration of the mutual promises herein set forth, it is hereby understood and agreed by and between the parties hereto to further amend Contract No. C48689 as follows:

I. Minimum Specifications.

A. Delete Paragraph 18 in its entirety and add the following new Paragraph 18. OVERPAYMENT:

Both parties agree that an overpayment of \$1,604,595.84 to the Contractor was caused by a programming error in the City's computer system during the period 1990 to 1993. A payment of \$229,814.19 was made in July 1994 by credit to the City's payment of the contractor's operating service fees, leaving a balance of \$1,374,781.65. This balance shall be repaid in four payments by the Contractor as credit to the City's monthly payment due the Contractor as operating fees beginning with the monthly operating service fee for July 1996.

The payment schedule will be as follows:

Payment Date	Beginning Balance	Payment Amount	Outstanding Amount
July 1994	\$1,604,595.84	\$229,814.19	\$1,374,781.65
July 1996	\$1,374,781.65	\$343,695.00	\$1,031,086.65
January 1997	\$1,031,086.65	\$343,695.00	\$687,391.65
July 1997	\$687,391.65	\$343,695.00	\$343,696.65
January 1998	\$343,696.65	\$343,696.65	0.00

IN WITNESS WHEREOF, the parties hereto have caused this contract amendment to be executed as of the day and year first above written.

CITY AND COUNTY OF HONOLULU

By *Quin D. Smiley*

WASTE MANAGEMENT OF HAWAII, INC.

By *Ray A. Rossitto*

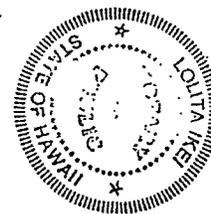
Title *President / General Mgr*

Federal I.D. Number *99-0174324*

Lolita Ikee
12-10-99

APPROVAL RECOMMENDED:

Darwin Pamanik
Officer-In-Charge
Director and Chief Engineer
Department of Public Works



APPROVED AS TO FORM AND LEGALITY:

T. LOWELL WOLF
Deputy Corporation Counsel

48689

AMENDMENT NO. 3

THIS AGREEMENT, made this 18th day of January, 199~~A~~^{5th}, by and between the CITY AND COUNTY OF HONOLULU, a municipal corporation of the State of Hawaii, hereinafter called the "CITY," and WASTE MANAGEMENT OF HAWAII INC. of 91-310 Hanua Street, Ewa Beach, Hawaii 96706, hereinafter called the "CONTRACTOR";

WITNESSETH THAT:

WHEREAS the parties hereto have entered into an Agreement identified as Contract No. C48689, for the Contractor to Provide Services to Operate and Make Improvements to the Waimanalo Gulch Sanitary Landfill, Ewa, Oahu, Hawaii, for the City and County of Honolulu; and

WHEREAS the payment for services is based on the landfill tonnage tabulated and reported by the City; and

WHEREAS in 1994, the tonnage reported was found to be incorrect for the period from January 1990 to October 1993, which resulted in the City overpaying the Contractor; and

WHEREAS the Department of Public Works now wishes to settle the overpayment to the Contractor; and

EXHIBIT K74

WHEREAS the Contractor is ready and willing to accept a repayment plan;

NOW, THEREFORE, in consideration of the mutual promises herein set forth, it is hereby understood and agreed by and between the parties hereto to further amend Contract No. C48689 as follows:

I. Minimum Specifications.

A. Add Paragraph 18. OVERPAYMENT:

Both parties agree that an overpayment of \$1,604,595.84 to the Contractor was caused by a programming error in the City's computer system during the period 1990 to 1993. This amount shall be repaid over a four-year period, from August 1994 through July 1998, by cash or with in-kind services which will be negotiated by both parties at the time the transactions occur. At the end of the four-year period, the Contractor shall pay the remaining balance by check on July 31, 1998.

IN WITNESS WHEREOF, the parties hereto have caused this contract amendment to be executed as of the day and year first above written.

CITY AND COUNTY OF HONOLULU

By *Victor D. Guillemon*

WASTE MANAGEMENT OF HAWAII, INC.

By *Ray A. Passot*

Title DIVISION PRESIDENT

Federal I.D. Number 99-0174324

APPROVAL RECOMMENDED:

for *Kevin Hanant*
Officer-In-Charge
Director and Chief Engineer
Department of Public Works

APPROVED AS TO FORM AND LEGALITY:

CHRIS A. DIEBLING
Deputy Corporation Counsel



Louta Ikei
12-10-95

EXHIBIT K74

CONTRACT NO. C 48689 (B)

AMENDMENT NO. 2

THIS AGREEMENT, made this 30th day of June, 1994, by and between the CITY AND COUNTY OF HONOLULU, a municipal corporation of the State of Hawaii, hereinafter called the "CITY," and WASTE MANAGEMENT OF HAWAII, INC. of 98-021 Kamehameha Highway, Aiea, Hawaii 96701, hereinafter called the "CONTRACTOR";

WITNESSETH THAT:

WHEREAS, the parties hereto have entered into an agreement, identified as the Memorandum of Understanding for Contract No. C-48689, for the Contractor to Provide Services to Operate and Make Improvements to the Waimanalo Gulch Sanitary Landfill, Ewa, Oahu, Hawaii, for the City and County of Honolulu; and

WHEREAS, in reference to Item 5 of that agreement, "Compliance With Laws And Permits, Price Adjustment For Additional Work, Minimum Specification Section 9 (A)," changes in the Federal Resource Conservation and Recovery Act (RCRA) Subtitle D Regulations, which became effective October 9, 1993, have imposed more stringent conditions than those in the proposed rules as they existed on the date of the bid submittal; and

WHEREAS, the Department of Public Works now wishes to amend said contract to add certain additional responsibilities of the Contractor to satisfy the new regulations;

NOW, THEREFORE, the City and the Contractor, in consideration of the mutual promises hereinafter set forth, hereby agree to amend Contract No. C-48689 as follows:

1. In Exhibit I of Addendum 3:
Delete EXHIBIT I in its entirety and, in lieu thereof, insert the attached revised EXHIBIT I.

2. In the MINIMUM SPECIFICATIONS as revised by Addendum 3:

Add the following as the second paragraph of Section 3 of the Minimum Specifications, LANDFILL DEVELOPMENT:

"For solid waste cells constructed after October 9, 1993, the Contractor will be required to install a composite liner, or an alternative performance-based geosynthetic design approved by the State, on the bottom of the solid waste

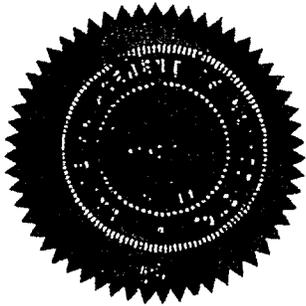
cells. The City will pay the Contractor to furnish and install the composite or performance-based geosynthetic liner pursuant to Line 17A of EXHIBIT 1.

Any composite liner will consist of, at a minimum, a synthetic liner over 2 feet of clay, with a leachate collection system above the synthetic liner. The synthetic liner shall be a flexible membrane liner designed for landfills and shall be a minimum 60-mils thick. The two-foot thick clay shall have a hydraulic conductivity of no more than 1×10^{-7} cm/sec. The leachate collection system shall consist of collection lines resting on the synthetic liner and covered over with drainage material. Sufficient drainage material shall be installed to protect the leachate collection lines from being damaged by the landfill operations. The Contractor shall be paid only for the actual area of composite or performance-based geosynthetic liner installed."

It is further agreed that, except for the amendments set forth herein above, all other provisions of Contract No. C-48689 shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have cause this contract amendment to be executed as of the day and year first above written.

CITY AND COUNTY OF HONOLULU



By [Signature]
Director of Finance

WASTE MANAGEMENT OF HAWAII, INC.

By Marian King
Title: Vice-President
Federal I.D. Number: 99-0174324

APPROVAL RECOMMENDED:

[Signature]
Officer-In-Charge
Director and Chief Engineer
Department of Public Works



Joetta D. Brooks

APPROVED AS TO FORM AND LEGALITY:

[Signature]
Associate Corporate Counsel

[Signature]
Deputy Corporation Counsel

WASTE MANAGEMENT OF HAWAII, INC.

EXHIBIT I

year	a solid waste	b unit price	c a x b	d ash & residue	e unit price	f d x e	g c + f	h pw factor	i pw g x h
(1) 1989	468000	\$ 11.43	\$ 5,347,240	0	0	-0-	\$ 5,347,240	1.00000	\$ 5,347,240
(2) 1990	276000	\$ 15.48	\$ 4,272,480	73000	\$ 12.96	\$ 946,080	\$ 5,218,560	0.95238	\$ 4,970,052
(3) 1991	111000	\$ 16.14	\$ 1,791,540	140000	\$ 13.51	\$ 1,891,400	\$ 3,682,940	0.90703	\$ 3,340,537
(4) 1992	113000	\$ 16.83	\$ 1,901,790	142000	\$ 14.08	\$ 1,991,360	\$ 3,901,150	0.86384	\$ 3,367,969
(5) 1993	114000	\$ 17.55	\$ 2,000,700	143000	\$ 14.68	\$ 2,094,240	\$ 4,094,940	0.82270	\$ 3,373,021
(6) 1994	115000	\$ 18.30	\$ 2,104,500	146000	\$ 15.30	\$ 2,233,800	\$ 4,338,300	0.78353	\$ 3,391,183
(7) 1995	116000	\$ 19.08	\$ 2,213,280	148000	\$ 15.95	\$ 2,360,600	\$ 4,573,880	0.74622	\$ 3,413,121
(8) 1996	117000	\$ 19.79	\$ 2,323,130	149000	\$ 16.63	\$ 2,477,870	\$ 4,805,000	0.71068	\$ 3,414,817
(9) 1997	118000	\$ 20.74	\$ 2,447,320	151000	\$ 17.34	\$ 2,478,340	\$ 5,065,660	0.67684	\$ 3,429,641
(10) 1998	119000	\$ 21.62	\$ 2,572,780	153000	\$ 18.08	\$ 2,766,240	\$ 5,339,020	0.64461	\$ 3,441,586
(11) 1999	120000	\$ 22.54	\$ 2,704,800	155000	\$ 18.85	\$ 2,921,750	\$ 5,626,550	0.61391	\$ 3,451,175
(12) 2000	121000	\$ 23.50	\$ 2,843,500	157000	\$ 19.65	\$ 3,085,050	\$ 5,928,550	0.58468	\$ 3,466,305
(13) 2001	122000	\$ 24.50	\$ 2,997,000	158000	\$ 20.49	\$ 3,237,420	\$ 6,226,420	0.55684	\$ 3,467,120
(14) 2002	125000	\$ 25.54	\$ 3,192,500	158000	\$ 21.36	\$ 3,374,880	\$ 6,567,380	0.53032	\$ 3,482,813
(15) 2003	139000	\$ 26.63	\$ 3,701,570	158000	\$ 22.27	\$ 3,518,660	\$ 7,220,230	0.50507	\$ 3,646,722
(16) Total (sum of lines 1 thru 15)							\$ 77,942,820		\$ 55,017,327
(17) Composite liner 100,000 Sq. Yds @ \$ 28.25 /sq. yd.									\$ 2,825,000
(17A) MSW composite liner 137,400 sq. yds. @ \$ 28.51 /sq. yd.									\$ 3,917,274
BASIC BID (18) Total (add line 16 to line 17)									\$ 61,759,601
OPTION 1 (19) Contractor's payment for land									-0-
(20) BASIC BID - Option 1									\$ 61,759,601

EXHIBIT I

	a. Solid Waste	b. Unit Price	c. a x b	d. Ash and Residue	e. Unit Price	f. d x e	g. c + f
1. 1989	468,000			-0-	-0-	-0-	
2. 1990	276,000			73,000			
3. 1991	111,000	See Note b		140,000	See Note e		
4. 1992	113,000	See Note b		142,000	See Note e		
5. 1993	114,000	See Note b		143,000	See Note e		
6. 1994	115,000	See Note b		146,000	See Note e		
7. 1995	116,000	See Note b		148,000	See Note e		
8. 1996	117,000	See Note b		149,000	See Note e		
9. 1997	118,000	See Note b		151,000	See Note e		
10. 1998	119,000	See Note b		153,000	See Note e		
11. 1999	120,000	See Note b		155,000	See Note e		
12. 2000	121,000	See Note b		157,000	See Note e		
13. 2001	122,000	See Note b		158,000	See Note e		
14. 2002	125,000	See Note b		158,000	See Note e		
15. 2003	139,000	See Note b		158,000	See Note e		
TOTAL SUM BID FOR ITEM NOS. 1 THROUGH 15							

NOTES:

- a. Estimated solid waste tonnage per calendar year. After 1990, approximately 40,000 tons will be brought in during a 6 week period with the remainder distributed throughout the year.
- b. Unit price for solid waste. Unit price shall be as bid by Contractor until December 31, 1990, thereafter beginning January 1, 1991 and as of each January 1st thereafter the unit price shall be adjusted by 75% of the percent change, during the immediately preceding calendar year in the Consumer Price Index for All Urban Consumers (All Items) for Honolulu, Hawaii, as published by the U.S. Department of Labor, Bureau of Labor Statistics. For bid purposes only the Consumer Price Index shall be assumed to increase 5% a year and therefore, the unit price will be the previous year multiplied by 1.0375.
- c. Estimated solid waste tonnage multiplied by solid waste unit price.
- d. Estimated ash and residue tonnage per calendar year.
- e. Unit price for ash and residue. Unit price shall be as bid by Contractor until December 31, 1990. Thereafter beginning January 1, 1991 and as of each January 1st, thereafter the unit price shall be adjusted by 75% of the percent change, during the immediately preceding calendar year in the Consumer Price Index for All Urban Consumers (All Items) for Honolulu, Hawaii, as published by the U.S. Department of Labor, Bureau of Labor Statistics. For bid purposes only the Consumer Price Index shall be assumed to increase 5% a year and therefore, the unit price shall be the previous year multiplied by 1.0375.
- f. Estimated ash and residue tonnage multiplied by ash and residue unit price.
- g. Solid waste cost plus the ash and residue cost.

EXHIBIT I

EXHIBIT K74

WAIMANALO GULCH CONTRACT

CONTRACT NO. C 48689 (A)

AMENDMENT NO. 1

THIS AGREEMENT, made this 24th day of April, 1992, by and between the CITY AND COUNTY OF HONOLULU, a municipal corporation of the State of Hawaii, hereinafter called the "CITY," and WASTE MANAGEMENT OF HAWAII, INC. of 98-021 Kamehameha Highway, Aiea, Hawaii 96701, hereinafter called the "CONTRACTOR";

WITNESSETH THAT:

WHEREAS, the parties hereto have entered into an Agreement identified as Contract No. C48689, for the Contractor to Provide Services to Operate and Make Improvements to the Waimanalo Gulch Sanitary Landfill, Ewa, Oahu, Hawaii, for the City and County of Honolulu; and

WHEREAS, the Department of Public Works now wishes to increase the scope of work to include excavation and rock crushing services; and

WHEREAS, the Contractor is qualified, ready, and willing and able to provide such services;

NOW, THEREFORE, in consideration of the mutual promises herein set forth, it is hereby understood and agreed by and between the parties hereto to amend Contract No. C48689 as follows:

1. CONTRACT

- a. Delete the third sentence under Note b. of Exhibit I and insert the following in its place:

"Thereafter beginning January 1, 1991 and as of each January 1st thereafter the

unit price shall be adjusted by 85% of the percentage change, during the immediately preceding calendar year in the Consumer Price Second Half Index for All Urban Consumers (All Items) for Honolulu, Hawaii as published by the U.S. Department of Labor, Bureau of Labor Statistics."

- b. Delete the third sentence under Note e. of Exhibit I and insert the following in its place:

"Thereafter beginning January 1, 1991 and as of each January 1st thereafter the unit price shall be adjusted by 85% of the percentage change, during the immediately preceding calendar year in the Consumer Price Second Half Index for All Urban Consumers (All Items) for Honolulu, Hawaii as published by the U.S. Department of Labor, Bureau of Labor Statistics."

- c. Add the following as the fourth paragraph of Section 3 of the Minimum Specifications.

LANDFILL DEVELOPMENT:

"The Contractor will be allowed to excavate within the landfill area to create additional landfill space. Excavated material is the property of the City. Any excavated material suitable for landfill cover is available to the Contractor at no cost."

d. Add the following to Section 15 of the Minimum Specifications. COMPENSATION:

"E. On or before the fifteenth (15th) day of each January and July during the excavation, the Contractor shall invoice the City for the number of cubic yards of material excavated during the previous six month period. The number of cubic yards excavated can be estimated, provided that the Contractor provide annually each January a topographic map bearing a stamp of a registered professional surveyor or engineer with appropriate cross sections to show the total number of cubic yards excavated during the previous calendar year. The Contractor may submit such a topographic map more frequently. The Contractor will include as part of the invoice, any income payments received for sale of any excavated material. The contractor may allow excavated material to be hauled off the site at no charge if the City has no use for the material and it is the City's best interest to have the excavated material removed from the site.

Further, as indicated in the attached letter dated November 8, 1991, the unit price shall be \$2.67 per cubic yard of excavated material from September 5, 1989 through

December 31, 1993. Thereafter, beginning January 1, 1994 and as of each January 1st thereafter, the unit price shall be adjusted by 100% of the percentage change, during the immediately preceding calendar year in the Consumer Price Second Half Index for All Urban Consumers (All Items) for Honolulu, Hawaii as published by the U.S. Department of Labor, Bureau of Labor Statistics. If for any reason the Consumer Price Second Half Index for All Urban Consumers (All Items) for Honolulu becomes unavailable, the Consumer Price Index Average for All Urban Consumers (All Items) for Honolulu for the immediately preceding calendar year will be used."

It is further agreed that, except for the amendments set forth herein above, all other provisions of Contract No. C48689 shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have cause this contract amendment to be executed as of the day and year first above written.

CITY AND COUNTY OF HONOLULU

By [Signature]
Director of Finance
WASTE MANAGEMENT OF HAWAII, INC.

By Ray A. Rossetti
Title: General Manager
Federal I.D. Number 99-0174324

APPROVAL RECOMMENDED:

C. Michael Street
Officer-In-Charge
Director and Chief Engineer
Department of Public Works

APPROVED AS TO FORM AND LEGALITY:

CHERYL K. OKUMA-SEPE
Deputy Corporation Counsel

STATE OF HAWAII)
COUNTY OF HONOLULU) SS.

On this 24th day of April, 1992, before me appeared Ray A Rossetti to me personally known, who, being by me sworn, did say that he is General Manager of Waste Management of Hawaii, Inc., the contractor named in the foregoing instrument, and that he is authorized to sign said instrument in behalf of the Contractor, and acknowledges that he executed said instrument as the free act and deed of the contractor.

[Signature]
Notary Public
State of Hawaii
My commission expires: 12-10-95

MEMORANDUM OF UNDERSTANDING

Memorandum of Understanding for Contract No. C-48689 dated February 8, 1989, by and between the CITY AND COUNTY OF HONOLULU (the "City") and WASTE MANAGEMENT OF HAWAII, INC. (the "Contractor").

The Contractor was the low bidder for Proposal Document No. 7325 relating to the provision of services to operate and make improvements to the Waimanalo Gulch Sanitary Landfill (the "Project") and the City provisionally awarded the Contract (the "Contract") for such services to the Contractor contingent on appropriation by the Council of funds for the Project. Funds for the Project were appropriated by the Council for fiscal year 1989-90 and will be available July 1, 1989. The City and the Contractor wish to reflect herein their understanding of certain provisions of the Contract.

1. TERM OF CONTRACT

The Contractor shall commence disposal operations ninety (90) days after receipt by the Contractor of a Notice to Proceed from the City. In accordance with Proposal Document No. 7325 and the Contractor's Proposal letter dated November 17, 1988, the Contract term shall be fifteen (15) years from the date the Contractor commences disposal operations at the Waimanalo Gulch Sanitary Landfill.

2. METHANE GAS RECOVERY, MINIMUM SPECIFICATION, SECTION 4 (P)

It is understood that the City shall retain all rights to recover methane gas generated at the landfill as long as such activities do not unreasonably interfere with the operation of the landfill.

3. CONTRACTOR'S DRAFT OPERATING PLAN

It is understood that the Contractor's Draft Operating Plan dated March 6, 1989, outlines in general terms the Contractor's intent to comply with the terms and conditions of the Contract.

4. HOURS OF OPERATION, MINIMUM SPECIFICATION, CLAUSE 5

It is understood that a City employee will be present during hours of landfill operation to ensure proper weighing of vehicles at the landfill.

It is understood that the landfill shall be open for receipt of ash twenty-four (24) hours per day.

5. COMPLIANCE WITH LAWS AND PERMITS, PRICE ADJUSTMENT FOR ADDITIONAL WORK, MINIMUM SPECIFICATION SECTION 9 (A)

The design, construction, and operation of the landfill shall be in accordance with all proposed rules, regulations, legislation, etc., of the Department of Health, State of Hawaii ("HDOH") and the United States Environmental Protection Agency ("EPA") (specifically 40 CFR Parts 257 and 258 "Solid Waste

5. COMPLIANCE WITH LAWS AND PERMITS, ETC. (Cont'd)

Disposal Facility Criteria Proposed Rule") as they existed at the date of the bid submittal, (December 2, 1988). The Contractor shall not be entitled to claims for additional costs incurred as a result of the final promulgation of such rules, regulations, legislations, etc., except as such final promulgation requires design, construction, or operation modification caused by more stringent conditions than those required by the proposed rules, regulations, legislations, etc., as they existed on the date of the bid submittal (December 2, 1988).

It is understood that the Contractor's bid has been submitted without considering potential profits associated with additional work required, to be paid by the City as a lump sum and not incrementally as part of the tip fees paid pursuant to the Contract, for compliance with laws and permits under Section 9 COMPLIANCE WITH LAWS AND PERMITS of the Minimum Specifications. The Contractor therefore shall be entitled to receive overhead cost but not a profit on lump sum costs paid by the City under Section 9.

6. FORCE MAJEURE - MINIMUM SPECIFICATION SECTION 11

It is understood the Contractor will inspect incoming loads of refuse, compact refuse, and cover refuse, as necessary, to minimize hazards of fire and explosion. It is

6. FORCE MAJEURE - MINIMUM SPECIFICATION, ETC. (Cont'd)

further understood that fire and explosion reasonably under the control of Contractor shall not constitute events of force majeure. It is further understood that events of force majeure shall excuse non-performance, inability to perform, or delay in performance.

7. INSURANCE REQUIREMENTS - MINIMUM SPECIFICATION CLAUSE 12

Contractor will provide certificates of insurance to the City annually.

8. COMPENSATION - PRIVATE AUTOMOBILES AND PICK-UPS, MINIMUM SPECIFICATION SECTION 15 (B)

It is understood that, in accordance with Section 15 (B) of the Minimum Specifications, private automobiles and pick-up trucks having a load capacity of less than three-quarters (3/4) ton shall not be weighed and will be billed at ten percent (10%) and twenty-five percent (25%), respectively, of the solid waste unit price for purposes of determining tonnage payments to the Contractor.

9. PRICE ADJUSTMENT FOR UNFORESEEN COST INCREASES - SPECIAL PROVISION SECTION 18

It is further understood that the Contractor's bid has been submitted without the requirement for Section 18 PRICE

ASB

9. PRICE ADJUSTMENT FOR UNFORESEEN COST, ETC. (Cont'd)

ADJUSTMENT FOR UNFORESEEN COST INCREASES of the Special Provisions. The Contractor therefore shall make no claim and shall not be entitled to any price adjustment under Section 18.

10. FAILURE TO PERFORM; BREACH OF CONTRACT - SPECIAL PROVISIONS SECTIONS 22 AND 30, RESPECTIVELY

It is understood that Section 22 FAILURE TO PERFORM shall be controlling in the event of a default or breach of the Contract and that Section 30 BREACH OF CONTRACT shall be null and void and of no legal effect.

11. TRANSACTIONS WITH CONTRACTOR'S AFFILIATES

In the event that Contractor is requested or required to perform additional work under the Contract and Contractor intends to use the services of affiliates to undertake such additional work, Contractor shall notify the City of such intention and shall submit a price for such additional work together with such other information as required by the Contract. If the City does not accept the price submitted by the Contractor, the City may require Contractor to obtain competitive bids for such additional work. It is understood that this procedure shall not apply to work included in the original Contract scope of work.

~~11.1~~

12. LIQUIDATED DAMAGES FOR ADDITIONAL WORK

In the event additional work is required, the parties shall agree on a price and completion date for such additional work, and shall agree on appropriate liquidated damages in each instance to be payable by Contractor should it fail to meet the agreed completion date.

13. CHANGES IN COVER MATERIAL

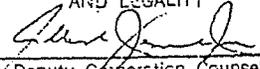
The price quotes by the Contractor in its offer is predicated on the use of locally available (i.e., on Oahu) soils as daily cover. Alternative, synthetic daily cover materials exist in the marketplace. The Contractor may, with the concurrence of the City, make use of such materials during the Contract term. In the event that the Contractor should use such materials in the future, and the alternate cover materials result in a cost savings for the Contractor, the savings will be shared with the City at a percent to be agreed upon at such time.

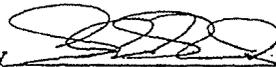
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IN WITNESS WHEREOF the parties here have caused these presents to be executed this 7th day of June, 1989.

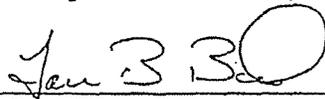
City and County of Honolulu

APPROVED AS TO FORM
AND LEGALITY


Deputy Corporation Counsel

By 
THEODORE J. JUNG
Director of Finance

Waste Management of Hawaii, Inc.

By 
IAN B. BIRD
Its Secretary

PROPOSAL DOCUMENT NO. 7325
FOR THE FURNISHING OF ALL
NECESSARY LABOR, SUPERVISION, EQUIPMENT, MATERIALS,
TOOLS, SUPPLIES, APPURTENANCES, INSURANCE AND
ALL OTHER ACTUAL AND IMPLIED EXPENSES
CONNECTED THERETO AND TO PERFORM ALL WORK
NECESSARY AND SPECIFIED IN THE
PRESCRIBED MANNER AND TIME,
TO PROVIDE
SERVICES TO OPERATE AND MAKE IMPROVEMENTS TO THE
WAIMANALO GULCH SANITARY LANDFILL
EWA, OAHU, HAWAII

November 2, 1988

ADDENDUM NO. 2

TO ALL PROSPECTIVE BIDDERS:

The following change is hereby made and incorporated as part of Proposal Document No. 7325:

The bid opening time and date is hereby changed from "2:00 p.m. on November 9, 1988" to "2:00 p.m. on November 25, 1988".

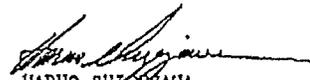

HARUO SHIGEZAWA
Purchasing Administrator

EXHIBIT K74

PROPOSAL DOCUMENT NO. 7325
FOR THE FURNISHING OF ALL
NECESSARY LABOR, SUPERVISION, EQUIPMENT, MATERIALS,
TOOLS, SUPPLIES, APPURTENANCES, INSURANCE AND
ALL OTHER ACTUAL AND IMPLIED EXPENSES
CONNECTED THERETO AND TO PERFORM ALL WORK
NECESSARY AND SPECIFIED IN THE
PRESCRIBED MANNER AND TIME,
TO PROVIDE
SERVICES TO OPERATE AND MAKE IMPROVEMENTS TO THE
WAIMANALO GULCH SANITARY LANDFILL
EWA, OAHU, HAWAII

November 9, 1988

ADDENDUM NO. 3

TO ALL PROSPECTIVE BIDDERS:

The following changes are hereby made and incorporated as part of Proposal Document No. 7325:

The bid opening time and date is hereby changed from "2:00 p.m. on November 25, 1988" to "2:00 p.m. on December 2, 1988".

In response to questions raised at the October 25, 1988 pre-bid conference the following replies are provided:

Question: Can the provisions of Section 2.6 DEPOSIT ACCOMPANYING BIDS of the General Terms and Conditions be modified?

Reply: See Section 36 of the Special Provisions in this addendum.

Question: Can coral dredging be used as cover material?

Reply: The landfill solid waste permit require soil or any other approved material for cover material. From discussions with State Department of Health (DOH) personnel, coral material was previously rejected as cover material. It is the responsibility of the bidders to obtain approval for soil substitute from DOH. DOH may require a sample and/or laboratory analysis of any substitute material for soil.

Question: Will the City consider selling the equipment to the Contractor and reducing the bid price.

Reply: No.

Question: Will the City consider selling or leasing the land to the Contractor and reducing the bid price?

Reply: City will consider selling the land, bid documents have been modified to reflect this.

Written questions were submitted by Oahu Refuse Systems Company. Our response with their questions are attached as Attachment 1.

Construction plans for the improvements presently under construction were distributed at the pre-bid conference. Notice is given to bidders that plans are not "as-built" plans and improvements may not be as shown on plans.

1. In the PROPOSAL:

Delete page 3 in its entirety and in lieu thereof, insert the attached revised page 3.

2. In EXHIBIT I:

Delete EXHIBIT I in its entirety and in lieu thereof, insert the attached revised EXHIBIT I.

3. In the MINIMUM SPECIFICATIONS:

A. Delete Section 3. LANDFILL DEVELOPMENT in its entirety and in lieu thereof, insert the following:

"3. LANDFILL DEVELOPMENT. Except for the construction being completed for the City on the Au Property to prepare the Landfill for the acceptance of Solid Waste, the Contractor will be responsible for the development of the Landfill Site, including the drainage system, leachate collection system, initial excavation, access roads to Campbell property and any improvements on the Au Property which are required by the development of the Campbell Property. All permanent improvements shall conform to the City and County of Honolulu Standard Specifications for Public Works Construction dated 1986. Landfill shall be developed to provide maximum capacity for the Landfill Site with a minimum of 6.7 million cubic yards for a height elevation limitation of 400 feet. Site development shall be designed by a professional engineer with a minimum of 5 years experience in the design or operation of sanitary landfills. The staging of the disposal operations onto the Campbell property will be coordinated with City officials.

A portion of the Landfill Site will be used for an ash monofill. The Contractor will be required to install a composite liner on the bottom of the ash monofill. The City will pay the Contractor to furnish and install the composite liner. The composite liner will consist of, at a minimum, a synthetic liner over 3 feet of clay with a leachate collection system above the synthetic liner. The synthetic liner shall be a flexible membrane liner designed for landfills and shall be a minimum 60 mils thick. The three-foot thick clay shall have a hydraulic conductivity of no more than 1×10^{-7}

cm/sec. The leachate collection system shall consist of collection lines with drainage material over the synthetic liner. Sufficient drainage material shall be installed to protect the leachate collection lines from being damaged by the landfill operations. The Contractor shall be paid only for the actual area of composite liner installed.

The Contractor shall have the option of purchasing the land from the City and through depreciation, tax credits, etc., reduce its cost. The minimum amount the City will accept is four million five hundred ninety-two thousand one hundred fifty-five dollars (\$4,592,155). Should the Contractor choose this option, the Contractor shall pay the City within ninety (90) calendar days from the official commencement date the amount for the land or should the City elect, credit the amount against future billings by the Contractor. The City will not consider this option if the City Council does not waive property taxes for the Landfill Site. Documents to transfer title of the land to the Contractor shall be provided by the successful bidder who proposes to buy the property from the City, within fifteen (15) calendar days from the date of the City's request. The Contractor shall convey the title of the land to the City at no cost to the City at the termination of this contract for any and all reason including City's fault except the Contractor may be partially compensated as provided for under Section 34 Early Termination of Contract. The Contractor shall assume all risk associated with this item relating to depreciation, tax credits, etc. Any ruling by any government agency or change in law which invalidates Contractor receiving benefits of depreciation, tax credits, etc. shall not alter Contractor's responsibility or price."

B. Under Section 15, after Sub-Section D, add the following Sub-Section E:

"E. Should the total tonnage for solid waste and ash and residue for each calendar year after December 31, 1989 vary more than 20% than that shown in Exhibit I (column a plus column d), each of the unit prices for solid waste and ash and residue shall be adjusted. The new unit price shall be adjusted by the following formula.

New unit price = f x Base unit price

Base unit price = price shown on Exhibit I
f = adjustment factor

For tonnage less than 80% of that shown in Exhibit I:

$$f = 1 + .03 \times \frac{.80 \times \text{base tonnage} - \text{actual tonnage}}{.16 \times \text{base tonnage}}$$

but f shall not be more than 1.15

where:

base tonnage = total solid waste and ash and residue tonnage as shown in Exhibit I

actual tonnage = actual total solid waste and ash and residue tonnage

For tonnage more than 120% of that shown in Exhibit I:

$$f = 1 - .03 \times \frac{\text{actual tonnage} - 1.2 \times \text{base tonnage}}{.24 \times \text{base tonnage}}$$

but f shall not be less than 0.85

Adjustment for the previous year shall be within thirty (30) calendar days following the end of the calendar year. The first adjustment, if any, shall be January 1991 for calendar year 1990. Should a payment be owed to the Contractor, the Contractor shall submit an invoice for the amount owed. Should a payment be owed to the City, the City shall invoice the Contractor for the amount owed or if the City elects, the City may credit the amount against future billings by the Contractor."

4. In the SPECIAL PROVISIONS:

A. Under Section 2, WAGES, HOURS AND WORKING CONDITIONS OF EMPLOYEES OF CONTRACTORS SUPPLYING SERVICES, under Section, Wages, add the following list of wages:

"Sanitary Landfill Attendant	\$ 8.66 per hour
Landfill Bulldozer Operator	10.44 per hour
Sanitary Landfill Supervisor I	12.24 per hour
Sanitary Landfill Supervisor II	12.74 per hour"

B. Delete Section 3, PREPARATION OF BIDS, in its entirety and in lieu thereof, insert the following Section 3:

"A bidder shall not submit more than one (1) bid document and shall not submit more than one (1) offer for Option 1 and each item and sub-item in the Basic Bid specified in the bid document for this bid solicitation. If a bidder, under the same or different names, submits more than one (1) bid document for this bid solicitation, all bid documents from the bidder shall be rejected. If a bidder submits more than one (1) offer for Option 1 or

any item or sub-item in the Basic Bid, all offers for Option 1 or any item or sub-item in which more than one offer was made shall be rejected. If there is any evidence indicating that two (2) or more bidders are in collusion to restrict competitive bidding, the bids of all such bidders shall be rejected and such evidence may be cause for the disqualification of the participants on any future proposal for any contract with the City.

In order to be considered for award, a bidder must bid on all the items and sub-items of the Basic Bid. Bidders may bid on Option 1."

- C. Delete Section 4, BID PRICES, in its entirety and in lieu thereof, insert the following Section 4:

"4. BID PRICES. Bid prices shall include all applicable taxes and the cost of all necessary labor, supervision, equipment, materials tools, supplies, appurtenances, insurance and all other actual and implied expenses connected thereto to provide the services to operate and to make improvements to the Waimanalo Gulch Sanitary Landfill Site and to purchase the Landfill Site as specified herein.

- D. Delete Section 5. METHOD OF AWARD in its entirety and in lieu thereof, insert the following Section 4:

"5. METHOD OF AWARD. The City shall evaluate all bids submitted to determine the lowest successful bidder on each of the following alternatives:

- A. The Basic Bid
- B. The Basic Bid minus Option 1

Notwithstanding the provisions of Section 2:18 of the General Terms and Conditions herein, the City reserves the right to award the contract on the alternative deemed to be in the best interest of the City, and the decision of the City shall be final. The award of the Contract on alternative B will be contingent on the approval of the City Council to sell the Landfill Site and to waive property taxes for the Landfill Site. Bidders are advised that award will also be contingent upon the total sum bid being lower than the cost for the City to operate the landfill. Award is further contingent upon City Council approval of appropriations to pay for the Contractor's service."

- E. Under Section 18, PRICE ADJUSTMENT FOR UNFORESEEN COST INCREASES:

- 1) Delete paragraph 1 in its entirety and in lieu thereof, insert:

"During the term of the contract, the Contractor may

submit requests for appropriate adjustments to the contract unit price(s) and/or appropriate direct reimbursements should the Contractor experience unforeseen cost increases from the previous year beyond its control. Said adjustments and/or reimbursements will be considered if the Contractor's total cost for the year of the request exceeds the total cost of the Contractor for the previous year by more than five (5) percentage points over the percentage increase in the Consumer Price Index for all Urban Consumers (All Items) for Honolulu, Hawaii.

2) Delete Sub-Section D in its entirety and in lieu thereof, insert the following:

"D. Any adjustments and/or reimbursements covered under Sections 4.J, 9, Compliance with Laws and Permits, and 12.B, Additional Premium Cost for Higher Limits and Additional Coverage if Required by the City, of the Minimum Specifications, shall not apply to this section."

F. Delete Section 34. EARLY TERMINATION OF CONTRACT in its entirety and in lieu thereof, insert the following:

"34. EARLY TERMINATION OF CONTRACT. Should this contract be terminated for other than Contractor's fault before the expiration date or before the landfill is filled to capacity, the Contractor shall be paid a portion of its cost for the development of the landfill and, should the Contractor take the option of purchasing the land, a portion of the cost for the land. Such cost shall be determined by the following formula:

Development and Land Cost x $(1 - \frac{\text{Volume of landfill used}}{6,700,000 \text{ cubic yards}})$

Volume of landfill used in cubic yards will be determined by multiplying the solid waste tonnage received by 2.6 and multiplying the ash and residue tonnage received by 1.2.

Contractor's development cost to be repaid under this Section shall be limited to cost for leachate collection system other than that installed with the composite liner, permanent drainage system and initial grading and grubbing of Campbell property. Land cost shall be the amount paid for the land under line 19 of EXHIBIT I (REVISED).

Contractor's development work may be provided and paid for either by competitive bids or by negotiated agreement, or by force account, all in accordance with laws and regulations applicable thereto. For such competitive bids or negotiated agreement, Contractor shall be allowed ten percent (10%) for overhead and profit. For force account work Contractor shall be

allowed twenty percent (20%) overhead and profit on all labor, equipment, materials, etc.. For subcontracted items the total overhead and profit of the subcontractor and Contractor shall not exceed twenty-five percent (25%). Contractor shall provide an accounting of all such cost to the level of detail acceptable to the City including but not limited to a breakdown by craft or positions of all direct and indirect labor cost, all fringes, all material, and equipment cost substantiated by low price bid or competitive negotiations and unit price cost as applicable. The same level of detail required of Contractor shall be provided by subcontractors."

G. After Section 35, add the following Section 36:

"36. DEPOSIT ACCOMPANYING BIDS. Notwithstanding the Provisions of Section 2.6 of the General Terms and Conditions, the bid deposit shall be in a sum of not less than five percent (5%) of the estimated average annual cost of the contract, payable at sight to the Director, provided, that when the amount bid exceeds fifty thousand dollars (\$50,000), the legal tender, certificate of deposit, cashier's check or certified check shall be in a sum not less than two thousand five hundred dollars (\$2,500) plus two percent (2%) of the amount in excess of fifty thousand dollars (\$50,000). The average annual cost will be calculated by dividing the total sum bid (column g, line 16 of EXHIBIT I) by fifteen (15) years. A certificate of deposit, cashier's check or certified check may be utilized only to a maximum of one hundred thousand dollars (\$100,000). The City shall not pay any interest on such security.

Deposits for bids which require a deposit in excess of one hundred thousand dollars (\$100,000) shall only be in the form of legal tender or a surety bond."


HARUO SAEGZAWA
Purchasing Administrator

NOTES:

- a. Column a.- Estimated solid waste tonnage per calendar year. After 1990, approximately 40,000 tons will be brought in during a 6 week period with the remainder distributed throughout the year.
- b. Column b.- Unit price for solid waste. Unit price shall be as bid by Contractor until December 31, 1990. Thereafter beginning January 1, 1991 and as of each January 1st thereafter the unit price shall be adjusted by 85% of the percent change, during the immediately preceding calendar year in the Consumer Price Index for All Urban Consumers (All Items) for Honolulu, Hawaii as published by the U.S. Department of Labor, Bureau of Labor Statistics. For Bid purposes only, the Consumer Price Index shall be assumed to increase 5% a year and therefore, the unit price will be the previous year multiplied by 1.0425.
- c. Column c.- Estimated solid waste tonnage multiplied by solid waste unit price.
- d. Column d.- Estimated ash and residue tonnage per calendar year.
- e. Column e.- Unit price for ash and residue. Unit price shall be as bid by Contractor until December 31, 1990. Thereafter beginning January 1, 1991 and as of each January 1st thereafter the unit price shall be adjusted by 85% of the percent change, during the immediately preceding calendar year in the Consumer Price Index for All Urban Consumers (all Items) for Honolulu, Hawaii, as published by the U.S. Department of Labor, Bureau of Labor Statistics. For bid purposes only, the Consumer Price Index shall be assumed to increase 5% a year and therefore, the unit price will be the previous year multiplied by 1.0425%.
- f. Column f.- Estimated ash and residue tonnage multiplied by ash and residue unit price.
- g. Column g.- Solid waste cost plus the ash and residues cost.
- h. Column h.- Present worth factor at 5%.
- i. Line 16, Column i.- Present worth cost of solid waste cost plus the ash and residue cost.
- j. Line 17- The bidder shall fill in the unit cost per square yard for the composite liner including leachate collection system on top of the liner. The bidder shall multiply the unit cost by the quantity of 100,000 square yards and fill in the amount in Column i.
- k. Line 19- The bidder has the option of purchasing the land from the City as described in Section 3 LANDFILL DEVELOPMENT of the Minimum Specifications to reduce its bid price. The minimum amount the City will accept is \$4,592,155. Should the bidder not choose this option, line 19 shall be 0.

ATTACHMENT 1 - ADDENDUM 3

R 88-1476-6231F

November 3, 1988

Oahu Refuse Systems, Company
P. O. Box 807
Aiea, Hawaii 96701

Gentlemen:

Subject: Waimanalo Gulch Sanitary Landfill
Proposal No. 7325

In response to your letter dated October 24, 1988 the following statements are provided:

1. We refer to item 34 of the special provisions. We request clarification as to the cost of additional developments such as internal roads, equipment purchases, gas collection systems, etc. Would this be considered as a part of the Contractor's development cost to be repaid under that section?

Response:

As stated in Section 34, the development cost to be repaid under Section 34 is limited to the cost for installing liner, leachate collection system, and permanent drainage system and initial grading and grubbing of Campbell property. Internal roads, equipment purchases, gas collection systems, etc. will not be repaid under Section 34.

2. In the item 34 of the special provisions, in the early termination formula, the maximum capacity of the landfill seems to be 6,700,000 cubic yards. According to the rates of 2.6 cubic yards per ton of solid wastes and 1.2 per ton of ashes, and the expected volume outlined in the Exhibit I, by the year 12, we would have already exceeded that capacity. How would the Contractor be repaid if the contract is early terminated after the 12th year?

ATTACHMENT 1 - ADDENDUM 3

Oahu Refuse Systems Company
November 3, 1988
Page 2

Response

Contractor will not be repaid if contract is terminated early after the 12th year. Cost to be paid to the Contractor under this section will not be a negative amount.

3. In connection with item 15 of the minimum specifications, can the Contractor examine on a monthly basis the books and records of the City related to the calculation of the number of tons disposed at the landfill to use that information as a basis for the monthly invoicing to the City?

Response

Upon reasonable notice to the City, Contractor may examine the books and records of the City related to calculation of tonnage.

4. Regarding item 4.J. of the Minimum Specifications, in the case the Contractor elects to make use of the equipment provided by the City, are there any costs associated beyond the normal maintenance or unusual damages?

Response

Other than costs specified in contract documents, there are no other costs.

5. Item 9. Minimum Specifications. Is the operating permit a conditional permit which will require approval of the State Department of Health regarding the following items prior to commencement of operations:

- * Groundwater monitoring program
- * Gas Control System
- * Surface Water management
- * Liner and leachate collection system for ash disposal

Response

No, unless approval is required for other permits or there is a change to the permit conditions.

6. Item 3. Minimum Specifications. Other than the 3 feet thick clay liner requirement, are there any other liner criteria to be met?

ATTACHMENT 1 - ADDENDUM 3

Oahu Refuse Systems Company
November 3, 1988
Page 3

Response

Liner criteria will be changed.

7. Would the City and County accept alternate tenders from the same offerer with different operating plans?

Response

No, offeror must follow bid form provided by the City.

8. Would the City and County consider a graduated price structure based on volume?

Response

No. However, the contract will be modified to provide for variation in the tonnages.

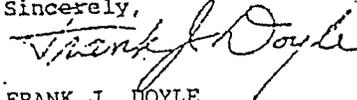
9. Informational request. We request copies of the following documents:

- * Environmental Impact Statement, 1984, Sections 1-11
- * Preliminary Engineering Report and Operating Plan, 1986
- * Drawing Set for Phase I Development, 1986
Sheets 1-28
- * Drawing Set for Phase II Development, 1987,
Sheets 1-29
- * Site Plan, 1987, (3 sheets)
- * Any studies commissioned by the City in support of the design for the landfill, appurtenances, and hydraulic structures.

Response

Except for the first and last items, documents were distributed at the prebid conference on October 25, 1988. The EIS and other studies may be examined at the Refuse Division, 14th Floor, 650 South King Street during normal working hours (weekdays between the hours of 7:45 a.m. and 4:30 p.m.).

Sincerely,



FRANK J. DOYLE

PROPOSAL DOCUMENT NO. 7325
FOR THE FURNISHING OF ALL
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PRESCRIBED MANNER AND TIME,
TO PROVIDE
SERVICES TO OPERATE AND MAKE IMPROVEMENTS TO THE
WAIMANALO GULCH SANITARY LANDFILL
EWA, OAHU, HAWAII

October 19, 1988

ADDENDUM NO. 1

TO ALL PROSPECTIVE BIDDERS:

The following changes are hereby made and incorporated as part of Proposal Document No. 7325:

1. In EXHIBIT I:

- A. Under NOTES, delete section b in its entirety and in lieu thereof, insert the following:

"b. Unit price for solid waste. Unit price shall be as bid by Contractor until December 31, 1990. Thereafter beginning January 1, 1991 and as of each January 1st thereafter the unit price shall be adjusted by 85% of the percent change, during the immediately preceding calendar year in the Consumer Price Index for All Urban Consumers (All Items) for Honolulu, Hawaii as published by the U.S. Department of Labor, Bureau of Labor Statistics. For bid purposes only, the Consumer Price Index shall be assumed to increase 5% a year and therefore, the unit price will be the previous year multiplied by 1.0425."

- B. Under NOTES, delete section e in its entirety and in lieu thereof, insert the following:

"a. Unit price for ash and residue. Unit price shall be as bid by Contractor until December 31, 1990. Thereafter beginning January 1, 1991 and as of each January 1st thereafter the unit price shall be adjusted by 85% of the percent change, during the immediately preceding calendar year in the Consumer Price Index for All Urban Consumers (all Items) for Honolulu, Hawaii, as published by the U.S. Department of Labor, Bureau of Labor Statistics. For bid purposes only, the consumer Price Index shall be assumed to increase 5% a year and therefore, the unit price will be the previous year multiplied by 1.0425."

2. In the MINIMUM SPECIFICATIONS:

- A. Page 4, Section 4.F, in line 4, delete "parameter" and in lieu thereof, insert "perimeter".

2. In the MINIMUM SPECIFICATIONS: (continued)

- B. Page 7, Section 9, COMPLIANCE WITH LAWS AND PERMITS, delete Sub-Section A. in its entirety and in lieu thereof, insert:

"A. Contractor and City agree that each will comply with all Federal, Hawaii State and City laws, and in all material respects with permits, now in force and which may hereafter, during the term of this Contract, be passed and become effective, applicable to the Contractor or City, as the case may be, in connection with the performance of this Contract. City shall be responsible for all additional costs with respect to operation of the Landfill resulting from changes (including changes in interpretation), after the bid opening date, in any Federal, Hawaii State and City laws, regulations, rules or permits or issuance of judicial or administrative order; provided, however, Contractor shall advise City, reasonably in advance (if possible) of incurring any such costs, of the anticipated amount thereof. The City, at its option may cause any such required or any City requested capital improvements and/or operating needs to be provided and paid for either by competitive bids or by negotiated agreement, or by force account, all in accordance with laws and regulations applicable thereto. For such competitive bids or negotiated agreement, Contractor shall be allowed ten percent (10%) for overhead and profit. For force account work, Contractor shall be allowed twenty percent (20%) overhead and profit on all labor, equipment, materials, etc.. For subcontracted items the total overhead and profit of the subcontractor and Contractor shall not exceed twenty-five (25%). Contractor shall provide an accounting of all such cost to the level of detail acceptable to the City, including but not limited to a breakdown by craft or positions of all direct and indirect labor cost, all fringes, all material, and equipment cost substantiated by low price bid or competitive negotiations, and unit price cost as applicable. The same level of detail required of Contractor shall be provided by subcontractors."

3. In the SPECIAL PROVISIONS:

- A. Page 2, delete Section 5, METHOD OF AWARD, in its entirety and in lieu thereof, insert the following:

"5. METHOD OF AWARD. Notwithstanding the provisions of Section 2.18 of the General Terms and Conditions herein, award will be made to the responsible bidder submitting the lowest total sum bid who is in compliance with all the requirements herein and who is able to provide all the services in compliance in all respects with the requirements herein.

- B. Page 8, delete Section 34, EARLY TERMINATION OF CONTRACT, in its entirety and in lieu thereof, insert the following:

"34. EARLY TERMINATION OF CONTRACT. Should this contract be terminated, other than Contractors fault, before the expiration date or before the landfill is filled to capacity, the Contractor shall be paid a portion of its cost for the development at the landfill. Such cost shall be determined by the following formula:

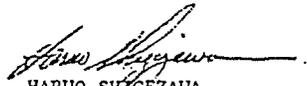
Contractor's Development Cost X (1 - $\frac{\text{Volume of Landfill Filled}}{6,700,000 \text{ cubic yards}}$)

3. SPECIAL PROVISIONS, page 8, Section 34, EARLY TERMINATION OF CONTRACT: (continued)

Volume of landfill used in cubic yards will be determined by multiplying the solid waste tonnage received by 2.6 and multiplying the ash and residue tonnage received by 1.2.

Contractor's development cost to be repaid under this Section shall be limited to cost for installing liner, leachate collection system, and permanent drainage system and initial grading and grubbing of Campbell property.

Contractor's development work may be provided and paid for either by competitive bids or by negotiated agreement, or by force account, all in accordance with laws and regulations applicable thereto. For such competitive bids or negotiated agreement, Contractor shall be allowed ten percent (10%) for overhead and profit. For force account work Contractor shall be allowed twenty percent (20%) overhead and profit on all labor, equipment, materials, etc.. For subcontracted items the total overhead and profit of the subcontractor and Contractor shall not exceed twenty-five percent (25%). Contractor shall provide an accounting of all such cost to the level of detail acceptable to City including but not limited to a breakdown by craft or positions of all direct and indirect labor cost, all fringes, all material, and equipment cost substantiated by low price bid or competitive negotiations, and unit price cost as applicable. The same level of detail required of Contractor shall be provided by subcontractors."


HARUO SHIGEZAWA
Purchasing Administrator



WASTE MANAGEMENT OF HAWAII, INC.
98-021 Kamehameha Highway
Aiea, Hawaii 96701
Tel: (808) 487-2402

CERTIFICATE

To: Director of Finance, City and County of Honolulu

Subject: Proposal No. 7325

Description of Project: Furnishing of all necessary labor, supervision, equipment, materials, tools, supplies, appurtenances, insurance, and all other actual and implied expenses connected thereto and to perform all work necessary and specified in the Prescribed manner and time, to provide services to operate and make improvements to the Waimanalo Gulch Sanitary Landfill, Ewa, Oahu, Hawaii

Pursuant to Section 103-66, H.R.S., I hereby certify that if awarded the contract in excess of \$5,000, the services to be performed will be performed under the following conditions:

1. The services to be rendered shall be performed by employees paid at wages or salaries not less than wages paid to the public officers and employees for similar work.
2. All applicable laws of the Federal and State governments relating to workmen's compensation, unemployment compensation, payment of wages, and safety will be fully complied with.

Bidder: Waste Management of Hawaii, Inc.

By:



Fred J. Weinert

Title: President

Date: November 17, 1988

BID BOND FORM FOR USE IN HAWAII ON PUBLIC CONTRACTS WHERE NO FORM IS PRESCRIBED BY OBLIGEE

BID BOND

KNOW ALL MEN BY THESE PRESENTS:

That WASTE MANAGEMENT OF HAWAII, INC.

98-021 Kam Highway, Aiea, Hawaii 96701

as Principal, and Federal Insurance Company, a corporation organized and existing under the laws of the State of New Jersey, as Surety, are held and firmly bound unto the CITY AND COUNTY OF HONOLULU, hereinafter called the Obligee, in the penal sum of Five-Percent of the total bid amount-----

-----DOLLARS, (\$5% of the total bid amount-----) lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, whereas the Principal has submitted the accompanying bid dated December 2, 1988 for operation of Waimanalo Gulch Landfill.

NOW, THEREFORE, if the Principal shall not withdraw said bid within the period specified hereinafter the opening of the same, or, if no period be specified, within sixty (60) days after said opening, and shall within the period specified, therefore, or if no period be specified, within ten (10) days after the prescribed forms are presented to Principal for signature, enter into a written contract with the CITY AND COUNTY OF HONOLULU, in accordance with the bid as accepted, and give bond with good and sufficient surety or sureties as may be required for the faithful performance and proper fulfillment of such contract, or in the event of the withdrawal of said bid within the period specified, or the failure to enter into such contract and give such bond within the time specified, if the Principal shall pay the Obligee the full amount of this bond in lawful money of the United States of America, then the above obligation shall be void and no effect, otherwise to remain in full force and virtue.

IN WITNESS WHEREOF, the above-bounden parties have executed this instrument under their seals, this 2nd day of December, 1988.

WITNESSES:
Linda Butler
Salvador D. Simpson

WASTE MANAGEMENT OF HAWAII, INC.
BY: David I. Kopp
Principal
David I. Kopp, Assistant Secretary

~~BY:~~
FEDERAL INSURANCE COMPANY
By: Karen E. Bogard
Karen E. Bogard, Attorney-in-fact



WASTE MANAGEMENT OF HAWAII, INC.
98-021 Kamehameha Highway
Aiea, Hawaii 96701
Tel: (808) 487-2402

PROPOSAL
FOR THE FURNISHING OF ALL
NECESSARY LABOR, SUPERVISION, EQUIPMENT, MATERIALS,

Honolulu, Hawaii
November 17, 1988

Ms. Linda L. Smith
Director of Finance
City and County of Honolulu
Honolulu, Hawaii 96813

Dear Ms. Smith:

The undersigned hereby proposes to furnish All Necessary Labor, Supervision, Equipment, Materials, Tools, Supplies, Appurtenances, Insurance, and All Other Actual and Implied Expenses Connected Thereto, and To Perform All Work Necessary and Specified in the Prescribed Manner and Time, to Provide Services to Operate and to Make Improvements to the Waimanalo Gulch Sanitary Landfill, Ewa, Oahu, Hawaii for the Division of Refuse Collection and Disposal, Department of Public Works for the fifteen (15) year period commencing on a date to be determined later, for the bid amount set forth in Exhibit I, all in strict compliance with the Proposal, Minimum Specifications, Special Provisions, Appendices, and General Terms and Conditions attached hereto and by reference made a part hereof.

All equipment and personnel specified herein shall be available for immediate use upon notification by the City to proceed with the contract.

It is understood and agreed that the services specified herein are being furnished for the exclusive use of the City and County of Honolulu.

It is also understood and agreed that the prices bid include all taxes which shall be applicable to the products or services or the furnishing, sale, or purchase thereof whether assessed against, chargeable to or payable by the City and County of Honolulu or any of its agencies or the undersigned.

It is also understood and agreed that the Director of Finance reserves the right to accept or reject any or all bids if, in the Director's opinion, such acceptance or rejection will be in the best interest of the City and County of Honolulu.

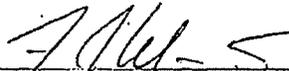
It is further understood and agreed that if a contract is awarded the undersigned, the undersigned will enter into and execute the same and furnish the necessary security as required under Section 23 of the Special Provisions and Section 2.23 of the General Terms and Conditions herein.

Enclosed herewith is:

Bid Bond of five percent (5%) of the bid amount, as a proposal guarantee as set forth in Section 2.6 of the General Terms and Conditions and made payable or executed to the "City Director of Finance."

Respectfully submitted,

WASTE MANAGEMENT OF HAWAII, INC.



Authorized Signature

Fred J. Weinert
President

Name and Title of Above

Address: 98-021 Kamehameha Highway
Aiea, Hawaii 96701

Telephone Number: (808) 487-2828

Person to Contact if Awarded: Frederick T. McGuire

Telephone Number: (808) 487-2828

State of Hawaii

General Excise Tax License Number: 10108302.

Federal Employer Identification Number: 99-0174324

Type of Organization: Corporation

State of Incorporation: Hawaii

EXHIBIT I

	a. Solid Waste	b. Unit Price	c. a x b	d. Ash and Residue	e. Unit Price	f. d x e	g. c + f
1. 1989	468,000	_____	_____	-0-	-0-	-0-	_____
2. 1990	276,000	_____	_____	73,000	_____	_____	_____
3. 1991	111,000	See Note b	_____	140,000	See Note e	_____	_____
4. 1992	113,000	See Note b	_____	142,000	See Note e	_____	_____
5. 1993	114,000	See Note b	_____	143,000	See Note e	_____	_____
6. 1994	115,000	See Note b	_____	146,000	See Note e	_____	_____
7. 1995	116,000	See Note b	_____	148,000	See Note e	_____	_____
8. 1996	117,000	See Note b	_____	149,000	See Note e	_____	_____
9. 1997	118,000	See Note b	_____	151,000	See Note e	_____	_____
10. 1998	119,000	See Note b	_____	153,000	See Note e	_____	_____
11. 1999	120,000	See Note b	_____	155,000	See Note e	_____	_____
12. 2000	121,000	See Note b	_____	157,000	See Note e	_____	_____
13. 2001	122,000	See Note b	_____	158,000	See Note e	_____	_____
14. 2002	125,000	See Note b	_____	158,000	See Note e	_____	_____
15. 2003	139,000	See Note b	_____	158,000	See Note e	_____	_____

TOTAL SUM BID FOR ITEM NOS. 1 THROUGH 15 _____

NOTES:

- a. Estimated solid waste tonnage per calendar year. After 1990, approximately 40,000 tons will be brought in during a 6 week period with the remainder distributed throughout the year.
- b. Unit price for solid waste. Unit price shall be as bid by Contractor until December 31, 1990, thereafter beginning January 1, 1991 and as of each January 1st thereafter the unit price shall be adjusted by 75% of the percent change, during the immediately preceding calendar year in the Consumer Price Index for All Urban Consumers (All Items) for Honolulu, Hawaii, as published by the U.S. Department of Labor, Bureau of Labor Statistics. For bid purposes only the Consumer Price Index shall be assumed to increase 5% a year and therefore, the unit price will be the previous year multiplied by 1.0375.
- c. Estimated solid waste tonnage multiplied by solid waste unit price.
- d. Estimated ash and residue tonnage per calendar year.
- e. Unit price for ash and residue. Unit price shall be as bid by Contractor until December 31, 1990. Thereafter beginning January 1, 1991 and as of each January 1st, thereafter the unit price shall be adjusted by 75% of the percent change, during the immediately preceding calendar year in the Consumer Price Index for All Urban Consumers (All Items) for Honolulu, Hawaii, as published by the U.S. Department of Labor, Bureau of Labor Statistics. For bid purposes only the Consumer Price Index shall be assumed to increase 5% a year and, therefore, the unit price will be the previous year multiplied by 1.0375.
- f. Estimated ash and residue tonnage multiplied by ash and residue unit price.
- g. Solid waste cost plus the ash and residue cost.

EXHIBIT I

EXHIBIT K74

MINIMUM SPECIFICATIONS

1. DEFINITIONS.

- A. "Ash" shall mean the material remaining after the incineration of solid waste at any incineration facility owned by City, including, without limitation, the "H-POWER" waste-to-energy facility and the Waipahu incinerator; provided, however, any portion of such material which is Hazardous Waste shall not be Ash for purposes of this Contract.
- B. "Au Property" shall mean that parcel of land defined in Appendix "A" attached hereto and made a part hereof.
- C. "Campbell Property" shall mean that parcel of land defined in Appendix "B" attached hereto and made a part hereof.
- D. "Contract" shall mean the contract documents consisting of the Notice to Bidders, Proposal, Exhibit I, Minimum Specifications, Special Provisions, Appendices, General Terms and Conditions and Contract and Bond.
- E. "Force Majeure" has the meaning set forth in Section 11.
- F. "Hazardous Waste" shall mean:
 - (1) all waste defined or characterized as hazardous waste by the SWDA or regulations promulgated thereunder,
 - (2) all radioactive wastes and wastes which are not disposed of by generally accepted sanitary landfill disposal methods, and
 - (3) all waste defined or characterized as hazardous waste by any agency of the State of Hawaii having jurisdiction over hazardous waste generated within such state, and shall be construed to have the broader, more encompassing definition where there exists a conflict in the definitions employed by two or more governmental agencies having concurrent or overlapping jurisdiction over hazardous waste generated within such state.
- G. "Landfill" shall mean the sanitary landfill consisting of 200 acres, more or less, located on both the Au Property and Campbell Property.
- H. "Landfill Site" shall mean the land area composed of the Au Property and the Campbell Property as defined in B and C above.
- I. "Residue" shall mean Solid Waste which, although not incinerated, has been processed through the trommel, shredding or crushing systems at the "H-POWER" Facility.

1. DEFINITIONS. (Cont'd)

J. "SWDA" shall mean the Federal Solid Waste Disposal Act (42 USC 3251), as amended, including the Resource Conservation and Recovery Act of 1976 (42 USC 6901) and all future amendments thereto and regulations promulgated thereunder.

K. "Solid Waste" shall mean:

(1) all waste defined as solid waste by the SWDA or regulations promulgated thereunder and

(2) all waste defined as solid waste by any agency of the State of Hawaii having jurisdiction over solid waste generated within such state, including, without limitation, Ash, Residue, bulky items, demolition materials and tree trimmings, except that the term "Solid Waste:"

a. shall exclude Hazardous Waste;

b. shall exclude radioactive waste; and

c. shall be construed to have the narrower, less expansive definition where there exists a conflict in the definitions employed by two or more governmental agencies having concurrent or overlapping jurisdiction over Solid Waste generated within such state.

L. "State" shall mean the State of Hawaii.

M. "Tons" shall mean 2,000 pounds.

2. SCOPE OF WORK. Contractor shall develop Landfill Site and operate the Landfill for a period of fifteen (15) years in accordance with the terms and provisions set forth herein.

Addendum B

3. LANDFILL DEVELOPMENT. Except for the construction presently constructed for the City on the Au Property to prepare the Landfill for the acceptance of Solid Waste the Contractor will be responsible for development of the Landfill Site, including the installation of a 3-foot compacted clay liner on the Au and Campbell properties, drainage system, leachate collection lines, initial excavation, access roads to Campbell property and any improvements on the Au Property which are required by the development of the Campbell Property. All permanent improvements shall conform to the City and County of Honolulu Standard Specifications for Public Works Construction dated 1986. Landfill shall be developed to provide maximum capacity of the Landfill Site with a minimum of 6.7 million cubic yards for a height elevation limitation of 400 feet. Site development shall be designed by a professional engineer with a minimum of 5 years experience in the design or operations of sanitary landfills. The staging of the disposal operations onto the Campbell property will be coordinated with City officials.

4. LANDFILL OPERATIONS. Contractor shall have exclusive right and responsibility for the operation of the Landfill, in accordance with the provisions of this Contract for the term of this Contract, except as otherwise provided herein.

4. LANDFILL OPERATIONS. (Cont'd)

A. Contractor shall, for the term of this Contract, furnish all materials, personnel, labor, tools, equipment and utilities, at its sole expense, for the operation of the Landfill, and shall be solely responsible, not only for said operation, but also for the repair and maintenance thereof including buildings, scale, and computer. Contractor shall operate said Landfill according to generally accepted landfill standards for the operation of a sanitary landfill under the supervision of experienced sanitary landfill personnel. Landfill operation shall be conducted to provide maximum density of Solid Waste (minimum of 1,100 pounds per cubic yard) and maximum usage of site. Such Landfill operation shall, be so operated as not to be a nuisance to the citizens or residents of the City.

Contractor shall submit to the Officer-In-Charge for approval no later than fifteen (15) days after award of the contract an operational plan which shall include the method of fill for solid waste and ash.

- B. Contractor will be responsible for all aspects of the operation of the Landfill with the exception of the scale house operations and collection of fees. Contractor will prepare all areas for disposal, compact and contour all waste, cover all waste daily, maintain all equipment and labor, provide dust control, cover all operational expenses including utilities, and engineering fees associated with Landfill operations, and all onsite access roads. While operating the Landfill pursuant to this Contract, Contractor shall be responsible for maintaining all leachate collection systems on the Landfill Site and for leachate and methane gas monitoring as required in State Department of Health Solid Waste Permit No. SW232235, revised March 9, 1988.
- C. Contractor will also provide for final closure of the Landfill according to applicable permit requirements including three (3) feet of suitable cover materials to be placed on the compacted Solid Waste and for the revegetation of the Landfill with natural vegetation. Tops and slopes shall be contoured to provide for adequate drainage off of the Landfill.
- D. Contractor shall also provide post-closure maintenance of the Landfill Site, (including, but not limited to, continued quarterly maintenance of monitoring wells, continued collection and treatment of leachate, recompacting and recovering of any waste exposed due to fractions or fissures at the Landfill Site and continued revegetation of the Landfill) for a period of ten (10) years. However, Contractor shall not be responsible for post-closure maintenance if City, during the aforesaid ten (10) year period, elects to construct any residential, commercial, industrial, or any other development on any portion of the Landfill site or pursuant to Section 10 of the Contract.

4. LANDFILL OPERATIONS. (Cont'd)

- E. Contractor will be responsible for environmental liabilities including fines resulting from the work performed by Contractor pursuant to this Contract, provided that Contractor is the sole operator of the Landfill Site during its life and that City exercises reasonable efforts not to allow Hazardous Waste to be delivered to the Landfill Site in accordance with Section 9 of the Minimum Specifications.
- F. Contractor shall maintain all entrance landscaping and install and maintain landscaping for the closed portions of the Landfill immediately after each lift is completed, as well as landscaping on the parameter berms. Contractor shall provide twenty-four (24) hour security service for the Landfill Site. Contractor shall limit the use of the Landfill to sanitary landfill operations.
- G. It is understood that because of the proximity of the Landfill to the West Beach and other developments in the Ewa Plain and because the Landfill is adjacent to the main access road to Ewa and Waianae, that the Contractor shall maintain the Landfill entrance area, access road to the working face and completed Landfill areas in an esthetically pleasing manner, to the extent reasonably practicable. Contractor shall perform his operations so as to keep the working face hidden away from West Beach to the extent reasonably practicable. The Officer-In-Charge or an authorized representative of the Officer-In-Charge shall determine what is reasonably practicable and said determination shall be final.
- H. Wastewater treatment sludges, septic tank and cesspool pumpings may be disposed of at the Landfill Site provided that such disposal is in accordance with the City and County of Honolulu, July 1987 edition of "Guidelines for Use of Municipal Landfills" and provided that the disposal of such wastes is lawfully permitted at the Landfill.
- I. Contractor shall maintain all roads, utilities, and drainage within the Landfill Site.
- J. All Solid Wastes disposed of at the Landfill shall be thoroughly compacted by equipment of sufficient weight and capacity to carry out the landfill operation. At a minimum the Contractor shall have at the site in operational order two (2) D8 tractors or equivalent, one (1) loader, one (1) grader, and one (1) water truck. Sufficient auxiliary equipment shall be maintained on the Landfill Site, or kept readily available, in order to permit continuous operation of the Landfill in the event of equipment breakdown or increased volumes of material to be handled.

The Contractor will be permitted to use City equipment listed below subject to the conditions herein:

- (1) Two (2) D9N diesel powered crawler tractors
- (2) Two (2) three thousand five hundred (3,500) gallon water tank trucks

4. LANDFILL OPERATIONS. (Cont'd)

- J. (3) One (1) diesel powered motor grader
(4) One (1) rubber tire front end loader and backhoe.

The two (2) D9N tractors and the two (2) water tank trucks will be available for the Contractors use at the beginning of the contract period. The diesel powered motor grader and rubber tired front end loader and backhoe have been purchased and are anticipated to be delivered in January 1989. However, it shall be understood and agreed that any loss of anticipated profits due to the failure of the diesel powered motor grader and rubber tired front end loader and backhoe to be available for the Contractor's use by January 1989 shall not constitute grounds for equitable adjustment under the contract. If the Contractor uses the two (2) D9N tractors, said tractors must be returned by July 1, 1992 or before twelve thousand four hundred ninety (12,490) hours of equipment operation, whichever comes first. The Contractor must return the equipment in good operating condition, fair wear and tear excepted and shall be responsible for any repairs to the tractors as a result of the operation by the Contractor. During this period the Contractor uses the D9N Tractors, the Contractor shall be responsible for all costs to repair, operate, and maintain the tractors. The City currently has a contract with Pacific Machinery for extended services and warranties of the tractors; however, the Contractor shall be responsible to contact Pacific Machinery and make all arrangements regarding the service and warranty provisions of the tractor.

If the Contractor uses the water tank trucks, motor grader and front end loader and backhoe, said equipment must be returned by July 1, 1992. The Contractor must return the equipment in good operating condition, fair wear and tear excepted, and shall be responsible for any repairs as a result of the operation by the Contractor. During the period the Contractor uses the equipment, the Contractor shall be responsible for all costs to repair, operate, and maintain the equipment.

Contractor shall insure City's equipment for coverages pursuant to Section 12.A Insurance Requirements of the Minimum Specifications herein. It shall be understood and agreed that the City will not be responsible to replace any of the equipment under any circumstances. The Contractor shall be solely responsible to replace the equipment at its own expense. Further, the cost to replace said equipment shall not be considered an unforeseen cost increase pursuant to Section 18, Price Adjustment for Unforeseen Cost Increases, of the Special Provisions herein.

- K. Contractor shall use reasonable efforts to prevent fire and the blowing of papers, trash, dust, ash, and other materials at the Landfill Site, and shall keep the Landfill Site neat and sanitary at all times during the term of this Contract. The size of the "active face," on which Solid Waste is from time to time deposited, shall be kept to a minimum. Water supply and spray equipment shall be available and used to control dust and extinguish fires, as required.

4. LANDFILL OPERATIONS. (Cont'd)

- L. Contractor shall erect such temporary or permanent fences, or take such other measures as may be necessary, to control the blowing of paper, trash, dust, ash, and other materials from the Landfill Site.
- M. Some material suitable for Landfill cover is available at the Landfill Site at no cost to Contractor. Contractor shall provide the additional cover material from off-site sources at its own cost.
- N. No salvaging operations will be permitted at the Landfill Site without the prior written consent of City. Salvaging, if permitted, shall be so organized and conducted that it will not interfere with prompt sanitary disposal of Solid Waste, or create health hazards. All salvaged material shall be removed from the Landfill Site to an approved location at such intervals as necessary to prevent excessive accumulation.
- O. All Solid Waste received at the Landfill Site shall thereupon become the property of City. All contracts for salvaging or recycling of materials shall be administered by City. Salvaging, if permitted, shall be so organized and conducted that it will be away from working face and not interfere with prompt sanitary disposal of Solid Waste, or create health hazards. All salvaged material shall be removed from the Landfill Site to an approved location at such intervals as necessary to prevent excessive accumulation. It is understood that City at its option may choose a contractor other than the Contractor to perform such salvaging or recycling services.
- P. City shall retain all rights to recover methane gas generated at the Landfill as long as such activities do not interfere with operation of the Landfill; provided, however, in the event that it is necessary for Contractor to install and operate a methane gas collection or control system at the Landfill Site, Contractor shall have full authority to collect, sell and/or otherwise use such methane gas and retain all revenues therefrom to offset the cost of such installation and operation; provided, further, that in the event such operation is profitable, the parties shall equally share profits between them.

5. HOURS OF OPERATION. Contractor shall keep the Landfill Site open for the receiving of Solid Waste from 7:00 a.m. to 4:30 p.m. daily, seven (7) days per week, except that the Landfill Site may be closed Christmas Day and New Year's Day. Contractor shall, however, operate at the Landfill during such other hours as may be necessary in emergency situations or as agreed to by City and Contractor.

6. SIGNS. Contractor shall erect appropriate signs to inform the public of the name of the facility, hours of operation and charges for use of the Landfill. All costs for erecting, maintaining, and replacing signs shall be borne by Contractor.

7. IMPROVEMENTS. Contractor shall maintain all City facilities located on the Landfill Site, including the scale house, but may not make any improvements or alterations to any such City facilities without the consent of City. Contractor may construct at the Landfill Site, at Contractor's sole expense, such structures as the Contractor may desire in the performance of this Contract. Until the expiration or sooner termination of this Contract, title to any improvements erected on the Landfill Site by Contractor shall remain solely in the name of Contractor. On the last day or sooner termination of this Contract, the improvements erected on the Landfill Site by Contractor may be removed at the option of Contractor, provided that any damage caused by reason of removal shall be repaired at the expense of contractor. Any improvements constructed by the Contractor remaining on the Landfill Site sixty (60) days after the expiration or sooner termination of this Contract, shall be deemed abandoned by Contractor and shall become the property of City; provided, however, at City's request, within such sixty (60) day period, Contractor shall remove such improvements. Any damage caused by reason of removal, shall be repaired at the expense of Contractor.

8. TRAFFIC CONTROL. Contractor agrees to cooperate with City to assure proper traffic control upon entering and exiting the Landfill Site.

9. COMPLIANCE WITH LAWS AND PERMITS.

A. Contractor and City agree that each will comply with all federal, state, and local laws, and in all material respects with permits, now in force and which may hereafter, during the term of this Contract, be passed and become effective, applicable to Contractor or City, as the case may be, in connection with the performance of this Contract. City shall be responsible for all additional costs with respect to operation of the Landfill resulting from changes (including changes in interpretation), after the bid opening date, in any federal, state or local laws, regulations, rules or permits or issuance of judicial or administrative orders; provided, however, Contractor shall advise City, reasonably in advance (if possible) of incurring any such costs, of the anticipated amount thereof. City, at its option may cause any such required or any City requested capital improvements and/or operating needs to be provided and paid for either by competitive bids or by negotiated agreement, or by force account, all in accordance with law's and regulations applicable thereto. For such negotiated or force account work Contractor shall be allowed twenty percent (20%) overhead and profit on all labor, equipment, materials, etc. For subcontracted items the total overhead and profit of the subcontractor and Contractor shall not exceed twenty-five percent (25%). Contractor shall provide an accounting of all such cost to the level of detail acceptable to City including but not limited to a breakdown by craft or positions of all direct and indirect labor cost, all fringes, all material, and equipment cost substantiated by low price bid or competitive negotiations, and unit price cost as applicable. The same level of detail required of Contractor shall be provided by subcontractors.

9. COMPLIANCE WITH LAWS AND PERMITS. (Cont'd)

- B. City and Contractor shall use reasonable business efforts not to allow any Hazardous Waste to be delivered to the Landfill Site.

10. CLOSURE OF THE LANDFILL SITE. In the event that contractor exclusively operates the Landfill pursuant to this agreement until such time as the Landfill is completely filled, Contractor shall be responsible for closure and post-closure monitoring and maintenance of the Landfill Site. However, if this Contract is terminated prior to such time as the Landfill is completely filled, Contractor shall only be responsible for closure of those portions of the Landfill which were filled by Contractor and for such post-closure monitoring and maintenance as occurs prior to the termination of this Contract. All closure and post-closure monitoring and maintenance shall be performed in accordance with applicable state laws.

11. FORCE MAJEURE. Except for City's obligation to pay for services rendered, neither party hereto shall be liable for its failure to perform hereunder due to any events of Force Majeure. "Force Majeure" shall mean any acts, events or conditions beyond the reasonable control of a party and relied upon by such party as justification for nonperformance of any obligation or compliance with any condition required of such party under this Contract, including, but not limited to the following, to the extent same are beyond the reasonable control of the affected party: injunctions; riots; war; fire; flood; explosion; accident; sabotage; acts of God; changes (including changes in interpretation) in any federal, state or local laws, regulations, rules or permits (other than changes affecting income taxes payable, including changes in investment tax credits and depreciation allowances) or issuance of judicial or administrative orders, whether valid or invalid on or before the affected date of this contract; lack of fuel; or the failure of any governmental body to issue or grant, or the suspension or revocation or modification of any license, permit or other authorization necessary for the operation of the Landfill Site pursuant to this Contract.

12. INSURANCE REQUIREMENTS. Contractor agrees at all times during this Contract to maintain in full force and effect Employer's Liability, Workers' Compensation, Public Liability, and Automotive Liability coverages to the extent reasonably available in the insurance marketplace. Before commencement of work hereunder, Contractor agrees to furnish City certificates of insurance, or other evidence satisfactory to City, to the effect that such insurance has been procured and is in force. The certificates shall contain the following express obligation:

"This is to certify that the policies of insurance described herein have been issued to the insured for whom this certificate is executed and are in force at this time. In the event of cancellation or material change in a policy affecting the certificate holder, thirty (30) days prior written notice shall be given the certificate holder."

- A. City shall be named as Additional Insured, except with respect to losses, damages, claims or other matters arising from the fault, negligence or willful misconduct of the City, its employees or agents, on all policies of insurance maintained by Contractor pursuant to this Contract other than Workers' Compensation Insurance. For the purposes of

12. INSURANCE REQUIREMENTS. (Cont'd)

- A. this Contract, Contractor or an affiliate of Contractor shall carry the following types of insurance in at least the limits specified below:

<u>Coverages</u>	<u>Limits of Liability</u>
Workers' Compensation Employer's Liability	Statutory \$500,000
<u>Coverages</u>	<u>Limits of Liability</u>
General Liability - Including Bodily Injury and Property Damage	\$2,000,000 combined single limit each occurrence.
Automobile Liability - Including Bodily Injury and Property Damage	\$2,000,000 combined single limit per occurrence.
Excess Liability	\$5,000,000 each occurrence.

As an alternative to the above, to the extent permitted by law, the above insurance requirements may be met, in whole or in part, by one or more plans of self-insurance provided by Contractor or an affiliate and approved by City, provided that such approval shall not be unreasonably withheld.

- B. The City reserves the right to review the coverages and modify the types and limits of coverages. The City shall be responsible for the additional premium cost for higher limits and additional coverages if required by the City.

13. INSPECTION. City shall be entitled to inspect the Landfill Site during normal operating hours, provided that such inspections do not interfere with operation of the Landfill Site. Contractor shall be entitled to inspect and have its agent or employees present at the scale house at all times that vehicles may enter the Landfill Site.

14. STUDIES. Contractor and its representatives, agents, servants, employees, and contractors shall have the right at any time and from time to time to undertake tests and studies at the Landfill Site as Contractor may elect to perform, including the sampling of water and soil on the Landfill Site.

15. COMPENSATION.

- A. On or before the fifteenth (15th) day of each calendar month during the term of this Contract, Contractor shall invoice City for Solid Waste disposed at the Landfill during the immediately preceding month in accordance with Exhibit I of the Proposal and B and C below.

15. COMPENSATION. (Cont'd)

- B. For all such Solid Waste as is disposed of at the Landfill in automobiles or in pick-up trucks having a load capacity of less than 3/4 ton, City shall not pay by the tonnage but pay Contractor as follows:

Automobiles	10% of Solid Waste Unit Price
Pick-Up Trucks	25% of Solid Waste Unit Price

- C. Asbestos, large animals (over 70 lbs.) and waste which commercial haulers wish to bury separately shall be treated as special handling. City shall pay Contractor an additional surcharge equal to solid waste unit price per truckload for special handling.
- D. Contractor may, upon reasonable notice to City, examine the books and records of City, relating to the calculation of the number of tons of Solid Waste disposed at the Landfill.

E. Addendum B

16. EMPLOYEES.

- A. The Contractor will agree to prohibit the use of intoxicating substances by his landfill personnel while on duty or in the course of performing their duties under this contract.
- B. Contractor's employees, officers, agents, and subcontractors shall, at no time, be allowed to identify themselves or in any way represent themselves as being employees of the City.

17. CONTACT. Throughout the period of this contract, the Contractor shall establish and maintain a local office and an authorized managing agent within the City and County of Honolulu. The Contractor shall furnish the City the name of the managing agent prior to commencing landfill operations and shall notify the City if the managing agent is changed at any time. Request to the Contractor's agent shall always constitute a request to the Contractor.

Contractor's local office shall have a responsible person in charge during the time period 6:30 a.m. to 4:00 p.m. from Monday through Saturday with the authority to make decisions relevant to operations under this contract. In addition, an employee of the firm shall answer the phone to receive complaints and inquiries from the public related to this contract. All complaints shall be resolved in an expeditious manner within the following 24-hour period.

Contractor's managing agent shall serve as the point of contact for dealings and communications with the Contractor.

SPECIAL PROVISIONS

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SPECIAL PROVISIONS

1. GENERAL. The furnishing of all necessary labor, supervision, equipment, materials, tools, supplies, appurtances, insurance and all other actual and implied expenses connected thereto and to perform all work necessary and specified in the prescribed manner and time, to provide services to opearate and mkae improvements to the Waimanalo Gulch Sanitary Landfill, complete as specified hereinafter, for the Department of Public Works, Division of Refuse Collection and Disposal, City and County of Honolulu, Honolulu, Hawaii shall be subject to these Special Provisions and the Proposal, Exhibit I, Minimum Specifications, Appendices, and the General Terms and Conditions, attached hereto and by reference made a part hereof.

2. WAGES, HOURS, AND WORKING CONDITIONS OF EMPLOYEES OF CONTRACTORS SUPPLYING SERVICES. Section 103-55, Hawaii Revised Statutes (HRS), provides that before any prospective bidder, except those specifically exempted by the said Act, shall be entitled to submit any bid for the performance of any contract to supply services in excess of \$5,000 to any governmental agency, the bidder shall certify that the services to be performed will be performed under the following conditions:

- A. Wages. The services to be rendered shall be performed by employees paid at wages or salaries not less than the wages paid to public officers and employees for similar work.
Addendum B
- B. Compliance with labor laws. All applicable laws of the Federal and State governments relating to worker's compensation, unemployment compensation, payment of wages, and safety will be fully complied with.
- C. Section 103-55, H.R.S., shall not apply to: managerial, supervisory, or clerical personnel.
- D. Pursuant to Section 103-55, H.R.S., a bidder whose employees are not excluded under paragraph "c" above of said provisions shall complete and submit with the bid the enclosed certificate...

No contract to perform services for any governmental contracting agency in excess of \$5,000 shall be granted unless all conditions of this section are met. Failure to comply with said conditions during the period of the contract shall result in cancellation of the contract.

To comply with the above provisions, a bidder shall complete and submit the enclosed certificate.

Addendum B
3. PREPARATION OF BIDS. In addition to the provisions of Section 2.3 of the General Terms and Conditions herein, the following shall be included and made a part hereof:

A bidder shall not submit more than one (1) bid document and shall not submit more than one (1) offer for each sub-item specified in the bid document for this bid solicitation. If a bidder, under the same or different

3. PREPARATION OF BIDS. (Cont'd)

names, submits more than one (1) bid document for this bid solicitation, all bid documents from the bidder shall be rejected. If a bidder submits more than one (1) offer for a sub-item specified in the bid document, all offers for the sub-item from the bidder shall be rejected. If there is any evidence indicating that two (2) or more bidders are in collusion to restrict competitive bidding, the bids of all such bidders shall be rejected and such evidence may be caused for the disqualification of the participants on any future proposal for any contract with the City.

Addendum 3

A. BID PRICES. Bid prices shall include all applicable taxes and the cost of all necessary labor, supervision, equipment, materials, tools, supplies, appurtenances, insurance, and all other actual and implied expenses connected thereto to provide the services to operate and to make improvements to the Waimanalo Gulch Sanitary Landfill Site as specified herein.

In order to be considered for award, a bidder must bid on all the sub-items of all the items as listed in EXHIBIT I herein.

Addendum 3

B. METHOD OF AWARD. Notwithstanding the provisions of Section 2.18 of the General Terms and Conditions herein, award will be made to the responsible bidder submitting the lowest total sum bid and requirements herein. Bidders are advised award will be contingent upon the total sum bid being lower than the cost for the City to operate the landfill. Award is also contingent upon approval of the City Council.

6. FAMILIARITY WITH LAWS AND ORDINANCES. The submission of a bid on this work shall be considered as the representation that the bidder is in compliance with all Federal, State and City laws, ordinances and regulations which affect those engaged or employed in the work, or equipment used in the work, or which in any way affects the conduct of the work; and no plea of misunderstanding will be considered on account of ignorance thereof. If the bidders or Contractor discovers any provisions in the specifications or contract documents which are contrary to or inconsistent with any law, ordinance or regulation, they shall immediately report it to the Chief of Refuse Division in writing.

7. PERSONAL LIABILITY OF PUBLIC OFFICIALS. Neither the Mayor nor any of his assistants or employees nor any other agent of the City shall be personally responsible for any liability arising or growing out of the contract or operations of the Contractor under the terms of this contract.

8. CITY NOT LIABLE FOR DELAYS. It is further expressly agreed that in no event shall the City be liable for or responsible to the Contractor, subcontractor or to any other person for or on account of any stoppage or delay in the work herein provided for by injunction or other legal or equitable proceedings or on account of any delay for any cause over which the City has no control.

9. RESERVATION OF RIGHTS. It is hereby reserved to the City every right and power which is required to be herein reserved or provided by an ordinance of the Charter of the City and the Contractor agrees to

9. RESERVATION OF RIGHTS. (Cont'd)

be bound thereby and to comply with any action or requirements of the City in its exercise of such rights or powers, heretofore or hereafter enacted or established.

The awarding of a contract as provided for herein shall not constitute a waiver or bar to the exercise of any governmental right or power of the City.

No right or exemption shall be granted to the Contractor except those specifically described herein.

10. TERM OF THE CONTRACT. The term of the contract shall be for a period of one hundred eighty (180) months, unless the landfill site is completely filled earlier or the contract is terminated. The term of the contract shall commence on the date as established in the award letter issued by the Director of Finance. The City desires to commence the contract as soon as possible. The Contractor shall commence operations no later than thirty (30) days after the issuance of the award letter. By mutual agreement, the contract may be extended on a month-to-month, year-to-year or other mutually agreeable periods until the closing of the landfill site, at the contract unit prices calculated pursuant to EXHIBIT I and as otherwise specified herein and under the same terms and conditions. Such extension(s) shall be accomplished by issuance of a letter by the City and acceptance shall be by endorsement on said letter by the Contractor.

11. QUALIFICATIONS OF BIDDER. In addition to the provisions of Section 2.8 of the General Terms and Conditions herein, the bidder must be qualified by experience, adequate financing, and equipment to do the work called for in the contract. This will be demonstrated in part by a letter from a governmental unit certifying that the potential bidder has performed for at least five (5) years satisfactorily as an operator of a municipal landfill which had a minimum input of 500 tons per day.

12. BIDDER'S CERTIFICATION. By the submission of the bid, the bidder certifies that the bid is genuine and is not made in the interest of or on behalf of any undisclosed person, firm, or corporation and is not submitted in conformity with any agreement or rule of any group, association, organization, or corporation; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid; that the bidder has not solicited or induced any person or corporation to refrain from bidding, and that the bidder has not sought by collusion or otherwise to obtain any advantage over any other bidder or over the City.

13. LIST OF EQUIPMENT. The list of equipment shall be submitted with the bid and shall include the number and type of vehicles with which the bidder proposes to accomplish the work.

14. EXECUTION OF CONTRACT. Within ten (10) calendar days after notification of award of contract, the bidder to whom the award is made shall execute the contract documents specified and submit them to Finance Director and shall furnish a Performance Surety and Insurance as satisfactory to the City.

15. FAILURE TO EXECUTE CONTRACT. It is agreed by the bidder that upon their failure to enter into the contract and furnish the necessary Performance Surety within ten (10) calendar days, the amount of the bidder's bond shall become the property of the City and shall be retained, not as a penalty but as liquidated damages. The award of the contract may then, at the discretion of the City, be made to the next lowest responsible bidder, or the work may be re-advertised or may be performed by the City in any legal manner.

16. VERBAL AGREEMENTS. No verbal agreement or conversation with any officer, agent, or employee of the City either before or after execution of the contract, shall affect or modify any of the terms or obligations contained in the contract. Any such verbal agreement or conversation shall be considered as unofficial information and in no way binding upon the City or the Contractor.

17. PRICE ADJUSTMENT IN ACCORDANCE WITH THE CONSUMER PRICE INDEX. The price adjustments relating to the changes to the Consumer Price index pursuant to EXHIBIT I herein shall be made automatically on January 1, 1991 and every January 1 thereafter for the duration of the contract.

18. PRICE ADJUSTMENT FOR UNFORESEEN COST INCREASES. ^{Addendum 5} During the term of contract, the Contractor may request of the City an appropriate adjustment to the contract unit price and/or appropriate direct reimbursement, should the Contractor experience unforeseen cost increases beyond its control in, total which are five (5) percentage points greater than the percentage increase in the Consumer Price Index for all Urban Consumers (All Items) for Honolulu, Hawaii.

In such event, the Contractor must submit a written request to the Director of Finance with detailed information supporting the adjustment requested and shall certify or have certified, upon request by the City, all applicable evidence or documentation to justify the adjustment. The Director of Finance shall determine whether the supporting evidence or documentation provided by the Contractor is sufficient and may require additional documentation.

The City shall review the request together with all supporting evidence or documentation, and if deemed justifiable by the Director of Finance, the request shall be approved.

All of the following conditions shall apply to the request for price adjustment.

- A. No adjustment shall be allowed under this section to cover the period prior to January 1, 1991.
- B. The Contractor may make only one (1) request each calendar year and said request shall be filed on or before December 31 of said year. The request shall cover the cost increases that the Contractor incurred during the calendar year in which the request is submitted. If the City adjusts the contract unit price (instead of making reimbursement), the adjustment will begin January 1 of the year immediately following the request and will be effective for a period of 12 months or less.

18. PRICE ADJUSTMENT FOR UNFORESEEN COST INCREASES. (Cont'd)

C. The City reserves the right to determine whether to make adjustments to the contract unit prices and/or make direct reimbursements to the Contractor. If adjustments/reimbursements are made, they will be limited to the Contractor's total cost greater than the five (5) percentage points exceeding the percentage increase in the consumer Price Index for all urban consumer (all items) for Honolulu, Hawaii.

Addendum 3

B. Any adjustments and/or reimbursements covered under Sections 9, Compliance with Laws and Permits, and 12.B, Additional Premium Cost for Higher Limits and Additional Coverages, if Required by the City, of the Minimum Specifications, shall not apply to this section.

19. MODIFICATION. This contract constitutes the entire agreement and understanding between the parties hereto and it shall not be considered modified, altered, changed or amended in any respect unless in writing and signed by both parties hereto.

20. CONTRACTOR'S INDEMNITY. Except as provided in Section 21, CITY'S INDEMNITY, Contractor agrees to hold harmless and unconditionally indemnify City against and for all liabilities, costs, expenses, claims, and damages which City may at any time suffer or sustain or become liable for by reason of any accidents, damages or injuries (including injuries resulting in death) either to the persons or property or both, of Contractor or City or employees of either party, or to any other parties, in any manner caused by, or resulting from, the willful misconduct or negligent act of Contractor, its employees or agents in the performance of this agreement. In no event, however, shall Contractor be liable to City for any liabilities, costs, expenses, claims or damages in any manner caused by, or resulting from, the willful misconduct or negligent act of City, its employees or agents, or from complying with applicable permits.

21. CITY'S INDEMNITY. Except as provided in Section 20, CONTRACTOR'S, City agrees to hold harmless and unconditionally indemnify Contractor against and for all liabilities, costs, expenses, claims, and damages which Contractor may at any time suffer or sustain or become liable for by reason of any accidents, damages or injuries (including injuries resulting in death) either to the persons or property or both, of City or Contractor or employees of either party, or to any other parties, in any manner caused by, or resulting from, the willful misconduct or negligent act of City, its employees or agents in the performance of this Contract or any release of pollutants from the Landfill Site, whether such release is into the air, water (including groundwater) or land, providing that such release or discharge arises from the operation of the Landfill by any person or entity other than Contractor. In no event, however, shall City be liable to Contractor for any liabilities, costs, expenses, claims or damages in any manner caused by, or resulting from, the willful misconduct or negligent act of Contractor, its employees or agents.

22. FAILURE TO PERFORM. In the event that either party breaches or defaults under this Contract, provided the breach or default is not due to any event of Force Majeure, and such breach or default is not cured, or diligent attempts to cure have not been instituted, within thirty (30) days after receipt of written notice of such breach or default, the other party may

22. FAILURE TO PERFORM. (Cont'd)

terminate this Contract. In the event City terminates this Contract pursuant to this Section, City shall be entitled to recover all reasonable and necessary costs incurred by City to operate or cause operation of the Landfill in accordance with and for the remainder of the otherwise unexpired portion of the term of this Contract (for purposes hereof, being the expiration of the 15th year or at such time as the Landfill is completely filled, whichever of is first to occur) over and above such amounts as would have been payable by City to Contractor had this Contract not been terminated and had Contractor continued to operate the Landfill hereunder. Further, in the event that City terminates this Contract pursuant to this Section, (i) City may temporarily (for up to 90 days) use such equipment of Contractor located at the Landfill Site as City elects in return for payment of a fair rental value therefor, and/or the City may, within thirty (30) days after such termination, purchase any such equipment as City elects for an amount equal to fair market value thereof, and (ii) Contractor agrees to assign to City all of Contractor's rights and authorities under applicable permits (provided City shall be responsible for obtaining all required governmental approvals for transfer).

23. SECURITY FOR FAITHFUL PERFORMANCE. Notwithstanding the provisions of Section 2.23 of the General Terms and Conditions herein, the security for faithful performance shall be in the amount of fifty percent (50%) of estimated average annual cost of the contract. The average annual cost will be calculated by dividing the total sum bid by fifteen (15) years. The performance security may either be for the term of the contract, in increments of twelve (12) month periods or in incremental periods acceptable to the Director of Finance. G

In the event the contract is extended beyond the one hundred eighty (180) month period, pursuant to Section 10, Term of the Contract, of the Special Provisions herein, the above-mentioned security for faithful performance shall be provided for the duration of the extended periods.

Also, the Contractor shall deposit a security for faithful performance of \$50,000.00 for the post-closure period of ten (10) years or as otherwise specified. Said security shall be submitted thirty (30) calendar days prior to the termination of the contract and may be for the term of the post-closure period or in increments as specified hereinabove. H

24. GOVERNING LAW. This Contract shall be governed by the laws of the State of Hawaii.

25. SURVIVAL. All representations, warranties, covenants, and indemnities shall survive the termination of this Contract. I

26. BEHAVIOR OF EMPLOYEES. Any person employed by the Contractor or by any subcontractor who, in the opinion of the Officer-In-Charge, does not perform the work in a proper and skillful manner or is intemperate, disorderly, behaves in an uncivilized manner, offends or harasses the City's employee or officials or offends the public while performing the work or while at the job site, shall at the written request of the Officer-In-Charge, be removed forthwith by the contractor or subcontractor employing such person, and shall not be employed again in any portion of the work without the approval of the Officer-In-Charge.

27. COMPLAINTS. The Contractor shall be responsible for receiving citizen inquiries. The Contractor shall provide the City with a phone number which will be published in informational literature and the Government section of the local telephone book. The telecommunication system must be capable of handling out customer service request loads.

The Contractor shall keep a record of the total number of calls received related to this contract. In addition, the Contractor shall keep a record of each complaint call including the name, address and phone number of the complainant, date of occurrence, nature of occurrence and disposition.

If the Contractor finds the complaint to be without merit, the Contractor shall notify the complainant of the finding and advise the resident at that time that if they wish to appeal the decision, they may call the Refuse Disposal Engineer at 523-4775.

28. ACCIDENTS. Although the Contractor shall retain full responsibility for all claims of damage to private property, the City may require a written explanation of the circumstances, results of any investigation and disposition of the claim. The Contractor shall notify the citizen within ten (10) working days in writing of the disposition of the claim. If the Contractor assumes responsibility for the damages, the notifications shall include a date by which remedial action will be completed. If the Contractor denies responsibility for the damages, the written notification must include options available to the citizen to appeal the decision. These options may be internal appeals within the company or external legal remedies.

29. TERMINATION OF SERVICES. The performance of work or services under this contract may be terminated, in whole or in part, whenever the Director shall determine that termination of the contract, in whole or in part, is in the best interest of the City. In such event, the City shall be liable only for payment for work or services performed prior to the effective date of termination and for payments provided for in Section 34, Early Termination of Contract. The termination of work or services shall be effective upon thirty (30) calendar days prior written notice to the Contractor.

30. BREACH OF CONTRACT. In the event of any breach of the terms of the contract by the Contractor, the City shall have, in addition to any other recourse, the right to terminate the contract without service of notice or resort to legal process and without any legal liability on its part.

Further, the Director reserves the right to suspend the Contractor from bidding on any or all City bids for a period of six (6) months or longer. The City may also utilize all other remedies as provided by law.

31. INDEPENDENT CONTRACTOR. The Contractor shall be deemed to be an independent Contractor and not the agent, servant, representative or employee of the City. Under no circumstances will the service be considered a contract of partnership or joint venture between the City and the Contractor.

32. DEPOSIT, ASSIGNMENT, AND TRANSFER OF CERTIFICATE OF DEPOSIT. Notwithstanding Section 23, SECURITY FOR FAITHFUL PERFORMANCE, of these Special Provisions hereinabove and Section 2.6 and 2.23 of the General Terms and Conditions herein, a bidder who uses the Certificate of Deposit as a bid deposit and/or performance security shall complete the Deposit, Assignment, and Transfer of Certificate of Deposit form attached hereto and made a part hereof.

33. CONSTRUCTION OF CONTRACT. The masculine shall be deemed to embrace and include the feminine and the singular shall be deemed to embrace and include the plural, whenever required in the context of the contract.

Addendum B

34. EARLY TERMINATION OF CONTRACT. Should this contract be terminated, other than Contractors fault, before the expiration date or before the landfill is filled to capacity the Contractor shall be paid a portion of its cost for the development at the landfill. Such cost shall be determined by the following formula:

$$\text{Contractor's Development Cost X } \left(1 - \frac{\text{Volume of Landfill Used}}{6,700,000 \text{ cubic yards}} \right)$$

Volume of landfill used in cubic yards will be determined by multiplying the solid waste tonnage received by 2.6 and multiplying the ash and residue tonnage received by 1.2.

Contractors development cost to be repaid under this Section shall be limited to cost for installing liner, leachate collection system, and permanent drainage system and initial grading and grubbing of Campbell property.

Contractors development work may be provided and paid for either by competitive bids or by negotiated agreement, or by force account, all in accordance with law's and regulations applicable thereto. For such negotiated or force account work Contractor shall be allowed ten percent (10%) overhead and profit on all labor, equipment, materials, etc. For subcontracted items the total overhead and profit of the subcontractor and Contractor shall not exceed fifteen percent (15%). Contractor shall provide an accounting of all such cost to the level of detail acceptable to City including but not limited to a breakdown by craft or positions of all direct and indirect labor cost, all fringes, all material, and equipment cost substantiated by low price bid or competitive negotiations, and unit price cost as applicable. The same level of detail required of Contractor shall be provided by subcontractors.

35. AMENDMENTS TO THE GENERAL TERMS AND CONDITIONS. The following changes are hereby made and incorporated as part of the General Terms and Conditions attached hereto and made a part hereof:

Being inapplicable to the agreement herein contained, Section 1.7, 2.7, 2.11, 2.12, 2.14, 2.15, 2.16, 2.22, 2.24, 2.25, 2.27, 2.29, 2.34, and 2.35 are hereby deleted in their entirety.

36. Addendum B

RESOLUTION

LEEWARD SANITARY LANDFILL
(WAIMANALO GULCH SITE)

PARCEL 1
(Fee Simple)

Being a portion of Lot 358-B-1-A-1-A (Map 191) of Land Court Application 1069 and covered by Transfer Certificates of Title Nos. 66,314, 239,561 and 239,562.

Situate at Honouliuli, Ewa, Oahu, Hawaii.

Beginning at the Northwest corner of this parcel of land, being also the Northeast corner of Lot 358-A-1 and the Southeast corner of Lot 359-B-1 (Map 221) of Land Court Application 1069, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAPUAI NEW" being 8,127.68 feet South and 17,007.00 feet West, as shown on Division of Land Survey and Acquisition Parcel Map File No. 18-2-3-11, and running by azimuths measured clockwise from true South:

1. 270° 00' 712.81 feet along Lot 359-A-4-A-1-A (Map 277) of Land Court Application 1069;
2. 360° 00' 1,500.00 feet along same;
3. 45° 10' 1,195.88 feet along same;
4. 118° 57' 234.51 feet along Lot 358-B-1-B-1 (Map 191) of Land Court Application 1069;
5. 28° 57' 527.87 feet along same;
6. 118° 57' 820.00 feet along the Northeast side of Farrington Highway;
7. 208° 57' 363.47 feet along Lot 358-B-2-K-1 (Map 168) of Land Court Application 1069;
8. 182° 25' 36" 1,104.12 feet along remainder of Lot 358-B-1-A-1-A (Map 191) of Land Court Application 1069;

APPENDIX "A"

EXHIBIT K74

RESOLUTION

9. 231° 36' 594.15 feet along Lot 358-A-1 (Map 221) of Land Court Application 1069;

Thence along same, along the middle of ridge for the next five (5) courses, the direct azimuths and distances between points on said middle of ridge being:

- | | | |
|-----|--------------|---|
| 10. | 221° 11' 30" | 169.15 feet; |
| 11. | 288° 26' 30" | 104.80 feet; |
| 12. | 214° 49' | 267.30 feet; |
| 13. | 245° 13' | 196.15 feet; |
| 14. | 217° 37' 30" | 137.12 feet to the point of beginning and containing an area of 82.555 acres. |

APPENDIX "A"

EXHIBIT K74

RESOLUTION

LEEWARD SANITARY LANDFILL
(WAIMANALO GULCH SITE)

PARCEL 2
(Fee Simple)

Being a portion of Lot 359-A-4-A-1-A (Map 277) of Land Court Application 1069 and covered by Transfer Certificate of Title No. 15,790.

Situate at Honouliuli, Ewa, Oahu, Hawaii.

Beginning at the Southwest corner of this parcel of land, being also the Northeast corner of Lot 358-A-1 and the Southeast corner of Lot 359-B-1 (Map 221) of Land Court Application 1069, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAPUAI NEW" being 8,127.68 feet South and 17,007.00 feet West, as shown on Division of Land Survey and Acquisition Parcel Map File No. 18-2-3-11, and running by azimuths measured clockwise from true South:

Along Lot 359-B-1 (Map 221) of Land Court Application 1069, along the middle of ridge for the next eleven (11) courses; the direct azimuths and distances between points on said middle of ridge being:

- | | | |
|----|--------------|--------------|
| 1. | 217° 37' 30" | 31.43 feet; |
| 2. | 215° 07' 30" | 277.33 feet; |
| 3. | 203° 30' | 222.00 feet; |
| 4. | 207° 55' | 211.00 feet; |
| 5. | 221° 17' | 394.00 feet; |
| 6. | 195° 27' | 256.60 feet; |
| 7. | 202° 05' 30" | 312.27 feet; |
| 8. | 210° 20' | 174.30 feet; |

APPENDIX "B"

EXHIBIT K74

RESOLUTION

9. 189° 52' 30" .. 461.20 feet;
10. 234° 28" 30" 124.00 feet;
11. 220° 14' 345.00 feet;
12. 145° 24' 30" 425.95 feet along Lot 359-B-1 (Map 221) of Land Court Application 1069;
13. 239° 38' 1,665.65 feet along remainder of Lot 359-A-4-A-1-A (Map 277) of Land Court Application 1069;
14. 355° 45' 187.00 feet along Lot 359-A-3 (Map 140) of Land Court Application 1069;
15. 345° 00' 68.00 feet along same;
16. 331° 30' 101.00 feet along same;
17. 327° 00' 832.00 feet along same;
18. 59° 40' 799.99 feet along remainder of Lot 359-A-4-A-1-A (Map 277) of Land Court Application 1069;
19. 18° 43' 885.21 feet along same;
20. 350° 20' 40.00 feet along Lot 359-A-4-B (Map 155) of Land Court Application 1069;
21. 25° 50' 54" 3,096.62 feet along remainder of Lot 359-A-4-A-1-A (Map 277) of Land Court Application 1069;
22. 180° 00' 1,500.00 feet along Lot 358-B-1-A-1-A (Map 191) of Land Court Application 1069;
23. 90° 00' 712.91 feet along same to the point of beginning and containing an area of 118.067 acres.

APPENDIX "B"

EXHIBIT K74

GENERAL TERMS AND CONDITIONS OF CONTRACTS
FOR SUPPLIES, MATERIALS, EQUIPMENT AND SERVICES
OF THE CITY AND COUNTY OF HONOLULU

SECTION 1 — DEFINITIONS

Whenever used herein:

- 1.1. "CITY" means the City and County of Honolulu.
- 1.2. "DIRECTOR" means the Director of Finance of the City, who has been duly authorized to act as the Contracting Officer of the City.
- 1.3. "PURCHASING DIVISION" means the Division of Purchasing, Department of Finance of the City.
- 1.4. "OFFICER IN CHARGE" means the Director and Chief Engineer, Department of Public Works of the City.
- 1.5. "LOWEST RESPONSIBLE BIDDER" means a qualified bidder whose bid conforms to the invitation for bids and the acceptance of which is most advantageous to the City, price and other factors considered.
- 1.6. "CONTRACTOR" means the person, as defined in Section 103-41, Hawaii Revised Statutes, duly entering into the contract with the City in connection with these General Terms and Conditions.
- 1.7. "OFFICIAL COMMENCEMENT DATE" means the commencement date for work or delivery designated in the written "Notice to Proceed" issued by the Officer in Charge, or the Director, after execution of the contract by the City.

SECTION 2 — INSTRUCTIONS TO BIDDERS

2.1. **BIDS.** Bids shall be submitted on forms furnished by the Purchasing Division. Unless otherwise noted, bidders may bid on any of the items listed in the bid form, leaving the others blank. Any bid which contains omissions (except as noted above), alterations, additions not called for, conditional bids or irregularities of any kind, may be rejected. Bids shall be sealed in envelopes furnished by the Purchasing Division. The bid number, bidder's name and address, and closing date of the bid must be printed on the outside of the envelope.

2.2. **ADVERTISEMENT FOR BIDS.** No expenditure of public money, except for salaries or pay of officers and employees, or permanent settlements, subsidies or other claims or objects for which a fixed sum must be paid by law, or for other purposes which do not admit of competition, or for the purchase of materials, or supplies from any other department, bureau, organization, a municipal or political subdivision of the Federal, State, municipal or county government, or for the performance of public works or contracts by any other such department, bureau, organization, or municipal or political subdivision of the Federal, State, municipal or county governments, where the sum to be expended is \$8,000 or more, shall be made except under contract let after public advertisement for sealed tenders. No expenditures for public purposes shall be so divided or parceled as to defeat or evade this section.

Publication of a call for tenders shall be made not less than three (3) times in a newspaper of general circulation printed and published within the State. No more than one of these calls for tenders shall be published on any one day or on two consecutive days.

In all cases of expenditure of public money that is more than \$4,000 but less than \$8,000, a call for informal bids shall be published at least once in a newspaper of general circulation printed and published within the State.

2.3. **PREPARATION OF BIDS.** Bids must be signed in ink by the person or persons duly authorized to sign bids in the space provided for signature on the bid forms. In the case of a domestic corporation, the title or titles of the person or persons signing must be stated and the corporate seal affixed thereto. In the case of a foreign corporation, if the corporate seal is not readily available, a copy of a resolution of the Board of Directors of such corporation, or other written evidence of authority signed by an officer of the corporation, authorizing the person or persons signing to execute bids, contracts and all other necessary documents in connection therewith shall be attached. Where the bidder is an association or group, the title or titles of the person or persons signing must be stated and an affidavit of the association or group must be attached which acknowledges the authority of the signer or signers to sign bids, contracts and all other necessary documents in connection therewith for the association or group.

Bids shall be typewritten or printed in ink. Errors may be erased or crossed out, and corrections typewritten or printed in ink but must be initialed in ink by the person or persons signing the bids.

In case of error in extending the unit price, the unit price shall govern.

Unsigned bids shall be rejected.

2.4. **SUBMISSION OF BIDS.** Before submitting bids, bidders must read and examine the Special Provisions, Specifications, or Proposal and Specifications, General Terms and Conditions, and all other bid documents attached hereto and by reference made a part hereof. Submission of bids shall be deemed verification of such reading and examination.

Bidders must time stamp and deposit their bid envelopes at the designated location in the Office of the Purchasing Division, City Hall, Honolulu, Hawaii. All bid envelopes must bear the Purchasing Division's time stamp mark. Envelopes which are not time stamped or which are time stamped after the specified bid opening time and date shall be rejected.

2.5. **BID OPENINGS.** The opening of such tenders shall be not less than five (5) days after the last publication. All bids shall be opened by a representative of the Director, at the hour and place stated in the call for tenders, in the presence of all bidders who attend, and may be inspected by any bidder.

2.6. **DEPOSIT ACCOMPANYING BIDS.** Each bid shall be accompanied by a deposit of legal tender, negotiable certificate of deposit, cashier's check, certified check on a bank that is insured by the Federal Deposit Insurance Corporation, or on a savings institution insured by the Federal Savings institution insured by the Federal Savings and Loan Insurance Corporation or by a surety bond executed by any corporation organized for the purpose of becoming surety on bonds, authorized under the laws of the United States or of the State to act as surety, and doing business in the State under the laws of the United States or of the State, if a foreign corporation, and under the laws of the State, if a Hawaiian corporation. Bid deposits shall be in a sum not less than five percent (5%) of the amount bid, payable at sight to the Director, provided, that when the amount bid exceeds fifty thousand dollars (\$50,000), the legal tender, certificate of deposit, cashier's check or certified check shall be in a sum not less than two thousand five hundred dollars (\$2,500) plus two percent (2%) of the amount in excess of fifty thousand dollars (\$50,000). A certificate of deposit, cashier's check or certified check may be utilized only to a maximum of one hundred thousand dollars (\$100,000). The City shall not pay any interest on such security.

Deposits for bids which require a deposit in excess of one hundred thousand dollars (\$100,000) shall only be in the form of legal tender or a surety bond.

In case of alternate bids, the amount of such security shall be based upon the highest alternate bid submitted. If the bidder to whom a contract is awarded shall fail or neglect to enter into the contract and furnish satisfactory security within ten (10) calendar days after the award or within such further time as the Director may allow, said security shall be forfeited as liquidated damages and not as a penalty and the Director shall deposit such security or the proceeds thereof in the treasury of the City as its realization. The Director may thereupon award the contract to the next lowest responsible bidder, or may call for other bids, as deemed best. The bid security shall be returned to the successful and unsuccessful bidders as provided by Section 103-30, Hawaii Revised Statutes.

2.7. **BROCHURES, SPECIFICATIONS, AND QUESTIONNAIRES.** Whenever a questionnaire is attached to the bid form, bidders shall complete and submit such questionnaire with their bids, together with all specifications and brochures.

The Director reserves the right to require bidders to provide, at their own expense, within ten (10) calendar days from the date of the City's request, all specifications and brochures on the item or items offered. Failure to comply with the City's request within the time specified may be sufficient cause for rejection of a bid.

Whenever the preparation and submission of a questionnaire is required, all specifications and brochures submitted by the bidder shall be properly annotated identifying all applicable data on the item(s) being offered and shall fully substantiate the information requested in the questionnaire. In the event the information requested in the questionnaire cannot be substantiated by the manufacturer's specifications and brochures, the manufacturer shall certify in writing that the item(s) will be manufactured in accordance with the bid questionnaire and manufacturer's specifications.

Failure to comply with the requirements of the provisions herein may be sufficient cause for rejection of a bid.

2.8. **QUALIFICATION OF BIDDERS.** The Director may at any time require any bidder, prospective bidder, or contractor to prove their financial ability, experience, competence, and capability to satisfactorily perform the contract.

The Director shall prescribe the form of proof and be the sole judge of the qualifications of the bidder. All information submitted shall be treated as confidential in accordance with Section 103-25, Hawaii Revised Statutes. Information so submitted shall be returned to the bidders after having served its purposes.

2.9. **UNBALANCED BIDS.** The Director may reject any bid or item bid which is considered unbalanced.

2.10 INTERPRETATION OF BID PROPOSAL, SPECIAL PROVISIONS, REQUIREMENTS, PLANS, SPECIFICATIONS, AND GENERAL TERMS AND CONDITIONS. In case of any doubt as to the meaning of any proposal, special provisions, requirements, specifications, plans, and general terms and conditions, the interpretation by the Director shall control. All directions and explanations required or necessary to complete the contract shall be formulated by the Director or an authorized representative.

2.11 BRAND OR TRADE NAME. Whenever one or more manufacturer's brand or trade name is specified, bidders shall base their bid on one of the specified brands. However, other manufacturers' brands may also qualify if found to be equal to or better than those specified. A bid based on an unspecified brand will be subject to evaluation as to its comparable quality.

The burden of proof as to the comparable quality of alternate products shall be upon the bidder and the bidder shall, at the bidder's expense, submit within _____ calendar days from the date of the City's request, all necessary information and/or exact samples of the item(s) being considered for award. The Officer in Charge reserves the right to determine whether alternate brands are equivalent to and meet the indicated standards of quality, and the decision shall be final.

2.12. STANDARD EQUIPMENT. Whenever the word "standard" is used in these specifications to describe any item, price of equipment, or parts assembly, it shall be construed to mean that the items or assemblies so described shall be the newest, regular, and current product of the manufacturer thereof. Such product shall be identified by a model or other designation without modification or omission of any of its usual parts, or the substitution of others, except as hereinafter specified, and the details, capacities and ratings must conform to the said manufacturer's catalog or other printed matter describing the items or assemblies. Standard sub-assemblies, accessories fittings and finishes shall be construed to be those which are regularly furnished as a part of the principal unit or assembly and shall be included in the selling price thereof.

2.13. WAIVER OF MINOR DEVIATIONS. The Director reserves the right to waive and/or accept any minor deviations from the specifications, if in the Director's opinion such waiver will be in the best interest of the City, and that such waiver shall not in any way affect the standards of performance, operation, capacities or capabilities of the item offered.

2.14. OUT-OF-STATE BIDDERS. Pursuant to Section 103-53.5, Hawaii Revised Statutes as amended, where the bidder or vendor is an out-of-state vendor, not doing business in the State of Hawaii, the package bid or purchase price, for the purpose of determining the lowest price bid, shall be increased by the applicable retail rate of general excise tax of four percent (4%), and the applicable use tax which is one-half percent (1/2%). The lowest responsible bidder, taking into consideration the above increases, shall be awarded the contract, but the contract amount of any contract awarded shall be the amount of the bid offered and shall not include the amount of said increases.

2.15. PREFERENCE FOR AMERICAN PRODUCTS. Pursuant to Section 103-24, Hawaii Revised Statutes, as amended, preference shall be given to American products, materials and supplies.

2.16. LOCAL PREFERENCE. Sections 103-41 through 103-48, Hawaii Revised Statutes, as amended, provide that preference be given to bidders who claim such preference for locally-produced or manufactured products which have been qualified and registered with the State Comptroller. Section 103.43, Hawaii Revised Statutes, as amended, establishes procedures for mandatory purchases of Hawaii products which are on the State Comptroller's Product List, therefore, bidders claiming such preference shall designate in their bids which items are Hawaii products and classified thereunder. If the products are not qualified or registered with the State Comptroller, or in the absence of any Hawaii Product List compiled by the State Comptroller, local product preference shall not be granted by the City.

2.17. SPECIAL PROVISIONS, REQUIREMENTS OR SPECIFICATIONS. Whenever separate proposals, special provisions, requirements, specifications or plans are referred to or attached hereto, they shall be considered a part of the contract as if contained therein. Should any of the proposals, special provisions, requirements, specifications or plans conflict with these General Terms and Conditions, said proposals, special provisions, requirements, specifications or plans shall govern.

2.18. AWARD OF CONTRACT. RIGHT TO REJECT BIDS. Unless otherwise stipulated, the Director will issue a written award of the contract, if an award is made, to the lowest responsible bidder on each individual item called for. The Director reserves the right to reject any or all bids, or any part thereof, or waive any defects, when in the Director's opinion, such rejection or waiver will be in the best interest of the City. When time of delivery or completion of work is specified as one of the factors to be considered in awarding the contract, the Director may award the contract to the bidder proposing the earliest completion or delivery date if it appears to be to the advantage of the City, even though such bidder is not the lowest bidder.

2.19. CANCELLATION OF AWARD. The Director reserves the right to cancel an award at any time prior to the signing of the contract by the City.

2.20. CONTRACT. The successful bidder must within ten (10) calendar days after notification of the award, or within such further time as the Director may authorize, enter into a contract, which contract shall be in the form attached to these General Terms and Conditions.

2.21. **CONTRACTS NOT BINDING UNLESS APPROPRIATION AVAILABLE.** no contract shall be binding or of any force unless the Director certifies that there is an available unexpended appropriation or balance of an appropriation over and above all outstanding contracts, sufficient to cover the amount required by the contract; provided that this section shall not apply to any price-term, open-end, or requirements contract under which the total amount to be paid to the Contractor cannot be accurately estimated at the time the contract is to be awarded.

In contracts involving local and supplemental funds from the Federal government, this section shall be applicable only to the portion of the contract price that is payable out of local funds. The portion of the contract price that is expressed in the contract to be payable out of Federal funds shall be construed to be an agreement to pay such portion to the Contractor only out of funds received from the Federal government. It shall not be construed as a general agreement to pay such portion out of any funds other than those which are received from the Federal government.

2.22. **AWARD OF CONTRACT BY PURCHASE ORDER.** On any individual award totaling less than \$8,000, the Director reserves the right to award the contract by Purchase Order. Issuance of such Purchase Order shall result in a binding contract between the parties without further action by either the Contractor or the City. Award of contract by Purchase Order shall not be deemed a waiver of these General Terms and Conditions; however, the Director may waive the security for faithful performance required under Section 2.23.

2.23. **SECURITY FOR FAITHFUL PERFORMANCE.** Except for awards on insurance coverages for the City, the successful bidder must, within ten (10) calendar days after notification of the award, or within such further time as the Director may authorize, deposit legal tender, certificate of deposit which shall be a negotiable instrument as set forth in Section 490:3-104, Hawaii Revised Statutes, as amended, certified check, or cashier's check drawn on a bank doing business in the State of Hawaii, or execute a surety bond on the form attached to these General Terms and Conditions, naming the Contractor as principal and the City as obligee, with a surety company authorized to do surety business under the laws of the State. Such surety shall be in an amount equal to fifty percent (50%) of the contract price or of the estimated contract price, whichever is higher. The security shall guarantee the full and faithful performance of the contract in accordance with the terms and intent thereof and also for prompt payment for all labor, material, and goods furnished by others to the Contractor and used in the prosecution of the work required by the contract. The bond shall also, by its terms, inure to the benefit of any and all persons entitled to file claims for labor performed or materials furnished in the work so as to give them a right of action as contemplated by Section 507-17, Hawaii Revised Statutes. The said security shall continue in force for a period of ~~thirteen (13) calendar days after the final acceptance of the work. The City shall not pay any interest on such security.~~ pursuant to Section 2 of the Special Provisions.

Notwithstanding such security, should the Contractor fail to satisfactorily perform the contract, the Director may bar the Contractor from bidding on any or all of the City's purchases and contracts for a period of six (6) months or longer.

2.24. **DELIVERY.** The number of calendar days for delivery of goods or completion of contract will be calculated from the official commencement date.

After the contract is signed by the Director, the Officer in Charge or the Director will issue to the Contractor a written "Notice to Proceed" establishing the official commencement date.

Should the Contractor begin work or make delivery in advance of the official commencement date, such work or delivery shall be considered as having been done at the bidder's own risk and expense as a volunteer and no payment will be owed to the Contractor for such advance work or delivery.

The service, material or goods shall be performed, completed or delivered on or before the due date specified by the City in its "Notice to Proceed." Should job completion or delivery of goods or services be delayed on account of ~~any cause beyond the control of the Contractor~~ of the City, extraordinary reasons for which the Contractor is not responsible, or by any other circumstances for which the Contractor has no control, the due date for such performance may be extended by the Director. The Director shall be the final judge for extending the due date of any contract, provided that written application for an extension of time is filed by the Contractor with the Director before the expiration of the due date or before the expiration of any extended time limit. The request for extension shall be in writing and include documents such as Contractor's Purchase Order, manufacturers' acknowledgment, shipping manifest and any other documents substantiating the causes of such delay. Such extension, if granted, shall not be deemed a waiver of the right to terminate the contract for other or additional delays not covered by the specific terms of such extension(s).

The Contractor shall deliver the materials or goods and furnish the services at such particular location designated and in the manner directed by the Director.

2.25. **QUALITY OF MATERIAL.** The material or goods covered by these General Terms and Conditions shall be new and the best quality of its kind. Only standard products of recognized manufacturers will be considered. ~~DELETE THIS SECTION~~

2.26. **RIGHTS AND REMEDIES OF THE CITY BECAUSE OF DEFAULT.** In the event services performed, or materials or goods furnished by the Contractor in the performance of the contract or purchase order should fail to conform to the specifications therein, the Director may reject the same. It

2.34. **ADDITIONAL SERVICES, MATERIALS, GOODS.** During the one-year period beginning from the date of contract, the City, subject to approval of the Contractor, reserves the right to purchase additional items as specified in the Proposal and Specifications at the same unit price and under the same terms and conditions as specified herein.

2.35. **PRINTING, BINDING AND STATIONERY WORK.** All requests for bids or contracts for printing, binding and stationery work shall stipulate that such work will be performed within the State. However, if the lowest price for which such work can be procured within the State exceeds the bid or charge of a mainland manufacturer of such items by fifteen percent (15%), the requested work or any part thereof may be performed outside the State.

Every manufacturer or contractor for bids or contracts shall submit an affidavit stating that employees engaged in the performance of the contract will be paid the prevailing wages, which shall include the cost to the employer of the fringe benefits, and will work under the prevailing hours of work. The prevailing wages and hours of work shall be for the locality in the State of Hawaii where the work is to be performed and shall be determined by the Director of Labor and Industrial Relations of the State. Any bid or proposal shall not be considered or accepted unless an affidavit is submitted.

2.36. **FORBIDDEN INTEREST IN GOVERNMENT CONTRACTS.** No officer or head of any department having the power to make or award a contract shall make, award, or participate in the awarding of a contract to oneself or to any partnership or corporation in which one is a member or stockholder when the contract involves the expenditure of government funds in excess of \$50.

Nor shall any officer or head of any department, before or after award of contract, gain an interest as Subcontractor or otherwise for which one shall receive a consideration of over \$50 in any contract which one has made or awarded or participated in the making or awarding of. This section shall not apply (1) if the contract is made with a corporation in which the officer has the ownership of not more than five percent (5%) of the capital stock if it is a corporation or joint stock company; (2) if any contract is awarded to the lowest responsible bidder after advertisement for sealed tenders according to law in cases where the sum to be expended is \$1,000 or more; or (3) if any contract is awarded to the lowest responsible bidder when requests of the same character have been made to the principal dealers, Contractors, persons, partnerships, or corporations doing such work or selling such commodities for sealed tenders for the same in cases where the sums to be expended are more than \$50 and less than \$100.

Any person who violates this section shall be fined not more than \$1,000 or imprisoned not more than one year, or both and shall render the contract or agreement void.

2.37. **STATUTORY OR ORDINANCE REQUIREMENTS.** The applicable provisions of Chapter 103, Hawaii Revised Statutes, as amended, the City Charter, and the City Ordinances shall be deemed to be a part of the contract as though fully set forth therein.



WASTE MANAGEMENT OF HAWAII, INC.
98-021 Kamehameha Highway
Aiea, Hawaii 96701
Tel: (808) 487-2402

December 2, 1988

Ms. Linda L. Smith
Director of Finance
City and County of Honolulu
Honolulu, Hawaii 96813

Dear Ms. Smith:

Waste Management of Hawaii, Inc. is most pleased to submit our proposal to construct and operate the Waimanalo Gulch Landfill for the City and County of Honolulu. The implementation of this project will help provide Honolulu with safe, environmentally sound disposal for its solid waste and incinerator ash well into the next century.

The proposal included with this letter is fully responsive to all the requirements of the Request for Proposals as per the specification. If awarded the contract, we will supply the City and County with our detailed operating plan and final design within the time specified in the Request for Proposals. However, we think it is important to note that our conceptual design exceeds the required capacity of 6.7 million yards. This will insure that the full 15 year life is achieved.

Waste Management of Hawaii, Inc. is a wholly-owned subsidiary within the Waste Management, Inc. group of companies. Waste Management, Inc. and its subsidiaries operate more than 120 sanitary landfills in the United States, Canada, Italy, New Zealand, Argentina, and Saudi Arabia. The vast experience of Waste Management will be available to Waste Management of Hawaii, Inc. As a result, we have unparalleled expertise of the techniques required to mobilize and operate a project of the scale of Waimanalo Gulch. Section 5 contains a number of letters from government officials throughout the United States. The references attest to our long-term partnership with cities and countries in providing safe, secure, and aesthetically pleasing waste disposal operations.

We at Waste Management look forward to participating in this exciting and important project and are available to answer any questions you may have regarding our offer.

Sincerely,

Fred J. Weinert
President

FJW:IBB:rd

AGREEMENT

THIS AGREEMENT, made and entered into this 8th day of February, 19 89, 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, hereinafter called the "City"; and WASTE MANAGEMENT OF HAWAII, INC., a corporation organized and existing under the laws of the State of Hawaii and authorized to do business in the State of Hawaii, hereinafter called the "Contractor";

WITNESSETH:

That in consideration of the agreement of the City, hereinafter set forth, the Contractor agrees to PROVIDE SERVICES TO OPERATE AND MAKE IMPROVEMENTS TO THE WAIMANALO GULCH SANITARY LANDFILL, EWA, OAHU, HAWAII for the one hundred eighty (180) month period for the Division of Refuse Collection and Disposal, Department of Public Works, City and County of Honolulu, conditioned upon approval of additional funding by the City Council, ~~FOR THE~~ period beginning ~~and ending~~ _____, all in accordance with the terms set forth in the proposal, specifications, special provisions, general terms and conditions and all other documents, which are attached hereto and made a part hereof.

And in consideration of the agreement of the Contractor, above set forth, the City agrees to pay to the Contractor in full compensation for the services to be rendered for the duration of this Agreement, at the rate or rates set forth in said proposal.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed the day and year first above written.

APPROVED AS TO FORM AND LEGALITY
[Signature]
Deputy Corporation Counsel

CITY AND COUNTY OF HONOLULU
By [Signature]
ACTING Director of Finance

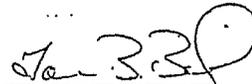
WASTE MANAGEMENT OF HAWAII, INC.
Contractor

By [Signature]
Its Vice President
By [Signature]
Its Assistant Secretary

CERTIFICATE

The undersigned certifies that he is the duly elected, qualified, and acting Assistant Secretary of Waste Management of Hawaii, Inc., a Hawaiian corporation (the "Company"), and that attached hereto as Schedule A is a true and correct copy of a resolution duly adopted by the Board of Directors of the Company and that such resolution has not been amended or rescinded and are in full force and effect on the date hereof.

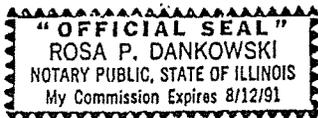
Dated: 28 November 1988.


Ian B. Bird

State of Illinois)
)
County of DuPage)

I, Rosa P. Dankowski, notary public, appointed in DuPage County for the State of Illinois, do hereby certify that Ian B. Bird personally known to me to be the person whose name, as Assistant Secretary of Waste Management of Hawaii, Inc., a corporation of the State of Hawaii, subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that he being duly authorized, signed and delivered the said instrument as a free and voluntary act of the corporation and as his own free and voluntary act for the uses and purposes therein set forth.

Given under my hand and official seal, this 28th day of November A.D. 1988.




Rosa P. Dankowski
Notary Public

STATE OF ILLINOIS



OFFICE OF THE SECRETARY OF STATE

To all to whom these Presents shall come, Greetings:

I, Jim Edgar, Secretary of State of the State of Illinois, do hereby appoint and commission ROSA P DANKOWSKI

County of DU PAGE residing at 5674 CASCADE DR LISLE, IL 60532 a

NOTARY PUBLIC

To have and to hold the office for four years



AUGUST 12, 1987

BEGINNING

AUGUST 12, 1991

EXPIRING

In Testimony Whereof, I here set my hand and State Seal this 11TH day of AUGUST A. D. 1987 Commission No. 246215

Jim Edgar SECRETARY OF STATE

THE BANK OF TOKYO, LTD.
NEW YORK AGENCY
100 BROADWAY, NEW YORK, N. Y. 10005

LETTER OF CREDIT

TELEPHONE: (212) 766-3400
CABLE ADDRESS: "TOHBANK"
TELEX: 222967

January 13, 1989

Department of Finance
City & County of Honolulu
Division of Purchasing
Honolulu, Hawaii 96813

Letter of Credit in Lieu
of Performance Bond

Dear Sirs:

We hereby establish our Irrevocable Standby Letter of Credit No. 110-LCS-820-929 in favor of the City and County of Honolulu, Division of Purchasing, Honolulu, Hawaii 96813, as beneficiary, at the request and for the account of Waste Management of Hawaii, Inc., 98021 Kamehameha Highway, Aiea, Hawaii 96701, as customer, up to the aggregate amount of US\$ 2,692,260.66 (Two million six hundred ninety two thousand two hundred sixty and 66/100 U.S. Dollars) pursuant to the terms and conditions hereof, upon presentation of the documents described below to:

Bank: Bank of Tokyo, Ltd., Honolulu Agency
Address: 841 Bishop Street, Suite 2110,
Honolulu, Hawaii 96813

on or before the expiration date.

Documents Required

1. An acknowledged drawing certificate in the form of either Exhibit 1 or Exhibit 2 attached hereto, signed by any officer of the City and County of Honolulu ("City") and dated the date such drawing certificate is presented hereunder; together with
2. A sight draft in the form of Exhibit 3 attached hereto, which forms an integral part of this letter of credit;
 - a. Drawn on us by City and payable to City or City's designee;
 - b. Bearing the same letter of credit number as the number of this letter of credit;
 - c. Dated the same date as the drawing certificate referred to in (1) above; and

EXHIBIT K74

WASTE MANAGEMENT OF HAWAII, INC.

Action by Written Consent
of the Board of Directors

2. Further resolved by the Board of Directors that:
- a. The Board of Directors hereby approves the submittal by the Company to City and County of Honolulu an offer for the purchase of all necessary labor, supervision, equipment, materials, tools, supplies, appurtenances, insurance and all other actual and implied expenses connected thereto and to perform all work necessary and specified in the prescribed manner and time to provide services to operate and make improvements to the Waimanalo Gulch Sanitary Landfill at Ewa, Oahu, Hawaii (Proposal Document 7325).
 - b. The Board of Directors hereby authorize any officer of the Company, or Ian B. Bird, or Carlos Seraphin, or Frederick T. McGuire, acting individually, to execute and deliver the proposal, attendant exhibits, the resulting contract, and any other documents or other papers and to take such other action as such person may deem proper to enable the Company submit the proposal and comply with all obligations assumed thereunder.

- d. With the dollar amount available therein specified not in excess of the maximum amount available to be drawn on this letter of credit; together with

3. A copy of this letter of credit.

Expiration Date

We agree with you that all drafts drawn under and in compliance with the terms of this letter of credit will be honored upon presentation to us at our Letters of Credit Section at 841 Bishop Street, Suite 2110, Honolulu, Hawaii 96813, by January 18, 1990, or prior to any subsequent expiration as provided herein. It is a condition of this letter of credit that it shall be automatically extended for additional terms of one (1) year from the present or each future expiration date unless at least one hundred twenty (120) days before said expiration date we give you and Waste Management of Hawaii, Inc., written notice by certified mail, return receipt requested, or by hand delivery, that we elect to terminate this Credit at the end of its then current term.

Other Terms

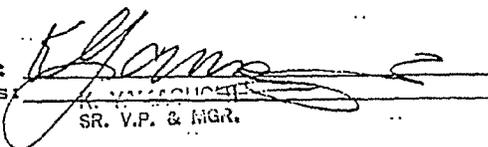
This letter of credit and the exhibits attached hereto set forth in full the terms of our undertaking, and such undertaking shall not in any way be modified, amended or amplified by reference to any other document whatsoever. This letter of credit shall be governed by, and construed in accordance with, the terms of the Uniform Customs and Practice for Documentary Credits (1983 revision), International Chamber of Commerce Publication No. 400 and, to the extent not inconsistent therewith the terms of the Uniform Commercial Code of the State of Hawaii.

Communications with respect to this letter of credit shall be addressed to us at our address listed in the first paragraph hereof, specifically referring to this letter of credit.

Drafts drawn under this Letter of Credit must be marked: "Drawn under the Bank of Tokyo, Ltd., New York Agency, Credit No. 100-LCS-820-929 dated January 13, 1989."

Very truly yours,

BANK OF TOKYO, LTD.
NEW YORK AGENCY

By: 
Its: 
SR. V.P. & MGR.

State of Illinois)
County of DuPage) ss.

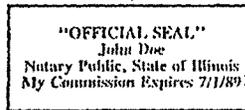
On this 13th day of January, 1989, before me appeared Gregory K. Fairbanks and Ian B. Bird to me personally known, who, being by me duly sworn, did say that they are Vice President and Assistant Secretary respectively, of Waste Management of Hawaii, Inc. and that the seal affixed to the foregoing instrument is the corporate seal of said corporation; and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and the said Vice President and Assistant Secretary acknowledged said instrument to be the free act and deed of said corporation.



Rosa P. Dankowski
Rosa P. Dankowski
Notary Public, State of Illinois

PLEASE NOTE

1. Every notary public appointed for a term beginning July 1, 1986, and thereafter, must obtain and use a rubber stamp type seal. The following example contains all of the required information and is acceptable. In this case the notary's name is John Doe, and Mr. Doe's notary appointment expires July 1, 1989. Any rubber stamp dealer will be able to provide such a seal.



2. An Illinois Notary Public Handbook has been printed for your information and use. If you have not received a copy of the Handbook, copies are available from your county clerk or the Secretary of State.
3. A change of address must be reported to the Secretary of State. Please send written notification to:

State of Illinois, }
County of Du Page. } ss :

Filed for record this 25th day of
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Daryl D. King
County Clerk

Office of the Secretary of State
Index Department
111 East Monroe Street
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