REPORT OF THE COMMITTEE ON TRANSPORTATION

Voting Members

Joey Manahan, Chair; Ann H. Kobayashi, Vice-Chair,
Brandon J.C. Elefante, Ron Menor, Kymberly Marcos Pine

Committee Meeting Held
October 20, 2016

Honorable Ernest Y. Martin
Chair, City Council
City and County of Honolulu

Mr. Chair:

Your Committee on Transportation, to which was referred Resolution 16-263:

"RESOLUTION AUTHORIZING THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE DEPARTMENT OF TRANSPORTATION SERVICES (DTS) OF THE CITY AND COUNTY OF HONOLULU (CITY) AND THE STATE OF HAWAII DEPARTMENT OF TRANSPORTATION (HDOT) FOR A HIGHWAY SAFETY PROJECT REIMBURSEMENT GRANT PROMOTING PEDESTRIAN SAFETY IN THE CITY AND COUNTY OF HONOLULU,"

as transmitted by Departmental Communication D-655, dated September 15, 2016 from the Department of Transportation Services (DTS), and introduced on September 27, 2016, reports as follows:

The purpose of Resolution 16-263 is to approve an intergovernmental agreement between the Department of Transportation Services (DTS) and the Hawaii Department of Transportation (HDOT) for a reimbursement grant relating to a project promoting pedestrian safety in Honolulu. The amount to be reimbursed to the City is expected to be $31,425.

DTS Acting Director Mark Garrity testified in support of the Resolution and requested that the Council adopt the Resolution.

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ADOPTED ON NOV 0 2 2016

COMMITTEE REPORT NO. 340

REPORT OF THE COMMITTEE ON TRANSPORTATION

Voting Members

Joey Manahan, Chair; Ann H. Kobayashi, Vice-Chair,
Brandon J.C. Elefante, Ron Menor, Kymberly Marcos Pine

Your Committee has prepared a CD1 version of the Resolution that makes the following amendments:

A. In the second WHEREAS clause, tracks the language of ROH Chapter 1, Article 8.

B. Adds a WHEREAS clause providing that a copy of the proposed intergovernmental agreement between the City and the State is attached as Exhibit A and incorporated by reference in the Resolution.

C. Clarifies that the DTS Director or the Director's designee is authorized to execute the memorandum of agreement in substantially the same form attached as Exhibit A.

D. Corrects drafting errors and makes miscellaneous technical and non-substantive amendments for purposes of clarity and style.

Your Committee on Transportation is in accord with the intent and purpose of Resolution 16-263, as amended herein, and recommends its adoption in the form attached hereto, as Resolution 16-263, CD1. (Ayes: Manahan, Kobayashi, Pine – 3; Noes – None; Excused: Elefante, Menor - 2.)

Respectfully submitted,

Committee Chair

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ADOPTED ON NOV 0 2 2016

COMMITTEE REPORT NO. 340

CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

No. 16-263, CD1

RESOLUTION

AUTHORIZING THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE DEPARTMENT OF TRANSPORTATION SERVICES (DTS) OF THE CITY AND COUNTY OF HONOLULU (CITY) AND THE STATE OF HAWAII DEPARTMENT OF TRANSPORTATION (HDOT) FOR A HIGHWAY SAFETY PROJECT REIMBURSEMENT GRANT PROMOTING PEDESTRIAN SAFETY IN THE CITY.

WHEREAS, Chapter 1, Article 8, Revised Ordinances of Honolulu 1990 (ROH), requires that any intergovernmental agreement or any amendments thereto that place an obligation upon the City or any agency thereof, require prior City Council consent and approval; and

WHEREAS, ROH Chapter 1, Article 8 also requires that, when carrying out the provisions of any intergovernmental agreement, all applications and/or amendments thereof, statistical data programs, reports or other official communications that support the application and that are required to be provided by the City or its component departments to any other governmental or quasi-governmental agency must first be presented to the City Council for its review and approval prior to their transmittal; and

WHEREAS, the HDOT and the State Highway Safety Council selected the DTS to promote pedestrian safety in the City; and

WHEREAS, the pedestrian safety program, which will begin on October 1, 2016, will cost $31,425 and be fully reimbursed by the State to the City; and

WHEREAS, a copy of the proposed intergovernmental agreement between the City and the State is attached hereto as Exhibit A and by reference is made a part of this Resolution; now, therefore

BE IT RESOLVED by the Council of the City and County of Honolulu that the proposed Memorandum of Agreement attached hereto as Exhibit A is hereby consented to and approved; and

BE IT FURTHER RESOLVED that the DTS Director or the Director's designee is hereby authorized to:

1. Execute an agreement with the State of Hawaii Department of Transportation in substantially the same form as the proposed Memorandum of Agreement attached hereto as Exhibit A, and

RESOLUTION

2. Execute any incidental or related agreements and documents in furtherance of the above agreement so long as such agreements and documents do not incur additional obligations on the part of the City; and

BE IT FINALLY BE RESOLVED that copies of this resolution be transmitted to the Director of Transportation Services and the Director of the State Department of Transportation.

INTRODUCED BY:

Ernest Martin (br)

DATE OF INTRODUCTION:

September 27, 2016
Honolulu, Hawaii

Councilmembers

Exhibit A

MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT is made this _____day of _____2016, by and between the CITY AND COUNTY OF HONOLULU, hereinafter called the "CITY," and the STATE OF HAWAII hereinafter called the "STATE." The parties hereto agree that the STATE will reimburse the CITY in the sum of $31,425 (thirty-one thousand four hundred twenty-five dollars) in the manner set forth in Exhibit V/Schedule D for costs associated with the joint CITY/STATE project promoting pedestrian safety in the CITY, as such project is described in Exhibit II/Schedule A. Furthermore, Exhibit I (the Grant Agreement), Exhibit III (Budget Estimate with Budget Narrative), and Exhibit IV (Grant Milestones), in addition to Exhibits II and V are attached hereto and incorporated herein.

IN WITNESS WHEREOF, the parties have executed these presents on the date first above written.

APPROVAL RECOMMENDED
CITY AND COUNTY OF HONOLULU
Department of Transportation Services

_____
Mark N Garrity AICP, Acting Director

APPROVAL RECOMMENDED
STATE OF HAWAII
Department of Transportation

_____
Ford Fuchigami, Director

APPROVED AS TO FORM AND LEGALITY:

_____
Deputy Corporation Counsel

STATE OF HAWAII HIGHWAY SAFETY OFFICE

GRANT AGREEMENT
Grant No:

Page 1 (To be completed by applicant agency)

1. Grant Title
Department of Transportation Services Pedestrian Safety Program

2. Name and Address of Applicant Agency
City and County of Honolulu
Department of Transportation Services
Attn: Dana Teramoto
650 South King St., 2nd Floor
Honolulu, HI 96813

3. Agency Unit to Handle Grant (Name and Address)
City and County of Honolulu
Department of Transportation Services
Traffic Safety & Alternate Modes Branch
650 South King St., 2nd Floor
Honolulu, HI 96813

4. Duration
Month – Day – Year

A. Grant Period
From: 10-1-16
To: 9-30-17

B. Project Period
From: 10-1-16
To: 9-30-17

5. Location of Project
City and County of Honolulu
Department of Transportation Services
Traffic Safety & Alternate Modes
650 South King St., 2nd Floor
Honolulu, HI 96813 (Phone: 768-8395)

6a. Type of Application
(Check Appropriate Item)
☒Initial ☐Revision ☐Continuation

6b. Reimbursement Schedule Desired
☒Monthly ☐Quarterly

7. Grant Description (Summarize the grant plan covering activities that address the major goals and objectives in approximately 100 words. Limit to 6 lines.)
Halloween reflective stickers and Halloween safety tips brochures will be distributed to Oahu public elementary schools through our partnership with the Department of Education. The Department of Transportation Services (DTS) will participate at public events to educate the public on pedestrian safety by distributing safety items and brochures. DTS will also present walking safety tips to senior citizen groups and elementary school children. Two staff will attend the Lifesaver's Conference in 2017 at Charlotte, North Carolina.

8. Federal funds allocated under this agreement shall not exceed $31,425

9. Approval Signatures

Acceptance of Conditions: It is understood and agreed by the undersigned that a reimbursement grant received as a result of this grant agreement is subject to Public Law 89-564 (Highway Safety Act of 1966) and all administrative regulations governing grants established by the U.S. Department of Transportation and the State of Hawaii. It is expressly agreed that this project constitutes an official part of the Hawaii Highway Safety Program and that said applicant agency will meet the requirements as set forth herein, including accompanying schedules A, B, B-1, C & D, which are incorporated herein and made a part of this grant agreement. Authorization to proceed with this Highway Safety Project is requested.

9a. Grant Director
Name: Mark N Garrity AICP **Phone:** (808) 768-8301
Title: Acting Director **Fax:** (808) 768-4730
Address: C&C of Hon., Dept of Transportation Svcs
650 S. King Street, 3rd Floor
Honolulu, Hawaii 96813
E-Mail: mgarrity@honolulu.gov

(Signature) *(Date)*

9b. Authorizing Official of Agency Unit
Name: Kirk Caldwell **Phone:** (808) 768-4141
Title: Mayor **Fax:** (808) 768-4242
Address: Honolulu Hale
530 S. King Street
Honolulu, Hawaii 96813
E-Mail: mayor@honolulu.gov

(Signature) *(Date)*

To be prepared by applicant, use separate sheets as required. Form HS 3-71 Rev. 8/6/09

EXHIBIT I

STATE OF HAWAII
HIGHWAY SAFETY PROJECT GRANT AGREEMENT

STATE OF HAWAII HIGHWAY SAFETY OFFICE

GRANT AGREEMENT – PART II

Grant No:

Page 2 (To be completed by Highway Safety Office)

10. Grantee:

11. Standard Area:	**13a. Federal Fiscal Year:**
12. Effective Date of Agreement: -	**13b. Addendum:** ☐Yes ☐No

14. Benefit of : ☐State ☐County

15. Action Taken	**16. Funding Disposition & Status**
	Fiscal Year / Amount ____ ____ ____ ____ ____ ____ ____ ____ ____ ____ Total $ Present Obligation $ Previously Obligated $____ **TOTAL FUNDS OBLIGATED $**

17. Budget Summary (From Schedule B – Detailed Budget Estimate) – Fiscal Year Grant Period Ending:

Cost Category	**Cost Estimates**
A. Personnel Costs	
B. Travel Expenses	
C. Contractual/Consultant Services	
D. Equipment	
E. Other Direct Costs	
TOTAL FEDERAL FUNDS	$

18. Grant Approval & Authorization to Expend Obligated Funds

A. Approval Recommended By (Program Area Specialist)	**B. Agreement & Funding Authorized By (Highway Safety Manager)**
Name: **Title:** **Phone/E-Mail:**	**Name:** **Title:** **Phone/E-Mail:**
(Signature) *(Date)*	*(Signature)* *(Date)*

19. Addendum (For Highway Safety Office Use Only)

EXHIBIT II

SCHEDULE A

SCHEDULE A

Exhibit II

Grant No: _____

GRANT DESCRIPTION

PAGE # _____

PROBLEM STATEMENT

Identify the traffic safety related problem or deficiency that the proposed grant is intended to correct. Identify and gather appropriate data relevant to the problem. Collision/fatalities data appropriate to the identified problem and a brief analysis of the data is required. When available, three years of data should be presented and analyzed. When identifying the problem, take into consideration changes in population, traffic patterns and other demographic dynamics that may affect traffic safety.

Hawaii has the highest older pedestrian fatality rate in the country, with 6.81 deaths per 100,000 adults aged 65 years and older. This was documented in a 2014 report titled "Dangerous By Design" by Smart Growth America's National Complete Streets Coalition. Next highest is California with New York rounding out the top three.

Pedestrian fatalities on Oahu among those 65 years and older increased to 48 percent in 2014, but decreased by 10% in 2015. The following is the number of pedestrians killed on Oahu: 19 (2013), 24 (2014) and 21 (2015). The following is the number of pedestrians killed who were 65 years and older: 7(2013), 14 (2014) and 8 (2015).

GRANT GOALS

Goals serve as the foundation upon which the grant is built. Goals are what you hope to accomplish by implementing a traffic safety grant and represent an end result. Grant goals should be stated in measurable terms (i.e., a percent reduction), be concise and deal with a specific item, be realistic with a reasonable probability of achievement, and be related to a specific time frame (a "by" date). Please notate baseline from which the reduction/increase will result.

The goal of the Department of Transportation Services (DTS) is to educate 1,000 children and seniors through our pedestrian safety presentations and 8,000 people through our community outreach events. Thus, we want to continue our efforts to reach out to seniors and children by speaking to senior groups and elementary schools, as well attend fairs, such as the Good Life Expo and The Hawaii Pet Expo.

Continue our pedtextrian program. A pedtextrian is a person who walks and texts. Our program focuses on college students as many of them text while crossing a street. Our goal is to educate 200 college students on the dangers of walking and texting.

We would also like to continue our efforts to keep Oahu's children visible to drivers on Halloween by providing Halloween pedestrian safety activity books to all Oahu public elementary school children, satellite City halls and library patrons (children).

We would like to continue our efforts on educating children on pedestrian safety. So far, there have been no fatalities of children on Halloween night since we began our Halloween program in 1996.

GRANT OBJECTIVES

Objectives are tasks or activities conducted in order to accomplish the grant goal(s) (e.g., develop permanent fitting stations for child restraints, enforcement activities, educational activities, etc.). Grant objectives should be stated in measurable terms (i.e., a percent reduction, number of training to be held, number of roadblocks, etc.), be concise and deal with a specific item, be realistic with a reasonable probability of achievement, and be related to a specific time frame (a "by" date). Please notate baseline from which the reduction/increase will result.

The Department of Transportation Services (DTS) will participate at public events, such as the Good Life Expo, the Hawaii Pet Expo and other public events. Educational brochures with walking tips will be distributed after each attendee is educated on pedestrian safety. We hope to increase public awareness of pedestrian safety by means of our participation at public events to educate the public.

We will continue our education efforts to seniors by contacting various senior groups in order to speak to at least eight senior groups during the grant period. Seniors will watch a PowerPoint presentation on walking safety tips along with interactive clickers.

We will contact three college campuses on Oahu to obtain permission to go on campus so we may educate students on the hazards of texting and using their cell phone while walking (pedtextrian).

We want to continue our education efforts to children on safe walking habits with our Ped Man program. We will contact summer fun and after-school programs to provide at least 10 Ped Man presentations during the grant period, showing our interactive DVD on walking safety tips or at a school event with our carnival game and safety prizes.

Continue our partnership with the Department of Education (DOE) to distribute approximately 65,000 Halloween activity books on Halloween safety tips to Oahu public elementary schools, satellite City halls and Oahu public libraries. We want children to be visible to drivers on Halloween.

Coordinate a proclamation by the Mayor to promote Halloween safety in October. The Hawaii Department of Transportation, DOE and Honolulu Police Department will be invited to attend the proclamation. The Junior Police Officers (JPOs) from an elementary school will be invited to attend.

Approximately 65,000 Ped Man bookmarkers will be distributed to Oahu public elementary schools and about 4,600 bookmarkers to Oahu public libraries.

We will participate at sign waving events to encourage motorists to be watchful of pedestrians. We will also coordinate at least one sign waving event (preferably in August, which is Pedestrian Safety Month).

Two staff will attend the Lifesaver's Conference in 2017 at Charlotte, North Carolina. The staff will gather information for new pedestrian safety ideas, as well as gather pedestrian facility design and traffic calming ideas to make it safer for pedestrians. Information learned at the conference will be applied to our local safety programs to enhance or develop new programs.

METHOD OF EVALUATION

Using data gathered throughout the grant period, the grant manager will evaluate (1) how well the stated grant goals and objectives were accomplished, and (2) was the grant cost effective? How are you going to show effectiveness of your project? What will be the impact of the project on your identified problem and goal(s)? Provide details on the method of evaluation.

We will continue to use the Honolulu Police Department's statistics for pedestrian fatalities/injuries, as well as child/vehicular incidences on Halloween for the grant period. Another method of evaluation is to count the number of attendees visiting our booth at fairs/events and the total in attendance at our group presentations. Educating the public on being vigilant when walking may prevent future pedestrian fatalities.

EXHIBIT III

SCHEDULES B and B-1

SCHEDULE B
Page 1
Detailed Budget Estimate
Grant No: _____

Exhibit III

COST CATEGORY	COST ESTIMATES
A. Personnel Costs	
Employee Salaries and Benefits Position Title(s) and Full-Time/Part-Time Yearly Salary: Fringe Benefit Rate: _____% Time to be spent on project: _____ hours Position Title(s) and Overtime Hourly Rate(s): Fringe Benefit Rate: _____% Time to be spent on project: _____ hours	
Category Sub-Total	$ 0
B. Travel Expenses	
In-State Event/Conference: _____ Air Travel: To: _____ From: _____ Surface Travel: Car Rental (daily rate, # of days, fuel, taxes, etc.) Private Car: (_____miles @ _____ per mile)	
Per Diem: _____ days @ $_____ per day Baggage Fee: Tuition, Course, Registration and Miscellaneous Fees: Individual cost: _____ x No. of attendees: _____	

SCHEDULE B **Exhibit III**

Page 2

Detailed Budget Estimate

Grant No: _____

COST CATEGORY	COST ESTIMATES
Out-of-State	
Event/Conference: 2017 Lifesavers Conference	
Air Travel (2 people):	
To: Charlotte, North Carolina	$ 3,200.00
From: Honolulu, Hawaii	
Surface Travel:	
Car Rental (daily rate, # of days, fuel, taxes, etc.)	
Private Car: (_____miles @ _____ per mile)	
Taxi or Limousine (roundtrip from airport to hotel)	
Shuttle To/From Charlotte Airport (2@$70)	$ 140.00
Hotel/Per Diem:	
5 days @ $ 310 per day	$ 1,550.00
5 days @ $ 310 per day	$ 1,550.00
Baggage Fee:	$ 100.00
Tuition, Course, Registration and Miscellaneous Fees:	
Individual cost: $600 x No. of attendees: 2	$ 1,200.00
Category Sub-Total	$ 7,740.00
C. Contractual/Consultant Services	
Category Sub-Total	$ 0
D. Equipment	
Portable projection screen	$ 300.00
Portable projector	$ 500.00
Microsoft Office software	$ 250.00
HDMI cable	$ 50.00
VGA cable	$ 50.00
Dell Inspiron laptop	$ 1,200.00
Wireless mouse	$ 50.00
Mouse pad	$ 15.00
Laptop case	$ 70.00
Folding utility cart	$ 200.00
Category Sub-Total	$ 2,685.00
E. Other Direct Costs	

SCHEDULE B
Page 3
Detailed Budget Estimate
Grant No: _____

Exhibit III

COST CATEGORY	COST ESTIMATES
75,000 Halloween activity books	$ 8,000.00
75,000 Ped Man bookmarkers	$ 3,000.00
7,000 "Show You Care Be Aware" flyers	$ 4,000.00
10,000 pocket calendars	$ 6,000.00
Category Sub-Total	$ 21,000.00
GRANT TOTAL	$ 31,425.00

SCHEDULE B-1 Exhibit III

Grant No: _____

BUDGET NARRATIVE PAGE #_____

Personnel Costs

There are no personnel costs associated with this grant.

Travel Expenses

One Traffic Education Specialist (TES) and one Traffic Engineer (TE) will attend the Lifesavers Conference in Charlotte, North Carolina in March 2017. The TES will gather information for new approaches/technology, as well as media saturation. The TE will gather pedestrian facility design and traffic calming ideas to make it safer for pedestrians. Information learned at the conference will be applied to develop or enhance our local safety programs.

Contractual/Consultant Services

There are no contractual/consultant services associated with this grant

Equipment

The laptop and accessories, screen, projector, software, cables and cart will be used for pedestrian safety presentations. A larger cart is needed since the current cart is too smart to transport all equipment (which includes clickers) to the pedestrian safety presentations.

Other Direct Costs

Safety-related items to be distributed at the Good Life Expo (senior fair), Hawaii Pet Expo and other community events. Purchasing safety items such as reflective stickers and flashing lights. Reordering children's Halloween safety activity books and Ped Man bookmarkers, which will be distributed to Oahu elementary schools through our partnership with the Department of Education and our new partnership with the Hawaii State Library. The Ped Man bookmarkers will be also be distributed at fairs and other community events. Reordering "Show You Care Be Aware" flyers to be distributed to DOE. Ordering pocket calendars that include pedestrian safety tips to be distributed at community fairs/events.

EXHIBIT IV

SCHEDULE C

SCHEDULE C **Exhibit IV**

Grant No:

MILESTONES	**PAGE #1**
Month	**Activity**
October 2016	• Halloween Be Safe Be Seen proclamation/kick-off press conference with the Hawaii Department of Transportation (HDOT), Department of Education (DOE) and the Honolulu Police Department (HPD) • Kids Fest • Distribution of Halloween activity books to DOE, Oahu public libraries and satellite city halls
November 2016	• Mayor's Craft and Country Fair • Purchase all equipment
December 2016	• Pay for airline tickets and registration fees for Lifesavers Conference • Quarterly report due
January 2017	• Purchase "Show You Care Be Aware" flyers • Purchase pocket calendars
February 2017	• Purchase Halloween activity books Ped Man bookmarkers
March 2017	• Lifesavers Conference (Charlotte, NC) • Quarterly report due
May 2017	• Hawaii Pet Expo
June 2017	• Distribute Ped Man bookmarkers to Oahu public libraries. • Quarterly report due
August 2017	• Distribute Ped Man bookmarkers to Oahu public elementary schools
September 2017	• Good Life Expo (senior fair) • Final report due

EXHIBIT V

SCHEDULE D

SCHEDULE D **Exhibit V**

AGREEMENT OF UNDERSTANDING & COMPLIANCE

Grant No: _____

THIS AGREEMENT made and entered into by and between the STATE OF HAWAII by and through its Director of Transportation, hereinafter referred to as "State," and the Governmental Unit named in this application, hereinafter referred to as "Applicant."

WHEREAS, the National Highway Safety Act of 1966 (Public Law 89-564) provides Federal funds to the STATE for approved highway safety projects, and

WHEREAS, STATE may make said funds available to various state, county or municipal agencies or governments or political subdivisions upon application and approval by STATE and the UNITED STATES DEPARTMENT OF TRANSPORTATION, and

WHEREAS, STATE is obligated to reimburse the UNITED STATES DEPARTMENT OF TRANSPORTATION out of its funds for any ineligible or unauthorized expenditures for which Federal funds have been claimed and payment received, and

WHEREAS, the above name APPLICANT has submitted an application for Federal funds for highway safety projects.

NOW, THEREFORE, IN CONSIDERATION OF MUTUAL PROMISES AND OTHER GOOD AND VALUABLE CONSIDERATION, THE PARTIES AGREE AS FOLLOWS:

I. Reimbursement of Eligible Expenditures

A. It is mutually agreed and promised that upon written application by APPLICANT and approval by STATE and the UNITED STATES DEPARTMENT OF TRANSPORTATION, STATE shall obligate said Federal funds to APPLICANT'S account for reimbursement of eligible expenditures as set forth in the application.

B. It is mutually agreed and promised that APPLICANT shall reimburse STATE for any ineligible or unauthorized expenditures for which Federal funds have been claimed and payment received as determined by a State or Federal audit. Costs are not allowable for construction, rehabilitation, remodeling, or for office furnishings and fixtures - for State, local or private buildings or structures. The following are examples of items considered as furnishings or fixtures, for which reimbursement is not eligible:

Desks	Credenzas	Storage Cabinets
Chairs	Bookcases	Portable Partitions
Tables	Filing Cabinets	Pictures, Wall Clocks
Shelving	Floor Coverings	Draperies
Coat Racks	Office Planters	Fixed Lighting/Lamps

C. It is further agreed and promised that where reimbursement is made to APPLICANT in installments, STATE shall have the right to withhold any installments to make up reimbursement received for any ineligible or unauthorized expenditures until such time as the ineligible claim is made up or corrected by APPLICANT.

II. Property Agreement

A. It is mutually agreed and promised that the APPLICANT shall immediately notify the STATE if any equipment purchased under this project ceases to be used in the manner as set forth by the project agreement. In such event, APPLICANT further agrees to either give credit to the project cost or to another active Highway Safety project for the residual value of such equipment in an amount to be determined by the STATE, or to transfer or otherwise dispose of such equipment as directed by STATE.

B. It is mutually agreed and promised by the APPLICANT that no purchased equipment under this project will be conveyed, sold, salvaged, transferred, etc. without the express written approval of the STATE.

C. It is mutually agreed and promised that the APPLICANT shall maintain or cause to be maintained for its useful life, any equipment purchased under this project.

III. Application of Hatch Act

A. It is mutually agreed and promised that the APPLICANT shall notify all employees of the APPLICANT, whose principal employment is in connection with any Highway Safety project, financed in whole or in part by loans or grants under the Highway Safety Act of 1966, of the provisions of Section 12 (a) of the Hatch Act [5 U.S.C. 118K (a)].

IV. Equal Opportunity

A. It is mutually agreed and promised that pursuant to the requirements of Section 22 (a) of the Federal-Aid Highway Act of 1968, Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and the Age Discrimination Act of 1975, the APPLICANT, as a condition to receiving approval of this application submitted under the Highway Safety Act of 1966, hereby gives its assurance that employment in connection with the subject Highway Safety Program project will be provided without regard to race, color, creed, sex, handicap, age, or national origin. The APPLICANT further agrees that, as a condition to receiving approval of this application, it will be subject to, and will comply with, Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 (hereinafter referred to as the Act), and all applicable requirements pursuant to the Regulations of the Department of Commerce (Title 15, Code of Federal Regulations, Part 8, which have been adopted by the Department of Transportation, and hereinafter referred to as the Regulations), to the end that, in accordance with the Act and the Regulations, no person in the United States shall on the ground of race, color, creed, sex, handicap, age, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the subject Highway Safety Program or project.

B. It is mutually agreed and promised that if the APPLICANT fails or refuses to comply with its undertaking as set forth in these provisions, the STATE of the UNITED STATES DEPARTMENT OF TRANSPORTATION may take any or all of these following actions.

(1) Cancel, terminate, or suspend in whole or in part the agreement, contract, or other arrangement with respect to which the failure or refusal occurred; and

(2) Refrain from extending any further Federal financial assistance to the applicant agency under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from the applicant agency.

V. Non-duplication of Grant Fund Expenditures

A. It is mutually agreed and promised that the APPLICANT has no ongoing or completed projects under agreement with any other Federal fund source which duplicate or overlap any work contemplated or described in this project.

B. It is mutually agreed and promised that the APPLICANT will either revise this project or revise any pending or proposed request for other Federal grant funds which would duplicate or overlap work under this project to exclude any such duplication of grant fund expenditures.

C. It is further mutually agreed and understood that the APPLICANT shall reimburse the STATE OF HAWAII for any such duplicate expenditures for which Federal grant funds have been claimed and payment received as determined by State or Federal audit.

VI. Project Income and Applicable Credits

A. It is mutually agreed and understood that the APPLICANT shall apply all proceeds or credits generated under the project, such as but not restricted to: The sale of real or personal property royalties received from copyrights and patents, sale of publications or from personal or incidental services, to the project in accordance with OMB Circular A-87 (FMC 74-7) or A-21, as applicable and NHTSA/FHWA Order 460-4/7510.1.

VII. Copyrights and Patents

A. It is mutually agreed that any copyrightable materials produced in the course of a project may be the property of the State or applicant agency; however, provisions should be made to obtain for the United States Government, the State Governments and their political subdivisions a royalty-free nonexclusive, and irrevocable license to use in any manner such copyrightable material.

B. It is mutually agreed that the ownership of all rights accruing from any patentable discoveries or inventions resulting from a project should be covered in the agreement. An irrevocable, nonexclusive, nontransferable, and royalty-free license to practice each discovery or invention in the manufacture, use and disposition, according to law, of any article or material, and in the use of any method developed as part of the work under the agreement should be obtained for the United States Government, the State Governments and their political subdivisions.

VIII. Certification Regarding Debarment and Suspension

A. <u>Instructions for Certification</u>

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms covered transaction, "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definition and Coverage sections of 49 CFR Part 29. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that is it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions. (See below.)
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

IX. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participants shall attach an explanation to this proposal.