



**STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
HIGHWAYS DIVISION  
KAUAI DISTRICT**

**SPECIAL PROVISIONS,  
PROPOSAL, AND BOND**

**FOR**

**KUHIO HIGHWAY PAVEMENT MARKINGS**

**KAMOA ROAD TO VICINITY OF WAIKAEA BRIDGE**

**PROJECT NO. 56A-01-23M**

**DISTRICT OF KAWAIHAU**

**ISLAND OF KAUAI**

**FY 2023**

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## SMALL PURCHASE

### **NOTICE TO BIDDERS** (Chapter 103D, HRS)

The small purchase receiving of BIDS for Kuhio Highway Pavement Markings, Kamoia Road to Vicinity of Waikaea Bridge, Project No. 56A-01-23M, will begin as advertised on January 12, 2023 in HiePRO. Bidders are to register and submit bids through HiePRO only. See the following HiePRO link for important information on registering: <https://hiepro.hawaii.gov/welcome.html>.

Deadline to submit bids is – February 9, 2023 at 2:00 P.M., Hawaii Standard Time (HST). Bids received after said due date and time shall not be considered.

The scope of work consists of removing and installing pavement markers and striping. The estimated cost of construction is between \$100,000 and \$250,000.

To be eligible for award, bidders must possess a valid State of Hawaii General Engineering “A” or Specialty Contractors “C” license at the time of bidding.

A pre-bid conference is scheduled for January 19, 2023 at 10:00 A.M. HST on Microsoft Teams. All prospective bidders or their representatives (employees) are encouraged to attend, but attendance is not mandatory. **Due to the impacts of COVID 19, the pre-bid meeting will be conducted virtually.** Please call Microsoft Teams to join the Pre-bid meeting at (808) 829-4853, Phone Conference ID: I.D. 469 145 313#.

Contact Eric Fujikawa, Project Manager, by phone, at (808) 241-3015, by facsimile at (808) 241-3011 or email at [eric.i.fujikawa@hawaii.gov](mailto:eric.i.fujikawa@hawaii.gov) to obtain the venue for the pre-bid meeting.

ALL requests for information (RFI) shall be received in writing via HiePRO no less than 14 calendar days before bid opening. Questions received after the deadline will not be addressed. Verbal requests for information will not receive a response. Anything said at the conference is for

## SMALL PURCHASE

clarification purposes and any changes to the bid documents will be made by addendum and posted in HlePRO.

Any protest of this solicitation shall be submitted in writing to the Director of Transportation, in accordance with §103D-701, HRS and §3-126, HAR.

Campaign contributions by State and County Contractors. Contractors are hereby notified of the applicability of Section 11-355, HRS, which states that campaign contributions are prohibited from specified State or county government contractors during the term of the contract if the contractors are paid with funds appropriated by a legislative body. For more information, contact the Campaign Spending Commission at (808) 586-0285.

The Equal Employment Opportunity Regulations of the Secretary of Labor implementing Executive Order 11246, as amended, shall be complied with on this project.

Driving While Impaired (DWI) Education. HDOT encourages all organizations contracted with the DOT to have an employee education program preventing DWI. DWI is defined as operating a motor vehicle while impaired by alcohol or other legal or illegal substances. HDOT promotes this type of program to accomplish our mission to provide a safe environment for motorists, bicyclists and pedestrians utilizing our State highways, and expects its contractors to do so as well.

The U.S. Department of Transportation Regulation entitled “Nondiscrimination in Federally-Assisted Programs of the U.S. Department of Transportation,” Title 49, Code of Federal Regulations (CFR), Part 21 is applicable to this project. Bidders are hereby notified that the Department of Transportation will affirmatively ensure that the contract entered into pursuant to this advertisement will be awarded to the lowest responsible bidder without discrimination on the grounds of race, color, national origin or sex (as directed by 23 CFR Part 200).

## SMALL PURCHASE

For additional information, contact Eric Fujikawa, Project Manager, by phone at (808)241-3015, by fax at (808)241-3011 or email at [eric.i.fujikawa@hawaii.gov](mailto:eric.i.fujikawa@hawaii.gov) address.

The State reserves the right to reject any or all proposals and to waive any defects in said proposals for the best interest of the public.

## **INSTRUCTIONS FOR CONTRACTOR'S LICENSING**

"A" general engineering contractors and "B" general building contractors are reminded that due to the Hawaii Supreme Court's January 28, 2002 decision in Okada Trucking Co., Ltd. v. Board of Water Supply, et al., 97 Haw. 450 (2002), they are prohibited from undertaking any work, solely or as part of a larger project, which would require the general contractor to act as a specialty contractor in any area where the general contractor has no license. Although the "A" and "B" contractor may still bid on and act as the "prime" contractor on an "A" or "B" project (*See, HRS § 444-7 for the definitions of an "A" and "B" project.*), respectively, the "A" and "B" contractor may only perform work in the areas in which they have the appropriate contractor's license (*An "A" or "B" contractor obtains "C" specialty contractor's licenses either on its own, or automatically under HAR § 16-77-32.*). The remaining work must be performed by appropriately licensed entities. It is the sole responsibility of the contractor to review the requirements of this project and determine the appropriate licenses that are required to complete the project.

**STATE OF HAWAII**  
**DEPARTMENT OF TRANSPORTATION**  
**HIGHWAYS DIVISION**  
**HONOLULU, HAWAII**

**SPECIAL PROVISIONS**

These Special Provisions shall supplement and/or amend the applicable provisions of the Hawaii Standard Specifications for Road and Bridge Construction, 2005, hereinafter referred to as the "Standard Specifications".



Amend **Section 101 - TERMS, ABBREVIATIONS, AND DEFINITIONS** to read as follows:

**“DIVISION 100 - GENERAL PROVISIONS**

**SECTION 101 - TERMS, ABBREVIATIONS, AND DEFINITIONS**

**101.01 Meaning of Terms.** The specifications are generally written in the imperative mood. In sentences using the imperative mood, the subject, “the Contractor shall”, is implied. In the material specifications, the subject may also be the supplier, fabricator, or manufacturer supplying material, products, or equipment for use on the project. The word “will” generally pertains to decisions or actions of the State.

When a publication is specified, it refers to the most recent date of issue, including interim publications, before the bid opening date for the project, unless a specific date or year of issue is provided.

**101.02 Abbreviations.** Meanings of abbreviations used in the specifications, on the plans, or in other contract documents are as follows:

AAN	American Association of Nurserymen
AASHTO	American Association of State Highway and Transportation Officials
ACI	American Concrete Institute
ADA	Americans with Disabilities Act
ADAAG	Americans with Disabilities Act Accessibility Guidelines
AGC	Associated General Contractors of America
AIA	American Institute of Architects
AISC	American Institute of Steel Construction
AISI	American Iron and Steel Institute
ANSI	American National Standards Institute
APA	American Plywood Association

46	ARA	American Railway Association
47		
48	AREA	American Railway Engineering Association
49		
50	ASA	American Standards Association
51		
52	ASCE	American Society of Civil Engineers
53		
54	ASLA	American Society of Landscape Architects
55		
56	ASTM	American Society for Testing and Materials
57		
58	AWG	American Wire Gauge
59		
60	AWPA	American Wood Preserver's Association
61		
62	AWS	American Welding Society
63		
64	AWWA	American Water Works Association
65		
66	BMP	Best Management Practice
67		
68	CCO	Contract Change Order
69		
70	CFR	Code of Federal Regulations
71		
72	CRSI	Concrete Reinforcing Steel Institute
73		
74	DCAB	Disability and Communication Access Board, Department of
75		Health, State of Hawaii
76		
77	DOTAX	Department of Taxation, State of Hawaii
78		
79	EPA	U.S. Environmental Protection Agency
80		
81	FHWA	Federal Highway Administration,
82		U.S. Department of Transportation
83		
84	FSS	Federal Specifications and Standards,
85		General Services Administration, U.S. Department of Defense
86		
87	HAR	Hawaii Administrative Rules
88		
89	HDOT	Department of Transportation, State of Hawaii
90		

91	HIOSH	Occupational Safety and Health, Department of Labor and
92		Industrial Relations, State of Hawaii
93		
94	HMA	Hot Mix Asphalt
95		
96	HRS	Hawaii Revised Statutes
97		
98	ICEA	Insulated Cable Engineers Association (formerly IPCEA)
99		
100	IMSA	International Municipal Signal Association
101		
102	IRS	Internal Revenue Service
103		
104	ITE	Institute of Transportation Engineers
105		
106	MUTCD	Manual on Uniform Traffic Control Devices for Streets and
107		Highways, FHWA, U.S. Department of Transportation
108		
109	NCHRP	National Cooperative Highway Research Program
110		
111	NEC	National Electric Code
112		
113	NEMA	National Electrical Manufacturers Association
114		
115	NFPA	National Forest Products Association
116		
117	NPDES	National Pollutant Discharge Elimination System
118		
119	OSHA	Occupational Safety and Health Administration/Act,
120		U.S. Department of Labor
121		
122	SAE	Society of Automotive Engineers
123		
124	SI	International Systems of Units
125		
126	UFAS	Uniform Federal Accessibility Standards
127		
128	UL	Underwriter's Laboratory
129		
130	USGS	U.S. Geological Survey
131		
132	VECP	Value Engineering Cost Proposal
133		
134		

**101.03 Definitions.** Whenever the following words, terms, or pronouns are used in the contract documents, unless otherwise prescribed therein and without regards to the use or omission of uppercase letters, the intent and meaning shall be interpreted as follows:

**Addendum (plural - Addenda)** - A written or graphic document, including drawings and specifications, issued by the Director during the bidding period. This document modifies or interprets the bidding documents by additions, deletions, clarifications or corrections.

**Addition** (to the contract sum) - Amount added to the contract sum by change order.

**Advertisement** - A public announcement inviting bids for work to be performed or materials to be furnished.

**Amendment** - A written document issued to amend the existing contract between the State and Contractor and properly executed by the Contractor and Director.

**Award** - Written notification to the bidder that the bidder has been awarded a contract.

**Bad Weather Day (or Unworkable Day)** - A day when weather or other conditions prevent a minimum of four hours of work with the Contractor's normal work force on critical path activities at the site.

**Bag** - 94 pounds of cement.

**Barrel** - 376 pounds of cement.

**Base Course** - The layer or layers of specified material or selected material of a designed thickness placed on a subbase or subgrade to support a surface course.

**Basement Material** - The material in excavation or embankments underlying the lowest layer of subbase, base, pavement, surfacing or other specified layer.

**Bid** - See Proposal.

**Bidder** - An individual, partnership, corporation, joint venture or other legal entity submitting, directly or through a duly authorized representative or agent, a proposal for the work or construction contemplated.

**Bidding Documents (or Solicitation Documents)** - The published solicitation notice, bid requirements, bid forms and the proposed contract documents including all addenda and clarifications issued prior to receipt of the bid.

**Bid Security** - The security furnished by the bidder from which the State may recover its damages in the event the bidder breaches its promise to enter into a contract with the State, or fails to execute the required bonds covering the work contemplated, if its proposal is accepted.

**Blue Book** - EquipmentWatch Cost Recovery (formerly known as EquipmentWatch Rental Rate Blue Book), available from EquipmentWatch, a division of Penton, Inc.

**Calendar Day** - See Day.

**Change Order (or Contract Change Order)** - A written order signed by the Engineer issued with or without the consent of the Contractor directing changes in the work, contract time or contract price. The purposes of a change order include, but are not limited to (1) establishing a price or time adjustment for changes in the work; (2) establishing full payment for direct, indirect, and consequential costs, including costs of delay; (3) establishing price adjustment or time adjustment for work covered and affected by one or more field orders; or (4) settling Contractor's claims for direct, indirect, and consequential costs, or for additional contract time, in whole or in part.

**Completion** - See Substantial Completion and Final Completion.

**Completion Date** - The date specified by the contract for the completion of all work on the project or of a designated portion of the project.

**Comptroller** - the Comptroller of the State of Hawaii, Department of Accounting and General Services.

**Contract** - The written agreement between the Contractor and the State, by which the Contractor shall provide all labor, equipment, and materials and perform the specified work within the contract time stipulated, and by which the State of Hawaii is obligated to compensate the Contractor at the prices set forth in the contract documents.

**Contract Certification Date** - The Date on which the Deputy Comptroller for the State of Hawaii (or authorized representative) signs the Contract Certification.

**Contract Completion Date** - The calendar day on which all work on the project, required by the contract, must be completed. See CONTRACT TIME.

**Contract Documents** - The contract, solicitation, addenda, notice to bidders, Contractor's bid proposal (including wage schedule, list of subcontractors and other documentations accompanying the bid), notice to proceed, bonds, general provisions, special provisions, specifications, drawings, all modifications, all written amendments, change orders, field orders, orders for minor changes in the work, the Engineer's written interpretations and clarifications issued on or after the effective date of the contract.

**Contract Item (Pay Item)** - A specific unit of work for which there is a price in the contract.

**Contract Modification (Modification)** - A change order that is mutually agreed to and signed by the parties to the contract.

**Contract Price** - The amount designated on the face of the contract for the performance of work.

**Contract Time (or Contract Duration)** - The number of calendar or working days provided for completion of the contract, inclusive of authorized time extensions. Contract time shall commence on the Start Work Date and end on the Substantial Completion Date. If in lieu of providing a number of calendar or working days, the contract requires completion by a certain date, the work shall be completed by that date.

**Contracting Officer** - See Engineer.

**Contractor** - Any individual, partnership, firm, corporation, joint venture, or other legal entity undertaking the execution of the work under the terms of the contract with the State.

**Critical Path** - Longest logical sequence of activities that must be completed on schedule for the entire project to be completed on schedule.

**Day** - Any day shown on the calendar, beginning at midnight and proceeding up to, but not including, midnight the following day. If no designation of calendar or working day is made, "day" shall mean calendar day.

**Department** - The Department of Transportation of the State of Hawaii (abbreviated HDOT).

**Director** - The Director of the HDOT acting directly or through duly authorized representatives.

**Plans (or Drawings)** - The contract drawings in graphic or pictorial form including the notes, tables and other notations thereon indicating the design, location, character, dimensions, and details of the work.

**Engineer** - The Highway Administrator, Highways Division, HDOT, or the authorized person delegated to act on the Administrator's behalf.

**Equipment** - All machinery, tools, and apparatus needed to complete the contract.

**Field Order** - A written order issued by the Engineer or the Engineer's authorized representative to the Contractor requiring a change or changes to the contract work. A field order may (1) establish a price adjustment or time adjustment; or (2) may declare that no adjustment will be made to contract price or contract time; or (3) may request the Contractor to submit a proposal for an adjustment to the contract price or contract time.

**Final Acceptance** - The Status of the project when the Engineer finds that the Contractor has satisfactorily completed all contract work in compliance with the contract including all plant establishment requirements, and all the materials have been accepted by the State.

**Final Completion** - The date set by the Director that all work required by the contract has been completed in full compliance with the contract documents.

**Final Inspection** - Inspection where all contract items (with the exception of Planting Period and Plant Establishment Period) are accepted by the Engineer. Substantial Completion will be issued by the Engineer based on the satisfactory results of the Final Inspection.

**Float** - The amount of time between when an activity can start and when an activity must start, i.e., the time available to complete non-critical activities required for the performance of the work without affecting the critical path.

**Guarantee** - Legally enforceable assurance of the duration of satisfactory performance of quality of a product or work.

**Hawaii Administrative Rules** - Rules adopted by the State in accordance with Chapter 91 of the Hawaii Revised Statutes, as amended.

**Highway (Street, Road, or Roadway)** - A public way within a right-of-way designed, intended, and set aside for use by vehicles, bicyclists, or pedestrians.

**Highways Division** - The Highways Division of the Hawaii Department of Transportation constituted under the laws of Hawaii for the administration of highway work.

**Holidays** - The days of each year which are set apart and established as State holidays pursuant to Chapter 8 of the Hawaii Revised Statutes, as amended.

**Inspector** - The Engineer's authorized representative assigned to make detailed inspections of contract performance, prescribed work, and materials supplied.

**Laboratory** - The testing laboratory of the Highways Division or other testing laboratories that may be designated by the Engineer.

**Laws** - All Federal, State, and local laws, executive orders and regulations having the force of law.

**Leveling Course** - An aggregate mixture course of variable thickness used to restore horizontal and vertical uniformity to existing pavements or shoulders.

**Liquidated Damages** - The amount prescribed in Subsection 108.08 - Liquidated Damages for Failure to Complete the Work or Portions of the Work on Time, to be paid to the State or to be deducted from any payments payable to or, which may become payable to the Contractor.

**Lump Sum (LS)** - When used as a payment method means complete payment for the item of work described in the contract documents.

**Material** - Any natural or manmade substance or item specified in the contract to be incorporated in the work.

**Notice to Bidders** - The advertisement for proposals for all work or materials on which bids are required. Such advertisement will indicate the location of the work to be done or the character of the material to be furnished and the time and place for the opening of proposals.

**Notice to Proceed** - Written notice from the Engineer to the Contractor identifying the date on which the Contractor is to begin procuring materials and required permits and adjusting work forces, equipment, schedules, etc. prior to beginning physical work.

**Pavement** - The uppermost layer of material placed on the traveled way or shoulders or both. Pavement and surfacing may be interchangeable.

**Pavement Structure** - The combination of subbase, base, pavement, surfacing or other specified layer of a roadway constructed on a subgrade to support the traffic load.

**Payment Bond** - The security executed by the Contractor and surety or sureties furnished to the Department to guarantee payment by the Contractor to laborers, material suppliers and subcontractors in accordance with the terms of the contract.



**Physical Work** - Physical construction activities on the project site or at appurtenant facilities including staging areas. It includes; (i) building or installing any structures or facilities including, but not limited to sign erection; BMP installation; field office site grading and building; (ii) removal, adjustment, or demolition of physical obstructions on site; (iii) any ground breaking activities; and (iv) any utility work. It does not include pre-construction environmental testing (such as water quality baseline measurements) that may be required as part of contract.

**Pre-Final Inspection** - Inspection scheduled when Contractor notifies Engineer that all physical work on the project, with the exception of planting period and plant establishment period, has been completed. Notice from Contractor of substantial completion will suspend contract time until Contractor receives punchlist from Engineer.

**Profile Grade** - The elevation or gradient of a vertical plane intersecting the top surface of the proposed pavement.

**Project Acceptance Date** - The calendar day on which the Engineer accepts the project as completed. See Final Completion.

**Proposal (Bid)** - The executed document submitted by a Bidder in response to a solicitation request, to perform the work required by the proposed contract documents, for the price quoted and within the time allotted.

**Public Traffic** - Vehicular or pedestrian movement on a public way.

**Punchlist** - A list compiled by the Engineer specifying work yet to be completed or corrected by the Contractor in order to substantially complete the contract.

**Questionnaire** - The specified forms on which the bidder shall furnish required information as to its ability to perform and finance the work.

**Request for Change Proposal** - A written notice from the Engineer to the Contractor requesting that the Contractor provide a price and/or time proposal for contemplated changes preparatory to the issuance of a field order or change order.

**Right-of-Way** - Land, property, or property interests acquired by a government agency for, or devoted to transportation purposes.

**Roadbed** - The graded portion of a highway within top and side slopes, prepared as a foundation for the pavement structure and shoulders.

**Roadside** - The area between the outside edges of the shoulders and the right-of-way boundaries. Unpaved median areas between inside shoulders of divided highways and infield areas of interchanges are included.

**Section and Subsection** - Section or subsection shall be understood to refer to these specifications unless otherwise specified.

**Shop Drawings** - All drawings, diagrams, illustrations, schedules and other data or information which are specifically prepared or assembled by or for the Contractor and submitted by the Contractor to illustrate some portion of the work.

**Shoulder** - The portion of the roadway next to the traveled way for: accommodation of stopped vehicles, placement of underground facilities, emergency use, and lateral support of base and surface courses.

**Sidewalk** - That portion of the roadway primarily constructed for use by pedestrians.

**Solicitation** - An invitation to bid or request for proposals or any other document issued by the Department to solicit bids or offers to perform a contract. The solicitation may indicate the time and place to receive the bids or offers and the location, nature and character of the work, construction or materials to be provided.

**Specifications** - Compilation of provisions and requirements to perform prescribed work.

(A) **Standard Specifications.** Specifications by the State intended for general application and repetitive use.

(B) **Special Provisions.** Revisions and additions to the standard specifications applicable to an individual project.

**Standard Plans** - Drawings provided by the State for specific items of work approved for repetitive use.

**State** - The State of Hawaii, its Departments and agencies, acting through its authorized representative(s).

**State Waters** – All waters, fresh, brackish, or salt, around and within the State, including, but not limited to, coastal waters, streams, rivers, drainage ditches, ponds, reservoirs, canals, ground waters, and lakes; provided that drainage ditches, ponds, and reservoirs required as a part of a water pollution control system are excluded.

**Start Work Date** - Date on which Contractor begins physical work on the contract. This date shall also be the beginning of Contract Time.

**Structures** - Bridges, culverts, catch basins, drop inlets, retaining walls, cribbing, manholes, endwalls, buildings, sewers, service pipes, underdrains, foundation drains, and other such features that may be encountered in the work.

**Subbase** - A layer of specified material of specified thickness between the subgrade and a base.

**Subcontract** - Any written agreement between the Contractor and its subcontractors which contains the conditions under which the subcontractor is to perform a portion of the work for the Contractor.

**Subcontractor** - An individual, partnership, firm, corporation, joint venture or other legal entity, as licensed or required to be licensed under Chapter 444, Hawaii Revised Statutes, as amended, which enters into an agreement with the Contractor to perform a portion of the work.

**Subgrade** - The top surface of completed earthwork on which subbase, base, surfacing, pavement, or a course of other material is to be placed.

**Substantial Completion** - The Status of the project when the Contractor has completed the work, except for the planting period and plant establishment period, and each of the following requirements are met:

- (1) All traffic lanes (including shoulders, ramps, sidewalks and bike paths) are in their final configuration as designed and the final wearing surface has been installed;
- (2) All operational and safety devices have been installed in accordance with the contract documents including guardrails, end treatments, traffic barriers, required signs and pavement markings, drainage, parapet, and bridge and pavement structures;
- (3) All required illumination and lighting for normal and safe use and operation is installed and functional in accordance with the contract documents;
- (4) All utilities and services are connected and working;
- (5) The need for temporary traffic controls or lane closures at any time has ceased, except for lane closures required for routine maintenance;
- (6) The building, structure, improvement or facility can be used for its intended purpose.

**Substantial Completion Date** - The date the Substantial Completion is granted by the Engineer in Writing and Contract Time stops.

**Superintendent** - The employee of the Contractor who is responsible for all the work and is a Contractor's agent for communications to and from the State.

**Surety** - The qualified individual, firm or corporation other than the Contractor, which executes a bond with and for the Contractor to insure its acceptable performance of the contract.

**Surfacing** - The uppermost layer of material placed on the traveled way or shoulders. This term is used interchangeably with pavement.

**Traveled Way** - The portion of the roadway for the movement of vehicles, exclusive of shoulders.

**Unsuitable Material** - Materials that contain organic matter, muck, humus, peat, sticks, debris, chemicals, toxic matter, or other deleterious materials not suitable for use in earthwork.

**Utility** - A line, facility, or system for producing, transmitting, or distributing communications, power, electricity, heat, gas, oil, water, steam, waste, or storm water.

**Utility Owner** - The entity, whether private or owned by a State, Federal, or County governmental body, that has the power and responsibility to grant approval for, or undertake construction work involving a particular utility.

**Water Pollutant** - Dredged spoil, solid refuse, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil, sediment, cellar dirt and industrial, municipal, and agricultural waste.

**Water Pollution** - (1) Such contamination or other alteration of the physical, chemical, or biological properties of any state waters, including change in temperature, taste, color, turbidity, or odor of the waters, or (2) Such discharge of any liquid, gaseous, solid, radioactive, or other substances into any state waters, as will or is likely to create a nuisance or render such waters unreasonably harmful, detrimental, or injurious to public health, safety, or welfare, including harm, detriment, or injury to public water supplies, fish and aquatic life and wildlife, recreational purposes and agricultural and industrial research and scientific uses of such waters or as will or is likely to violate any water quality standards, effluent standards, treatment and pretreatment standards, or standards of performance for new sources adopted by the Department of Health.

**Work** - The furnishing of all labor, material, equipment, and other incidentals necessary or convenient for the successful execution of all the duties and obligations imposed by the contract.

**Working Day** - A calendar day in which a Contractor is capable of working four or more hours with its normal work force, exclusive of:

544 (1) Saturdays, Sundays, and recognized legal State holidays and such  
545 other days specified by the contract documents as non-working days,  
546

547 (2) Day in which the Engineer suspends work for four or more hours  
548 through no fault of the Contractor.”  
549

550

551

552

553

**END OF SECTION 101**

1 Make this section a part of the Standard Specifications:

2  
3 **"SECTION 102 - BIDDING REQUIREMENTS AND CONDITIONS**

4  
5  
6 **102.01 Prequalification of Bidders.** Prospective bidders shall be capable of  
7 performing the work for which they are bidding.

8  
9 In accordance with HRS Chapter 103D-310, the Department may require  
10 any prospective bidder to submit answers to questions contained in the 'Standard  
11 Qualification Questionnaire For Prospective Bidders On Public Works Contracts'  
12 furnished by the Department, properly executed and notarized, setting forth a  
13 complete statement of the experience of such prospective bidder and its  
14 organization in performing similar work and a statement of the equipment  
15 proposed to be used, together with adequate proof of the availability of such  
16 equipment. Whenever it appears to the Department, from answers to the  
17 questionnaire or otherwise, that the prospective bidder is not fully qualified and  
18 able to perform the intended work, the Department will, after affording the  
19 prospective bidder an opportunity to be heard and if still of the opinion that the  
20 bidder is not fully qualified to perform the work, refuse to receive or consider any  
21 bid offered by the prospective bidder. All information contained in the answers to  
22 the questionnaire shall be kept confidential. Questionnaire so submitted shall be  
23 returned to the bidders after serving their purpose.

24  
25 No person, firm or corporation may bid where (1) the person, firm, or  
26 corporation, or (2) a corporation owned substantially by the person, firm, or  
27 corporation, or (3) a substantial stockholder or an officer of the corporation, or (4)  
28 a partner or substantial investor in the firm is in arrears in payments owed to the  
29 State or its political subdivisions or is in default as a surety or failure to do  
30 faithfully and diligently previous contracts with the State.

31  
32 **102.02 Contents of Proposal Forms.** The Department will furnish  
33 prospective bidders with proposal forms posted in HlePRO stating:

- 34  
35 (1) The location,  
36  
37 (2) Description of the proposed work,  
38  
39 (3) The approximate quantities,  
40  
41 (4) Items of work to be done or materials to be furnished,  
42  
43 (5) A schedule of items, and  
44  
45 (6) The time in which the work shall be completed.  
46

Papers bound with or attached to the proposal form are part of the proposal. The bidder shall not detach or alter the papers bound with or attached to the proposal when the bidder submits its proposal through HlePRO.

Also, the bidder shall consider other documents including the plans and specifications a part of the proposal form whether attached or not.

### **102.03 (Unassigned)**

**102.04 Estimated Quantities.** The quantities shown in the contract are approximate and are for the comparison of bids only. The actual quantity of work may not correspond with the quantities shown in the contract. The Department will make payment to the Contractor for unit price items in accordance with the contract for only the following:

(1) Actual quantities of work done and accepted, not the estimated quantities; or

(2) Actual quantities of materials furnished, not the estimated quantities.

The Department may increase, decrease, or omit each scheduled quantities of work to be done and materials to be furnished. When the Department increases or decreases the estimated quantity of a contract item by more than 15% the Department will make payment for such items in accordance with Subsection 104.06 - Methods of Price Adjustment.

**102.05 Examination of Contract and Site of Work.** The bidder shall examine carefully the site of the proposed work and contract before submitting a proposal.

By the act of submitting a bid for the proposed contract, the bidder warrants that:

(1) The bidder and its Subcontractors have reviewed the contract documents and found them free from ambiguities and sufficient for the purpose intended;

(2) The bidder and its workers, employees and subcontractors have the skills and experience in the type of work required by the contract documents bid upon;

(3) Neither the bidder nor its employees, agents, suppliers or subcontractors have relied upon verbal representations from the Department, its employees or agents, including architects, engineers or consultants, in assembling the bid figure; and

93           **(4)**    The basis for the bid figure is solely on the construction contract  
94 documents.

95  
96           Also, the bidder warrants that the bidder has examined the site of the  
97 work. From its investigations, the bidder acknowledges satisfaction on:

98  
99           **(1)**    The nature and location of the work;

100  
101           **(2)**    The character, quality, and quantity of materials;

102  
103           **(3)**    The difficulties to be encountered; and

104  
105           **(4)**    The kind and amount of equipment and other facilities needed;

106  
107           Subsurface information or hydrographic survey data furnished are for the  
108 bidders' convenience only. The data and information furnished are the product of  
109 the Department's interpretation gathered in investigations made at the specific  
110 locations. These conditions may not be typical of conditions at other locations  
111 within the project area or that such conditions remain unchanged. Also,  
112 conditions found at the time of the subsurface explorations may not be the same  
113 conditions when work starts. The bidder shall be solely responsible for  
114 assumptions, deductions, or conclusions the bidder may derive from the  
115 subsurface information or data furnished.

116  
117           If the Engineer determines that the natural conditions differ from that  
118 originally anticipated or contemplated by the Contractor in the items of  
119 excavation, the State may treat the difference in natural conditions, as falling  
120 within the meaning of Subsection 104.02 – Changes.

121  
122           **102.06 Preparation of Proposal.** The submittal of its proposal shall be on  
123 forms furnished by the Department. The bidder shall specify in words or figures:

124  
125           **(1)**    A unit price for each pay item with a quantity given;

126  
127           **(2)**    The products of the respective unit prices and quantities

128  
129           **(3)**    The lump sum amount; and

130  
131           **(4)**    The total amount of the proposal obtained by adding the amounts  
132 of the several items.

133  
134           The words and figures shall be in ink or typed. If a discrepancy occurs  
135 between the prices written in words and those written in figures, the prices written  
136 in words shall govern.



138 When an item in the proposal contains an option to be made, the bidder  
139 shall choose in accordance with the contract for that particular item.  
140 Determination of an option will not permit the Contractor to choose again.

141  
142 The bidder shall sign the proposal properly in ink. A duly authorized  
143 representatives of the bidder or by an agent of the bidder legally qualified and  
144 acceptable to the Department shall sign, including one or more partners of the  
145 bidder and one or more representatives of each entity comprising a joint venture.

146  
147 When an agent, other than the officer(s) of a corporation authorized to  
148 sign contracts for the corporation or a partner of a partnership, signs the  
149 proposals, a 'Power of Attorney' shall be on file with the Department or submitted  
150 with the proposal. Otherwise, the Department will reject the proposal as irregular  
151 and unauthorized.

152  
153 The bidder shall submit acceptable evidence of the authority of the  
154 partner, member(s) or officer(s) to sign for the partnership, joint venture, or  
155 corporation respectively with the proposal. Otherwise, the Department will reject  
156 the proposal as irregular and unauthorized.

157  
158 **102.07 Irregular Proposals.** The Department may consider proposals  
159 irregular and may reject the proposals for the following reasons:

- 160  
161 (1) The proposal is a form not furnished by the Department, altered,  
162 or detached;  
163  
164 (2) The proposal contains unauthorized additions, conditions, or  
165 alternates. Also, the proposal contains irregularities that may tend to  
166 make the proposal incomplete, indefinite, or ambiguous to its meaning;  
167  
168 (3) The bidder adds provisions reserving the right to accept or reject an  
169 award. Also, the bidder adds provisions into a contract before an award;  
170  
171 (4) The proposal does not contain a unit price for each pay item listed  
172 except authorized optional pay items; and  
173  
174 (5) Prices for some items are out of proportion to the prices for other  
175 items.  
176  
177 (6) If in the opinion of the Director, the bidder and its listed  
178 subcontractors do not have the Contractor's licenses or combination of  
179 Contractor's licenses necessary to complete the work.  
180

Where the prospective bidder is bidding on multiple projects simultaneously and the proposal limits the maximum gross amount of awards that the bidder can accept at one bid letting, the proposal is not irregular if the limit on the gross amount of awards is clear and the Department selects the awards that can be given.

**102.08 Proposal Guaranty.** A Proposal Guaranty is not required.

**102.09 Delivery of Proposal.** The bidder shall submit the proposal in HlePRO. Bids received after said due date and time shall not be considered. Original bid documents do not have to be submitted. Award will be made based on proposals submitted in HlePRO.

**102.10 Withdrawal or Revision of Proposals.** A bidder may withdraw or revise a proposal after the bidder submits the proposal in HlePRO. Withdrawal or revision of proposal must be completed before the time set for the receiving of bids.

**102.11 Public Opening of Proposals.** Not applicable.

**102.12 Disqualification of Bidders.** The Department may disqualify a bidder and reject its proposal for the following reasons:

- (1) Submittal of more than one proposal whether under the same or different name.
- (2) Evidence of collusion among bidders. The Department will not recognize participants in collusion as bidders for any future work of the Department until such participants are reinstated as qualified bidders.
- (4) Submittal of an unsigned or improperly signed proposal.
- (5) Submittal of a proposal without a listing of subcontractors or containing only a partial or incomplete listing of subcontractors.
- (6) Submittal of an irregular proposal in accordance with Subsection 102.07 - Irregular Proposals.
- (7) Evidence of assistance from a person who has been an employee of the agency within the preceding two years and who participated while in State office or employment in the matter with which the contract is directly concerned, pursuant to HRS Chapter 84-15.
- (8) Suspended or debarred in accordance with HRS Chapter 104-25.
- (9) Failure to complete the prequalification questionnaire, if applicable.

(10) Failure to attend the mandatory pre-bid meeting, if applicable.

**102.13 Material Guaranty.** The successful bidder may be required to furnish a statement of the composition, origin, manufacture of materials, and samples.

**102.14 Substitution of Materials and Equipment Before Bid Opening.** See Subsection 106.13 for Substitution Of Materials and Equipment After Bid Opening.

**(A) General.** When brand names of materials or equipment are specified in the contract documents, they are to indicate a quality, style, appearance, or performance and not to limit competition. The bidder shall base its bid on one of the specified brand names unless alternate brands are qualified as equal or better in an addendum. Qualification of such proposed alternate brands shall be submitted via email to the Contact person listed in HlePRO for the solicitation and also post a question in HlePRO under the question/answer tab referencing the email with the request. The request must be posted in HlePRO no later than 14 calendar days before the bid opening date, not including the bid opening date

An addendum will be issued to inform all prospective bidders of any accepted substitution in accordance with Subsection 102.17 – Addenda .

**(B) Statement of Variances.** The statement of variances must list all features of the proposed substitution that differ from the contract documents and must further certify that the substitution has no other variant features. The brochure and information submitted shall be clearly marked showing make, model, size, options, and any other features requested by the Engineer and must include sufficient evidence to evaluate each feature listed as a variance. A request will be denied if submitted without sufficient evidence. If after installing the substituted product, an unlisted variance is discovered, the Contractor shall immediately replace the product with a specified product at no increase in contract price and contract time.

**(C) Substitution Denial.** Any substitution request not complying with the above requirements will be denied.

**102.15 Preferences.** Preferences do not apply.

**102.16 Certification for Safety and Health Program for Bids in excess of \$100,000.** In accordance with HRS Chapter 396-18, the bidder or offeror, by signing and submitting this proposal, certifies that a written safety and health plan for this project will be available and implemented by the notice to proceed date

for this project. Details of the requirements of this plan may be obtained from the State Department of Labor and Industrial Relations, Occupational Safety and Health Division (HIOSH).

**102.17 Addenda.** Addenda issued shall become part of the contract documents. Addenda to the bid documents will be provided to all prospective bidders via HlePRO. Each addendum shall be an addition to the contract documents. The terms and requirements of the bid documents (i.e. drawings, specifications and other bid and contract documents) cannot be changed prior to the bid opening except by a duly issued addendum.”

**END OF SECTION 102**

1 Make this section a part of the Standard Specifications:  
2

3 **“SECTION 103 - AWARD AND EXECUTION OF CONTRACT**  
4  
5

6 **103.01 Consideration of Proposals.** The Department will compare the  
7 proposals in terms of the summation of the products of the approximate quantities  
8 and the unit bid prices after the submittal date and time established in HlePRO. If  
9 a discrepancy occurs between the unit bid price and the bid price, the unit bid price  
10 shall govern.  
11

12 The Department reserves the right to reject proposals, waive technicalities  
13 or advertise for new proposals, if the rejection, waiver, or new advertisement favors  
14 the Department.  
15

16 **103.02 Award of Contract.** The award of contract, if it be awarded, will be  
17 made within 60 calendar days after the opening of bids, to the lowest responsible  
18 and responsive bidder whose bid meets all the requirements and criteria set forth  
19 in the invitation for bids. (Through HlePRO). The successful bidder will be notified  
20 by letter mailed to the address shown in its proposal, that its proposal has been  
21 accepted, and that it has been awarded the contract.  
22  
23

24 **(1) Requirement for Award.** To be eligible for award, the  
25 apparent low bidder will be contacted to submit copies of the  
26 documents listed below to demonstrate compliance with HRS  
27 Section 103D-310(c). The documents shall be submitted to the  
28 Department within 14 days after bid opening unless otherwise  
29 specified in the invitation for bids or an extension is granted in writing  
30 by the Department. If a valid certificate/clearance is not submitted  
31 on a timely basis for award of a contract, a bidder otherwise  
32 responsive and responsible may not receive the award. See also  
33 Subsection 108.03 – Preconstruction Data Submittal.  
34

35 The Department may request the bidders to allow the Department  
36 to consider the bids for the issuance of an award beyond the 60 calendar  
37 day period. Agreement to such an extension must be made by a bidder  
38 in writing. Only bidders who have agreed to such an extension will be  
39 eligible for the award.  
40

41 **(A) Tax Clearance.** Pursuant to HRS Sections 103D-310(c), 103-53  
42 and 103D-328, the successful bidder shall be required to submit a certified  
43 copy of its tax clearance issued by the Hawaii State Department of Taxation  
44 (DOTAX) and the Internal Revenue Service (IRS) to demonstrate its  
45 compliance with HRS Chapter 237. A tax clearance is valid for six (6)  
46 months from the most recent approval stamp date on the tax clearance and  
47 must be valid on the bid's first legal advertisement date or any date  
48 thereafter up to the bid opening date.

49  
50 FORM A6, TAX CLEARANCE CERTIFICATE, is available at  
51 the following website:

52  
53 <https://tax.hawaii.gov/>  
54

55 To receive DOTAX Forms by fax or mail, phone  
56 (808) 587-7572 or 1-800-222-7572.  
57

58 The application for the Tax Clearance Certificate is the responsibility  
59 of the bidder and must be submitted directly to the DOTAX or IRS. The  
60 approved certificate may then be submitted to the Department.  
61

62 **(B) DLIR Certificate of Compliance.** Pursuant to HRS Section 103D-  
63 310(c), the successful bidder shall be required to submit a copy (faxed  
64 copies are acceptable) of its approved certificate of compliance issued by  
65 the Hawaii State Department of Labor and Industrial Relations (DLIR) to  
66 demonstrate its compliance with unemployment insurance (HRS Chapter  
67 383), workers' compensation (HRS Chapter 386), temporary disability  
68 insurance (HRS Chapter 392), and prepaid health care (HRS Chapter 393).  
69 The certificate is valid for six (6) months from the most recent approval  
70 stamp date on the certificate and must be valid on the bid's first legal  
71 advertisement date or any date thereafter up to the bid opening date. For  
72 certificates which receive a "pending" approval stamp, a DLIR approval  
73 stamp is required prior to the issuance of the Notice to Proceed.  
74

75 FORM LIR#27, APPLICATION FOR CERTIFICATE OF  
76 COMPLIANCE WITH SECTION 3-122-112, HAR, is available at the  
77 following website:

78  
79 <http://labor.hawaii.gov/>  
80

81 More information is available by calling the DLIR Unemployment Insurance  
82 Division at (808) 586-8926.  
83

84 Inquiries regarding the status of a LIR#27 Form may be made by  
85 calling the DLIR Disability Compensation Division at (808) 586-9200.  
86

87 The application for the Certificate of Compliance is the responsibility  
88 of the bidder and must be submitted directly to the DLIR. The approved  
89 certificate may then be submitted to the Department.  
90

91 **(C) DCCA Certificate of Good Standing.** Pursuant to HRS Section  
92 103D-310(c), the successful bidder shall be required to submit a copy  
93 (faxed copies are acceptable) of its approved Certificate of Good Standing  
94 issued by the Hawaii State Department of Commerce and Consumer Affairs  
95 (DCCA), Business Registration Division (BREG) to demonstrate that it is  
96 either:  
97

98 **(1)** Incorporated or organized under the laws of the State; or  
99

100 **(2)** Registered to do business in the State as a separate branch  
101 or division that is capable of fully performing under the contract.  
102

103 The Certificate of Good Standing is valid for six (6) months from the  
104 approval date on the certificate and must be valid on the bid's first legal  
105 advertisement date or any date thereafter up to the bid opening date. A  
106 Hawaii business that is a sole proprietorship, however, is not required to  
107 register with the BREG, and therefore not required to submit a Certificate of  
108 Good Standing. Bidders are advised that there are costs associated with  
109 registering and obtaining a Certificate of Good Standing from the DCCA.  
110

111 To purchase a CERTIFICATE OF GOOD STANDING, go to On-Line  
112 Services at the following website:  
113

114 <http://cca.hawaii.gov/>  
115

116 The application for the Certificate of Good Standing is the  
117 responsibility of the bidder and must be submitted directly to the DCCA.  
118 The approved certificate may then be submitted to the Department.  
119

120 **(D) Hawaii Compliance Express (HCE).** In lieu of the certificates  
121 referenced above, the bidder may make available proof of compliance  
122 through the Hawaii Compliance Express or any other designated  
123 certification process. Bidders may apply and register at the "Hawaii  
124 Compliance Express" website:  
125

126 <https://vendors.ehawaii.gov/hce/>  
127

128 **103.03 Cancellation of Award.** The Department reserves the right to cancel  
129 the award of contracts before the execution of said contract by the parties. There  
130 will be no liability to the awardee and to other bidders.  
131

132 **103.04 (Unassigned)**

**103.05 Requirement of Contract Bond.** At the time of execution of the contract, the successful bidder shall file a good and sufficient performance bond and a payment bond on the forms furnished by the Department conditioned for the full and faithful performance of the contract in accordance with the terms and intent thereof and for the prompt payment to all others for all labor and material furnished by them to the bidder and used in the prosecution of the work provided for in the contract. The bonds shall be of an amount equal to 100 percent of the amount of the contract price and include 5 percent of the contract amount estimated to be required for extra work. The bidder shall limit the acceptable performance and payment bonds to the following:

(a) Legal tender;

(b) Surety bond underwritten by a company licensed to issue bonds in the State of Hawaii; or

(c) A certificate of deposit; share certificate; cashier's check; treasurer's check, teller's check drawn by or a certified check accepted by and payable on demand to the State by a bank savings institution or credit union insured by the Federal Deposit Insurance Corporation (FDIC) or the National Credit Union Administration (NCUA).

1. The bidder may use these instruments only to a maximum of \$100,000.

2. If the required security or bond amount totals over \$100,000 more than one instrument not exceeding \$100,000 each and issued by different financial institutions shall be acceptable.

Such bonds shall also by the terms inure to the benefit of any and all persons entitled to file claims for labor done or material furnished in the work so as to give them a right of action as contemplated by HRS Section 103D-324.

**103.06 Execution of the Contract.** The contract bond and HRS Chapter 104 - Compliance Certificate, similar to a copy of the same annexed hereto, shall be executed by the successful bidder and returned within ten days after the award of the contract or within such further time as the Director may allow after the bidder has received the contract for execution.

The contract shall not bind the Department unless said parties execute the contract and the Director of Finance endorses the bidder's certificate in accordance with HRS Section 103-39.

**103.07 Failure to Execute Contract.** Failure to execute the contract and file acceptable bonds shall be cause for the cancellation of the award in accordance with Subsection 103.06 - Execution of the Contract. Also, the Contractor forfeits



179 the proposal guaranty which becomes the property of the Department. This is not  
180 a penalty, but liquidated damages sustained by the State. The Department may  
181 then make award to the next lowest responsible and responsive bidder or the  
182 Department may readvertise and construct the work under contract.”

183  
184  
185  
186  
187 **END OF SECTION 103**

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- 47

(I) Amend **Section 104.06 Methods of Price Adjustment** as follows:

**(1)** By written agreement on a fixed price adjustment before commencement of the pertinent performance.

**(3)** The Engineer may base the adjustment for a lump sum item on a calculated proportionate unit price. The Engineer will calculate the proportionate unit price by dividing the original contract lump sum price by the actual or original estimated quantity established by the contract documents.

**(5)** At the sole option of the Engineer, work may be paid for on a force account basis in accordance with Subsection 109.06 - Force Account Provisions and Compensation.

**(6)** By the cost variations attributable to the events or situations with adjustment of profit and fee, all as specified in the contract or subsequently agreed upon before commencement of the pertinent performance.

**(A)** For change orders with value not exceeding \$50,000 by documented actual costs of the work, allowing for overhead and profit as set forth in Section 109.05 - Allowances for Overhead and Profit. A change order shall be issued within fifteen days of submission by the contractor of proper documentation of completed force account work, whether periodic (conforming to the applicable billing cycle) or final. The Engineer shall return any documentation that is defective, to the contractor within fifteen days after receipt, with a statement identifying the defect; or

48 **(B)** For change orders with value exceeding \$50,000 by a  
49 unilateral determination by the Engineer of the costs attributable to  
50 the events or situations with adjustment of profit and fee, all as  
51 computed by the Engineer in accordance with applicable sections  
52 of HAR Chapters 3-123 and 3-126, and Section 109.05 -  
53 Allowances for Overhead and Profit. When a unilateral  
54 determination has been made, a unilateral change order shall be  
55 issued within ten days. Upon receipt of the unilateral change  
56 order, if the contractor does not agree with any of the terms or  
57 conditions, or the adjustment or nonadjustment of the contract time  
58 or contract price, the contractor shall file a notice of intent to claim  
59 within thirty days after the receipt of the written unilateral change  
60 order. Failure to file a protest within the time specified shall  
61 constitute agreement on the part of the contractor with the terms,  
62 conditions, amounts, and adjustment or nonadjustment of the  
63 contract time or the contract price set forth in the unilateral change  
64 order.

65  
66 A contractor shall be required to submit cost or pricing data if any  
67 adjustment in contract price is subject to the provisions of HAR Chapter 3-122,  
68 Subchapter 15. A fully executed change order or other document permitting  
69 billing for the adjustment in price under any method listed in Subsections  
70 104.06(1) through 104.06(7) shall be issued within ten days after agreement on  
71 the method of adjustment."

72  
73 **(II) Amend Section 104.11(B) Contractor's Duty to Locate and Protect**  
74 **Utility** by adding the following after line 291:

75  
76 **"(4)** The Contractor shall contact the Hawaii One Call Center at 811 prior  
77 to any execution in a public right of way or on private property."  
78  
79  
80  
81  
82  
83

84 **END OF SECTION 104**

1                                   **SECTION 105 – CONTROL OF WORK**  
2

3       Make the following amendments to said Section:  
4  
5

6       **(I)**       Amend **105.01 – Authority** to read as follows:  
7

8       **“105.01   Authority.**  
9

10       **(A)    Authority of the Engineer.** The Engineer is the representative of  
11       the Director and has all the authority of the Director with respect to the  
12       contract. The Engineer will make decisions on all questions that may  
13       arise regarding the contract, such as, but not limited to:

14                   **(1)**       Interpretation of the contract documents.  
15

16                   **(2)**       Acceptability of the materials furnished and work performed.  
17

18                   **(3)**       Manner of performance and rate of progress of the work.  
19

20                   **(4)**       Acceptable fulfillment of the contract on the part of the  
21       Contractor.  
22

23                   **(5)**       Compensation under the contract.  
24  
25

26               The Engineer’s decisions on questions, claims, and disputes will be  
27       final and conclusive subject to Subsection 107.15 – Disputes and Claims.  
28

29               The Engineer may delegate specific authority to act for the  
30       Engineer to a specific person or persons. Such delegation of authority  
31       shall be established in writing and shall become effective upon delivery to  
32       the Contractor.  
33

34       **(B)    Authority of the Inspectors.** Inspectors, as a representative of  
35       the Engineer or other agencies, will inspect the work done and materials  
36       furnished. Such inspection may extend to the preparation, fabrication or  
37       manufacture of the materials to be used. The Inspector does not have  
38       authority vested in the Engineer unless specifically delegated in writing.  
39       The Inspector may not alter or waive the provisions of the contract, issue  
40       instructions contrary to the contract, or act as agent or representative of  
41       the Contractor.  
42

43               Failure of an Inspector at any time to reject non-conforming work  
44       shall not be considered a waiver of the State’s right to require work in strict  
45       conformity with the contract documents as a condition of final acceptance.  
46

47 **(C) Authority of the Consultant and Construction Management.**

48 The State may engage consultants and construction managements to  
49 perform duties in connection with the work. Unless otherwise specified in  
50 writing to the Contractor, such retained consultants and construction  
51 managements shall have no greater authority than an Inspector.”

52  
53 **(II) Amend Subsection 105.02 - Submittals** by revising the first paragraph  
54 from lines 52 to 61 to read as follows:

55  
56 **“105.02 Submittals.** The contract contains the description of various items  
57 that the Contractor must submit to the Engineer for review and acceptance. The  
58 Contractor shall review all submittals for correctness, conformance with the  
59 requirements of the contract documents and completeness before submitting  
60 them to the Engineer. The submittal shall indicate the contract items and  
61 specifications subsections for which the submittal is provided. The submittal  
62 shall be legible and clearly indicate what portion of the submittal is being  
63 submitted for review. The Contractor shall provide six copies of the required  
64 submissions at the earliest possible date.”

65  
66 **(III) Amend Subsection 105.08 (A) - Furnishing Drawings and Special**  
67 **Provisions** to read as follows:

68  
69 **“(A) Furnishing Drawings and Special Provisions.** The State will  
70 furnish the Contractor an electronic set of the special provisions and  
71 plans.” The Contractor shall have and maintain at least one set of plans  
72 and specifications on the work site, at all times.

73  
74 **(IV) Amend Subsection 105.14(D) – No Designated Storage Area** from lines  
75 421 to 432 to read as follows:

76  
77 **“(D) No Designated Storage Area.** If no storage area is designated  
78 within the contract documents, materials and equipment may be stored  
79 anywhere within the State highway right-of-way, provided such storage  
80 and access to and from such site, within the sole discretion of the  
81 Engineer, does not create a public or traffic hazard or an impediment to  
82 the movement of traffic.”

83  
84 **(V) Amend Subsection 105.16(A) – Subcontract Requirements** from lines  
85 468 to 470 to read as follows:

86  
87 **“The Contractor may subcontract a portion of the work but the Contractor shall**  
88 **remain responsible for the work so subcontracted.”**

92 **(VI)** Amend **Subsection 105.16(B) – Substituting Subcontractors** from lines  
93 487 to 494 to read as follows:

94  
95 “Substitutions of subcontractors will be allowed only if the subcontractor:”

96

97

98

99

100

**END OF SECTION 105**

## SECTION 106 – MATERIAL RESTRICTIONS AND REQUIREMENTS

Make the following amendment to said Section:

**(I)** Amend **106.05(B) – Deviation** by revising the third sentence from line 106 to 108 to read as follows:

“Any deviations will be subject to Subsection 102.14 – Substitution of Materials and Equipment Before Bid Opening.

(II) Amend **106.11 Steel and Iron Construction Material** from line 238 to line 277 to read as follows

**"106.11 Steel and Iron Construction Material. (Not Applicable)"**

**END OF SECTION 106**

1       **SECTION 107 - LEGAL RELATIONS AND RESPONSIBILITY TO PUBLIC**

2  
3       Make the following amendments to said Section:

4  
5  
6       **(I)**       Amend **Section 107.01 Insurance Requirements** from lines to 81 to  
7       read as follows:

8  
9       **“(A) Obligation of Contractor.** Contractor shall not commence any  
10       work until it obtains, at its own expense, all required insurance described  
11       herein. Such insurance shall be provided by an insurance company  
12       authorized by the laws of the State to issue such insurance in the State of  
13       Hawaii. Coverage by a “Non-Admitted” carrier is permissible provided the  
14       carrier has a Best’s Rating of “A-VII” or better. The Contractor shall  
15       maintain and ensure all insurance policies are current for the full period of  
16       the contract until final acceptance of the work by the State.

17  
18       The Certificate of Insurance shall contain: a clause that it is agreed  
19       that any insurance maintained by the State of Hawaii will apply in excess  
20       of, and not contribute with, insurance provided by this policy; and shall be  
21       accompanied by endorsement form CG2010 or equivalent naming the  
22       State as an additional insured to the policy which status shall be  
23       maintained for the full period of the contract until final acceptance of the  
24       work by State.

25  
26       The Contractor shall obtain all required insurance as part of the  
27       contract price. Where there is a requirement for the State of Hawaii and  
28       its officers and employees to be named as additional insureds under any  
29       Contractor’s insurance policy, before the State of Hawaii issues the Notice  
30       to Proceed, the Contractor shall obtain and submit to the Engineer a  
31       Certificate of Insurance and a written policy endorsement that confirms the  
32       State of Hawaii and its officers and employees are additional insureds for  
33       the specific State project number and project title under such insurance  
34       policies. The written policy endorsement must be issued by the insurance  
35       company insuring the Contractor for the specified policy type or by an  
36       agent of such insurance company who is vested with the authority to issue  
37       a written policy endorsement. The insurer’s agent shall also submit  
38       written confirmation of such authority to bind the insurer. Any delays in  
39       the issuance of the Notice to Proceed attributed to the failure to obtain the  
40       proof of the State of Hawaii and its officers and employees’ additional  
41       insured status shall be charged to the Contractor.



43 A mere Certificate of Insurance issued by a broker who represents  
44 the Contractor (but not the Contractor's insurer), or by any other party who  
45 is not authorized to contractually name the State as an additional insured  
46 under the Contractor's insurance policy, is not sufficient to meet the  
47 Contractor's insurance obligations.  
48

49 Certificates shall contain a provision that coverages being certified  
50 will not be cancelled or materially changed without giving the Engineer at  
51 least thirty (30) days prior written notice. Contractor will immediately  
52 provide written notice to the Director should any of the insurance policies  
53 evidenced on its Certificate of Insurance form be cancelled, reduced in  
54 scope or coverage, or not renewed upon expiration. Should any policy be  
55 canceled before final acceptance of the work by the State, and the  
56 Contractor fails to immediately procure replacement insurance as  
57 specified, the State, in addition to all other remedies it may have for such  
58 breach, reserves the right to procure such insurance and deduct the cost  
59 thereof from any money due or to become due to the Contractor.  
60

61 Nothing contained in these insurance requirements is to be  
62 construed as limiting the extent of Contractor's responsibility for payment  
63 of damages resulting from its operations under this contract, including the  
64 Contractor's obligation to pay liquidated damages, nor shall it affect the  
65 Contractor's separate and independent duty to defend, indemnify and hold  
66 the State harmless pursuant to other provisions of this contract. In no  
67 instance will the State's exercise of an option to occupy and use  
68 completed portions of the work relieve the Contractor of its obligation to  
69 maintain the required insurance until the date of final acceptance of the  
70 work.  
71

72 All insurance described herein shall be primary and cover the  
73 insured for all work to be performed under the contract, all work performed  
74 incidental thereto or directly or indirectly connected therewith, including  
75 but not limited to traffic detour work, barricades, warnings, diversions, lane  
76 closures, and other work performed outside the work area and all change  
77 order work.  
78

79 The Contractor shall, from time to time, furnish the Engineer, when  
80 requested, satisfactory proof of coverage of each type of insurance  
81 required covering the work. Failure to comply with the Engineer's request  
82 may result in suspension of the work, and shall be sufficient grounds to  
83 withhold future payments due the Contractor and to terminate the contract  
84 for Contractor's default.  
85

86 **(B) Types of Insurance.** Contractor shall purchase and  
87 maintain insurance described below which shall provide coverage  
88 against claims arising out of the Contractor's operations under the

contract, whether such operations be by the Contractor itself or by any subcontractor or by anyone directly or indirectly employed by any of them or by anyone for whose acts any of them may be liable.

**(1) Workers' Compensation.** The Contractor shall obtain worker's compensation insurance for all persons whom they employ in carrying out the work under this contract. This insurance shall be in strict conformity with the requirements of the most current and applicable State of Hawaii Worker's Compensation Insurance laws in effect on the date of the execution of this contract and as modified during the duration of the contract.

**(2) Auto Liability.** The Contractor shall obtain Auto Liability Insurance covering all owned, non-owned and hired autos with a Combined single Limit of not less than \$1,000,000 per occurrence for bodily injury and property damage with the State of Hawaii named as additional insured. Refer to SPECIAL CONDITIONS for any additional requirements.

**(3) General Liability.** The Contractor shall obtain General Liability insurance with a limit of not less than \$2,000,000 per occurrence and in the Aggregates for each of the following:

- (a)** Products - Completed/Operations Aggregate,
- (b)** Personal & Advertising Injury, and
- (c)** Bodily Injury & Property Damage

The General Liability insurance shall include the State as an Additional Insured. The required limit of insurance may be provided by a single policy or with a combination of primary and excess policies. Refer to SPECIAL CONDITIONS for any additional requirements.

**(4) Builders Risk For All Work.** The Contractor shall take out a policy of builder's risk insurance for the full replacement value of the project work; from a company licensed or otherwise authorized to do business in the State of Hawaii; naming the State as an additional insured under each policy; and covering all work, labor, and materials furnished by such Contractor and all its subcontractors against loss by fire, windstorm, tsunamis, earthquakes, lightning, explosion, other perils covered by the standard Extended Coverage Endorsement, vandalism, and malicious mischief. Refer to SPECIAL CONDITIONS for any additional requirements."

(II) Add **Section 107.18 Citizen and Residential Labor Force** after line 745 to read as follows:

**“107.18 Citizen and Residential Labor Force.**

**(A) Citizen Labor.** No person shall be employed as a laborer or mechanic unless such person is a citizen of the United States or eligible to become one; provided that persons without such qualifications may be employed with the approval of the Governor until persons who are citizens and are competent for such services are available for hire.

**(B) Residential Labor Force.** In accordance with Act 192; SLH 2011, no less than eighty (80) percent of the bidder's labor force working on the contract shall be provided by Hawaii residents. This act applies to all construction procurements under HRS Chapter 103D; however this act does not apply to procurements for professional services under Section 103D-304 and small purchases under Section 103D-305. This act is also applicable to any subcontract of \$50,000.00 or more in connection with this contract.

Resident means a person who is physically present in the State of Hawaii at the time the person claims to have established the person's domicile in the State of Hawaii and shows the person's intent is to make Hawaii the person's primary residence.

**(C)** Percentage of workforce shall be determined by dividing the labor hours (including subcontractors) provided by residents working on the project divided by the total number of hours worked by all employees of the contractor in the performance of the contract. Hours worked by employees within shortage trades as determined by the Department of Labor and Industrial Relations shall not be included in the calculation of this percentage.

**(D)** Certification of compliance with the forgoing provisions shall be made by the contractor in the form of a written oath submitted to the Procurement Officer on a monthly basis for the duration of the contract.

**(E)** Sanctions for non compliance with these provisions are as follows:

**(1)** With respect to the General Contractor, withholding of payment on the contract until the Contractor or its Subcontractor complies with HRS Chapter 103B as amended by Act 192, SLH 2011.

181                   **(2)**     Proceedings for debarment or suspension of the Contractor  
182                   or Subcontractor under Hawaii Revised Statutes § 103D-702.  
183

184                   This Section shall not apply when its application will disqualify the State  
185                   from receiving federal funds or aid.”  
186

187  
188  
189                   **END OF SECTION 107**  
190

1 Amend **Section 108 – PROSECUTION AND PROGRESS** to read as follows:

2  
3 **“SECTION 108 – PROSECUTION AND PROGRESS**

4  
5  
6 **108.01 Notice to Proceed (NTP).** A Notice To Proceed will be issued to the  
7 Contractor not more 30 calendar days after the contract certification date. The  
8 Engineer may suspend the contract before issuing the Notice To Proceed, in  
9 which case the Contractor’s remedies are exclusively those set forth in Subsection  
10 108.10 – Suspension of Work.

11  
12 The Contractor shall be allowed up to 14 calendar days after the Notice to  
13 Proceed to begin physical work. The Start Work Date will be established when  
14 this period ends or on the actual day that physical work begins, whichever is first.  
15 Charging of Contract Time will begin on the Start Work Date. The Contractor shall  
16 notify the Engineer, in writing, at least five working days before beginning physical  
17 work.

18  
19 In the event that the Contractor fails to start physical work within the time  
20 specified, the Engineer may terminate the contract in accordance with Subsection  
21 108.11 – Termination of Contract for Cause.

22  
23 During the period between the Notice to Proceed and the Start Work Date  
24 the Contractor should adjust work forces, equipment, schedules, and procure  
25 materials and required permits, prior to beginning physical work.

26  
27 Any physical work done prior to the Start Work Date will be considered  
28 unauthorized work. If the Engineer does not direct that the unauthorized work be  
29 removed, it shall be paid for after the Start Work Date and only if it is acceptable.

30  
31 In the event that the Engineer establishes, in writing, a Start Work Date that  
32 is beyond 60 calendar days from the Notice to Proceed date, the Contractor may  
33 submit a claim in accordance with, Subsection 107.15 – Disputes and Claims for  
34 increased labor and material costs which are directly attributable to the delay  
35 beyond the first 60 calendar days after the Notice to Proceed date.

36  
37 The Contractor shall notify the Engineer at least 24 hours before restarting  
38 physical work after a suspension of work pursuant to Subsection 108.10 –  
39 Suspension of Work.

40  
41 Once physical work has begun, the Contractor shall work expeditiously and  
42 pursue the work diligently to completion with the contract time. If a portion of the  
43 work is to be done in stages, the Contractor shall leave the area safe and usable  
44 for the user agency and the public at the end of each stage.

**108.02 Prosecution of Work.** Unless otherwise permitted by the Engineer, in writing, the Contractor shall not commence with physical construction unless sufficient materials and equipment are available for either continuous construction or completion of a specified portion of the work.

**108.03 Preconstruction Submittals.** The awardee shall submit to the Engineer for information and review the pre-construction submittals within 21 calendar days from award. Until the items listed below are received and found acceptable by the Engineer, the Contractor shall not start physical work unless otherwise authorized to do so in writing and subject to such conditions set by the Engineer. Charging of Contract Time will not be delayed, and additional contract time will not be granted due to Contractor delay in submitting acceptable preconstruction submittals. No progress payment will be made to the Contractor until the Engineer acknowledges, in writing, receipt of the following preconstruction submittals acceptable to the Engineer:

- (1) List of the Superintendent and other Supervisory Personnel, and their contact information.
- (2) Name of person(s) authorized to sign for the Contractor.
- (3) Work Schedule including hours of operation.
- (4) Initial Progress Schedule (See Subsection 108.06 – Progress Schedule).
- (5) Water Pollution and Siltation Control Submittals, including Site-Specific Best Management Practice Plan.
- (6) Solid Waste Disposal form.
- (7) Tax Rates.
- (8) Insurance Rates.
- (9) Certificate of Insurance, satisfactory to the Engineer, indicating that the Contractor has in place all insurance coverage required by the contract documents.
- (10) Schedule of agreed prices.
- (11) List of suppliers.
- (12) Traffic Control Plan, if applicable.

**108.04 Character and Proficiency of Workers.** The Contractor shall at all times provide adequate supervision and sufficient labor and equipment for prosecuting the work to full completion in the manner and within the time required by the contract. The superintendent and all other representatives of the Contractor shall act in a civil and honest manner in all dealings with the Engineer, all other State officials and representatives, and the public, in connection with the work.

All workers shall possess the proper license, certification, job classification, skill, training, and experience necessary to properly perform the work assigned to them.

The Engineer may direct the removal of any worker(s) who does not carry out the assigned work in a proper and skillful manner or who is disrespectful, intemperate, violent, or disorderly. The worker shall be removed forthwith by the Contractor and will not work again without the written permission of the Engineer.

**108.05 Contract Time.**

**(A) Calculation of Contract Time.** When the contract time is on a working day basis, the total contract time allowed for the performance of the work will be the number of working days shown in the contract plus any additional working days authorized in writing as provided hereinafter. The count of elapsed working days to be charged against contract time, will begin from the Start Work Date and will continue consecutively to the date of Substantial Completion. When multiple shifts are used to perform the work, the State will not consider the hours worked over the normal eight working hours per day or night as an additional working day.

When the contract is on a calendar day basis, the total contract time allowed for the performance of the work will be the number of days shown in the contract plus any additional days authorized in writing as provided hereinafter. The count of elapsed days to be charged against contract time will begin from the Start Work Date and will continue consecutively to the date of Substantial Completion. The Engineer will exclude days elapsing between the orders of the Engineer to suspend work and resume work for suspensions not the fault of the Contractor.

**(B) Modifications of Contract Time.** Whenever the Contractor believes that an extension of contract time is justified, the Contractor shall serve written notice on the Engineer not more than five working days after the occurrence of the event that causes a delay or justifies a contract time extension. Contract time may be adjusted for the following reasons or events, but only if and to the extent the critical path has been affected:

136 **(1) Changes in the Work, Additional Work, and Delays**  
137 **Caused by the State.** If the Contractor believes that an extension of  
138 time is justified on account of any act or omission by the State, and is  
139 not adequately provided for in a field order or change order, it must  
140 request the additional time as provided above. At the request of the  
141 Engineer, the Contractor must show how the critical path will be  
142 affected and must also support the time extension request with  
143 schedules, as well as statements from its subcontractors, suppliers,  
144 or manufacturers, as necessary. Claims for compensation for any  
145 altered or additional work will be determined pursuant to Subsection  
146 104.02 – Changes.

147  
148 Additional time to perform the extra work will be added to the  
149 time allowed in the contract without regard to the date the change  
150 directive was issued, even if the contract completion date has  
151 passed. A change requiring time issued after contract time has  
152 expired will not constitute an excusal or waiver of pre-existing  
153 Contractor delay.

154  
155 **(2) Delay for Permits.** For delays in the routine application and  
156 processing time required to obtain necessary permits, including  
157 permits to be obtained from State agencies, the Engineer may grant  
158 an extension provided that the permit takes longer than 30 days to  
159 acquire and the delay is not caused by the Contractor, and provided  
160 that as soon as the delay occurs, the Contractor notifies the  
161 Engineer in writing that the permits are not available. Permits  
162 required by the contract that take less than 30 days to acquire from  
163 the time which the appropriate documents are granted shall be  
164 acquired between Notice to Proceed and Start Work Date or  
165 accounted for in the contractor's progress schedule. Time  
166 extensions will be the exclusive relief granted on account of such  
167 delays.

168  
169 **(3) Delays Beyond Contractor's Control.** For delays caused by  
170 acts of God, a public enemy, fire, inclement weather days or  
171 adverse conditions resulting therefrom, earthquakes, floods,  
172 epidemics, quarantine restrictions, labor disputes impacting the  
173 Contractor or the State, freight embargoes and other reasons  
174 beyond the Contractor's control, the Contractor may be granted an  
175 extension of time provided that:

176  
177 **(a)** In the written notice of delay to the Engineer, the  
178 Contractor describes possible effects on the completion date  
179 of the contract. The description of delays shall:  
180



181 1. State specifically the reason or reasons for the  
182 delay and fully explain in a detailed chronology how the  
183 delay affects the critical path.

184  
185 2. Include copies of pertinent documentation to  
186 support the time extension request.

187  
188 3. Cite the anticipated period of delay and the time  
189 extension requested.

190  
191 4. State either that the above circumstances have  
192 been cleared and normal working conditions restored  
193 as of a certain day or that the above circumstances will  
194 continue to prevent completion of the project.

195  
196 (b) The Contractor shall notify the Engineer in writing when  
197 the delay ends. Time extensions will be the exclusive relief  
198 granted and no additional compensation will be paid the  
199 Contractor for such delays.

200  
201 **(4) Delays in Delivery of Materials or Equipment.** For delays  
202 in delivery of materials or equipment, which occur as a result of  
203 unforeseeable causes beyond the control and without fault of the  
204 Contractor, its subcontractor(s) or supplier(s), time extensions shall  
205 be the exclusive relief granted and no additional compensation will  
206 be paid the Contractor on account of such delay. The delay shall not  
207 exceed the difference between the originally scheduled delivery date  
208 and the actual delivery date. The Contractor may be granted an  
209 extension of time provided that it complies with the following  
210 procedures:

211  
212 (a) The Contractor's written notice to the Engineer must  
213 describe the delays and state the effect such delays may have  
214 on the critical path.

215  
216 (b) The Contractor, if requested, must submit to the  
217 Engineer within five days after a firm delivery date for the  
218 material and equipment is established, a written statement  
219 regarding the delay. The Contractor must justify the delay as  
220 follows:

221  
222 1. State specifically all reasons for the delay.  
223 Explain in a detailed chronology the effect of the delay  
224 on the critical path.  
225

2. Submit copies of purchase order(s), factory invoice(s), bill(s) of lading, shipping manifest(s), delivery tag(s), and any other documents to support the time extension request.

3. Cite the start and end date of the delay and the time extension requested.

**(5) Delays for Suspension of Work.** When the performance of the work is totally suspended for one or more days (calendar or working days, as appropriate) by order of the Engineer in accordance with Subsections 108.10(A)(1), 108.10(A)(2), or 108.10(A)(5) the number of days from the effective date of the Engineer's order to suspend operations to the effective date of the Engineer's order to resume operations shall not be counted as contract time and the contract completion date will be adjusted. During periods of partial suspensions of the work, the Contractor will be granted a time extension only if the partial suspension affects the critical path. If the Contractor believes that an extension of time is justified for a partial suspension of work, it must request the extension in writing at least five working days before the partial suspension will affect the critical operation(s) in progress. The Contractor must show how the critical path was increased based on the status of the work and must also support its claim if requested, with statements from its subcontractors. A suspension of work will not constitute a waiver of pre-existing Contractor delay.

**(6) Contractor Caused Delays.** No time extension will be granted under the following circumstances:

**(a)** Delays within the Contractor's control in performing the work caused by the Contractor, subcontractor, supplier, or any combination thereof.

**(b)** Delays within the Contractor's control in arrival of materials and equipment caused by the Contractor, subcontractor, supplier, or any combination thereof, in ordering, fabricating, and delivery.

**(c)** Delays requested for changes which do not affect the critical path.

**(d)** Delays caused by the failure of the Contractor to make submittals in a timely manner for review and acceptance by the Engineer, such as but not limited to shop drawings, descriptive sheets, material samples, and color samples

except as covered in Subsection 108.05(B)(3) – Delays Beyond Contractor’s Control and 108.05(B)(4) – Delays in Delivery of Materials or Equipment.

(e) Delays caused by the failure to submit sufficient information and data in a timely manner in the proper form in order to obtain necessary permits related to the work.

(f) Failure to follow the procedure within the time allowed by contract to request a time extension.

(g) Failure of the Contractor to provide evidence sufficient to support the time extension request.

(7) **Reduction in Time.** If the State deletes or modifies any portion of the work, an appropriate reduction of contract time may be made in accordance with Subsection 104.02 - Changes.

#### **108.06 Progress Schedules.**

(A) **Forms of Schedule.** All schedules shall be submitted using the specific computer program designated in the bid documents. If no such scheduling software program is designated, then all schedules shall be submitted using the latest version of Microsoft Project by Microsoft or approved equivalent software program.

Schedule submittals shall be as follows:

(1) **For Contracts \$2,000,000 or less or For Contract Time 100 Working Days or 140 Calendar Days or Less.** For contracts of \$2,000,000 or less or for contract time of 100 working days or 140 calendar days or less, the progress schedule will be a Time Scaled Logic Diagram (TSLD). The Contractor shall submit a TSLD submittal package meeting the following requirements and having these essential and distinctive elements:

(a) The major features of work, such as but not limited to BMP installation, grubbing, roadway excavation, structure excavation, structure construction, shown in the chronological order in which the Contractor proposes to work that feature or work and its location on the project. The schedule shall account for normal inclement weather, unusual soil or other conditions that may influence the progress of the work, schedules, and coordination required by any utility, off or on site fabrications, and other pertinent factors that relate to progress;

(b) All features listed or not listed in the contract documents that the Contractor considers a controlling factor for the timely completion of the contract work.

(c) The time span and sequence of the activities or events for each feature, and its interrelationship and interdependencies in time and logic to other features in order to complete the project.

(d) The total anticipated time necessary to complete work required by the contract.

(e) A chronological listing of critical intermediate dates or time periods for features or milestones or phases that can affect timely completion of the project.

(f) Major activities related to the location on the project.

(g) Non-construction activities, such as submittal and acceptance periods for shop drawings and material, procurement, testing, fabrication, mobilization, and demobilization or order dates of long lead material.

(h) Set schedule logic for out of sequence activities to retain logic. In addition, open ends shall be non-critical.

(i) Show target bars for all activities.

(j) Vertical and horizontal sight lines both major and minor shall be used as well as a separator line between groups. The Engineer will determine frequency and style.

(k) The file name, print date, revision number, data and project title and number shall be included in the title block.

(l) Have columns with the appropriate data in them for activity ID, description, original duration, remaining duration, early start, early finish, total float, percent complete, resources. The resource column shall list who is responsible for the work to be done in the activity. These columns shall be to the left of the bar chart.

**(2) For Contracts Which Have A Contract Amount More Than \$2,000,000 Or Having A Contract Time Of More Than 100 Working Days Or 140 Calendar Days.** For contracts which have a

contract amount more than \$2,000,000 or contract time of more than 100 working days or 140 calendar days, the Contractor shall submit a Timed-Scaled Logic Diagram (TSLD) meeting the following requirements and having these essential and distinctive elements:

**(a)** The information and requirements listed in Subsection 108.06(A)(1) – For Contracts \$2,000,000 or Less or For Contract Time 100 Working Days or 140 Calendar Days or Less.

**(b)** Additional reports and graphics available from the software as requested by the Engineer.

**(c)** Sufficient detail to allow at least weekly monitoring of the Contractor and subcontractor's operations.

**(d)** The time scaled schematic shall be on a calendar or working days basis. What will be used shall be determined by how the contract keeps track of time. It will be the same. Plot the critical calendar dates anticipated.

**(e)** Breakdown of activity, such as forming, placing reinforcing steel, concrete pouring and curing, and stripping in concrete construction. Indicate location of work to be done in such detail that it would be easily determined where work would be occurring within approximately 200 feet.

**(f)** Latest start and finish dates for critical path activities.

**(g)** Identify responsible subcontractor, supplier, and others for their respective activity.

**(h)** No individual activity shall have duration of more than 20 calendar days unless requested and approved by the Engineer.

**(i)** All activities shall have work breakdown structure codes and activity codes. The activity codes shall have coding that incorporates information for phase, location, who is responsible for doing work and type of operation and activity description.

**(j)** Incorporate all physical access and availability restraints.

409 **(B) Inspection and Testing.** All schedules shall provide reasonable  
410 time and opportunity for the Engineer to inspect and test each work activity.  
411

412 **(C) Engineer's Acceptance of Progress Schedule.** The submittal of,  
413 and the Engineer's receipt of any progress schedule, shall not be deemed  
414 an agreement to modify any terms or conditions of the contract. Any  
415 modifications to the contract terms and conditions that appear in or may be  
416 inferred from an acceptable schedule will not be valid or enforceable unless  
417 and until the Engineer exercises discretion to issue an appropriate change  
418 order. Nor shall any submittal or receipt imply the Engineer's approval of  
419 the schedule's breakdown, its individual elements, any critical path that may  
420 be shown, nor shall it obligate the State to make its personnel available  
421 outside normal working hours or the working hours established by the  
422 Contract in order to accommodate such schedule. The Contractor has the  
423 risk of all elements (whether or not shown) of the schedule and its  
424 execution. No claim for additional compensation, time, or both, shall be  
425 made by the Contractor or recognized by the Engineer for delays during  
426 any period for which an acceptable progress schedule or an updated  
427 progress schedule as required by Subsection 108.06(E) – Contractor's  
428 Continuing Schedule Submittal Requirements had not been submitted. Any  
429 acceptance or approval of the schedule shall be for general format only and  
430 shall not be deemed an agreement by the State that the construction  
431 means, methods, and resources shown on the schedule will result in work  
432 that conforms to the contract requirements or that the sequences or  
433 durations indicated are feasible.  
434

435 **(D) Initial Progress Schedule.** The Contractor shall submit an initial  
436 progress schedule. The initial progress schedule shall consist of the  
437 following:  
438

- 439 **(1)** Four sets of the TSLD schedule.
- 440
- 441 **(2)** All the software files and data to re-create the TSLD in a  
442 computerized software format as specified by the Engineer.
- 443
- 444 **(3)** A listing of equipment that is anticipated to be used on the  
445 project. Including the type, size, make, year of manufacture, and all  
446 information necessary to identify the equipment in the Rental Rate  
447 Blue Book for Construction Equipment.
- 448
- 449 **(4)** An anticipated manpower requirement graph plotting contract  
450 time and total manpower requirement. This may be superimposed  
451 over the payment graph.
- 452 **(5)** A Method Statement that is a detailed narrative describing the  
453 work to be done and the method by which the work shall be

accomplished for each major activity. A major activity is an activity that:

- (a) Has a duration longer than five days.
- (b) Is a milestone activity.
- (c) Is a contract item that exceeds \$10,000 on the contract cost proposal.
- (d) Is a critical path activity.
- (e) Is an activity designated as such by the Engineer.

Each Method Statement shall include the following items needed to fulfill the schedule:

- (a) Quantity, type, make, and model of equipment.
  - (b) The manpower to do the work, specifying worker classification.
  - (c) The production rate per eight hour day, or the working hours established by the contract documents needed to meet the time indicated on the schedule. If the production rate is not for eight hours, the number of working hours shall be indicated.
- (6) Two sets of color time-scaled project evaluation and review technique charts ("PERT") using the activity box template of Logic – Early Start or such other template designated by the Engineer.

If the contract documents establish a sequence or order for the work, the initial progress schedule shall conform to such sequence or order.

**(E) Contractor's Continuing Schedule Submittal Requirements.**

After the acceptance of the initial TSLD and when construction starts, the Contractor shall submit four plotted progress schedules, two PERT charts, and reports on all construction activities every two weeks (bi-weekly). This scheduled bi-weekly submittal shall also include an updated version of the project schedule in a computerized software format as specified by the Engineer. The submittal shall have all the information needed to re-create that time period's TSLD plot and reports. The bi-weekly submittal shall include, but not limited to, an update of activities based on actual durations, all new activities and any changes in duration or start or finish dates of any activity.

The Contractor shall submit with every update, in report form acceptable to the Engineer, a list of changes to the progress schedule since the previous schedule submittal. The Engineer may change the frequency of the submittal requirements but may not require a submittal of the schedule to be more than once a week. The Engineer may decrease the frequency of the submittal of the bi-weekly schedule.

The Contractor shall submit updates of the anticipated work completion graph, equipment listing, manpower requirement graph or method statement when requested by the Engineer. The Contractor shall submit such updates within 4 calendar days from the date of the request by the Engineer.

The Engineer may withhold progress payment until the Contractor is in compliance with all schedule update requirements

**(F) Float.** All float appearing on a schedule is a shared commodity. Float does not belong to or exist for the exclusive use or benefit of either the State or the Contractor. The State or the Contractor has the opportunity to use available float until it is depleted. Float has no monetary value.

**(G) Scheduled Meetings.** The Contractor shall meet on a bi-weekly basis with the Engineer to review the progress schedule. The Contractor shall have someone attending the meeting that can answer all questions on the TSLD and other schedule related submittals.

**(H) Accelerated Schedule; Early Completion.** If the Contractor submits an accelerated schedule (shorter than the contract time), the Engineer's review and acceptance of an accelerated schedule does not constitute an agreement or obligation by the State to modify the contract time or completion date. The Contractor is solely responsible for and shall accept all risks and any delays, other than those that can be directly and solely attributable to the State, that may occur during the work, until the contract completion date. The contract time or completion date is established for the benefit of the State and cannot be changed without an appropriate change order or Substantial Completion granted by the State. The State may accept the work before the completion date is established, but is not obligated to do so.

If the TSLD indicates an early completion of the project, the Contractor shall, upon submittal of the schedule, cooperate with the Engineer in explaining how it will be achieved. In addition, the Contractor shall submit the above explanation in writing which shall include the State's part, if any, in achieving the early completion date. Early completion of the project shall not rely on changes to the Contract Documents unless approved by the Engineer.



**(l) Contractor Responsibilities.** The Contractor shall promptly respond to any inquiries from the Engineer regarding any schedule submission. The Contractor shall adjust the schedule to address directives from the Engineer and shall resubmit the TSLD package to the Engineer until the Engineer finds it acceptable.

The Contractor shall perform the work in accordance with the submitted TSLD. The Engineer may require the Contractor to provide additional work forces and equipment to bring the progress of the work into conformance with the TSLD at no increase in contract price or contract time whenever the Engineer determines that the progress of the work does not insure completion within the specified contract time.

**108.07 Weekly Meeting.** In addition to the bi-weekly schedule meetings, the Contractor shall be available to meet once a week with the Engineer at the time and place as determined by the Engineer to discuss the work and its progress including but not limited to, the progress of the project, potential problems, coordination of work, submittals, erosion control reports, etc. The Contractor's personnel attending shall have the authority to make decisions and answer questions.

The Contractor shall bring to weekly meetings a detailed work schedule showing the next three weeks' work. Number of copies of the detailed work schedule to be submitted will be determined by the Engineer. The three-week schedule is in addition to the TSLD and shall in no way be considered as a substitute for the TSLD or vice versa. The three-week schedule shall show:

**(a)** All construction events, traffic control and BMP related activities in such detail that the Engineer will be able to determine at what location and type of work will be done for any day for the next three weeks. This is for the State to use to plan its manpower requirements for that time period.

**(b)** The duration of all events and delays.

**(c)** The critical path clearly marked in red or marked in a manner that makes it clearly distinguishable from other paths and is acceptable to the Engineer.

**(d)** Critical submittals and requests for information (RFI's).

**(e)** The project title, project number, date created, period the schedule covers, Contractor's name and creator of the schedule on each page.

Two days prior to each weekly meeting, the Contractor shall submit a list of outstanding submittals, RFIs and issues that require discussion.

**108.08 Liquidated Damages for Failure to Complete the Work or Portions of the Work on Time.** The actual amount of damages resulting from the Contractor's failure to complete the contract in a timely manner is difficult to accurately determine. Therefore, the amount of such damages shall be liquidated damages as set forth herein and in the special provisions. The State may, at its discretion, deduct the amount from monies due or that may become due under the contract.

When the Contractor fails to reach substantial completion of the work for which liquidated damages are specified, within the time or times fixed in the contract or any extension thereof, in addition to all other remedies for breach that may be available to the State, the Contractor shall pay liquidated damages to the State, in the amount of \$ 5,000 per working day.

**(A) Liquidated Damages Upon Termination.** If the State terminates on account of Contractor's default, liquidated damages may be charged against the defaulting Contractor and its surety until final completion of work.

**(B) Liquidated Damages for Failure to Complete the Punchlist.** The Contractor shall complete the work on any punchlist created after the pre-final inspection, within the contract time or any extension thereof.

When the Contractor fails to complete the work on such punchlist within the contract time or any extension thereof, the Contractor shall pay liquidated damages to the State of 20 percent of the amount of liquidated damages established for failure to substantially complete the work within contract time. Liquidated damages shall not be assessed for the period between:

**(1)** Notice from the Contractor that the project is substantially complete and the time the punchlist is delivered to the Contractor.

**(2)** The date of the completion of punchlist as determined by the Engineer and the date of the successful final inspection, and

**(3)** The date of the Final Inspection that results in Substantial Completion and the receipt by the Contractor of the written notice of Substantial Completion.

**(C) Actual Damages Recoverable If Liquidated Damages Deemed Unenforceable.** In the event a court of competent jurisdiction holds that any liquidated damages assessed pursuant to this contract are unenforceable, the State will be entitled to recover its actual damages for

Contractor's failure to complete the work, or any designated portion of the work within the time set by the contract.

**108.09 Rental Fees for Unauthorized Lane Closure or Occupancy.** In addition to all other remedies available to the State for Contractor's breach of the terms of the contract, the Engineer will assess the rental fees in the amount of \$2,500 for every one-to fifteen-minute increment for each roadway lane closed to public use or occupied beyond the time periods authorized in the contract or by the Engineer. The State may, at its discretion, deduct the amount from monies due or that may become due under the contract. The rental fee may be waived in whole or part if the Engineer determines that the unauthorized period of lane closure or occupancy was due to factors beyond the control of the Contractor. Equipment breakdown is not a cause to waive liquidated damages.

**108.10 Suspension of Work.**

**(A) Suspension of Work.** The Engineer may, by written order, suspend the performance of the work, either in whole or in part, for such periods as the Engineer may deem necessary, for any cause, including but not limited to:

- (1)** Weather or soil conditions considered unsuitable for prosecution of the work.
- (2)** Whenever a redesign that may affect the work is deemed necessary by the Engineer.
- (3)** Unacceptable noise or dust arising from the construction even if it does not violate any law or regulation.
- (4)** Failure on the part of the Contractor to:
  - (a)** Correct conditions unsafe for the general public or for the workers.
  - (b)** Carry out orders given by the Engineer.

(c) Perform the work in strict compliance with the provisions of the contract.

(d) Provide adequate supervision on the jobsite.

(5) The convenience of the State.

**(B) Partial and Total Suspension.** Suspension of work on some but not all items of work shall be considered a "partial suspension". Suspension of work on all items shall be considered "total suspension". The period of suspension shall be computed from the date set out in the written order for work to cease until the date of the order for work to resume.

**(C) Reimbursement to Contractor.** In the event that the Contractor is ordered by the Engineer in writing as provided herein to suspend all work under the contract for the reasons specified in Subsections 108.10(A)(2), 108.10(A)(3), or 108.10(A)(5) of the "Suspension of Work" paragraph, the Contractor may be reimbursed for actual direct costs incurred on work at the jobsite, as authorized in writing by the Engineer, including costs expended for the protection of the work. An allowance of 5 percent for indirect categories of delay costs will be paid on any reimbursed direct costs, including extended branch and home-office overhead and delay impact costs. No allowance will be made for anticipated profits. Payment for equipment which is ordered to standby during such suspension of work shall be made as described in Subsection 109.06(H) - Idle and Standby Equipment.

**(D) Cost Adjustment.** If the performance of all or part of the work is suspended for reasons beyond the control of the Contractor except an adjustment shall be made for any increase in cost of performance of this contract (excluding profit) necessarily caused by such suspension, and the contract modified in writing accordingly.

However, no adjustment to the contract price shall be made for any suspension, delay, or interruption:

(1) For weather related conditions.

(2) To the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor.

(3) Or, for which an adjustment is provided for or excluded under any other provision of this Contract.

719 **(E) Claims for Adjustment.** Any adjustment in contract price made  
720 shall be determined in accordance with Subsections 104.02 – Changes and  
721 104.06 – Methods of Price Adjustment.  
722

723 Any claims for such compensation shall be filed in writing with the  
724 Engineer within 30 days after the date of the order to resume work or the  
725 claim will not be considered. The claim shall conform to the requirements  
726 of Subsection 107.15(D) – Making of a Claim. The Engineer will take the  
727 claim under consideration, may make such investigations as are deemed  
728 necessary and will be the sole judge as to the equitability of the claim. The  
729 Engineer's decision will be final.  
730

731 **(F) No Adjustment.** No provision of this clause shall entitle the  
732 Contractor to any adjustments for delays due to failure of its surety, the  
733 cancellation or expiration of any insurance coverage required by the  
734 contract documents, for suspensions made at the request of the Contractor,  
735 for any delay required under the contract, for suspensions, either partial or  
736 whole, made by the Engineer under Subsection 108.10(A)(4) of the  
737 "Suspension of work" paragraph.  
738

#### 739 **108.11 Termination of Contract for Cause.**

740

741 **(A) Default.** If the Contractor refuses or fails to perform the work, or any  
742 separable part thereof, with such diligence as will assure its completion  
743 within the time specified in this contract, or any extension thereof, or  
744 commits any other material breach of this contract, and further fails within  
745 seven days after receipt of written notice from the Engineer to commence  
746 and continue correction of the refusal or failure with diligence and  
747 promptness, the Engineer may, by written notice to the Contractor, declare  
748 the Contractor in breach and terminate the Contractor's right to proceed  
749 with the work or the part of the work as to which there has been delay or  
750 other breach of contract. In such event, the State may take over the work,  
751 perform the same to completion, by contract or otherwise, and may take  
752 possession of, and utilize in completing the work, the materials, appliances,  
753 and plants as may be on the site of the work and necessary therefore.  
754 Whether or not the Contractor's right to proceed with the work is terminated,  
755 the Contractor and the Contractor's sureties shall be liable for any damage  
756 to the State resulting from the Contractor's refusal or failure to complete the  
757 work within the specified time.  
758

759 **(B) Additional Rights and Remedies.** The rights and remedies of the  
760 State provided in this contract are in addition to any other rights and  
761 remedies provided by law.  
762

763 **(C) Costs and Charges.** All costs and charges incurred by the State,  
764 together with the cost of completing the work under contract, will be

deducted from any monies due or which would or might have become due to the Contractor had it been allowed to complete the work under the contract. If such expense exceeds the sum which would have been payable under the contract, then the Contractor and the surety shall be liable and shall pay the State the amount of the excess.

In case of termination, the Engineer will limit any payment to the Contractor to the part of the contract satisfactorily completed at the time of termination. Payment will not be made until the work has satisfactorily been completed and all required documents, including the tax clearance required by Subsection 109.11 – Final Payment are submitted by the Contractor. Termination shall not relieve the Contractor or Surety from liability for liquidated damages.

**(D) Erroneous Termination for Cause.** If, after notice of termination of the Contractor's right to proceed under this section, it is determined for any reason that good cause did not exist to allow the State to terminate as provided herein, the rights and obligations of the parties shall be the same as, and the relief afforded the Contractor shall be limited to, the provisions contained in Subsection 108.12 – Termination for Convenience.

#### **108.12 Termination For Convenience.**

**(A) Terminations.** The Director may, when the interests of the State so require, terminate this contract in whole or in part, for the convenience of the State. The Director will give written notice of the termination to the Contractor specifying the part of the contract terminated and when termination becomes effective.

**(B) Contractor's Obligations.** The Contractor shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination the Contractor shall 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 State's approval. The Engineer may direct the Contractor to assign the Contractor's right, title, and interest under terminated orders or subcontracts to the State. The Contractor must still complete the work not terminated by the notice of termination and may incur obligations as necessary to do so.

**(C) Right to Construction and Goods.** The Engineer may require the Contractor to transfer title and to deliver to the State in the manner and to the extent directed by the Engineer, the following:

- (1)** Any completed work.

811 (2) Any partially completed construction, goods, materials, parts,  
812 tools, dies, jigs, fixtures, drawings, information, and contract rights  
813 (hereinafter called "construction material") that the Contractor has  
814 specifically produced or specially acquired for the performance of the  
815 terminated part of this contract.

816  
817 (3) The Contractor shall protect and preserve all property in the  
818 possession of the Contractor in which the State has an interest. If  
819 the Engineer does not elect to retain any such property, the  
820 Contractor shall use its best efforts to sell such property and  
821 construction materials for the State's account in accordance with the  
822 standards of HRS Chapter 490:2-706.

823  
824 **(D) Compensation.**

825  
826 (1) The Contractor shall submit a termination claim specifying the  
827 amounts due because of the termination for convenience together  
828 with cost or pricing data, submitted to the extent required by HAR  
829 Subchapter 15, Chapter 3-122. If the Contractor fails to file a  
830 termination claim within one year from the effective date of  
831 termination, the Engineer may pay the Contractor, if at all, an amount  
832 set in accordance with Subsection 108.12(D)(3).

833  
834 (2) The Engineer and the Contractor may agree to a settlement  
835 provided the Contractor has filed a termination claim supported by  
836 cost or pricing data submitted as required and that the settlement  
837 does not exceed the total contract price plus settlement costs  
838 reduced by payments previously made by the State, the proceeds of  
839 any sales of construction, supplies, and construction materials under  
840 Subsection 108.12(C)(3), and the proportionate contract price of the  
841 work not terminated.

842  
843 (3) Absent complete agreement, the Engineer will pay the  
844 Contractor the following amounts less any payments previously  
845 made under the contract:

846  
847 (a) The cost of all contract work performed prior to the  
848 effective date of the notice of termination work plus a 5  
849 percent markup on the actual direct costs, including amounts  
850 paid to subcontractor, less amounts paid or to be paid for  
851 completed portions of such work; provided, however, that if it  
852 appears that the Contractor would have sustained a loss if the  
853 entire contract would have been completed, no markup shall  
854 be allowed or included and the amount of compensation shall

be reduced to reflect the anticipated rate of loss. No anticipated profit or consequential damage will be due or paid.

**(b)** Subcontractors shall be paid a markup of 10 percent on their direct job costs incurred to the date of termination. No anticipated profit or consequential damage will be due or paid to any subcontractor. These costs must not include payments made to the Contractor for subcontract work during the contract period.

**(c)** The total sum to be paid the Contractor shall not exceed the total contract price reduced by the amount of any sales of construction supplies, and construction materials.

**(4)** Cost claimed, agreed to, or established by the State shall be in accordance with HAR Chapter 3-123.

### **108.13 Pre-Final and Final Inspections.**

**(A) Inspection Requirements.** Before the Engineer undertakes a final inspection of any work, a pre-final inspection must first be conducted. The Contractor shall notify the Engineer that the work has reached substantial completion and is ready for pre-final inspection.

**(B) Pre-Final Inspection.** Before notifying the Engineer that the work has reached substantial completion, the Contractor shall inspect the project and test all installed items with all of its subcontractors as appropriate. The Contractor shall also submit the following documents as applicable to the work:

- (1)** All written guarantees required by the contract.
- (2)** Two accepted final field-posted drawings as specified in Section 648 – Field-Posted Drawings;
- (3)** Complete weekly certified payroll records for the Contractor and Subcontractors.
- (4)** Certificate of Plumbing and Electrical Inspection.
- (5)** Certificate of building occupancy as required.
- (6)** Certificate of Soil and Wood Treatments.
- (7)** Certificate of Water System Chlorination.



(8) Certificate of Elevator Inspection, Boiler and Pressure Pipe Inspection.

(9) Maintenance Service Contract and two copies of a list of all equipment installed.

(10) Current Tax clearance. The contractor will be required to submit an additional tax clearance certificate when the final payment is made.

(11) And any other final items and submittals required by the contract documents.

**(C) Procedure.** When in compliance with the above requirements, the Contractor shall notify the Engineer in writing that the project has reached substantial completion and is ready for pre-final inspection.

The Engineer will then make a preliminary determination as to whether or not the project is substantially complete and ready for pre-final inspection. The Engineer may, in writing, postpone until after the pre-final inspection the Contractor's submittal of any of the items listed in Subsection 108.13(B) – Pre-Final Inspection, herein, if in the Engineer's discretion it is in the interest of the State to do so.

If, in the opinion of the Engineer, the project is not substantially complete, the Engineer will provide the Contractor a punchlist of specific deficiencies in writing which must be corrected or finished before the work will be ready for a pre-final inspection. The Engineer may add to or otherwise modify this punchlist from time to time. The Contractor shall take immediate action to correct the deficiencies and must repeat all steps described above including written notification that the work is ready for pre-final inspection.

After the Engineer is satisfied that the project appears substantially complete a final inspection shall be scheduled within ten working days after receipt of the Contractor's latest letter of notification that the project is ready for final inspection.

If, as a result of the pre-final inspection, the Engineer determines the work is not substantially complete, the Engineer will inform the Contractor in writing as to specific deficiencies which must be corrected before the work will be ready for another pre-final inspection. If the Engineer finds the work is substantially complete but finds deficiencies that must be corrected before the work is ready for final inspection, the Engineer will prepare in writing and deliver to the Contractor a punchlist describing such deficiencies.

At any time before final acceptance, the Engineer may revoke the determination of substantial completion if the Engineer finds that it was not warranted and will notify the Contractor in writing the reasons therefore together with a description of the deficiencies negating the declaration.

When the date of substantial completion has been determined by the State, liquidated damages for the failure to complete the punchlist, if due to the State will be assessed in pursuant to Subsection 108.08(B) - Liquidated Damages for Failure to Complete the Punchlist.

**(D) Punchlist; Clean Up and Final Inspection.** Upon receiving a punchlist after pre-final inspection, the Contractor shall promptly devote all required time, labor, equipment, materials and incidentals to correct and remedy all punchlist deficiencies. The Engineer may add to or otherwise modify this punchlist until substantial completion of the project.

Before final inspection of the work, the Contractor shall clean all ground occupied by the Contractor in connection with the work of all rubbish, excess materials temporary structures and equipment, shall remove all graffiti and defacement of the work and all parts of the work and the worksite must be left in a neat and presentable condition to the satisfaction of the Engineer.

Final inspection will occur within ten working days after the Contractor notifies the Engineer in writing that all punchlist deficiencies remaining after the pre-final inspection have been completed and the Engineer concurs. If the Engineer determines that deficiencies still remain at the final inspection, the work will not be accepted and the Engineer will notify the Contractor, in writing, of the deficiencies which shall be corrected and the steps above repeated.

If the Contractor fails to correct the deficiencies and complete the work by the established or agreed date, the State may correct the deficiencies by whatever method it deems appropriate and deduct the cost from any payments due the Contractor.

#### **108.14 Substantial Completion and Final Acceptance.**

**(A) Substantial Completion.** When the Engineer finds that the Contractor has satisfactorily completed all work for the project in compliance with the contract, with the exception of the planting period and the plant establishment period, the Engineer will notify the Contractor, in writing, of the project's substantial completion, effective as of the date of the final inspection. The substantial completion date shall determine end of contract time and relieve contractor of any additional accumulation of liquidated damages for failure to complete the punchlist.

(B) **Final Acceptance.** When the Engineer finds that the Contractor has satisfactorily completed all contract work in compliance with the contract including all plant establishment requirements, and all the materials have been accepted by the State, the Engineer will issue a Final Acceptance Letter. The Final Acceptance date shall determine the commencement of all guaranty periods subject to Subsection 108.16 – Contractor's Responsibility for Work; Risk of Loss or Damage.

**108.15 Use of Structure or Improvement.** The State has the right to use the structure, equipment, improvement, or any part thereof, at any time after it is considered by the Engineer as available. In the event that the structure, equipment or any part thereof is used by the State before final acceptance, the Contractor is not relieved of its responsibility to protect and preserve all the work until final acceptance.

**108.16 Contractor's Responsibility for Work; Risk of Loss or Damage.** Until the written notice of final acceptance has been received, the Contractor shall take every precaution against loss or damage to any part of the work by the action of the elements or from any other cause whatsoever, whether arising from the performance or from the non-performance of the work. The Contractor shall rebuild, repair, restore and make good all loss or damage to any portion of the work resulting from any cause before its receipt of the written notice of final acceptance and shall bear the risk and expense thereof.

The risk of loss or damage to the work from any hazard or occurrence that may or may not be covered by a builder's risk policy is that of the Contractor and Surety, unless such risk of loss is placed elsewhere by express language in the contract documents.

**108.17 Guarantee of Work.**

(1) Regardless of, and in addition to, any manufacturers' warranties, all work and equipment shall be guaranteed by the Contractor against defects in materials, equipment or workmanship for one year from the date of final acceptance or as otherwise specified in the contract documents.

(2) When the Engineer determines that repairs or replacements of any guaranteed work and equipment is necessary due to materials, equipment, or workmanship which are inferior, defective, or not in accordance with the terms of the contract, the Contractor shall, at no increase in contract price or contract time, and within five working days of receipt of written notice from the State, commence to all of the following:

(a) Correct all noted defects and make replacements, as directed by the Engineer, in the equipment and work.

(b) Repair or replace to new or pre-existing condition any damages resulting from such defective materials, equipment or installation thereof.

(3) The State will be entitled to the benefit of all manufacturers and installers warranties that extend beyond the terms of the Contractor's guaranty regardless of whether or not such extended warranty is required by the contract documents. The Contractor shall prepare and submit all documents required by the providers of such warranties to make them effective, and submit copies of such documents to the Engineer. If an available extended warranty cannot be transferred or assigned to the State as the ultimate user, the Contractor shall notify the Engineer who may direct that the warranted items be acquired in the name of the State as purchaser.

(4) If a defect is discovered during a guarantee period, all repairs and corrections to the defective items when corrected shall be guaranteed for a new duration equal to the original full guarantee period. The running of the guarantee period shall be suspended for all other work affected by any defect. The guarantee period for all other work affected by any such defect shall restart for its remaining duration upon confirmation by the Engineer that the deficiencies have been repaired or remedied.

(5) Nothing in this section is intended to limit or affect the State's rights and remedies arising from the discovery of latent defects in the work after the expiration of any guarantee period.

**108.18 No Waiver of Legal Rights.** The following will not operate or be considered as a waiver of any portion of the contract, or any power herein reserved, or any right to damages provided herein or by law:

(1) Any payment for, or acceptance of, the whole or any part of the work.

(2) Any extension of time.

(3) Any possession taken by the Engineer.

A waiver of any notice requirement or of any noncompliance with the contract will not be held to be a waiver of any other notice requirement or any other noncompliance with the contract.

**108.19 Final Settlement of Contract.**

(A) **Closing Requirements.** The contract will be considered settled after the project acceptance date and when the following items have been satisfactorily submitted, where applicable:

- (1) All written guarantees required by the contract.
- (2) Complete and certified weekly payrolls for the Contractor and its subcontractor's.
- (3) Certificate of plumbing and electrical inspection.
- (4) Certificate of building occupancy.
- (5) Certificate for soil treatment and wood treatment.
- (6) Certificate of water system chlorination.
- (7) Certificate of elevator inspection, boiler and pressure pipe installation.
- (8) Tax clearance.
- (9) All other documents required by the Contract or by law.

**(B) Failure to Meet Closing Requirements.** The Contractor shall meet the applicable closing requirements within 60 days from the date of Project Acceptance or the agreed to Punchlist complete date. Should the Contractor fail to comply with these requirements, the Engineer may terminate the contract for cause."

**END OF SECTION 108**

1                                   **SECTION 109 - MEASUREMENT AND PAYMENT**  
2

3       Make the following amendment to said Section:  
4

5       **(I) Amend Subsection 109.05 Allowances for Overhead and Profit** by  
6       revising lines 101 to 110 to read as follows:  
7

8                   **“(1) 20 percent of the direct cost for any work performed by the**  
9                   **Contractor’s own labor force.**

10  
11                   **(2) 20 percent of the direct cost for any work performed by each**  
12                   **subcontractor’s own labor force.**

13  
14                   **(3) For the Contractor or any subcontractor for work performed**  
15                   **by their respective subcontractor or tier subcontractor, 10 percent**  
16                   **of the amount due to the performing subcontractor or tier**  
17                   **subcontractor.”**  
18

19       **(II) Amend 109.08(A) Monthly Payment** by adding the following after line  
20       411:  
21

22                   **“(1) Retainage.** If the Engineer finds that the Contractor is  
23                   progressing satisfactorily in completing the project work and:  
24

25                           **a.** Less than 50% of the whole contract cost is complete,  
26                           the Engineer shall retain 5% of the value of the work done  
27                           until the Engineer makes final payment;  
28

29                           **b.** More than 50% of the whole contract cost is  
30                           complete, the Engineer may make the remaining progress  
31                           payments in full.  
32

33                           **c.** After satisfactory completion of work other than  
34                           landscaping items, the Engineer may adjust the amount of  
35                           retainage to 15% of the landscaping items or 2½% of the  
36                           total contract amount whichever is less. Do not use this  
37                           subsection if the contract is only landscaping.”  
38

39       **(III) Amend Subsection 109.08(B) Payment for Material On Hand** by  
40       revising lines 421 to 423 to read as follows:  
41

42                   **“(2) The materials shall be stored and handled in accordance**  
43                   **with Subsection 105.14 – Storage and Handling of Materials and**  
44                   **Equipment.”**  
45  
46

47 **(IV)** Amend **Subsection 109.11 Final Payment** by revising lines 568 to 576  
48 to read as follows:

49  
50 **“(3)** A current “Certificate of Vendor Compliance” issued by the  
51 Hawaii Compliance Express (HCE). The Certificate of Vendor  
52 Compliance is used to certify the Contractor’s compliance with

53  
54 **(a)** Section 103D-328, HRS (for all contracts \$25,000 or  
55 more) which requires a current tax clearance certificate  
56 issued by the Hawaii State Department of Taxation and the  
57 Internal Revenue Service;

58  
59 **(b)** Chapters 383, 386, 392, and 393, HRS; and

60  
61 **(c)** Subsection 103D-310(c), HRS. The State reserves  
62 the right to verify that compliance is current prior to the  
63 issuance of final payment. Contractors are advised that non-  
64 compliance status will result in final payment being withheld  
65 until compliance is attained.

66  
67 Sums necessary to meet the claims of any governmental agencies  
68 may be withheld from the sums due the Contractor until said  
69 claims have been fully and completely discharged or otherwise  
70 satisfied.”

71  
72  
73 **END OF SECTION 109**

1 Amend **Section 209 - TEMPORARY WATER POLLUTION, DUST, AND EROSION**  
2 **CONTROL** to read as follows:

3  
4  
5 **“SECTION 209 - TEMPORARY WATER POLLUTION, DUST, AND EROSION**  
6 **CONTROL**

7  
8  
9 **209.01 Description.** This section describes the following:

10  
11 **(A)** Including detailed plans, diagrams, and written Site-Specific Best  
12 Management Practices (BMP); constructing, maintaining, and repairing  
13 temporary water pollution, dust, and erosion control measures at the project  
14 site, including local material sources, work areas and haul roads; removing  
15 and disposing hazardous wastes; control of fugitive dust (defined as  
16 uncontrolled emission of solid airborne particulate matter from any source  
17 other than combustion); and complying with applicable State and Federal  
18 permit conditions.

19  
20 **(B)** Work associated with construction stormwater, dewatering, and  
21 hydrotesting activities and complying with conditions of the National Pollutant  
22 Discharge Elimination System (NPDES) permit(s) authorizing discharges  
23 associated with construction stormwater, dewatering, and hydrotesting  
24 activities.

25  
26 **(C)** Potential pollutant identification and mitigation measures are listed in  
27 Appendix A for use in the development of the Contractor’s Site-Specific BMP.

28  
29 Requirements of this section also apply to construction support  
30 activities including concrete or asphalt batch plants, rock crushing plants,  
31 equipment staging yards/areas, material storage areas, excavated material  
32 disposal areas, and borrow areas located outside the State Right-of-Way.  
33 For areas serving multiple construction projects, or operating beyond the  
34 completion of the construction project in which it supports, the Contractor  
35 shall be responsible for securing the necessary permits, clearances, and  
36 documents, and following the conditions of the permits and clearances, at no  
37 cost to the State.

38  
39 **209.02 Materials.** Comply with applicable materials described in Chapters 2 and  
40 3 of the current HDOT “Construction Best Management Practices Field Manual”. In  
41 addition, the materials shall comply with the following:

42  
43 **(A) Grass.** Grass shall be a quick growing species such as rye grass,  
44 Italian rye grass, or cereal grasses. Grass shall be suitable to the area and  
45 provide a temporary cover that will not compete later with permanent cover.  
46 Alternative grasses are allowable if acceptable to the Engineer.



47 **(B) Fertilizer and Soil Conditioners.** Fertilizer and soil conditioners shall  
48 be a standard commercial grade acceptable to the Engineer. Fertilizer shall  
49 conform to Subsection 619.02(H)(1) - Commercial Fertilizer.  
50

51 **(C) Hydro-mulching.** Hydro-mulching used as a temporary vegetative  
52 stabilization measure shall consist of materials in Subsections 209.02(A) -  
53 Grass, and 209.02(B) – Fertilizer and Soil Conditioners. Mulches shall be  
54 recycled materials including bagasse, hay, straw, wood cellulose bark, wood  
55 chips, or other material acceptable to the Engineer. Mulches shall be clean  
56 and free of noxious weeds and deleterious materials. Potable water shall  
57 meet the requirements of Subsection 712.01 - Water. Submit alternate  
58 sources of irrigation water for the Engineer's acceptance if deviating from  
59 712.01 - Water. Installation and other requirements shall be in accordance  
60 with portions of Section 641- Hydro-Mulch Seeding including 641.02(D) - Soil  
61 and Mulch Tackifier, 641.03(A) – Seeding, and 641.03(B) - Planting Period.  
62 Install non-vegetative controls including mulch or rolled erosion control  
63 products while the vegetation is being established. Water and fertilize grass.  
64 Apply fertilizer as recommended by the manufacturer. Replace grass the  
65 Engineer considers unsuitable or sick. Remove and dispose of trash and  
66 debris. Remove invasive species. Mow as needed to prevent site or signage  
67 obstructions, fire hazard, or nuisance to the public. Do not remove down  
68 stream sediment control measures until the vegetation is uniformly  
69 established, including no large bare areas, and provides 70 percent of the  
70 density of pre-disturbance vegetation. Temporary vegetative stabilization  
71 shall not be used longer than one year.  
72

73 **(D) Silt Fences.** Comply with ASTM D6462, Standard Practice for Silt  
74 Fence Installation.  
75

76 Alternative materials or methods to control, prevent, remove and dispose  
77 pollution are allowable if acceptable to the Engineer.  
78

### 79 **209.03 Construction.**

#### 80 **(A) Preconstruction Requirements.**

81 **(1) Water Pollution, Dust, and Erosion Control Meeting.**  
82 Schedule a water pollution, dust, and erosion control meeting with the  
83 Engineer after Site-Specific BMP is accepted in writing by the  
84 Engineer. Meeting shall be scheduled a minimum of 7 calendar days  
85 prior to the Start Work Date. Discuss sequence of work, plans and  
86 proposals for water pollution, dust, and erosion control.  
87  
88  
89

90                   **(2) Water Pollution, Dust, and Erosion Control Submittals.**

91                   Submit a Site-Specific BMP Plan within 21 calendar days of date of  
92                   award. Submission of complete and acceptable Site-Specific BMP  
93                   Plan is the sole responsibility of the Contractor and additional contract  
94                   time will not be issued for delays due to incompleteness. Include the  
95                   following:

96  
97                   **(a)** Written description of activities to minimize water  
98                   pollution and soil erosion into State waters, drainage or sewer  
99                   systems. BMP shall include the following:

100  
101                   1. An identification of potential pollutants and their  
102                   sources.

103  
104                   2. A list of all materials and heavy equipment to be  
105                   used during construction.

106  
107                   3. Descriptions of the methods and devices used to  
108                   minimize the discharge of pollutants into State waters,  
109                   drainage or sewer systems.

110  
111                   4. Details of the procedures used for the  
112                   maintenance and subsequent removal of any erosion or  
113                   siltation control devices.

114  
115                   5. Methods of removing and disposing hazardous  
116                   wastes encountered or generated during construction.

117  
118                   6. Methods of removing and disposing concrete and  
119                   asphalt pavement cutting slurry, concrete curing water,  
120                   and hydrodemolition water.

121  
122                   7. Spill Control and Prevention and Emergency Spill  
123                   Response Plan.

124  
125                   8. Fugitive dust control, including dust from grinding,  
126                   sweeping, or brooming off operations or combination  
127                   thereof.

128  
129                   9. Methods of storing and handling of oils, paints  
130                   and other products used for the project.

131  
132                   10. Material storage and handling areas, and other  
133                   staging areas.

134  
135                   11. Concrete truck washouts.

- 136                   **12.**     Concrete waste control.
- 137
- 138                   **13.**     Fueling and maintenance of vehicles and other
- 139                   equipment.
- 140
- 141                   **14.**     Tracking of sediment offsite from project entries
- 142                   and exits.
- 143
- 144                   **15.**     Litter management.
- 145
- 146                   **16.**     Toilet facilities.
- 147
- 148                   **17.**     Other factors that may cause water pollution, dust
- 149                   and erosion control.
- 150

151                   **(b)**     Provide plans indicating location of water pollution, dust

152                   and erosion control devices; provide plans and details of BMPs

153                   to be installed or utilized; show areas of soil disturbance in cut

154                   and fill, indicate areas used for construction staging and

155                   storage including items (1) through (17) above, storage of

156                   aggregate (indicate type of aggregate), asphalt cold mix, soil or

157                   solid waste, equipment and vehicle parking, and show areas

158                   where vegetative practices are to be implemented. Indicate

159                   intended drainage pattern on plans. Include flow arrows.

160                   Include separate drawing for each phase of construction that

161                   alters drainage patterns. Indicate approximate date when

162                   device will be installed and removed.

163

164                   **(c)**     Construction schedule.

165

166                   **(d)**     Name(s) of specific individual(s) designated responsible

167                   for water pollution, dust, and erosion controls on the project

168                   site. Include home, cellular, and business telephone numbers,

169                   fax numbers, and e-mail addresses.

170

171                   **(e)**     Description of fill material to be used.

172

173                   **(f)**     For projects with an NPDES Permit for Construction

174                   Activities, submit information to address all sections in the

175                   Storm Water Pollution Prevention Plan (SWPPP).

176

177                   **(g)**     For projects with an NPDES Permit, information required

178                   for compliance with the conditions of the Notice of General

179                   Permit Coverage (NGPC)/NPDES Permit.

180

181 (h) Site-Specific BMP Review Checklist. The checklist may  
182 be downloaded from HDOT's Stormwater Management  
183 website at <http://stormwaterhawaii.com>.  
184

185 Date and sign Site-Specific BMP Plan. Keep accepted  
186 copy on site or at an accessible location so that it can be made  
187 available at the time of an on-site inspection or upon request by  
188 the Engineer, HDOT Third-Party Inspector, and/or DOH/EPA  
189 Representative. Amendments to the Site-Specific BMP Plan  
190 shall be included with original Site-Specific BMP Plan. Modify  
191 SWPPP if necessary to conform to revisions. Include date of  
192 installation and removal of Site-Specific BMP measures.  
193 Obtain written acceptance by the Engineer before  
194 implementing revised Site-Specific BMPs in the field.  
195

196 Follow the guidelines in the current HDOT "Construction  
197 Best Management Practices Field Manual", in developing,  
198 installing, and maintaining Site-Specific BMPs for all projects.  
199 For any conflicting requirements between the Manual and  
200 applicable bid documents, the applicable bid documents will  
201 govern. Should a requirement not be clearly described within  
202 the applicable bid documents, notify the Engineer immediately  
203 for interpretation. For the purposes of clarification "applicable  
204 bid documents" include the construction plans, standard  
205 specifications, special provisions, Permits, and the SWPPP  
206 when applicable.  
207

208 Follow Honolulu's City and County "Rules for Soil  
209 Erosion Standards and Guidelines" for all projects on Oahu.  
210 Use respective Soil Erosion Guidelines for Maui, Kauai and  
211 Hawaii projects.  
212

213 **(B) Construction Requirements.** Do not begin work until submittals  
214 detailed in Subsection 209.03(A)(2) - Water Pollution, Dust, and Erosion  
215 Control Submittals are completed and accepted in writing by the Engineer.  
216

217 Install, maintain, monitor, repair and replace site-specific BMP  
218 measures, such as for water pollution, dust and erosion control; installation,  
219 monitoring, and operation of hydrotesting activities; removal and disposal of  
220 hazardous waste indicated on plans, concrete cutting slurry, concrete curing  
221 water; or hydrodemolition water. Site-Specific BMP measures shall be in  
222 place, functional and accepted by HDOT personnel prior to initiating any  
223 ground disturbing activities.  
224

If necessary, furnish and install rain gage in a secure location prior to field work including installation of site-specific BMP. Provide rain gage with a tolerance of at least 0.05 inches of rainfall. Install rain gage on project site in an area that will not deter rainfall from entering the gate opening. Do not install in a location where rain water may splash into rain gage. The rain gage installation shall be stable and plumbed. Maintain rain gage and replace rain gage that is stolen, does not function properly or accurately, is worn out, or needs to be relocated. Do not begin field work until rain gage is installed and Site-Specific BMPs are in place. Rain gage data logs shall be readily available. Submit rain gage data logs weekly to the Engineer.

Address all comments received from the Engineer.

Modify and resubmit plans and construction schedules to correct conditions that develop during construction which were unforeseen during the design and pre-construction stages.

Coordinate temporary control provisions with permanent control features throughout the construction and post-construction period.

Limit maximum surface area of earth material exposed at any time to 300,000 square feet. Do not expose or disturb surface area of earth material (including clearing and grubbing) until BMP measures are installed and accepted in writing by the Engineer. Protect temporarily or permanently disturbed soil surface from rainfall impact, runoff and wind before end of the work day.

Immediately initiate stabilizing exposed soil areas upon completion of earth disturbing activities for areas permanently or temporarily ceased on any portion of the site. Earth-disturbing activities have permanently ceased when clearing and excavation within any area of the construction site that will not include permanent structures has been completed. Earth-disturbing activities have temporarily ceased when clearing, grading, and excavation within any area of the site that will not include permanent structures will not resume for a period of 14 or more calendar days, but such activities will resume in the future. The term "immediately" is used in this section to define the deadline for initiating stabilization measures. "Immediately" means as soon as practicable, but no later than the end of the next work day, following the day when the earth-disturbing activities have temporarily or permanently ceased.

For projects with an NPDES Permit for Construction activities:

(1) For construction areas discharging into waters not impaired for nutrients or sediments, complete initial stabilization within 14 calendar days after the temporary or permanent cessation of earth-disturbing activities.

(2) For construction areas discharging into nutrient or sediment impaired waters, complete initial stabilization within 7 calendar days after the temporary or permanent cessation of earth-disturbing activities.

For projects without an NPDES Permit for Construction activities, complete initial stabilization within 14 calendar days after the temporary or permanent cessation of earth-disturbing activities.

Any of the following types of activities constitutes initiation of stabilization:

- (1) Prepping the soil for vegetative or non-vegetative stabilization;
- (2) Applying mulch or other non-vegetative product to the exposed area;
- (3) Seeding or planting the exposed area;
- (4) Starting any of the activities in items (1) – (3) above on a portion of the area to be stabilized, but not on the entire area; and
- (5) Finalizing arrangements to have stabilization product fully installed in compliance with the deadline for completing initial stabilization activities.

Any of the following types of activities constitutes completion of initial stabilization activities:

- (1) For vegetative stabilization, all activities necessary to initially seed or plant the area to be stabilized; and/or
- (2) For non-vegetative stabilization, the installation or application of all such non-vegetative measures.

If the Contractor is unable to meet the deadlines above due to circumstances beyond the Contractor's control, and the Contractor is using vegetative cover for temporary or permanent stabilization, the Contractor may comply with the following stabilization deadlines instead as agreed to by the Engineer:

314 (1) Immediately initiate, and complete within the timeframe shown  
315 above, the installation of temporary non-vegetative stabilization  
316 measures to prevent erosion;  
317

318 (2) Complete all soil conditioning, seeding, watering or irrigation  
319 installation, mulching, and other required activities related to the  
320 planting and initial establishment of vegetation as soon as conditions  
321 or circumstances allow it on the site; and  
322

323 (3) Notify and provide documentation to the Engineer the  
324 circumstances that prevent the Contractor from meeting the deadlines  
325 above for stabilization and the schedule the Contractor will follow for  
326 initiating and completing initial stabilization and as agreed to by the  
327 Engineer.  
328

329 Follow the applicable requirements of the specifications and special  
330 provisions including Section 619 - Planting and Section 641 - Hydro-Mulch  
331 Seeding.  
332

333 Immediately after seeding or planting the area to be vegetatively  
334 stabilized, to the extent necessary to prevent erosion on the seeded or  
335 planted area, select, design, and install non-vegetative erosion controls that  
336 provide cover (e.g., mulch, rolled erosion control products) to the area while  
337 vegetation is becoming established.  
338

339 Protect exposed or disturbed surface area with mulches, grass seeds  
340 or hydromulch. Spray mulches at a rate of 2,000 pounds per acre. Add  
341 tackifier to mix at a rate of 85 pounds per acre. Apply grass seeds at a rate  
342 of 125 pounds per acre. For hydromulch, use the ingredients and rates  
343 required for mulches and grass seeds. Submit recommendations from a  
344 licensed Landscape Architect when deviating from the application rates  
345 above.  
346

347 Apply fertilizer to mulches, grass seed or hydromulch per  
348 manufacturer's recommendations. Submit recommendations from a licensed  
349 Landscape Architect when deviating from the manufacturer's  
350 recommendations.  
351

352 Install velocity dissipation measures when exposing erodible surfaces  
353 greater than 15 feet in height.  
354

355 BMP measures shall be in place and operational at the end of work  
356 day or as required by Section 209.03(B) - Construction Requirements.  
357

Install and maintain either or both stabilized construction entrances and wheel washes to minimize tracking of dirt and mud onto roadways. Restrict traffic to stabilized construction areas only. Clean dirt, mud, or other material tracked onto the road, sidewalk, or other paved area by the end of the same day in which the track-out occurs. Modify stabilized construction entrances to prevent mud from being tracked onto road. Stabilize entire access roads if necessary.

Chemicals may be used as soil stabilizers for either or both erosion and dust control if acceptable to the Engineer.

Provide temporary slope drains of rigid or flexible conduits to carry runoff from cuts and embankments. Provide portable flume at the entrance. Shorten or extend temporary slope drains to ensure proper function.

Protect ditches, channels, and other drainageways leading away from cuts and fills at all times by either:

- (1) Hydro-mulching the lower region of embankments in the immediate area.
- (2) Installing check dams and siltation control devices.
- (3) Other methods acceptable to the Engineer.

Provide for controlled discharge of waters impounded, directed, or controlled by project activities or erosion control measures.

Cover exposed surface of materials completely with tarpaulin or similar device when transporting aggregate, soil, excavated material or material that may be source of fugitive dust.

Cleanup and remove any pollutant that can be attributed to the Contractor.

Install or modify Site-Specific BMP measures due to change in the Contractor's means and methods, or for omitted condition that should have been allowed for in the accepted Site-Specific BMP or a Site-Specific BMP that replaces an accepted Site-Specific BMP that is not satisfactorily performing. Modifications to Site-Specific BMP measures shall be accepted in writing by the Engineer prior to implementation.

Properly maintain all Site-Specific BMP measures.

For projects with an NPDES Permit for Construction Activities:



**(1)** For construction areas discharging into nutrient or sediment impaired waters, inspect, prepare a written report, and make repairs to BMP measures at the following intervals:

**(a)** Weekly.

**(b)** Within 24 hours of any rainfall of 0.25 inch or greater which occurs in a 24-hour period.

**(c)** When existing erosion control measures are damaged or not operating properly as required by Site-Specific BMP.

**(2)** For construction areas discharging to waters not impaired for nutrients or sediments, inspect, prepare a written report, and make repairs to BMP measures at the following intervals:

**(a)** Weekly.

**(b)** When existing erosion control measures are damaged or not operating properly as required by Site-Specific BMP.

For projects without an NPDES Permit for Construction activities, inspect, prepare a written report, and make repairs to BMP measures at the following intervals:

**(a)** Weekly.

**(b)** When existing erosion control measures are damaged or not operating properly as required by Site-Specific BMP.

Temporarily remove, replace or relocate any Site-Specific BMP that must be removed, replaced or relocated due to potential or actual flooding, or potential danger or damage to project or public.

Maintain records of inspections of Site-Specific BMP work. Keep continuous records for duration of the project. Submit copy of Inspection Report to the Engineer within 24 hours after each inspection.

The Contractor's designated representative specified in Subsection 209.03(A)(2)(d) shall address any Site-Specific BMP deficiencies brought up by the Engineer immediately, including weekends and holidays, and complete work to fix the deficiencies by the close of the next work day if the problem does not require significant repair or replacement, or if the problem can be corrected through routine maintenance. Address any Site-Specific BMP deficiencies brought up by the State's Third-Party Inspector in the timeframe above or as specified in the Consent Decree or MS4 NPDES

Permit, whichever is more stringent. The Consent Decree timeframe requirement applies statewide. The MS4 NPDES Permit only applies to Oahu. In this section, "immediately" means the Contractor shall take all reasonable measures to minimize or prevent discharge of pollutants until a permanent solution is installed and made operational. If a problem is identified at a time in the day in which it is too late to initiate repair, initiation of repair shall begin on the following work day. When installation of a new pollution prevention control or a significant repair is needed, complete installation or repair no later than 7 calendar days from the time of notification/Contractor discovery. Notify the Engineer and document why it is infeasible to complete the installation or repair within 7 calendar days and complete the work as soon as practicable and as agreed to by the Engineer. Address Site-Specific BMP deficiencies discovered by the Contractor within the timeframe above. The Contractor's failure to satisfactorily address these Site-Specific BMP deficiencies, the Engineer reserves the right to employ outside assistance or use the Engineer's own labor forces to provide necessary corrective measures. The Engineer will charge the Contractor such incurred costs plus any associated project engineering costs. The Engineer will make appropriate deductions from the Contractor's monthly progress estimate. Failure to apply Site-Specific BMP measures may result in one or more of the following: assessment of liquidated damages, suspension, or cancellation of Contract with the Contractor being fully responsible for all additional costs incurred by the State.

**(C) Discharges of Storm Water Associated with Construction Activities.** If work includes disturbance of one acre or more, an NPDES Permit authorizing Discharges of Storm Water Associated with Construction Activity (CWB-NOI Form C) or Individual Permit authorizing storm water discharges associated with construction activity is required from the Department of Health Clean Water Branch (DOH-CWB).

Do not begin construction activities until all required conditions of the permit are met and submittals detailed in Subsection 209.03(A)(2) – Water Pollution, Dust, and Erosion Control Submittals are completed and accepted in writing by the Engineer.

**(D) Discharges Associated with Hydrotesting Activities.** If hydrotesting activities require effluent discharge into State waters or drainage systems, an NPDES Hydrotesting Waters Permit (CWB-NOI Form F) or Individual Permit authorizing discharges associated with hydrotesting from DOH-CWB is required from the DOH-CWB.

Do not begin hydrotesting activities until the DOH-CWB has issued an Individual NPDES Permit or Notice of General Permit Coverage (NGPC). Conduct Hydrotesting operations in accordance with the conditions of the permit or NGPC.

**(E) Discharges Associated with Dewatering Activities.** If dewatering activities require effluent discharge into State waters or drainage systems, an NPDES Dewatering Permit (CWB-NOI Form G) or Individual Permit authorizing discharges associated with dewatering from DOH-CWB is required from the DOH-CWB.

Do not begin dewatering activities until the DOH-CWB has issued an Individual NPDES Permit or Notice of General Permit Coverage (NGPC). Conduct dewatering operations in accordance with the conditions of the permit or NGPC.

**(F) Solid Waste.** Submit the Solid Waste Disclosure Form for Construction Sites to the Engineer within 21 calendar days of date of award. Provide a copy of all the disposal receipts from the facility permitted by the Department of Health to receive solid waste to the Engineer monthly. This should also include documentation from any intermediary facility where solid waste is handled or processed, or as directed by the Engineer.

**(G) Construction BMP Training.** The Contractor's representative responsible for development of the Site-Specific BMP Plan and implementation of Site-Specific BMPs in the field shall attend the State's Construction Best Management Practices Training. The Contractor shall keep training logs updated and readily available.

#### **209.04 Measurement.**

**(A)** Installation, maintenance, monitoring, and removal of BMP will be paid on a lump sum basis. Measurement for payment will not apply.

**(B)** The Engineer will only measure additional water pollution, dust and erosion control required and requested by the Engineer on a force account basis in accordance with Subsection 109.06 – Force Account Provisions and Compensation.

**209.05 Payment.** The Engineer will pay for accepted pay items listed below at contract price per pay unit, as shown in the proposal schedule. Payment will be full compensation for work prescribed in this section and contract documents.

The Engineer will pay for each of the following pay items when included in proposal schedule:

<b>Pay Item</b>	<b>Pay Unit</b>
Installation, Maintenance, Monitoring, and Removal of BMP	Lump Sum
Additional Water Pollution, Dust, and Erosion Control	Force Account

543 An estimated amount for force account is allocated in proposal schedule  
544 under 'Additional Water Pollution, Dust, and Erosion Control', but actual amount to  
545 be paid will be the sum shown on accepted force account records, whether this sum  
546 be more or less than estimated amount allocated in proposal schedule. The  
547 Engineer will pay for BMP measures requested by the Engineer that are beyond  
548 scope of accepted Site-Specific BMP on a force account basis.

549  
550 No progress payment will be authorized until the Engineer accepts in writing  
551 Site-Specific BMP or when the Contractor fails to maintain project site in accordance  
552 with accepted BMP.

553  
554 For all citations or fines received by the Department for non-compliance,  
555 including compliance with NPDES Permit conditions, the Contractor shall reimburse  
556 State within 30 calendar days for full amount of outstanding cost State has incurred,  
557 or the Engineer will deduct cost from progress payment.

558  
559 The Engineer will assess liquidated damages up to \$27,500 per day for non-  
560 compliance of each BMP requirement and all other requirements in this section.  
561

## Appendix A

The following list identifies potential pollutant sources and corresponding BMPs used to mitigate the pollutants. Each BMP is referenced to the corresponding section of the current HDOT Construction Best Management Practices Field Manual or appropriate Supplemental Sheets. The Manual may be obtained from the HDOT Statewide Stormwater Management Program Website at <http://www.stormwaterhawaii.com/resources/contractors-and-consultants/> under Construction Best Management Practices Field Manual. Supplemental BMP sheets are located at <http://www.stormwaterhawaii.com/resources/contractors-and-consultants/storm-water-pollution-prevention-plan-swppp/> under Concrete Curing and Irrigation Water.

<b>Pollutant Source</b>	<b>Appropriate Site-Specific BMP to be Implemented</b>	<b>BMP Requirements</b>
Construction debris, green waste, general litter	<ul style="list-style-type: none"> <li>• Separate contaminated clean up materials from construction and demolition (C&amp;D) wastes.</li> <li>• Provide waste containers (e.g., dumpster or trash receptacle) of sufficient size and number to contain construction and domestic wastes.</li> <li>• Inspect construction waste and recycling areas regularly.</li> <li>• Schedule solid waste collection regularly.</li> <li>• Schedule recycling activities based on construction/demolition phases.</li> <li>• Empty waste containers weekly or when they are two-thirds full, whichever is sooner.</li> <li>• Do not allow containers to overflow. Clean up immediately if they do.</li> <li>• On work days, clean up and dispose of waste in designated waste containers.</li> <li>• See Solid Waste Management Section SM-6 for additional requirements.</li> <li>• Provide Storm Drain Inlet Protection and/or Perimeter Sediment Controls as applicable.</li> <li>• Collect and dispose of all waste materials in trash dumpsters. Place dumpsters, with secure watertight lids, away from storm water conveyances and drains, in a covered materials storage area.</li> <li>• Dispose of construction and non- construction solid waste in accordance with State DOH regs.</li> <li>• Load removed non- recyclable vegetation directly onto trucks; cover and transport to a licensed facility</li> </ul>	See Solid Waste Management Section SM-6. Storm Drain Inlet Protection SC-1, and Perimeter Sediment Controls where applicable.

<b>Pollutant Source</b>	<b>Appropriate Site-Specific BMP to be Implemented</b>	<b>BMP Requirements</b>
Materials associated with the operation and maintenance of equipment, such as oil, fuel, and hydraulic fluid leakage	<ul style="list-style-type: none"> <li>• Use off-site wash racks, repair and maintenance facilities, and fueling sites when practical.</li> <li>• Designate bermed wash area if cleaning on site is necessary.</li> <li>• Place drip pans or drop cloths under vehicles and equipment to absorb spills or leaks.</li> <li>• Provide an ample supply of readily available spill cleanup materials.</li> <li>• Clean up spills immediately, using dry clean-up methods where possible, and dispose of used materials properly.</li> <li>• Do not clean surfaces or spills by hosing the area down.</li> <li>• Eliminate the source of the spill to prevent a discharge or a continuation of an ongoing discharge.</li> <li>• Inspect on-site vehicles and equipment regularly and immediately repair leaks.</li> <li>• Regularly inspect fueling areas and storage tanks.</li> <li>• Train employees on proper maintenance and spill practices and procedures and fueling and cleanup procedures.</li> <li>• Store diesel fuel, oil, hydraulic fluid, or other petroleum products or other chemicals in water-tight containers and provide cover or secondary containment.</li> <li>• Do not remove original product labels and comply with manufacturer's labels for proper disposal.</li> <li>• Dispose of containers only after all the product has been used.</li> <li>• Dispose of or recycle oil or oily wastes according to Federal, State, and Local requirements.</li> <li>• Store soaps, detergents, or solvents under cover or other means to prevent contact with rainwater.</li> <li>• See Vehicle and Equipment Cleaning, Maintenance, and Refueling, Sections SM-11, SM-12, and SM-13 and Material Storage and Handling Section SM-2 for additional requirements.</li> </ul>	See Vehicle and Equipment Cleaning, Maintenance, and Refueling, Sections SM-11, SM-12, and SM-13, and Material Storage and Handling, Section SM-2, and Spill Prevention and Control SM-10.

<b>Pollutant Source</b>	<b>Appropriate Site-Specific BMP to be Implemented</b>	<b>BMP Requirements</b>
Soil erosion from the disturbed areas	<ul style="list-style-type: none"> <li>• Provide Soil Stabilization, Slope Protection, Storm Drain Inlet Protection SC-1, Perimeter Controls and Sediment Barriers, Sediment Basins and Detention Ponds, Check Dams SC-3 ,Level Spreader EC-6, Paving Operations SM-20, Construction Roads and Parking Area Stabilization SC-10, Controlling Storm Water Flowing Onto and Through the Project, Post-Construction BMPs, and Non-Structural BMPs (Construction BMP Training SM-1, Scheduling SM-14, Location of Potential Sources of Sediment SM-15, Preservation of Existing Vegetation SM-17).</li> <li>• Delineate, and clearly mark off, with flags, tape, or other similar marking device all natural buffer areas defined in the SWPPP.</li> <li>• Preserve native topsoil where practicable.</li> <li>• In areas where vegetative stabilization will occur, restrict vehicle/equipment use in areas to avoid soil compaction or condition soil to promote vegetative growth.</li> <li>• For Storm Drain Inlet Protection, clean, or remove and replace, the protection measures as sediment accumulates, the filter becomes clogged, and/or performance is compromised.</li> <li>• Where there is evidence of sediment accumulation adjacent to the inlet protection measure, remove the deposited sediment by the end of the same day in which it is found or by the end of the following work day if removal by the same day is not feasible.</li> <li>• Sediment basins shall be designed and maintained in accordance with HAR Chapter 11-55.</li> <li>• Minimize disturbance on steep slopes (Greater than 15% in grade).</li> <li>• If disturbance of steep slopes are unavoidable, phase disturbances and use stabilization techniques designed for steep grades.</li> <li>• For temporary drains and swales use velocity dissipation devices within and at the outlet to minimize erosive flow velocities.</li> </ul>	<p>Soil Stabilization</p> <ol style="list-style-type: none"> <li>1. SM-22 Topsoil Management</li> <li>2. EC-12 Seeding and Planting</li> <li>3. EC-14 Mulching</li> <li>4. EC-11 Geotextiles and Mats</li> </ol> <p>Slope Protection</p> <ol style="list-style-type: none"> <li>1. EC-12 Seeding and Planting</li> <li>2. EC-14 Mulching</li> <li>3. EC-11 Geotextiles and Mats</li> <li>4. EC-4 Slope Roughening, Terracing, and Rounding</li> <li>5. EC-7 Slope Drains and Subsurface Drains</li> <li>6. EC-9 Slope Interceptor or Diversion Ditches/Berms</li> </ol> <p>SC-1 Storm Drain Inlet Protection</p>



<b><i>Pollutant Source</i></b>	<b><i>Appropriate Site-Specific BMP to be Implemented</i></b>	<b><i>BMP Requirements</i></b>
		<p><i>Perimeter Controls and Sediment Barriers</i></p> <ol style="list-style-type: none"> <li>1. SC-7 Silt Fence or Filter Fabric Fence</li> <li>2. SC-2 Vegetated Filter Strips and Buffers</li> <li>3. SC-6 Compost Filter Berm/Sock</li> <li>4. SC-8 Sandbag Barrier</li> <li>5. SC-9 Brush or Rock Filter</li> </ol> <p><i>Sediment Basins and Detention Ponds</i></p> <ol style="list-style-type: none"> <li>1. SC-4 Sediment Trap</li> <li>2. SC-5 Sediment Basin</li> </ol> <p><i>SC-3 Check Dams</i></p> <p><i>EC-6 Level Spreader</i>  <i>SM-20 Paving Operations</i>  <i>SC-10 Construction Roads and Parking Area Stabilization</i></p>

<b><i>Pollutant Source</i></b>	<b><i>Appropriate Site-Specific BMP to be Implemented</i></b>	<b><i>BMP Requirements</i></b>
		<p><i>Controlling Storm Water Flowing onto and Through the Project</i></p> <ol style="list-style-type: none"> <li><i>1. EC-3 Run-On Diversion</i></li> <li><i>2. EC-5 Earth Dike, Swales and Ditches</i></li> </ol> <p><i>Post Construction BMPs</i></p> <ol style="list-style-type: none"> <li><i>1. EC-2 Flared Culvert End Sections</i></li> <li><i>2. EC-10 Rip-Rap and Gabion Inflow Protection</i></li> <li><i>3. EC-8 Outlet Protection and Velocity Dissipation Devices</i></li> <li><i>4. SM-22 Topsoil Management</i></li> </ol> <p><i>Non-Structural BMPs</i></p> <ol style="list-style-type: none"> <li><i>1. SM-1 Construction BMP Training</i></li> <li><i>2. SM-14 Scheduling</i></li> <li><i>3. SM-15 Location of Potential Sources of Sediment</i></li> <li><i>4. SM-17 Preservation of Existing Vegetation</i></li> </ol>

<b>Pollutant Source</b>	<b>Appropriate Site-Specific BMP to be Implemented</b>	<b>BMP Requirements</b>
<i>Sediment from soil stockpiles</i>	<ul style="list-style-type: none"> <li>• <i>Locate stockpiles a minimum of 50 feet or as far as practicable from concentrated runoff or outside of any natural buffers identified on the SWPPP.</i></li> <li>• <i>Place bagged materials on pallets and under cover.</i></li> <li>• <i>Provide physical diversion to protect stockpiles from concentrated runoff.</i></li> <li>• <i>Cover stockpiles with plastic or comparable material when practicable.</i></li> <li>• <i>Place silt fence, fiber filtration tubes, or straw wattles around stockpiles.</i></li> <li>• <i>Do not hose down or sweep soil or sediment accumulated on pavement or other impervious surfaces into any storm water conveyance (unless connected to a sediment basin, sediment trap, or similarly effective control), storm drain inlet, or state water.</i></li> <li>• <i>Unless infeasible, contain and securely protect stockpiles from the wind.</i></li> <li>• <i>Provide Storm Drain Inlet Protection and/or Perimeter Sediment Controls as applicable. See Stockpile Management Section SM-3 for additional requirements.</i></li> </ul>	<i>See Stockpile Management Section SM-3. Storm Drain Inlet Protection SC-1, and Perimeter Sediment Controls where applicable.</i>
<i>Emulsified asphalt or prime/tack coat</i>	<ul style="list-style-type: none"> <li>• <i>Provide training for employees and contractors on proper material delivery and storage practices and procedures.</i></li> <li>• <i>Restrict paving operations during wet weather to prevent paving materials from being discharged.</i></li> <li>• <i>Use asphalt emulsions such as prime coat when possible.</i></li> <li>• <i>Protect drain inlet structures and manholes during application of tack coat, seal coat, slurry seal, and fog seal.</i></li> <li>• <i>Keep ample supplies of drip pans and absorbent materials on site.</i></li> <li>• <i>Inspect inlet protection devices.</i></li> <li>• <i>See Material Storage and Handling Section SM-2 and Paving Operations Section SM-20 for additional requirements.</i></li> <li>• <i>Provide Storm Drain Inlet Protection and/or Perimeter Sediment Controls as applicable.</i></li> </ul>	<i>See Material Storage and Handling Section SM-2, and Stockpile Management Section SM-3, Paving Operations Section SM-20, Storm Drain Inlet Protection SC-1, and Perimeter Sediment Controls where applicable.</i>

<b>Pollutant Source</b>	<b>Appropriate Site-Specific BMP to be Implemented</b>	<b>BMP Requirements</b>
Materials associated with painting, such as paint and paint wash solvent	<ul style="list-style-type: none"> <li>• Hazardous chemicals shall be well-labeled and stored in original containers.</li> <li>• Keep ample supply of cleanup materials on site.</li> <li>• Dispose container only after all of the product has been used.</li> <li>• Remove as much paint from brushes on painted surface.</li> <li>• Rinse from water-based paints shall be discharged into the sanitary sewer system where possible. If not, direct all washwater into a leak-proof container or leak-proof pit. The container or pit must be designed so that no overflows can occur due to inadequate sizing or precipitation.</li> <li>• Locate on-site wash area a minimum of 50 feet away or as far as practicable from storm drain inlets, open drainage facilities, or water bodies.</li> <li>• Do not dump liquid wastes into the storm drainage system.</li> <li>• Filter and re-use solvents and thinners.</li> <li>• Dispose of oil-based paints and residue as a hazardous waste.</li> <li>• Ensure collection, removal, and disposal of hazardous waste complies with regulations.</li> <li>• Immediately clean up spills and leaks.</li> <li>• Properly store paints, solvents, and epoxy compounds.</li> <li>• Properly store and dispose waste materials generated from painting and structure repair and construction activities.</li> <li>• Mix paints in a covered and contained area, when possible, to minimize adverse impacts from spills.</li> <li>• Do not apply traffic paint or thermoplastic if rain is forecasted.</li> <li>• See Material Storage and Handling Use SM-2, Hazardous Materials and Waste Management Section SM-9, Spill Prevention and Control Section SM-10, and Structure Construction and Painting Section SM-21 for additional requirements.</li> </ul> <p>Provide Storm Drain Inlet Protection and/or Perimeter Sediment Controls as applicable.</p>	See Material Storage and Handling Use Section SM-2, Stockpile Management Section SM-3, Hazardous Materials and Waste Management Section SM-9, Waste Management, Spill Prevention and Control Section SM-10, and Structure Construction and Painting Section SM-21, Storm Drain Inlet Protection SC-1, and Perimeter Sediment Controls where applicable.

<b>Pollutant Source</b>	<b>Appropriate Site-Specific BMP to be Implemented</b>	<b>BMP Requirements</b>
<i>Industrial chemicals, fertilizers, and/or pesticides</i>	<ul style="list-style-type: none"> <li>• <i>Hazardous chemicals shall be well-labeled and stored in original containers.</i></li> <li>• <i>Keep ample supply of cleanup materials on site.</i></li> <li>• <i>Clean up spills immediately, using dry clean-up methods where possible, and dispose of used materials properly.</i></li> <li>• <i>Do not clean surfaces or spills by hosing the area down.</i></li> <li>• <i>Eliminate the source of the spill to prevent a discharge or a furtherance of an ongoing discharge.</i></li> <li>• <i>Dispose container only after all of the product has been used.</i></li> <li>• <i>Retain a complete set of safety data sheets (formerly MSDS) on site.</i></li> <li>• <i>Store industrial chemicals in water-tight containers and provide either cover or secondary containment.</i></li> <li>• <i>Provide cover when storing fertilizers or pesticides to prevent these chemicals from coming into contact with rainwater.</i></li> <li>• <i>Restrict amount of pesticide prepared to quantity necessary for the current application.</i></li> <li>• <i>Do not apply fertilizers or pesticides during or just before a rain event.</i></li> <li>• <i>Do not apply to stormwater conveyance channels with flowing water.</i></li> <li>• <i>Comply with fertilizer and pesticide manufacturer's recommended usage and disposal instructions. Document departures from manufacturer's specifications in Attachment J.</i></li> <li>• <i>Apply fertilizers at the appropriate time of year for the location, and preferably timed to coincide as closely as possible to the period of maximum vegetation uptake and growth.</i></li> <li>• <i>Follow federal, state, and local laws regarding fertilizer application.</i></li> <li>• <i>Do not dispose of toxic liquid wastes (solvents, used oils, and paints) or chemicals (additives, acids, and curing compounds) in dumpsters allocated for construction debris.</i></li> </ul>	<i>See Material Storage and Handling Use Section SM-2, Stockpile Management Section SM-3, and Hazardous Materials and Waste Management Section SM-9, and Spill Prevention and Control SM-10</i>

<b>Pollutant Source</b>	<b>Appropriate Site-Specific BMP to be Implemented</b>	<b>BMP Requirements</b>
	<ul style="list-style-type: none"> <li>• Ensure collection, removal, and disposal of hazardous waste complies with regulations. Hazardous waste that cannot be reused or recycled shall be disposed of by a licensed hazardous waste hauler.</li> </ul> <p>See Material Storage and Handling Use SM-2, and Hazardous Materials and Waste Management Section SM-9 for additional requirements.</p>	
Hazardous waste (Batteries, Solvents, Treated Lumber, etc.)	<ul style="list-style-type: none"> <li>• Do not dispose of toxic materials in dumpsters allocated for construction debris.</li> <li>• Ensure collection, removal, and disposal of hazardous waste complies with regulations.</li> <li>• Hazardous waste that cannot be reused or recycled shall be disposed of by a licensed hazardous waste hauler.</li> <li>• Segregate and recycle wastes from vehicle/equipment maintenance activities such as used oil or oil filters, greases, cleaning solutions, antifreeze, automotive batteries, and hydraulic and transmission fluids.</li> <li>• Store waste in sealed containers, which are constructed of suitable materials to prevent leakage and corrosion, and which are labeled in accordance with applicable Resource Conservation and Recovery Act (RCRA) requirements and all other applicable federal, state, and local requirements.</li> <li>• All containers stored outside shall be kept away from surface waters and within appropriately sized secondary containment (e.g., spill berms, decks, spill containment pallets). Provide cover if possible.</li> <li>• Clean up spills immediately, using dry clean-up methods where possible, and dispose of used materials properly.</li> <li>• Do not clean surfaces or spills by hosing the area down.</li> <li>• Eliminate the source of the spill to prevent a discharge or a continuation of an ongoing discharge.</li> </ul>	See Hazardous Materials and Waste Management Section SM-9 and Vehicle and Equipment Maintenance SM-12

<b>Pollutant Source</b>	<b>Appropriate Site-Specific BMP to be Implemented</b>	<b>BMP Requirements</b>
	<ul style="list-style-type: none"> <li>• Ensure collection, removal, and disposal of hazardous waste complies with manufacturer's recommendations and is in compliance with federal, state, and local requirements.</li> <li>• See Hazardous Materials and Waste Management Section SM-9 and Vehicle and Equipment Management, Vehicle and Equipment Maintenance SM-12 for additional requirements.</li> </ul>	
<i>Metals and Building Materials</i>	<ul style="list-style-type: none"> <li>• Inspect construction waste and recycling areas regularly.</li> <li>• Schedule solid waste collection regularly.</li> <li>• If building materials or metals are stored on site (such as rebar or galvanized poles) store under cover under tarps or in containers.</li> <li>• Minimize the amount of material stored on site.</li> <li>• Do not stockpile uncovered metals or other building materials in close proximity to discharge points.</li> <li>• See Solid Waste Management Section SM-6 for additional requirements.</li> </ul>	See Solid Waste Management Section SM-6
<i>Contaminated Soil</i>	<ul style="list-style-type: none"> <li>• See Waste Management, Contaminated Soil Management Section SM-8 and/or Hazardous Materials and Waste Management Section SM-9 for additional requirements.</li> <li>• At minimum contain contaminated material soil by surrounding with impermeable lined berms or cover exposed contaminated material with plastic sheets.</li> </ul>	See Waste Management, Contaminated Soil Management Section SM-8 and/or Hazardous Materials and Waste Management Section SM-9

<b>Pollutant Source</b>	<b>Appropriate Site-Specific BMP to be Implemented</b>	<b>BMP Requirements</b>
<i>Fugitive Dust Control and Dust Control Water</i>	<ul style="list-style-type: none"> <li>• Do not over spray water for dust control purposes which will result in runoff from the area.</li> <li>• Apply water as conditions require.</li> <li>• Washing down of debris or dirt into drainage, sewage systems, or State waters is not allowed.</li> <li>• Minimize exposed areas through the schedule of construction activities.</li> <li>• Utilize vegetation, mulching, sprinkling, and stone/gravel layering to quickly stabilize exposed soil.</li> <li>• Direct construction vehicle traffic to stabilized roadways.</li> <li>• Cover dump trucks hauling material from the site with a tarpaulin.</li> </ul> <p>See Dust Control Section SM-19 for additional requirements.</p>	See Dust Control Section SM-19
<i>Concrete Truck Wash Water</i>	<ul style="list-style-type: none"> <li>• Disposal of concrete truck wash water via percolation is prohibited.</li> <li>• Wash concrete-coated vehicles or equipment off-site or in the designated wash area.</li> <li>• Locate on-site wash area a minimum of 50 feet away or as far as practicable from storm drain inlets, open drainage facilities, or water bodies.</li> <li>• Runoff from the on-site concrete wash area shall be contained in a temporary pit or level bermed area where the concrete can set.</li> <li>• Design the area so that no overflow can occur due to inadequate wash area sizing or precipitation.</li> <li>• The temporary pit shall be lined with plastic to prevent seepage of wash water into the ground.</li> <li>• Allow wash water to evaporate or collect wash water and all concrete debris in a concrete washout system bin.</li> <li>• Do not dump liquid wastes into storm drainage system.</li> <li>• Dispose of liquid and solid concrete wastes in compliance with federal, state, and local standards.</li> <li>• See Waste Management, Concrete Wash and Waste Management Section SM-4 for additional requirements.</li> </ul>	See Waste Management, Concrete Wash and Waste Management Section SM-4



<b>Pollutant Source</b>	<b>Appropriate Site-Specific BMP to be Implemented</b>	<b>BMP Requirements</b>
<i>Sediment Track-Out</i>	<ul style="list-style-type: none"> <li>• <i>Include Stabilized Construction Entrance at all points that exit onto paved roads.</i></li> <li>• <i>A sediment trapping device is required if a wash rack is used in conjunction with the stabilized construction entrance/exit.</i></li> <li>• <i>The pavement shall not be cleaned by washing down the street.</i></li> <li>• <i>If sweeping is ineffective or it is necessary to wash the streets, wash water must be contained either by construction of a sump, diverting the water to an acceptable disposal area, or vacuuming the wash water.</i></li> <li>• <i>Use BMPs for adjacent drainage structures.</i></li> <li>• <i>Remove sediment tracked onto the street by the end of the day in which the track-out occurs.</i></li> <li>• <i>Restrict vehicle use to properly designated exit points.</i></li> <li>• <i>Include additional BMPs that remove sediment prior to exit when minimum dimensions cannot be met.</i></li> </ul> <p><i>See Stabilized Construction Entrance/Exit Section SC-11 for additional requirements.</i></p>	<i>See Stabilized Construction Entrance/Exit Section SC-11</i>
<i>Irrigation Water</i>	<ul style="list-style-type: none"> <li>• <i>Consider irrigation requirements.</i></li> <li>• <i>Where possible, avoid species which require irrigation.</i></li> <li>• <i>Design, timing and application methods of irrigation water to eliminate the runoff of excess irrigation water into the storm water drainage system.</i></li> </ul> <p><i>See Seeding and Planting Section EC-12 and California Stormwater BMP Handbook SD-12 Efficient Irrigation included in SWPPP Attachment A for additional requirements.</i></p>	<i>See Seeding and Planting Section EC-12 and California Stormwater BMP Handbook SD-12 Efficient Irrigation</i>
<i>Hydrotesting Effluent</i>	<ul style="list-style-type: none"> <li>• <i>If work includes removing, relocation or installing waterlines, and Contractor elects to flush waterline or discharge hydrotesting effluent into State waters or drainage systems, the Contractor shall prepare and obtain HDOT acceptance of a NOI/NPDES Permit Form F application for HDOT submittal to DOH CWB at least 30 calendar days prior to the start of Hydrotesting Activities if necessary. Site specific BMPs will be included in the NOI/NPDES Permit Form F submittal.</i></li> </ul>	<i>Site specific BMPs will be included in the NOI/NPDES Permit Form F submittal.</i>

<b>Pollutant Source</b>	<b>Appropriate Site-Specific BMP to be Implemented</b>	<b>BMP Requirements</b>
<i>Dewatering Effluent</i>	<i>If excavation or backfilling operations require dewatering, and Contractor elects to discharge dewatering effluent into State waters or existing drainage systems, Contractor shall prepare and obtain HDOT acceptance of a NOI/NPDES Permit Form G application for HDOT submittal to DOH CWB at least 30 calendar days prior to the start of Dewatering Activities if necessary. See Site Planning and General Practices, Dewatering Operations Section SM-18 for additional requirements.</i>	<i>See Dewatering Operations SM-18. Site specific BMPs will be included in the NOI/NPDES Permit Form G submittal.</i>
<i>Saw-cutting Slurry</i>	<ul style="list-style-type: none"> <li>• <i>Saw cut slurry shall be removed from the site by vacuuming.</i></li> <li>• <i>Provide storm drain protection during saw cutting. See Paving Operations Section SM-20 for additional requirements. Provide Storm Drain Inlet Protection and/or Perimeter Sediment Controls as applicable.</i></li> </ul>	<i>See Paving Operations Section SM-20, Storm Drain Inlet Protection SC-1, Perimeter sediment controls where applicable</i>
<i>Concrete Curing Water</i>	<ul style="list-style-type: none"> <li>• <i>Avoid overspraying of curing compounds.</i></li> <li>• <i>Apply an amount of compound that covers the surface, but does not allow any runoff of the compound.</i></li> </ul> <i>See California Stormwater BMP Handbook NS-12 Concrete Curing included in SWPPP Attachment A for additional requirements.</i>	<i>See California Stormwater BMP Handbook NS-12 Concrete Curing</i>

<b>Pollutant Source</b>	<b>Appropriate Site-Specific BMP to be Implemented</b>	<b>BMP Requirements</b>
<i>Plaster Waste Water</i>	<ul style="list-style-type: none"> <li>• <i>Direct all washwater into a leak-proof container or leak-proof pit. The container or pit must be designed so that no overflows can occur due to inadequate sizing or precipitation.</i></li> <li>• <i>Locate on-site wash area a minimum of 50 feet away or as far as practicable from storm drain inlets, open drainage facilities, or water bodies.</i></li> <li>• <i>Any significant residual materials remaining on the ground after the completion of construction shall be removed and properly disposed. If the residual materials contaminate the soil, then the contaminated soil shall also be removed and properly disposed of.</i></li> <li>• <i>Plaster waste water shall not be allowed to flow into drainage structures or State waters. See Material, Storage and Handling Use SM-2, Stockpile Management Use Section SM-3, and Hazardous Materials and Waste Management Section SM-9 for additional requirements.</i></li> </ul>	<i>See Material, Storage and Handling Use Section SM-2, Stockpile Management Use Section SM-3, and Hazardous Materials and Waste Management Section SM-9</i>
<i>Water-Jet Wash Water</i>	<ul style="list-style-type: none"> <li>• <i>For Water-Jet Wash Water used to clean vehicles, use off site wash racks or commercial washing facilities when practical.</i></li> <li>• <i>See Vehicle and Equipment Cleaning Section SM-11 for additional information.</i></li> <li>• <i>For Water-Jet Wash Water used to clean impervious surfaces, the runoff shall not be allowed to flow into drainage structures or State Waters.</i></li> </ul>	<i>See Vehicle and Equipment Cleaning Section SM-11</i>
<i>Sanitary/Septic Waste</i>	<ul style="list-style-type: none"> <li>• <i>Locate Sanitary facilities in a convenient place away from drainage facilities.</i></li> <li>• <i>Position sanitary facilities so they are secure and will not be tipped over or knocked down.</i></li> <li>• <i>Wastewater shall not be discharged to the ground or buried.</i></li> <li>• <i>A licensed service provider shall maintain sanitary/septic facilities in good working order.</i></li> <li>• <i>Schedule regular waste collection by a licensed transporter.</i></li> <li>• <i>See Sanitary Waste Section SM-7 for additional requirements.</i></li> </ul>	<i>See Sanitary Waste Section SM-7.</i>

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**END OF SECTION 209**

## SECTION 629 - PAVEMENT MARKINGS

Make the following amendments to said Section:

(I) Amend **Subsection 629.03(B) – Temporary Pavement Markings** by revising the third paragraph from line 62 to 63 to read:

“Maintain and replace temporary pavement markings, flexible delineators, and barricades. ”

(II) Amend **Table 629.03 – 1 – Temporary Pavement Markings** to read as follows:

“TABLE 629.03-1 TEMPORARY PAVEMENT MARKINGS	
TYPE	PAVEMENT MARKINGS
Passing Permitted - Both Sides	Single 4-inch yellow stripe 5 feet in length spaced 20 feet on center with Type D markers spaced 40 feet on center and located on center of 5-foot length of stripe.
Passing Prohibited - Both Sides	Double solid 4-inch yellow stripes with Type D markers placed 20 feet on center on one of 4-inch yellow stripes selected by the Engineer.
Passing Permitted - One Side Only	Single continuous 4-inch yellow stripe with Type D markers placed on stripe 20 feet on center on no-passing side and single 4-inch yellow stripes 5 feet in length spaced 20 feet on center on passing side.
Lane Lines - Lane Changing Permitted	Single 4-inch yellow or white stripe 5 feet in length spaced 20 feet on center with Type C or Type D markers spaced 40 feet on center.
Lane Lines - Lane Changing Prohibited	Double solid 4-inch white stripes with Type C markers placed 20 feet on center on one of the 4-inch white stripes selected by the Engineer.
Crosswalk	Two 12-inch white transverse lines spaced 8 feet on center or as ordered by the Engineer.
Stop Line	Single 12-inch white transverse line.
<b>Note:</b> Paint may be used for temporary markings in areas where final paving is not complete.”	

(III) Amend **629.04 – Measurement** by revising lines 292 to 294 to read as follows:

19 **"629.04 Measurement.**

20  
21 The Engineer will measure thermoplastic and preformed pavement  
22 marking tape per linear foot in accordance with the contract  
23 documents. The longitudinal pavement markings will be measured per  
24 linear foot as a single stripe for the width specified in the contract and  
25 in the proposal.

26  
27 The Contractor shall consider the work required for the removal of  
28 pavement markings incidental to the various contract items, except as  
29 provided in the proposal or elsewhere in the contract. If the contract  
30 stipulates that the Engineer will make payment for the removal of  
31 pavement markings, the Engineer will measure the removal of  
32 pavement markings.

33  
34 The Engineer will measure the raised crosswalk marking and  
35 pavement words per each for the types shown in the proposal.

36  
37 The Engineer will measure the pavement crosswalk per each for  
38 the types shown in the proposal.

39  
40 The Engineer will measure the painted stripes that are twelve (12)  
41 inches wide or less as a single stripe. The Engineer will measure the  
42 painted stripes over twelve (12) inches wide as two (2) stripes."

43  
44 (IV) Amend **629.05 – Payment** by revising lines 296 to 330 to read as follows:

45  
46 **"629.05 Payment.**

47  
48 The Engineer will pay for thermoplastic, profiled and preformed  
49 pavement marking tape at the contract price per linear foot according  
50 to the contract, complete in place, including primers.

51  
52 Longitudinal gaps for skip striping will not be included in the  
53 measurement

54  
55 The Engineer will measure the painted stripes that are twelve (12)  
56 inches wide or less as a single stripe. The Engineer will measure the  
57 painted stripes over twelve (12) inches wide as two (2) stripes. The  
58 Engineer will measure the double stripes that are twelve (12) inches or  
59 less in total width including the transverse space between the stripes as a  
60 single stripe.

61  
62 The Engineer will measure pavement marker per each in accordance  
63 with the contract documents.

The Engineer will pay for pavement arrow, word and raised crosswalk markings at the contract price per each according to the contract, complete in place including primers.

The Engineer will pay for crosswalk markings at the contract price per lane according to the contract, complete in place, including primers.

The contract unit price paid shall be full compensation for furnishing labors, materials, tools, equipment and incidentals and for doing the work involved in furnishing and installing pavement markings complete in place according to the contract.

The Engineer will pay for the following pay items when included in the proposal schedule:

<b>Pay Item</b>	<b>Pay Unit</b>
____ - Inch Pavement Striping ____	Linear Foot
Type ____ Pavement Marker	Each
Pavement Arrow (Tape, Type ____ or Thermoplastic Extrusion)	Each
Pavement Word (Tape, Type ____ or Thermoplastic Extrusion)	Each
Crosswalk (Tape, Type ____ or Thermoplastic Extrusion)	Lane
Raised Crosswalk Marking (Tape, Type ____ or Thermoplastic Extrusion)	Each"

**END OF SECTION 629**

1 Make the following Section a part of the Standard Specifications:  
2

### 3 **SECTION 636 – E-CONSTRUCTION** 4 5

6 **636.01 Description.** This section specifies requirements for performing the Project in  
7 a “paperless” manner, using electronic tools for all submittals, communications, quantity  
8 tracking, testing, and sampling, scheduling, quality control, and performance monitoring.  
9

10 **636.02 General Requirements.** The Contractor shall implement the use of the E-  
11 Construction platform, as provided by the HDOT and directed by the Engineer, for use  
12 throughout the project. Paper-based or hard copy submittals will not be accepted.  
13

14 This Special Provision shall take precedence over all other Specification sections  
15 with respect to providing and receiving paper copy communications, submittals, and any  
16 project records. Where conflicts exist, and a decision between a hard-copy item and a  
17 corresponding electronic version is needed, the electronic version shall be selected,  
18 unless otherwise directed by the Engineer.  
19

### 20 **636.03 Construction** 21

22 **(A) Plans and Specifications.** Project drawings will not be provided to the  
23 Contractor in hard copy format. An electronic version will be provided in the E-  
24 Construction platform for use during the project.  
25

26 The Contractor shall note all changes to the work, including all  
27 subcontractor’s work, in electronic format using the E-Construction platform Red  
28 annotations shall be used to note changes. Blue annotations shall be used for any  
29 additional notes that will be helpful for the State in interpreting the field posted  
30 drawings. Other drafting standards may be implemented by the Engineer and shall  
31 be adhered to by the Contractor. Changes shall be input by the Contractor and  
32 reviewed by the Engineer monthly. The Contractor shall make any changes that  
33 the Engineer requires.  
34

35 **(B) Submittals.** The Contractor shall provide all required submittals, as listed  
36 within the contract documents, via the E-Construction platform.—All review,  
37 approval, and resubmittal regarding submittals shall also be documented within  
38 the E-Construction platform  
39

40 **(C) Correspondence.** Electronic mail (email) shall be the preferred method of  
41 electronic communication. All communications that affect project scope, schedule,  
42 cost, or quality, including changes and requests for information, shall be submitted  
43 as directed by the Engineer.  
44

45 **(D) Prosecution and Progress.** The Contractor shall provide all  
46 administrative, management, and project support documents required by various  
47 specification sections, using the E-Construction platform. These elements include,  
48 but are not limited to:  
49

- 50 (1) Preconstruction Submittals (Section 108.03)
  - 51 (2) Correspondence regarding Contract Time and Delays (Section  
52 108.05)
  - 53 (3) Progress Schedules (Section 108.06)
  - 54 (4) Weekly Meeting preparatory materials (Section 108.07)
  - 55 (5) Samples, certifications, material data, installation instructions, and  
56 shop drawings (Sections 105 and 106)
  - 57 (6) Field-posted Drawings (Section 648)
  - 58 (7) Pre-Final Inspection submittals (Section 108.13)
  - 59 (8) Warranty documentation (Section 108.17)
  - 60 (9) Project Closing Documents (Section 108.19)
- 61

62 In addition to the foregoing, the Contractor shall provide any other  
63 materials, correspondence, and submittals using the E-Construction  
64 platform as directed by the Engineer.  
65

66 **(E) Resources.** The Contractor shall provide a comprehensive list of  
67 Contractor labor and equipment, including all subcontractor labor and equipment,  
68 that will be deployed on the project, using spreadsheet-based templates provided  
69 in the E-Construction platform. All template fields shall be completed. The  
70 submitted information shall comply with the requirements of Specification Section  
71 108 – Prosecution and Progress (identification of labor and equipment resources)  
72 and Specification Section 109 - Measurement and Payment (cost data) and  
73 represent all individual personnel with labor categories and rates, and all  
74 equipment owned or rented, with associated rates, on this project. Updates for  
75 additional personnel or equipment shall be accomplished by the Contractor at will  
76 and shall be completed when directed by the Engineer.  
77



**636.04 Measurement.** The Engineer will measure additional E-Construction programs, additional licenses, or additional equipment, if ordered by the Engineer, on a force account basis in accordance with Subsection 109.06 – Force Account Provisions and Compensation.

**636.05 Payment.** The Engineer will pay for the additional E-Construction programs, additional licenses, or additional equipment, on a force account basis in accordance with Subsection 109.06 – Force Account Provisions and Compensation.

The Engineer may withhold progress payment until the Contractor is in compliance with all E-Construction requirements.

Pay Item	Pay Unit
Additional E-Construction Programs, Additional Licenses or Additional Equipment	Force Account

An estimated amount for force account may be allocated in the proposal schedule under “Additional E-Construction Programs, Additional Licenses or Additional Equipment.” The actual amount to be paid will be the sum shown on accepted force account records.

**END SECTION 636**

## SECTION 645 - WORK ZONE TRAFFIC CONTROL

Make the following amendments to said Section:

(I) Amend **Subsection 645.03 Construction** by adding this paragraph after line 170 to read as follows:

“(1) **Covers.** Use sign covers when existing signs confuse the public or are in conflict with TCP signs installed. Sign covers shall be commercially manufactured and accepted by the Engineer before use. Sign covers shall at all times and under all conditions not allow any portion of the sign being covered to be visible. If more than one side of the sign has words or symbols cover all sides of the sign until needed. “Homemade” or “field made” covers shall not be used. Covering of sign identification markings are not required if that is the only markings on that side of the sign. Sign covers shall be maintained.

Removal of the existing sign in lieu of the use of sign covers may be acceptable to the Engineer provided the previously removed existing sign is immediately reinstalled when directed. Removal of existing post(s) and mounting hardware is required if not used to mount the new TCP sign. New mounting hardware shall be used to mount the TCP signs if the existing hardware is in an unacceptable condition in the opinion of the Engineer. In addition, should the sign or post during storage, in the opinion of the Engineer, become unacceptable or lost or stolen the Contractor shall replace the sign or post with a new sign or post. Use new hardware to reinstall the sign regardless whether it is an existing sign or new.”

(II) Amend **Subsection 645.03 (F) Lane Closures** Line 253 by changing "Oahu" to Kauai".

(III) Amend **Subsection 645.03 (G) Advisory Signs** from Line 314 to Line 324 to read as follows:

“Advisory signs are not required for this project.”

(IV) Amend **Subsection 645.03 (H) Advertisement** from Line 391 to Line 392 to read as follows:

“Place advertisement for three consecutive days and within one week before traffic pattern changes, in publication as ordered by the Engineer. In lieu of the advertisement(s), the Engineer may substitute the use of two portable changeable message boards and accessories at no additional cost for three days for each required advertisement.”

(V) Amend **Subsection 645.04 - Measurement** from line 394 to line 403 to read as follows:

48  
49 **"645.04 Measurement.**

50  
51 **(A)** Traffic control as specified in Subsection 645.03 – Construction  
52 including sign covers and the initial advertisement(s) will be measured on contract  
53 lump sum basis. Measurement for payment will not apply.

54  
55 **(B)** The Engineer will measure additional police officers, additional traffic  
56 control devices, and additional advertisements, if ordered by the Engineer, on a  
57 force account basis, in accordance with Subsection 109.06 – Force Account  
58 Provisions and Compensation.'

59  
60 **(VI)** Amend **Subsection 645.05 - Payment** from lines 405 to 428 to read:

61  
62 **"645.05 Payment.** The Engineer will pay for the accepted traffic control,  
63 additional police officers, and additional traffic control devices, and additional  
64 advertisements at the contract price per pay unit, as shown in the proposal  
65 schedule. Payment will be full compensation for the work prescribed in this section  
66 and the contract documents.

67  
68 The Engineer will pay for the following pay items when included in the  
69 proposal schedule:

70

71 Pay Item	72 Pay Unit
73 Traffic Control	74 Lump Sum
75 Additional Police Officers, Additional Traffic Control Devices, 76 and Additional Advertisements	77 Force Account

78 An estimated amount for the force account may be allocated in the proposal  
79 schedule under "Additional Police Officers, Additional Traffic Control Devices, and  
80 Additional Advertisements", but the actual amount to be paid will be the sum shown  
81 on the accepted force account records, whether this sum be more or less than the  
82 estimated amount allocated in the proposal schedule.

83  
84 The Engineer will not pay for request submittals. The Engineer will not  
85 consider claims for additional compensation of late submittals or requests by  
86 Contractor."

87  
88  
89  
90 **END OF SECTION 645**

1 Make the following Section a part of the Standard Specifications:

2  
3 **“SECTION 671 – PROTECTION OF THREATENED AND ENDANGERED**  
4 **SPECIES**

5  
6 **671.01 Description.** The endangered Hawaiian hoary bat or ‘ōpe‘ape‘a  
7 (*Lasiurus cinereus semotus*) may roost, forage, and rear young in the general  
8 vicinity of the proposed project. Endangered Hawaiian waterbirds, including the  
9 Hawaiian stilt or ae‘o (*Himantopus mexicanus knudseni*), the Hawaiian coot or  
10 ‘alae ke‘oke‘o (*Fulica americana alai*), the Hawaiian gallinule or ‘alae ‘ula (*Gallinula*  
11 *galeata sandvicensis*), and the Hawaiian duck or koloa (*Anas wyvilliana*) are  
12 known to be in the general vicinity of the project and may be attracted to the project  
13 staging areas even in sub-optimal locations if water is present. Also to be  
14 considered is the threatened Hawaiian goose or nēnē (*Branta [=Nesochen]*  
15 *sandvicensis*) which may use the construction staging areas or areas adjacent to  
16 the roadway. Additionally, the project site is located in a known flight corridor for  
17 the endangered Hawaiian petrel or ‘ua‘u (*Pterodroma sandwichensis*), the  
18 endangered Hawai‘i DPS of the band-rumped storm-petrel or ‘ake‘ake  
19 (*Oceanodroma castro*), and the threatened Newell’s shearwater or ‘a‘o (*Puffinus*  
20 *auricularis newelli*), hereinafter referred to as Hawaiian seabirds.

21  
22 The Contractor shall protect these threatened and endangered species  
23 throughout the construction duration.

24  
25 **671.02 Materials.** None

26  
27 **671.03 Construction.**

28  
29 **(A) Pre-Construction and Construction Requirements.** Comply with  
30 the following conditions and the notes in the Contract Plans:

31  
32 **(1) Hawaiian Hoary Bat.** Hawaiian hoary bats nest in both  
33 native and non-native woody vegetation.

34  
35 The Contractor shall incorporate these measures to avoid and  
36 minimize project-related adverse effects to the Hawaiian hoary bat:

37  
38 **(a)** There shall be no disturbance, removal, or trimming of  
39 woody plants greater than 15 feet (4.6 meters) tall  
40 during the bat birthing and pup rearing season (June 1  
41 through September 15).

42  
43 **(b)** Barbed wire shall not be used for fencing.

44  
45 **(2) Hawaiian Waterbirds.** Hawaiian waterbirds occupy fresh  
46 and brackish water marshes, coastal estuaries and natural or  
47 manmade ponds. Hawaiian stilts also occupy areas with ephemeral  
48 or persistent standing water. Because this project occurs near water,  
49 threats to these species from this project may include predation,  
50 reduced reproductive success, disturbance from human activity and  
51 injury or mortality from vehicle strikes.

The Contractor shall incorporate these measures to avoid and minimize project-related adverse effects to Hawaiian waterbirds:

**(a)** In areas where known presence of Hawaiian waterbirds occurs, post, implement and enforce reduced speed limits, and inform project personnel and Contractors of the presence of these endangered species on-site.

**(b)** Because water resources occur in the project site, employ U.S. Fish and Wildlife Service (USFWS) Best Management Practices for Work in Aquatic Environments.

**(c)** Survey for Hawaiian waterbirds and nests within the vicinity of the project area prior to initiation of project work using survey biologists familiar with the species' biology. Survey biologists should be trained and capable of identifying adults and juveniles of each species, nesting behaviors, and nests.

i. Surveys for species and nests should be repeated when a delay of work occurs that is three days or (during which the birds may attempt to nest).

ii. If a nest or active brood is found, contact USFWS within 24 hours for further guidance.

iii. Establish and maintain a 100-ft buffer around all active nests and/or broods until the chicks/ducklings have fledged. Do not conduct potentially disruptive activities or habitat alteration within this buffer.

iv. A biological monitor that is familiar with the species' biology shall be present on the project site during all construction or earth moving activities until the chicks/ducklings fledge to ensure that Hawaiian waterbirds and nests are not adversely affected.

v. Additionally, biological monitor is required during Hawaiian stilt nesting season from February 15 through August 31.

I. A biological monitor that is familiar with the species' biology and approved by the Federal Highways Administration will conduct Hawaiian stilt nest surveys where appropriate

habitat occurs within the proposed maintenance site prior to cleaning culverts and drainage structures.

II. Surveys will take place within three days of project initiation and after any subsequent delay of work of three or more days (during which the birds may attempt to nest).

**(3) Hawaiian Goose.** Hawaiian goose or nēnē uses various habitat types. Threats to the species from this project include disturbance from human presence, and injury and mortality from vehicle strikes. An increased human presence at the project site could disturb nēnē nesting, foraging, or loafing in the area.

The Contractor shall incorporate these measures to avoid and minimize project-related adverse effects to the nēnē:

- (a)** Nēnē in or near the project area shall not be approached, fed, or disturbed in any way.
- (b)** If nēnē are observed loafing, foraging, or otherwise present within the project area during the breeding season (September 1 through April 30), a trained biologist familiar with nēnē nesting behavior will survey the area in and around the project area for nests prior to work each day. Surveys will be repeated after any subsequent delay of work of three or more days (during which the birds may attempt to nest).
- (c)** If a nest is identified within a radius of 150 feet of the project area, or a previously undiscovered nest is found within the 150-foot radius after work begins, all work shall cease and the USFWS will be contacted immediately for further guidance.
- (d)** Reduced speed limits shall be posted and implemented in areas where nēnē are known to be present, and project personnel and Contractors will be informed of the presence of endangered species on-site. There shall be no feeding of birds or dogs on the project site.

**(4) Hawaiian Seabirds.** Hawaiian seabirds may traverse the project area at night during breeding, nesting and fledgling season, which extends from March 1 through December 15. Additional or increased lighting exacerbates the problem of Newell's shearwater fallout.

Fallout shall be defined as the occurrence of seabirds being harmed, injured or killed and falling to the ground due to: 1) collision with structures such as wires, poles, or other objects; 2) light attraction and the resulting collision with structure associated with or near the light sources; or, 3) the exhaustion from circling the light source.

If night-time work will be required in conjunction with the development of the project, the Contractor shall incorporate these measures to avoid and minimize project-related adverse effects to Hawaiian seabirds:

**(a)** Before beginning any work at the project site, the Contractor shall:

- i. Collect information regarding the protection of seabirds and seabird fallout.
- ii. Submit to the Engineer for acceptance a protection of seabirds training plan including a detailed description of information and materials the Contractor intends to use in the training classes. The training plan shall be submitted to the Engineer for acceptance at least 15 days in advance of the class. If the Engineer rejects the training plan, the Contractor shall revise and promptly propose another training plan.
- iii. Disseminate information regarding the protection of seabirds and seabird fallout by conducting training classes for all employees, subcontractors, suppliers and other personnel working on the project, including HDOT personnel, on such topics as the Save Our Shearwater (SOS) program, proper use of temporary lighting, procedures to store and report downed seabirds, and the consequences of non-compliance with the laws regarding threatened and endangered seabirds. The Engineer may request for additional topics related to seabirds to be included in the training classes.

Training classes shall be taught by authorized representatives of the USFWS, the Department of Land and Natural Resources, the SOS program or other qualified personnel accepted by the Engineer.

- iv. Furnish the Engineer with evidence that the Contractor has held training classes, including the

197 dates of the classes, identify who conducted the  
198 training, and the content and nature of the training.  
199

200 **(b)** The Contractor shall comply to the following  
201 construction requirements:  
202

- 203 i. As directed by the Engineer, the Contractor shall  
204 conduct additional training classes during the  
205 project to update all employees, subcontractors,  
206 suppliers, HDOT personnel and other personnel on  
207 new and/or updated information regarding the  
208 protection of seabirds and seabird fallout.  
209
- 210 ii. All temporary lights used for night work (between  
211 sunset and sunrise) shall contain less than 2%  
212 wavelengths less than 550 nm, and shall be  
213 downward-facing and shielded so the bulb can only  
214 be seen from below. Temporary lights shall include  
215 but are not limited to flood lights, light towers, lights  
216 for construction equipment and other lights as  
217 determined by the Engineer. All traffic control  
218 devices, including warning lights, arrow boards,  
219 portable changeable message signs and other  
220 lighting device as determined by the Engineer shall  
221 be shielded.  
222
- 223 iii. Night time construction and the use of all temporary  
224 lights shall cease during the peak seabird fledgling  
225 period (September 15 through December 15).  
226
- 227 iv. The Contractor shall furnish and maintain a small  
228 (approximately 10" x 12" x 19"), portable cat kennel  
229 on site to temporarily hold a downed seabird. The  
230 Contractor shall obtain acceptance of the cat  
231 kennel from the Engineer prior to use.  
232
- 233 v. If a downed dead seabird is found, the Contractor  
234 shall contact the USFWS (Ms. Megan Laut at 808-  
235 792-9400) within 24 hours.  
236
- 237 vi. If the downed seabird is alive, the Contractor shall:  
238  
239 I. Pick up the seabird from behind as soon  
240 as possible using a clean towel, t-shirt or cloth  
241 by gently wrapping it around its back and wings.  
242



243 II. Place the seabird in the cat kennel and  
244 immediately contact the SOS Program  
245 Coordinator at 808-635-5117 for further  
246 instructions on where to deliver the seabird.

247  
248 III. Deliver the seabird to the location  
249 determined by the coordinator of the SOS  
250 program and as directed by the Engineer.

251  
252 IV. Keep the seabird in a cool, quiet location  
253 and out of direct sunlight with adequate  
254 ventilation.

255  
256 V. The Contractor and any personnel on-  
257 site shall not feed, provide water, handle or  
258 release the seabird.

259  
260 vii. The Contractor shall maintain records of all downed  
261 seabirds for the duration of the project. The records  
262 shall include the date, time, location and condition  
263 (dead or alive) the seabird was found and delivered.  
264 Submit a copy of the records to the Engineer after  
265 finding each and every downed seabird.

266  
267 **(B) Compliance Requirements.** The Contractor shall  
268 protect all species noted above for the duration of construction. Failure to  
269 comply with the construction requirements, harm or a taking of an individual  
270 during the construction duration shall be enforceable by the USFWS as set  
271 forth by the Endangered Species Act. Resultant penalties and/or fines shall  
272 be at the Contractor's expense without cost or liability to the State.

273  
274 **671.03 Measurement.** The Engineer will measure the work required for the  
275 protection of threatened and endangered species on a force account basis in  
276 accordance with Subsection 109.06 – Force Account Provisions and  
277 Compensation and as ordered by the Engineer.

278  
279 **671.04 Payment.** The Engineer will pay for the accepted protection of  
280 threatened and endangered species on a force account basis in accordance with  
281 Subsection 109.06 – Force Account Provisions and Compensation. Payment will  
282 be full compensation for the work prescribed in this section, by the Engineer, and  
283 in the contract documents.

284  
285 The Engineer will pay for the following pay item when included in the  
286 proposal schedule:

287	288	289
	<b>Pay Item</b>	<b>Pay Unit</b>
290	Protection of Threatened and Endangered Species	Force Account
291		

292           An estimated amount may be allocated in the proposal schedule under  
293 "Protection of Threatened and Endangered Species", but the actual amount to be  
294 paid will be the sum shown on the accepted force account records, whether this  
295 sum be more or less than the estimated amount allocated in the proposal  
296 schedule."

297  
298  
299                                   **END OF SECTION 671**



1                   **SECTION 755 – PAVEMENT MARKING MATERIALS**

2  
3       Make the following amendments to said Section:

4  
5       **(I)**     Amend **Subsection 755.02 (C) Retroreflective Pavement Markers** by  
6       revising lines 223 to 236 to read:

7  
8             “Exterior surface of shell shall be smooth and contain one or two  
9       retroreflective faces of specified color.”

10  
11       **(II)**    Amend **Subsection 755.05 (C)(1) Glass Beads** by adding the following  
12       after line 869:

13  
14             **“(f)**   The glass spheres shall not contain more than 200 ppm (total)  
15       arsenic, 200 ppm (total) antimony nor more than 200 ppm (total)  
16       lead, when tested according to EPA Methods 3052 and 6010C.  
17       Other suitable x-ray fluorescence spectrometry analysis methods  
18       may be used to screen samples of glass spheres for arsenic and  
19       lead content.”

20  
21  
22  
23  
24  
25  
26  
27                   **END OF SECTION 755**

## **Requirements of Chapter 104, HRS**

### **Wages and Hours of Employees on Public Works Law**

---

Chapter 104, HRS, applies to every public works construction project over \$2,000, regardless of the method of procurement or financing (purchase order, voucher, bid, contract, lease arrangement, warranty, SPRB).

#### **Rate of Wages for Laborers and Mechanics**

- Minimum prevailing wages (basic hourly rate plus fringe benefits), as determined by the Director of Labor and Industrial Relations and published in wage rate schedules, shall be paid to the various classes of laborers and mechanics working on the job site. [§104-2(a), (b), Hawaii Revised Statutes (HRS)]
- If the Director of Labor determines that prevailing wages have increased during the performance of a public works contract, the rate of pay of laborers and mechanics shall be raised accordingly. [§104-2(a) and (b), HRS; §12-22-3(d) Hawaii Administrative Rules (HAR)]

#### **Overtime**

- Laborers and mechanics working on a Saturday, Sunday, or a legal holiday of the State or more than eight hours a day on any other day shall be paid overtime compensation at not less than one and one-half times the basic hourly rate plus the cost of fringe benefits for all hours worked. If the Director of Labor determines that a prevailing wage is defined by a collective bargaining agreement, the overtime compensation shall be at the rates set by the applicable collective bargaining agreement [§§104-1, 104-2(c), HRS]

#### **Weekly Pay**

- Laborers and mechanics employed on the job site shall be paid their full wages at least once a week, without deduction or rebate, except for legal deductions, within five working days after the cutoff date. [§104-2(d), HRS]

#### **Posting of Wage Rate Schedules**

- Wage rate schedules with the notes for prevailing wages and special overtime rates, shall be posted by the contractor in a prominent and easily accessible place at the job site. A copy of the entire wage rate schedule shall be given to each laborer and mechanic employed under the contract, except when the employee is covered by a collective bargaining agreement. [§104-2(d), HRS]

#### **Withholding of Accrued Payments**

- If necessary, the contracting agency may withhold accrued payments to the contractor to pay to laborers and mechanics employed by the contractor or subcontractor on the job site any difference between the wages required by the public works contract or specifications and the wages received. [§104-2(e), HRS]

#### **Certified Weekly Payrolls and Payroll Records**

- A certified copy of all payrolls shall be submitted weekly to the contracting agency.
- The contractor is responsible for the submission of certified copies of the payrolls of all subcontractors. The certification shall affirm that the payrolls are correct and complete, that the wage rates listed are not less than the applicable rates contained in the applicable wage rate schedule, and that the classifications for each laborer or mechanic conform with the work the laborer or mechanic performed. [§104-3(a), HRS]
- Payroll records shall be maintained by the contractor and subcontractors for three years after completion of construction. The records shall contain: [HAR §12-22-10]
  - the name and home address of each employee
  - the employee's correct classification
  - rate of pay (basic hourly rate + fringe benefits)
  - itemized list of fringe benefits paid
  - daily and weekly hours worked
  - weekly straight time and overtime earnings
  - amount and type of deductions
  - actual wages paid
  - date of payment
- Records shall be made available for inspection by the contracting agency, the Department of Labor and Industrial Relations, and any of its authorized representatives, who may also interview employees during working hours on the job. [§104-3(b), HRS]

## Termination of Work on Failure to Pay Wages

- If the contracting agency finds that any laborer or mechanic employed on the job site by the contractor or any subcontractor has not been paid prevailing wages or overtime, the contracting agency may, by written notice to the contractor, terminate the contractor's or subcontractor's right to proceed with the work or with the part of the work in which the required wages or overtime compensation have not been paid. The contracting agency may complete this work by contract or otherwise, and the contractor or contractor's sureties shall be liable to the contracting agency for any excess costs incurred. [§104-4, HRS]

## Apprentices and Trainees

- In order to be paid apprentice or trainee rates, apprentices and trainees must be parties to an agreement either registered with or recognized as a USDOL nationally approved apprenticeship program by the Department of Labor and Industrial Relations, Workforce Development Division, (808) 586-8877. [§12-22-6(1), HAR]
- The number of apprentices or trainees on any public work in relation to the number of journeymen in the same craft classification as the apprentices or trainees employed by the same employer on the same public work may not exceed the ratio allowed under the apprenticeship or trainee standards registered with or recognized by the Department of Labor and Industrial Relations. A registered or recognized apprentice receiving the journeyman rate will not be considered a journeyman for the purpose of meeting the ratio requirement. [§12-22-6(2), HAR]

## Enforcement

- To ensure compliance with the law, DLIR and the contracting agency will conduct investigations of contractors and subcontractors. If a contractor or subcontractor violates the law, the penalties are:
  - First Violation Equal to 25% of back wages found due or \$250 per offense up to \$2,500, whichever is greater.
  - Second Violation Equal to amount of back wages found due or \$500 for each offense up to \$5,000, whichever is greater.
  - Third Violation Equal to two times the amount of back wages found due or \$1,000 for each offense up to \$10,000, whichever is greater; and  
**Suspension** from doing any new work on any public work of a governmental contracting agency for three years.
- A violation would be deemed a second violation if it occurs within two years of the **first notification of violation**, and a third violation if it occurs within three years of **the second notification of violation**.
- **Suspension:** For a first or second violation, the department shall immediately suspend a contractor who fails to pay wages or penalties until all wages and penalties are paid in full. For a third violation, the department shall penalize and suspend the contractor as described above, **except that if the contractor continues to violate the law, then the department shall immediately suspend the contractor for a mandatory three years. The contractor shall remain suspended until all wages and penalties are paid in full.** [§§104-24, 104-25]
- **Suspension:** Any contractor who fails to make payroll records accessible or provide requested information within 10 days, or fails to keep or falsifies any required record, shall be assessed a penalty including suspension as provided in Section 104-22(b) and 104-25(a)(3), HRS. [§104-3(c)]
- If any contractor interferes with or delays any investigation, the contracting agency shall withhold further payments until the delay has ceased. Interference or delay includes failure to provide requested records or information within ten days, failure to allow employees to be interviewed during working hours on the job, and falsification of payroll records. The department shall assess a penalty of \$10,000 per project, and \$1,000 per day thereafter, for interference or delay. [§104-22(b)]
- Failure by the contracting agency to include in the provisions of the contract or specifications the requirements of Chapter 104, HRS, relating to coverage and the payment of prevailing wages and overtime, is not a defense of the contractor or subcontractor for noncompliance with the requirements of this chapter. [§104-2(f)]

For additional information, visit the department's website at <http://labor.hawaii.gov/wsd> or contact any of the following DLIR offices:



Oahu (Wage Standards Division).....	(808) 586-8777
Hawaii Island .....	(808) 322-4808
Kauai .....	(808) 274-3351
Maui .....	(808) 243-5322

STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
HIGHWAYS DIVISION  
HONOLULU, HAWAII

P R O P O S A L

6/02/98

**PROPOSAL TO THE  
STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION**

**PROJECT: KUHIO HIGHWAY PAVEMENT MARKINGS  
KAMOA ROAD TO VICINITY OF WAIKAEA BRIDGE**

**PROJECT NO.: 56A-01-23M**

**COMPLETION TIME: Sixty (60) Working days from the Start Work Date  
from the Department.**

**DESIGN PROJECT MANAGER:**

**NAME: Eric I. Fujikawa  
ADDRESS: 1720 Haleukana Street, Lihue, HI 96766  
PHONE NO.: (808) 241-3015  
EMAIL: eric.i.fujikawa@hawaii.gov  
FAX NO.: (808) 241-3011**



Director of Transportation  
869 Punchbowl Street  
Honolulu, Hawaii 96813

Dear Sir:

The undersigned bidder declares the following:

1. It has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with this proposal.
2. It has not been assisted or represented on this matter by any individual who has, in a State capacity, been involved in the subject matter of this contract within the past two years.
3. It has not and will not, either directly or indirectly offered or given a gratuity (i.e.. an entertainment or gift) to any State or County employee to obtain a contract or favorable treatment under a contract.

The undersigned bidder further agrees to the following:

1. If this proposal is accepted, it shall execute a contract with the Department to provide all necessary labor, machinery, tools, equipment, apparatus and any other means of construction, to do all the work and to furnish all the materials specified in the contract in the manner and within the time therein prescribed in the contract, and that it shall accept in full payment therefore the sum of the unit and/or lump sum prices as set forth in the attached proposal schedule for the actual quantities of work performed and materials furnished and furnish satisfactory security in accordance with Section 103D-324, Hawaii Revised Statutes, within 10 days after the award of the contract or within such time as the Director of Transportation may allow.
2. That the quantities given in the attached proposal schedule are approximate only and are intended principally to serve as a guide in determining and comparing the bids.
3. That the Department does not either expressly or by implication, agree that the actual amount of work will correspond therewith, but reserves the right to increase or decrease the amount of any class or portion of the work, or to omit portions of the work, as may be deemed necessary or advisable by the Director of Transportation, and that all increased or decreased quantities of work shall be performed at the unit prices set forth in the attached proposal schedule except as provided for in the specifications.
4. In case of a discrepancy between unit prices and the totals in said Proposal Schedule, the unit prices shall prevail.

5. Agrees to begin work within 10 working days after the date of notification to commence with the work, which date is in the notice to proceed, and shall finish the entire project within the time prescribed.
6. The Director of Transportation reserves the right to reject any or all bids and to waive any defects when in the Director's opinion such rejections or waiver will be for the best interest of the public.

The bidder acknowledges receipt of and certifies that it has completely examined the following listed items: Hawaii Standard Specifications for Road and Bridge Construction, 2005, the Notice to Bidders, the Special Provisions, the Technical Provisions, the Proposal, the Contract and Bond Forms, and the Project Plans.

The undersigned bidder acknowledges receipt of any addendum issued by the Department by recording in the space below the date of receipt.

Addendum No. 1 \_\_\_\_\_

Addendum No. 3 \_\_\_\_\_

Addendum No. 2 \_\_\_\_\_

Addendum No. 4 \_\_\_\_\_

The undersigned hereby certifies that the bid prices contained in the attached proposal schedule have been carefully checked and are submitted as correct and final.

This declaration is made with the understanding that the undersigned is subject to the penalty of perjury under the laws of the United States and is in violation of the Hawaii Penal Code, Section 710-1063, unsworn falsification to authorities, of the Hawaii Revised Statutes, for knowingly rendering a false declaration.

\_\_\_\_\_  
Bidder

By \_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Business Address

\_\_\_\_\_  
Email Address

\_\_\_\_\_  
Date

\_\_\_\_\_  
Contact Person (If different from above.)

\_\_\_\_\_  
Phone Number and Email Address

NOTE:

If bidder is a CORPORATION, the legal name of the corporation shall be set forth above, the corporate seal affixed, together with the signature(s) of the officer(s) authorized to sign contracts for the corporation. Please attach to this page current (not more than six months old) evidence of the authority of the officer(s) to sign for the corporation.

If bidder is a PARTNERSHIP, the true name of the partnership shall be set forth above, with the signature(s) of the general partner(s). Please attach to this page current (not more than six months old) evidence of the authority of the partner authorized to sign for the partnership.

If bidder is an INDIVIDUAL, the bidder's signature shall be placed above.

If signature is by an agent, other than an officer of a corporation or a partner of a partnership, a POWER OF ATTORNEY must be on file with the Department before opening bids or submitted with the bid. Otherwise, the Department may reject the bid as irregular and unauthorized.

## PROPOSAL SCHEDULE

ITEM NO.	ITEM	APPROX. QUANTITY	UNIT	UNIT PRICE	AMOUNT
209.0100	Installation, Maintenance, Monitoring, and Removal of BMP	LS	LS	LS	\$ _____
209.0200	Additional Water Pollution, Dust, and Erosion Control	FA	FA	FA	\$ <u>5,000.00</u>
629.1000	4-Inch Pavement Striping (Tape, Type I or Thermoplastic Extrusion)	6,500	LF	\$ _____	\$ _____
629.1004	4-Inch Pavement Striping (Tape, Type III or Thermoplastic Extrusion)	200	LF	\$ _____	\$ _____
62.1008	4-Inch Pavement Striping (Profiled Thermoplastic)	1,560	LF	\$ _____	\$ _____
629.1010	Double 4-Inch Pavement Striping (Tape, Type I or Thermoplastic Extrusion)	100	LF	\$ _____	\$ _____
629.1022	6-Inch Pavement Striping (Tape, Type II or Thermoplastic Extrusion)	5,500	LF	\$ _____	\$ _____
629.1032	8-Inch Pavement Striping (Tape, Type II or Thermoplastic Extrusion)	1,000	LF	\$ _____	\$ _____
629.1054	12-Inch Pavement Striping (Tape, Type III or Thermoplastic Extrusion)	460	LF	\$ _____	\$ _____
629.1100	Pavement Word (Tape, Type III or Thermoplastic Extrusion)	10	EA	\$ _____	\$ _____
629.1110	Pavement Arrow (Tape, Type III or Thermoplastic Extrusion)	50	EA	\$ _____	\$ _____

## PROPOSAL SCHEDULE

ITEM NO.	ITEM	APPROX. QUANTITY	UNIT	UNIT PRICE	AMOUNT
629.1140	Crosswalk (Tape, Type III or Thermoplastic Extrusion)	29	LN	\$ _____	\$ _____
629.2020	Type C Pavement Maker	350	EA	\$ _____	\$ _____
629.2030	Type D Pavement Maker	180	EA	\$ _____	\$ _____
629.2040	Type F Pavement Maker	4	EA	\$ _____	\$ _____
629.2050	Type H Pavement Maker	170	EA	\$ _____	\$ _____
636.1000	Additional E-Construction Programs, Additional Licenses, or Additional Equipment	FA	FA	FA	\$ <u>5,000.00</u>
645.1000	Traffic Control	LS	LS	LS	\$ _____
645.2000	Additional Police Officers, Additional Traffic Control Devices, and Additional Advertisements	FA	FA	FA	\$ <u>10,000.00</u>
648.1000	Field-Posted Drawings	LS	LS	LS	\$ _____
671.1000	Protection of Threatened and Endangered Species	FA	FA	FA	\$ <u>2,000.00</u>

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## PROPOSAL SCHEDULE

ITEM NO.	ITEM	APPROX. QUANTITY	UNIT	UNIT PRICE	AMOUNT
699.1000	Mobilization (Not to Exceed 6% Percent of the Sum of All Items Excluding the Bid Price of this Item)	LS	LS	LS	\$ _____

Sum of All Items ..... \$ \_\_\_\_\_

1.0 Bids shall include all Federal, State, County and other applicable taxes and fees.

2.0 The Sum of All Items will be used to determine the lowest responsible bidder.

3.0 If a discrepancy occurs between unit bid price and the bid price, the unit bid price shall govern.

NOTE: Bidders must complete all unit prices and amounts. Failure to do so may be grounds for rejection of bid.

## **PROPOSAL SCHEDULE**

The bidder is directed to Subsection 105.16 – Subcontracts.

The bidder's attention is directed to Sections 696 - Field Office and Project Site Laboratory and 699 - Mobilization for the limitation of the amount bidders are allowed to bid.

If the bid price for any proposal item having a maximum allowable bid indicated therefore in any of the contract documents is in excess of such a maximum amount, the bid price for such proposal item shall be adjusted to reflect the limitation thereon. The comparison of bids to determine the successful bidder and the amount of contract to be awarded shall be determined after such adjustments are made, and such adjustments shall be binding upon the bidder.

The bidder is directed to Section 717–Cullet and Cullet-Made Materials regarding recycling of waste glass.

**STATE OF HAWAII**  
**DEPARTMENT OF TRANSPORTATION**  
**HONOLULU, HAWAII**

**FORMS**

**Contents**

**Performance Bond (Surety)**

**Performance Bond**

**Labor and Material Payment Bond (Surety)**

**Labor and Material Payment Bond**

**Chapter 104 Compliance Certificate**



**PERFORMANCE BOND (SURETY)**  
(6/21/07)

**KNOW TO ALL BY THESE PRESENTS:**

That \_\_\_\_\_,  
(Full Legal Name and Street Address of Contractor)

as Contractor, hereinafter called Principal, and \_\_\_\_\_

\_\_\_\_\_  
(Name and Street Address of Bonding Company)

as Surety, hereinafter called Surety, a corporation(s) authorized to transact business as a  
surety in the State of Hawaii, are held and firmly bound unto the \_\_\_\_\_,  
(State/County Entity)

its successors and assigns, hereinafter called Obligee, in the amount of \_\_\_\_\_

\_\_\_\_\_  
DOLLARS (\$ \_\_\_\_\_), to which payment Principal and Surety bind themselves,  
their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by  
these presents.

**WHEREAS**, the above-bound Principal has signed a Contract with Obligee on  
\_\_\_\_\_, for the following project: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
hereinafter called Contract, which Contract is incorporated herein by reference and made a part  
hereof.

**NOW THEREFORE**, the condition of this obligation is such that:

If the Principal shall promptly and faithfully perform, and fully complete the Contract in  
strict accordance with the terms of the Contract as said Contract may be modified or amended  
from time to time; then this obligation shall be void; otherwise to remain in full force and effect.

Surety to this Bond hereby stipulates and agrees that no changes, extensions of time, alterations, or additions to the terms of the Contract, including the work to be performed thereunder, and the specifications or drawings accompanying same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such changes, extensions of time, alterations, or additions, and agrees that they shall become part of the Contract.

In the event of Default by the Principal, of the obligations under the Contract, then after written Notice of Default from the Obligee to the Surety and the Principal and subject to the limitation of the penal sum of this bond, Surety shall remedy the Default, or take over the work to be performed under the Contract and complete such work, or pay moneys to the Obligee in satisfaction of the surety's performance obligation on this bond.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

(Seal)

\_\_\_\_\_  
Name of Principal (Contractor)

\*

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

(Seal)

\_\_\_\_\_  
Name of Surety

\*

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\*ALL SIGNATURES MUST BE ACKNOWLEDGED  
BY A NOTARY PUBLIC

# PERFORMANCE BOND

## KNOW ALL BY THESE PRESENTS:

That we, \_\_\_\_\_  
(full legal name and street address of Contractor)

as Contractor, hereinafter called Contractor, is held and firmly bound unto the

\_\_\_\_\_  
(State/County entity)

its successors and assigns, as Obligee, hereinafter called Obligee, in the amount

\_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_),  
(Dollar amount of Contract)

lawful money of the United States of America, for the payment of which to the said Obligee, well and truly to be made, Contractor binds itself, its heir, executors, administrators, successors and assigns, firmly by these presents. Said amount is evidenced by:

- ☐ **Legal Tender;**
- ☐ **Share Certificate** unconditionally assigned to or made payable at sight to \_\_\_\_\_  
Description: \_\_\_\_\_;
- ☐ **Certificate of Deposit, No.** \_\_\_\_\_, dated \_\_\_\_\_  
issued by \_\_\_\_\_  
drawn on \_\_\_\_\_  
a bank, savings institution or credit union insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, payable at sight or unconditionally assigned to \_\_\_\_\_;
- ☐ **Cashier's Check No.** \_\_\_\_\_, dated \_\_\_\_\_  
drawn on \_\_\_\_\_  
a bank, savings institution or credit union insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, payable at sight or unconditionally assigned to \_\_\_\_\_;
- ☐ **Teller's Check No.** \_\_\_\_\_, dated \_\_\_\_\_  
drawn on \_\_\_\_\_  
a bank, savings institution or credit union insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, payable at sight or unconditionally assigned to \_\_\_\_\_;
- ☐ **Treasurer's Check No.** \_\_\_\_\_, dated \_\_\_\_\_  
drawn on \_\_\_\_\_  
a bank, savings institution or credit union insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, payable at sight or unconditionally assigned to \_\_\_\_\_;
- ☐ **Official Check No.** \_\_\_\_\_, dated \_\_\_\_\_  
drawn on \_\_\_\_\_  
a bank, savings institution or credit union insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, payable at sight or unconditionally assigned to \_\_\_\_\_;
- ☐ **Certified Check No.** \_\_\_\_\_, dated \_\_\_\_\_  
accepted by a bank, savings institution or credit union insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, payable at sight or unconditionally assigned to \_\_\_\_\_;

**WHEREAS:**

The Contractor has by written agreement dated \_\_\_\_\_ entered into a contract with Obligee for the following Project: \_\_\_\_\_

hereinafter called Contract, which Contract is incorporated herein by reference and made a part hereof.

**NOW THEREFORE,**

The Condition of this obligation is such that, if Contractor shall promptly and faithfully perform the Contract in accordance with, in all respects, the stipulations, agreements, covenants and conditions of the Contract as it now exists or may be modified according to its terms, and shall deliver the Project to the Obligee, or to its successors or assigns, fully completed as in the Contract specified and free from all liens and claims and without further cost, expense or charge to the Obligee, its officers, agents, successors or assigns, free and harmless from all suits or actions of every nature and kind which may be brought for or on account of any injury or damage, direct or indirect, arising or growing out of the doing of said work or the repair or maintenance thereof or the manner of doing the same or the neglect of the Contractor or its agents or servants or the improper performance of the Contract by the Contractor or its agents or servants or from any other cause, then this obligation shall be void; otherwise it shall be and remain in full force and effect.

**AND IT IS HEREBY STIPULATED AND AGREED** that suit on this bond may be brought before a court of competent jurisdiction without a jury, and that the sum or sums specified in the said Contract as liquidated damages, if any, shall be forfeited to the Obligee, its successors or assigns, in the event of a breach of any, or all, or any part of, covenants, agreements, conditions, or stipulations contained in the Contract or in this bond in accordance with the terms thereof.

The amount of this bond may be reduced by and to the extent of any payment or payments made in good faith hereunder.

Signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

(Seal) \_\_\_\_\_  
Name of Contractor

\* \_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\*ALL SIGNATURES MUST BE  
ACKNOWLEDGED BY A NOTARY PUBLIC

**LABOR AND MATERIAL PAYMENT BOND (SURETY)**  
(6/21/07)

**KNOW TO ALL BY THESE PRESENTS:**

That \_\_\_\_\_,  
(Full Legal Name and Street Address of Contractor)

as Contractor, hereinafter called Principal, and \_\_\_\_\_

\_\_\_\_\_,  
(Name and Street Address of Bonding Company)

as Surety, hereinafter called Surety, a corporation(s) authorized to transact business as a surety in the State of Hawaii, are held and firmly bound unto the \_\_\_\_\_,  
(State/County Entity)

its successors and assigns, hereinafter called Obligee, in the amount of \_\_\_\_\_

\_\_\_\_\_ Dollars (\$ \_\_\_\_\_), to which payment Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

**WHEREAS**, the above-bound Principal has signed Contract with the Obligee on \_\_\_\_\_ for the following project: \_\_\_\_\_

\_\_\_\_\_ hereinafter called Contract, which Contract is incorporated herein by reference and made a part hereof.

**NOW THEREFORE**, the condition of this obligation is such that if the Principal shall promptly make payment to any Claimant, as hereinafter defined, for all labor and materials supplied to the Principal for use in the performance of the Contract, then this obligation shall be void; otherwise to remain in full force and effect.

1. Surety to this Bond hereby stipulates and agrees that no changes, extensions of time, alterations, or additions to the terms of the Contract, including the work to be performed thereunder, and the specifications or drawings accompanying same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such changes, extensions of time, alterations, or additions, and agrees that they shall become part of the Contract.

2. A "Claimant" shall be defined herein as any person who has furnished labor or materials to the Principal for the work provided in the Contract.

Every Claimant who has not been paid amounts due for labor and materials furnished for work provided in the Contract may institute an action against the Principal and its Surety on this bond at the time and in the manner prescribed in Section 103D-324, Hawaii Revised Statutes, and have the rights and claims adjudicated in the action, and judgment rendered thereon; subject to the Obligee's priority on this bond. If the full amount of the liability of the Surety on this bond is insufficient to pay the full amount of the claims, then after paying the full amount due the Obligee, the remainder shall be distributed pro rata among the claimants.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

(Seal)

\_\_\_\_\_  
Name of Principal (Contractor)

\*

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

(Seal)

\_\_\_\_\_  
Name of Surety

\*

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\*ALL SIGNATURES MUST BE ACKNOWLEDGED  
BY A NOTARY PUBLIC

# LABOR AND MATERIAL PAYMENT BOND

## KNOW ALL BY THESE PRESENTS:

That we, \_\_\_\_\_  
(full legal name and street address of Contractor)  
as Contractor, hereinafter called Contractor, is held and firmly bound unto \_\_\_\_\_  
(State/County entity)  
its successors and assigns, as Obligee, hereinafter called Obligee, in the amount  
\_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_),  
(Dollar amount of Contract)

lawful money of the United States of America, for the payment of which to the said Obligee, well and truly to be made, Contractor binds itself, its heir, executors, administrators, successors and assigns, firmly by these presents. Said amount is evidenced by:

- ☐ **Legal Tender;**
- ☐ **Share Certificate** unconditionally assigned to or made payable at sight to \_\_\_\_\_  
Description: \_\_\_\_\_
- ☐ **Certificate of Deposit, No.** \_\_\_\_\_, dated \_\_\_\_\_  
issued by \_\_\_\_\_  
drawn on \_\_\_\_\_  
a bank, savings institution or credit union insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, payable at sight or unconditionally assigned to \_\_\_\_\_;
- ☐ **Cashier's Check No.** \_\_\_\_\_, dated \_\_\_\_\_  
drawn on \_\_\_\_\_  
a bank, savings institution or credit union insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, payable at sight or unconditionally assigned to \_\_\_\_\_;
- ☐ **Teller's Check No.** \_\_\_\_\_, dated \_\_\_\_\_  
drawn on \_\_\_\_\_  
a bank, savings institution or credit union insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, payable at sight or unconditionally assigned to \_\_\_\_\_;
- ☐ **Treasurer's Check No.** \_\_\_\_\_, dated \_\_\_\_\_  
drawn on \_\_\_\_\_  
a bank, savings institution or credit union insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, payable at sight or unconditionally assigned to \_\_\_\_\_;
- ☐ **Official Check No.** \_\_\_\_\_, dated \_\_\_\_\_  
drawn on \_\_\_\_\_  
a bank, savings institution or credit union insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, payable at sight or unconditionally assigned to \_\_\_\_\_;
- ☐ **Certified Check No.** \_\_\_\_\_, dated \_\_\_\_\_  
accepted by a bank, savings institution or credit union insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, payable at sight or unconditionally assigned to \_\_\_\_\_;

**WHEREAS:**

The Contractor has by written agreement dated \_\_\_\_\_  
entered into a contract with Obligee for the following Project: \_\_\_\_\_

hereinafter called Contract, which Contract is incorporated herein by reference and made a part hereof.

**NOW THEREFORE,**

The condition of this obligation is such that, if Contractor shall promptly and faithfully perform the Contract in accordance with, in all respects, the stipulations, agreements, covenants and conditions of the Contract as it now exists or may be modified according to its terms, free from all liens and claims and without further cost, expense or charge to the Obligee, its officers, agents, successors or assigns, free and harmless from all suits or actions of every nature and kind which may be brought for or on account of any injury or damage, direct or indirect, arising or growing out of the doing of said work or the repair or maintenance thereof or the manner of doing the same or the neglect of the Contractor or its agents or servants or the improper performance of the Contract by the Contractor or its agents or servants or from any other cause, then this obligation shall be void; otherwise it shall be and remain in full force and effect.

**AND IT IS HEREBY STIPULATED AND AGREED** that suit on this bond may be brought before a court of competent jurisdiction without a jury, and that the sum or sums specified in the said Contract as liquidated damages, if any, shall be forfeited to the Obligee, its successors or assigns, in the event of a breach of any, or all, or any part of, covenants, agreements, conditions, or stipulations contained in the Contract or in this bond in accordance with the terms thereof.

**AND IT IS HEREBY STIPULATED AND AGREED** that this bond shall inure to the benefit of any and all persons entitled to file claims for labor performed or materials furnished in said work so as to give any and all such persons a right of action as contemplated by Sections 103D-324(d) and 103D-324(e), Hawaii Revised Statutes.

The amount of this bond may be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payments of mechanics' liens which may be filed of record against the Project, whether or not claim for the amount of such lien be presented under and against this bond.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

(Seal) \_\_\_\_\_  
Name of Contractor

\* \_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\*ALL SIGNATURES MUST BE  
ACKNOWLEDGED BY A NOTARY PUBLIC



CHAPTER 104, HRS COMPLIANCE CERTIFICATE

The undersigned bidder does hereby certify to the following:

1. Individuals engaged in the performance of the contract on the job site shall be paid:
  - A. Not less than the wages that the director of labor and industrial relations shall have determined to be prevailing for corresponding classes of laborers and mechanics employed on public works projects; and
  - B. Overtime compensation at one and one-half times the basic hourly rate plus fringe benefits for hours worked on Saturday, Sunday, or a legal holiday of the State or in excess of eight hours on any other day.
2. All applicable laws of the federal and state governments relating to workers' compensation, unemployment compensation, payment of wages, and safety shall be fully complied with.

DATED at Honolulu, Hawaii, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

«CONTRACTOR»

Name of Corporation, Partnership, or Individual

\_\_\_\_\_  
Signature and Title of Signer

Notary Seal  
NOTARY ACKNOWLEDGEMENT

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_  
Notary signature \_\_\_\_\_  
Notary public, State of \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

Notary Seal  
NOTARY CERTIFICATION

Doc. Date: \_\_\_\_\_ #Pages: \_\_\_\_\_  
Notary Name: \_\_\_\_\_ Circuit \_\_\_\_\_  
Doc. Description: \_\_\_\_\_  
\_\_\_\_\_  
Notary signature \_\_\_\_\_  
Date \_\_\_\_\_