



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

**SPECIAL PROVISIONS  
PROPOSAL  
CONTRACT AND BOND**

**FOR**

**HIGH FRICTION SURFACE TREATMENT INSTALLATION  
AT VARIOUS LOCATIONS ON OAHU, ISLAND OF OAHU**

**FEDERAL-AID PROJECT NO. NH-0300(181)R**

**VARIOUS DISTRICTS**

**ISLAND OF OAHU**

**FY 2022**

## TABLE OF CONTENTS

Notice To Bidders

Instructions for Contractor's Licensing

Notice of Requirement for Affirmative Action to Ensure  
Equal Employment Opportunity (Executive Order 11246)

Disadvantaged Business Enterprise (DBE) Requirements

Required Federal-Aid Contract Provisions

Special Provisions Title Page

Special Provisions:

<b>DIVISION 100 – GENERAL PROVISIONS</b>		
<b>Section</b>	<b>Description</b>	<b>Pages</b>
101	Terms, Abbreviations, and Definitions	101-1a – 101-13a
102	Bidding Requirements and Conditions	102-1a – 102-8a
103	Award and Execution of Contract	103-1a – 103-5a
104	Scope of Work	104-1a – 104-2a
105	Control of Work	105-1a – 105-3a
106	Material Restrictions and Requirements	106-1a
107	Legal Relations and Responsibility to Public	107-1a – 107-4a
108	Prosecution and Progress	108-1a – 108-25a
109	Measurement and Payment	109-1a – 109-2a

<b>DIVISION 200 – EARTHWORK</b>		
<b>Section</b>	<b>Description</b>	<b>Pages</b>
209	Temporary Water Pollution, Dust, and Erosion Control	209-1a – 209-28a
219	Determination and Characterization of Fill Material	219-1a – 219-4a

<b>DIVISION 400 – PAVEMENTS</b>		
<b>Section</b>	<b>Description</b>	<b>Pages</b>
421	High Friction Surface Treatment	421-1a – 421-9a

<b>DIVISION 600 – MISCELLANEOUS CONSTRUCTION</b>		
<b>Section</b>	<b>Description</b>	<b>Pages</b>
629	Pavement Markings	629-1a – 629-3a
645	Work Zone Traffic Control	645-1a – 645-2a
699	Mobilization	699-1a

Requirement of Chapter 104, HRS

Wages and Hours of Employees on Public Works Law

Federal Wage Rates

Proposal Title Page

Proposal ..... P-1 – P-7

Proposal Schedule ..... P-8 – P-10

Disadvantaged Business Enterprise (DBE) Contract Goal Verification and Good Faith Efforts (GFE) Documentation For Construction

Disadvantaged Business Enterprise (DBE) Confirmation and Commitment Agreement – Trucking Company

Disadvantaged Business Enterprise (DBE) Confirmation and Commitment Agreement – Subcontractor, Manufacturer, or Supplier

Surety Bid Bond

Sample Forms

Contract

Performance Bond (Surety)

Performance Bond

Labor and Material Payment Bond (Surety)

Labor and Material Payment Bond

Disclosure of Lobbying Activities  
Standard Form - LLL and LLL-A

Statement of Compliance  
Form WH-348

Chapter 104, HRS Compliance Certificate

**END OF TABLE OF CONTENTS**

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

The receiving of SEALED BIDS for HIGH FRICTION SURFACE TREATMENT INSTALLATION AT VARIOUS LOCATIONS ON OAHU, ISLAND OF OAHU, FEDERAL-AID PROJECT NO. NH-0300(181)R will begin as advertised on January 24, 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.ehawaii.gov/welcome.html>.

Deadline to submit bids is Bid Opening Day, until 2:00 PM Hawaii Standard Time (HST), February 24, 2023. Bids received after said due date and time shall not be considered.

The following documents are made part of the Contract Documents and are included in HiePRO along with the plans, specifications, and proposal: Noise Variance.

The scope of work generally consists of removal of existing pavement markers and striping of various ramps around the island; High Friction Surface Treatment applied; pavement markers and striping to be reapplied; and other incidental items. The estimated cost of construction is between \$1,000,000 and \$2,000,000.

To be eligible for award, bidders must possess a valid State of Hawaii General Engineering Contractor's "A" license prior to the award of contract. Bidder's attention is also directed to Section 102.3 of the specifications regarding additional bidder's qualifications.

A pre-bid conference is scheduled for February 1, 2023 at 10:00 AM 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. Anything said at the conference is for clarification purposes and any changes to the bid documents will be made by addendum and posted in HIePRO. Contact Sharen Cho-Ibanez, Project Manager, by phone at (808) 692-7682, by facsimile at (808) 692-7690, or by email at sharen.h.cho-ibanez@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.

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 the legislative body. For more information, contact the Campaign Spending Commission at (808) 586-0285.

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).

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

The U.S. Department of Transportation Regulations entitled "Participation by Disadvantaged Business Enterprise in Department of Transportation Programs", Title 49, Code of Federal Regulations, Part 26 is applicable to this project. Bidders are hereby notified that the Department of Transportation will strictly enforce full compliance with all of the requirements of the Disadvantaged Business Enterprise (DBE) program with respect to this project.

Bidders are directed to read and be familiar with the Disadvantaged Business Enterprise (DBE) Requirements, which establishes the program requirements pursuant to Title 49 Code of Federal Regulations Part 26 and, particularly, the requirements of certification, method of award, and evidence of good faith. All bidders must e-mail the Engineer at [sharen.h.cho-ibanez@hawaii.gov](mailto:sharen.h.cho-ibanez@hawaii.gov), the Disadvantaged Business Enterprise (DBE) Contract Goal Verification and Good Faith Efforts (GFE) Documentation for Construction, Disadvantaged Business Enterprise (DBE) Confirmation and Commitment Agreement – Trucking Company and Disadvantaged Business Enterprise (DBE) Confirmation and Commitment Agreement – Subcontractor, Manufacturer, or Supplier by March 1, 2023 at 4:30 PM HST. Failure to provide these documents shall be cause for bid/proposal rejection.

All bidders must email the list of past projects per Section 102.03 of the specifications to [sharen.h.cho-ibanez@hawaii.gov](mailto:sharen.h.cho-ibanez@hawaii.gov) by March 1, 2023 at 4:30 PM HST. Failure to provide the list of past projects shall be cause for bid/proposal rejection. If the lowest responsive bidder does not meet the minimum qualification requirements of a

minimum

3,000 square yards of high friction surface treatment placed in the last 3 years, such bid shall be rejected as non-responsible. The Department will then consider the next lowest responsive and responsible bidder for award.

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.

For additional information, contact Sharen Cho-Ibanez, Project Manager, by phone at (808) 692-7682, by fax at (808) 692-7690, or email at [sharen.h.cho-ibanez@hawaii.gov](mailto:sharen.h.cho-ibanez@hawaii.gov).

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.



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ROBIN K. SHISHIDO  
Deputy Director, Highways Division

## **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.

**NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL  
EMPLOYMENT OPPORTUNITY (EXECUTIVE ORDER 11246)**

1. The Bidder's attention is called to the "Equal Opportunity" and the "Specific Equal Employment Opportunity Responsibilities" set forth in the "Required Federal Aid Construction Contract Provisions."

2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work on this project are as follows:

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CATEGORY	TIMETABLE	GOAL
Female participation in each trade	Indefinite	6.9%
Minority participation in each	None	69.1% (Oahu)
Trade (female included)	None	70.4% (Hawaii, Maui, Kauai)

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These goals are applicable to all the Contractor's aggregate on-site construction workforce whether or not part of that workforce is performing work on a Federal or Federally assisted construction contract or subcontract.

The Contractor's compliance with the Executive Order shall be based on its implementation of the Equal Opportunity Clause, and its efforts to meet the goals established for the contract resulting from this solicitation. The hours of female and minority employment and training must be substantially uniform throughout the length of the contract, and in trade and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract and Executive Order. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Area Director, Hawaii Area Office, Office of Federal Contract Compliance Programs, U.S. Department of Labor, 300 Ala Moana Blvd., P.O. Box 50149, Honolulu, Hawaii 96850, within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the subcontractor; employer identification number; estimated dollar amount of the subcontract; and estimated starting and completion dates of the subcontract. The Contractor shall indicate which are minority group subcontractors and the ethnic identity and sex of the owner(s) and policy-making official(s).

# DISADVANTAGED BUSINESS ENTERPRISE REQUIREMENTS

## I. GENERAL

This project is subject to Title 49, Code of Federal Regulations, Part 26, entitled "Participation by Disadvantaged Business Enterprise in Department of Transportation Financial Assistance Programs," hereinafter referred to as the ("DBE Regulations") and is incorporated and made a part of this contract herein by this reference. The following shall be incorporated as part of the contract documents for compliance. If any requirements herein are in conflict with the general provisions or special provisions applicable to this project, the requirements herein shall prevail unless specifically superseded or amended in the special provisions or by addendum.

## II. POLICY

It is the policy of the U.S. Department of Transportation ("USDOT") and the State of Hawaii, Department of Transportation and its political subdivisions ("Department") that Disadvantaged Business Enterprises ("DBE"), as defined in the DBE Regulations, have an equal opportunity to receive and participate in federally assisted contracts.

## III. DBE ASSURANCES

Each contract signed with a prime contractor (and each subcontract the prime contractor signs with a subcontractor) shall include the following assurance:

"The contractor, sub-recipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate which may include, but is not limited to; 1) withholding monthly progress payments; 2) assessing sanctions; 3) liquidated damages; and/or 4) disqualifying the contractor from future bidding as non-responsible."

The prime contractor agrees to include the above statements in any subsequent contracts that it enters into with other contractors and shall require those contractors to include similar statements in further agreements.

## IV. BIDDER/OFFEROR RESPONSIBILITIES

All bidders/offerors are required to register with the Department's OCR, DBE Section, using the Bidder Registration Form, which can be downloaded from the Department's website at <http://hidot.hawaii.gov/administration/ocr/dbe/dbe-program-forms/>. Certified DBEs are considered registered with the Department and are not required to submit a

Bidder Registration Form. All other bidders/offerors are required to complete this form which may be faxed to (808) 831-7944, e-mailed to HDOT-DBE@hawaii.gov, or mailed to the HDOT DBE Section at 200 Rodgers Boulevard, Honolulu, Hawaii, 96819. Registered bidders/offerors are posted on the website listed above.

Bidders/offerors, subcontractors, manufacturers, vendors or suppliers, and trucking companies shall fully inform themselves with respect to the requirements of the DBE Regulations. Particular attention is directed to the following matters:

- A. Bidders/offerors shall take all necessary steps to ensure that DBEs have an opportunity to participate in this contract.
- B. DBEs may participate as a consultant, prime contractor, subcontractor, trucking company, or vendor of materials or supplies. DBEs may also team with other DBEs or non-DBE firms as part of a joint venture or partnership.
- C. Agreements between a bidder/offeror and a DBE in which an DBE promises not to provide subcontracting quotations to other bidders/offerors are strictly prohibited.
- D. A DBE shall be certified by the Department under the appropriate North American Industry Classification System (NAICS) code and work in their registered field of work in order for credit to be allowed.
- E. Information regarding the current certification status of DBEs is available on the internet at <https://hdot.dbesystem.com/>.
- F. Commercially Useful Function (“CUF”). An DBE must perform a CUF. This means that an DBE must be responsible for the execution of a distinct element of the work, must carry out its responsibility by actually performing, managing, and supervising at least 30% of the work involved by using its own employees and equipment, must negotiate price, determine quality and quantity, order and install material (when applicable), and must pay for the material itself.<sup>1</sup>

To determine whether an DBE is performing a CUF, the Department must evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing, the DBE credit claimed for performance of the work, and other relevant factors. The prime contractor is responsible to ensure that the DBE performs a CUF.

## V. PROPOSAL REQUIREMENTS

- A. DBEs must be certified by the bid opening date.

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<sup>1</sup> The use of joint checks payable to an DBE subcontractor and supplier may be allowed to purchase materials and supplies under limited circumstances. See VII USE OF JOINT CHECKS UNDER THE DBE PROGRAM

- B. DBE subcontractors, manufacturers, suppliers, trucking companies, and any second tier subcontractors shall be listed on the respective DBE forms as specified below in order to receive credit.
- C. The following forms are due to the Department's Project Manager or designee **by the close of business, 4:30 P.M. Hawaii Standard Time (HST), five (5) days after bid opening:**<sup>2</sup>
1. DBE Confirmation and Commitment Agreement. This form must be signed by the bidder/offeror and each DBE subcontractor, manufacturer, supplier, or trucking company. Information to be provided on the form shall include, among other things, the project number, the DBE's NAICS codes, description of work, bid items with corresponding price information, prime contractor name and contact information DBE name and contact information and subcontractor name and contact information if the DBE is a second tier subcontractor.
  2. DBE Contract Goal Verification and Good Faith Efforts (GFE) Documentation for Construction. List the dollar amount of all subcontractors, manufacturers, suppliers, and trucking companies (both DBE and non-DBE firms). Bidder/offeror must also list the DBE project goal on this form (See paragraph D below regarding goal calculation). The bidder/offeror must submit documentation demonstrating how the DBE goal was met or how the bidder/offeror attempted to meet the goal if the goal was not met. This documentation shall include quotations for both DBE and non-DBE subcontractors when a non-DBE is selected over a DBE for the project. **Documentation of good faith efforts is required irrespective of whether the bidder/offeror met the DBE project goal.**
- The above forms must be complete and provide the necessary information to properly evaluate bids/proposals. Failure to provide any of the above shall be cause for bid/proposal rejection.**
- D. Calculation of the DBE contract goal for this project is the proportionate contract dollar value of work performed, materials, and goods to be supplied by DBEs. DBE credit shall not be given for mobilization, force account items and allowance items. This DBE contract goal is applicable to all the contract work performed for this project and is calculated as follows:
1. DBE contract goal percentage = Contract Dollar Value of the work to be performed by DBE subcontractors and manufacturers, plus 60% of the contract dollar value of DBE suppliers, divided by the sum of all contract items (sum of all contract items is the total amount for comparison of bids less mobilization, force account items, and allowance items).

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<sup>2</sup> In computing calendar days, the day from which the period begins to run is not counted, and when the last day of the period is a Saturday, Sunday, or Federal or State holiday, the period extends to the next day that is not a Saturday, Sunday, or holiday.

2. The Department shall adjust the bidder's/offeror's DBE contract goal to the amount of the project goal if it finds that the bidder/offeror met the goal but erroneously calculated a lower percentage. If the amount the bidder/offeror submits as its contract goal exceeds the project goal, the bidder/offeror shall be held to the higher goal.

**VI. COUNTING DBE PARTICIPATION TOWARDS CONTRACT GOAL**

- A. Count the entire amount of the portion of a contract (or other contract not covered by paragraph B below) that is performed by the DBE's own forces. Include the cost of supplies and materials obtained by the DBE for the work on the contract, including supplies purchased or equipment leased by the DBE (except supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate).
- B. Count the entire amount of fees or commissions charged by an DBE firm for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a USDOT-assisted contract, toward DBE goals, provided the Department determines the fee to be reasonable and not excessive as compared with fees customarily allowed for similar services.
- C. When an DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward DBE goals only if the DBE's subcontractor is itself an DBE. Work that an DBE subcontracts to a non-DBE firm does not count toward DBE goals.
- D. When an DBE performs as a participant in a joint venture, count a portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the DBE performs with its own forces toward DBE goals.
- E. Count expenditures to an DBE contractor toward DBE goals only if the DBE is performing a CUF on that contract.
- F. The following is a list of appropriate DBE credit to be allowed for work to be performed by an DBE subcontractor. Count expenditures with DBEs for materials or supplies toward DBE goals as provided in the following:
  1. If the materials or supplies are obtained from an DBE manufacturer, count 100 percent of the cost of the materials or supplies toward DBE goals;
  2. For purposes of determining DBE goal credit, a manufacturer is a firm that operates or maintains a factory or establishment that produces (on the premises) the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications;

3. If the materials or supplies are purchased from an DBE regular dealer, count 60 percent of the cost of the materials or supplies toward DBE goals;
4. For purposes of determining DBE goal credit, a regular dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business;
5. To be a regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question;
6. A person may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business as provided in the DBE Regulations, if the person both owns and operates distribution equipment for the products. Any supplementing of a regular dealers' own distribution equipment shall be by a long-term lease agreement and not on an ad hoc or contract-by-contract basis;
7. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not regular dealers;
8. With respect to materials or supplies purchased from an DBE, which is neither a manufacturer nor a regular dealer, count the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site, toward DBE goals, provided that the Department determines the fees to be reasonable and not excessive as compared with fees customarily allowed for similar services. Do not count any portion of the cost of the materials and supplies themselves toward DBE goals; however,
9. If a firm is not currently certified as an DBE in accordance with standards of this part at the time of the execution of the contract, do not count the firm's participation toward any DBE goals, except as provided for in §26.87(i);
10. Do not count the dollar value of work performed under a contract with a firm after it has ceased to be certified toward the Department's overall goal; and
11. Do not count the participation of an DBE subcontractor toward a contractor's final compliance with its DBE obligations on a contract until the amount being counted has actually been paid to the DBE.

G. The following factors are used in counting DBE participation for trucking companies:

1. The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular

contract, and there cannot be a contrived arrangement for the purpose of meeting DBE goals;

2. The DBE must itself own and operate at least one (1) fully licensed, insured, and operational truck used on the contract;
3. The DBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs;
4. The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as an DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract;
5. The DBE may also lease trucks from a non-DBE firm, including from an owner-operator. The DBE that leases trucks equipped with drivers from a non-DBE is entitled to credit for the total value of transportation services provided by non-DBE leased trucks equipped with drivers not to exceed the value of transportation services on the contract provided by DBE-owned trucks or leased trucks with DBE employee drivers. Additional participation by non-DBE owned trucks equipped with drivers receives credit only for the fee or commission it receives as a result of the lease arrangement. If a recipient chooses this approach, it must obtain written consent from the appropriate Department operating administration.  
EXAMPLE: DBE firm X uses two (2) of its own trucks on a contract, leases two (2) trucks from DBE Firm Y and six (6) trucks from non-DBE Firm Z. DBE credit would be awarded for the total value of transportation services provided by Firm X and Firm Y, and may also be awarded for the total value of transportation services provided by four (4) of the six (6) trucks provided by Firm Z. In all, full credit would be allowed for the participation of eight (8) trucks. With respect to the other two (2) trucks provided by Firm Z, DBE credit could be awarded only for the fees or commissions pertaining to those trucks Firm X receives as a result of the lease with Firm Z;
6. The DBE may lease trucks without drivers from a non-DBE truck leasing company. If the DBE leases trucks from a non-DBE truck leasing company and uses its own employees as drivers, it is entitled to credit for the total value of these hauling services.  
EXAMPLE: DBE Firm X uses two (2) of its own trucks on a contract. It leases two (2) additional trucks from non-DBE Firm Z. Firm X uses its own employees to drive the trucks leased from Firm Z. DBE credit would be awarded for the total value of the transportation services provided by all four (4) trucks; and
7. For purposes of determining whether a trucking firm performs a CUF, a lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

- H. The bidder/offeror may be a joint venture or partnership that has a certified DBE as a partner. A “Joint Venture” means an association between an DBE firm and one (1) or more other firms to carry out a single, for-profit, business enterprise for which the parties combine their property, capital, efforts, skills and knowledge, and in which the DBE is responsible for a distinct, clearly defined portion of the work of the contract, and whose share in the capital contribution, control, management, risks and profits are commensurate with its ownership interest.
- I. Effects of a Summary Suspension of an DBE. When an DBE’s certification is suspended, the DBE may not be considered to meet a contract goal on a new contract and any work it does on a contract received during the suspension shall not be counted towards the overall goal. The DBE may continue to perform work under an existing contract executed before the DBE received a Notice of Suspension and may be counted towards the contract goal during the period of suspension as long as the DBE is performing a CUF under the existing contract.
- J. Effects of Decertification of an DBE. Should an DBE become decertified during the term of the subcontract for reasons beyond the control of and with no fault or negligence on the part of the contractor, the work remaining under the subcontract may be credited towards the contract goal, but are not included in the overall accomplishments.

Should the DBE be decertified after contract award and before notice to proceed, the contractor must still meet the DBE goal by either: a) withdrawing the subcontract from the DBE and expending good faith efforts to replace it with an DBE that is currently certified for that same work; or b) continuing with the subcontract with the decertified firm and expending good faith efforts to find other work not already subcontracted out to DBEs in an amount to meet the DBE goal either by; 1) increasing the participation of other DBEs on the project; 2) documenting good faith efforts; or 3) by a combination of the above.

## **VII. USE OF JOINT CHECKS UNDER THE DBE PROGRAM**

- A. The following guidelines apply to the use of joint checks:
1. The second party (typically the prime contractor) acts solely as a guarantor;
  2. The DBE must release the check to the supplier;
  3. The use of joint checks is a commonly recognized business practice;
  4. The Department must approve the use of joint checks prior to use by contractors and/or DBEs. As part of this approval process the Department will analyze industry practice to confirm that the use of joint checks is commonly employed outside of the DBE program for non-DBE subcontractors on both federal and state funded contracts. Using joint checks shall not be approved if it conflicts with other aspects of the DBE Regulations regarding CUF; and
  5. The Department will monitor the use of joint checks closely to avoid abuse.

- B. Contractors and DBEs should review the following general guidelines when determining whether to use joint checks closely to avoid abuse:
1. That standard industry practice applies to all contractors (federal and state contracts);
  2. Use of joint checks must be available to all subcontractors;
  3. Material industry sets the standard industry practice, not prime contractors;
  4. Short term, not to exceed reasonable time (i.e., one (1) year, two (2) years) to establish/increase a credit line with the material supplier;
  5. No exclusive arrangement between one (1) prime and one (1) DBE in the use of joint checks that might bring the independence of the DBE into question;
  6. Non-proportionate ratio of DBE's normal capacity to size of contract and quantity of material to be provided under the contract;
  7. The DBE is normally responsible to install and furnish the work item; and
  8. The DBE must be more than an extra participant in releasing the check to the material supplier.
- C. The Department shall allow the use of joint checks if the following general conditions are met:
1. DBE submits request to the Department for action;
  2. There is a formalized agreement between all parties that specify the conditions under which the arrangement shall be permitted;
  3. There is a full and prompt disclosure of the expected use of joint checks;
  4. The Department will provide prior approval;
  5. DBE remains responsible for all other elements of 49 CFR 26.55(c)(1);
  6. The agreement states clearly and determines that independence is not threatened because the DBE retains final decision making responsibility;
  7. The Department will determine that the request is not an attempt to artificially inflate DBE participation;
  8. Standard industry practice is only one (1) factor;
  9. The Department will monitor and maintain oversight of the arrangement by reviewing cancelled checks and/or certification statement of payment; and
  10. The Department will verify there is no requirement by prime contractor that the DBE is to use a specific supplier nor the prime contractor's negotiated unit price.

## **VIII. DEMONSTRATION OF GOOD FAITH EFFORTS FOR CONTRACT AWARD**

- A. When a project goal is not met, the Department shall conduct the initial review of GFE submitted by the bidder/offeror and shall determine whether the bidder/offeror has performed the quality, quantity, and intensity of efforts that demonstrate a reasonably active and aggressive attempt to meet the contract goal in accordance with 49 CFR Part 26, Appendix A.

- B. The bidder/offeror bears the responsibility of demonstrating that it met the contract goal, or if the contract goal was not met, by documenting the GFE it made in an attempt to meet the goal. It is the sole responsibility of the bidder/offeror to submit any and all documents, logs, correspondence, and any other records or information to the Department that will demonstrate that the bidder/offeror made good faith efforts to meet the DBE goal.
- C. In its good faith evaluation, the Department shall perform the following as part of its evaluation: a) compare the bidder's/offeror's bid against the bids/offers of other bidders/offerors, and compare the DBEs and DBE work areas utilized by the bidder/offeror with the DBEs listed in other bids/offers submitted for this contract (If other bidders obtained DBEs in a particular work area in which the low bidder did not, the Department shall take this into consideration in its evaluation); b) verify contacts by bidders/offerors with DBEs; and c) compare the DBE and the categories of DBE work targeted by the bidder/offeror for participation in the contract, with the total pool of available DBEs ready, willing and able to perform work on each particular subcontract targeted by the bidder/offeror.
- D. Actions on the part of the bidder/offeror that will be considered demonstrative of good faith efforts include, but are not limited to, the following:
1. Whether the bidder/offeror submitted the required information (i.e., DBE name, address, NAICS code, description of work, project name, and number), and dollar amounts for all subcontractors, within five (5) days of bid opening;
  2. Whether the bidder/offeror solicited through all reasonable and available means (e.g., attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform part or all of the work to be included under the contract. The Department will also consider whether the bidder/offeror solicited the participation of potential DBEs as early in the procurement process as practicable, and allowed sufficient time for the DBEs to properly inquire about the project and respond to the solicitation. The Department will also review whether the bidder/offeror took appropriate steps to follow up with interested DBEs in a timely manner to facilitate participation by DBEs in this project;
  3. Whether the bidder/offeror identified and broke up portions of work that can be performed by DBEs in order to increase the likelihood that an DBE will be able to participate, and that the DBE goal could be achieved (e.g., breaking out contract items into economically feasible units to facilitate DBE participation even when the bidder/offeror might otherwise prefer to self-perform these work items with its own forces);
  4. Whether the bidder/offeror made available or provided interested DBEs with adequate information about the plans, specifications, and requirements of the project in a timely manner, and assisted them in responding to the bidder's/offeror's solicitation;

5. Whether the bidder/offeror negotiated in good faith with interested DBEs. Evidence of such negotiations includes documenting: a) the names, addresses and telephone numbers of DBEs that were contacted; b) a description of the information that was provided to DBEs regarding the plans and specifications; and c) detailed explanation for not utilizing individual DBEs on the project;
6. Whether the bidder/offeror solely relied on price in determining whether to use an DBE. The fact that there may be additional or higher costs associated with finding and utilizing DBEs are not, by itself, sufficient reasons for a bidder's/offeror's refusal to utilize an DBE, or the failure to meet the DBE goal, provided that such additional costs are not unreasonable. Also, the ability or desire of a bidder/offeror to perform a portion of the work with its own forces, that could have been undertaken by an available DBE, does not relieve the bidder/offeror of the responsibility to make good faith efforts to meet the DBE goal, and to make available and solicit DBE participation in other areas of the project to meet the DBE goal;
7. Whether the bidder/offeror rejected DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The DBEs standing within the industry, membership in specific groups, organizations or associations, and political or social affiliation are not legitimate basis for the rejection or non-solicitation of bids from particular DBEs;
8. Whether the bidder/offeror made efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance;
9. Whether the bidder/offeror made efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials or related assistance or services;
10. Whether the bidder/offeror effectively used the services of available minority/women community organizations, minority/women business groups, contractors' groups, and local, state and federal minority/women business assistance offices or other organizations to provide assistance in recruitment and placement of DBEs;
11. Whether the bidder/offeror, who selects a non-DBE over an DBE subcontractor, has quotes of each DBE and non-DBE subcontractor submitted to the bidder for work on the contract; and for each DBE that was contacted but not utilized by the bidder/offeror for a contract, the bidder/offeror has a detailed written explanation for each DBE detailing the reasons for the bidder's/offeror's failure or inability to utilize, or to allow the DBE to participate in the contract; and
12. Whether other bidders/offerors met the goal and whether the apparent successful bidder/offeror could have met the goal with additional efforts. The Department may determine that an apparent successful bidder/offeror who fell short of meeting the goal, made good faith efforts when it met or exceeded the average DBE participation obtained by other bidders/offerors.

**IX. ADMINISTRATIVE RECONSIDERATION.**

If it is determined by the Department that the apparent successful bidder/offeror has failed to meet the provisions of 49 CFR Section 26.53(a), the bidder/offeror may submit a request for administrative reconsideration. If under the provisions of 49 CFR, Section 26.53(d), it is determined by the Department that the apparent successful bidder/offeror has failed to meet the provisions of this subsection, the bidder/offeror may submit a written request for administrative reconsideration.

- A. Within five (5) working days of being informed in writing by the Department that the bidder/offeror has not documented sufficient GFE, a bidder/offeror may request administrative reconsideration. Bidders/offerors should make this request in writing to the following official:

Director of Transportation  
Hawaii Department of Transportation  
869 Punchbowl Street, Room 509  
Honolulu, Hawaii 96813

- B. The reconsideration official, or his or her designee (referred to as “reconsideration official”), shall not have played any role in the original determination that the bidder/offeror failed to meet the goal or make adequate good faith efforts to do so.
- C. As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate GFE to do so. The bidder/offeror will have the opportunity to meet in person with the reconsideration official to discuss the issue of whether it met the goal or made adequate GFE to do so.
- D. In an administrative reconsideration, the reconsideration official will review all previously submitted documents, oral and written arguments, and other evidence presented in the reconsideration, in making the decision.
- E. The Department shall inform the bidder/offeror of the decision within thirty (30) days of the proceeding. The decision will state the Department’s findings, and explain the basis of those findings, with respect to whether or not the bidder/offeror met the contract goal, or whether or not the bidder/offeror made adequate GFE to achieve the contract goal.
- F. The reconsideration decision is not administratively appealable to USDOT but is appealable under HRS 103D-709.

**X. AWARD OF CONTRACT**

- A. In a sealed bid procurement, the Department reserves the right to reject any or all bids. The award of contract, if it is awarded, will be to the lowest responsive and responsible bidder who meets or exceeds the DBE project goal, or who makes

good faith efforts to meet or exceed the DBE project goal, as determined by the Department.

- B. If the lowest responsible bidder does not meet the DBE project goal and does not demonstrate to the satisfaction of the Department that it made good faith efforts to meet the DBE project goal, such bid shall be rejected as non-responsive. The Department will then consider the next lowest responsive and responsible bidder for award in accordance with paragraph A above.

## **XI. REPLACEMENT OF AN DBE ON A PROJECT WITH A CONTRACT GOAL**

Under this contract, the prime contractor shall utilize the specific DBE listed to perform the work and supply the materials for which each is listed unless the contractor obtains written consent from the Department to replace an DBE. If the Department's consent is not provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE. The Department reserves the right to request copies of all DBE subcontracts.

The Department will require a contractor to make good faith efforts to replace an DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. A prime contractor's inability to find a replacement DBE at the original price is not sufficient to demonstrate that good faith efforts have been made to replace the original DBE. The fact that the contractor has the ability and/or desire to perform the contract work with its own forces does not relieve the contractor of the obligation to make good faith efforts to find a replacement DBE, and it is not a sound basis for rejecting a prospective replacement DBE's reasonable quote.

The Department will require the prime contractor to promptly provide written notice to the project manager of the DBE's inability or unwillingness to perform and provide reasonable documentation.

The written notice by the contractor must include the following:

1. The date the contractor determined the certified DBE to be unwilling, unable or ineligible to perform work on the contract;
2. The projected date that the contractor shall require a substitution or replacement DBE to commence work if consent is granted by the Department;
3. Documentation of facts that describe and cite specific actions or inactions on the part of the affected DBE that led to the contractor's conclusion that the DBE is unwilling, unable, or ineligible to perform work on the contract;
4. A brief statement of the affected DBE's capacity and ability or inability to perform the work as determined by the contractor;
5. Documentation of contractor's good faith efforts to enable affected DBE to perform the work;
6. The current percentage of work completed on each bid item by the affected DBE;

7. The total dollar amount currently paid per bid item for work performed by the affected DBE;
8. The total dollar amount per bid item remaining to be paid to the DBE for work completed but for which the DBE has not received payment, and with which the contractor has no dispute; and
9. The total dollar amount per bid item remaining to be paid to the DBE for work completed, for which the DBE has not received payment, and with which the contractor and DBE have a dispute.

The prime contractor shall send a copy of the written notice to replace a certified DBE on a contract to the affected DBE. The affected DBE may submit a written response within five (5) calendar days to the Department to explain its position on its performance on the committed work. The Department shall consider both the prime contractor's request and DBE's stated position before approving the termination or substitution request, or determining if any action shall be taken against the contractor.

There shall be no substitution or termination of an DBE subcontractor at any time without the prior written consent of the Department. The Department will provide written consent only if the contractor has good cause, as determined by the Department, to terminate the DBE. Good cause may include, but is not limited to the following circumstances:

1. The DBE subcontractor fails or refuses to execute a written contract;
2. The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards;
3. The listed DBE subcontractor fails or refuses to meet the prime contractor's reasonable, nondiscriminatory bond requirements;
4. The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;
5. The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant to 2 CFR Parts 180, 215 and 1200 or applicable state law;
6. The Department has determined that the listed DBE subcontractor is not a responsible contractor;
7. The listed DBE subcontractor voluntarily withdraws from the project and provides to the Department written notice of its withdrawal;
8. The listed DBE is ineligible to receive DBE credit for the type of work required; and
9. An DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract.

Upon approval from the Department to replace an DBE, the contractor's good faith efforts shall be documented and submitted to the Department within seven (7) calendar days. This time period may be extended for another seven (7) calendar days upon request by the prime contractor.

If an DBE subcontractor is unable to perform work under the contract, and is to be

replaced, the contractor's failure to obtain a substitute certified DBE or to make good faith efforts to obtain such a substitute DBE subcontractor to perform said work, may constitute a breach of this contract for which the Department may terminate the contract or pursue such remedy as deemed appropriate by the Department.

## **XII. CONTRACT COMPLIANCE**

This contract is subject to contract compliance tracking, and the prime contractor and all subcontractors are required to report payments electronically in the HDOT online Certification and Contract Compliance Management System (hereafter referred to as "online tracking system"). The prime contractor shall report the date payment was made by the Department and shall report payment to all subcontractors for the audit period. The prime contractor and all subcontractors are responsible for responding by any noted response date or due date to any instructions or request for information, and to check the online tracking system on a regular basis to manage contact information and contract records.

The prime contractor is responsible for ensuring all subcontractors have completed all requested items and that their contact information is accurate and up-to-date. HDOT may require additional information related to the contract to be provided electronically through the online tracking system at any time before, during, or after contract award. Information related to contractor access of the online tracking system will be provided to designated point of contact with each contractor upon award of the contract. The online tracking system is web-based and can be accessed at the following Internet address: <https://hdot.dbesystem.com/>.

## **XIII. PAYMENT**

- A. The Department will make an estimate in writing each month based on the items of work performed and materials incorporated in the work and the value therefore at the unit prices or lump sum prices set forth in the contract. All progress estimates and payments will be approximate only and shall be subject to correction at any time prior to or in the final estimate and payment. The Department will not withhold any amount from any payment to the contractor, including retainage.
- B. The contractor shall pay all subcontractors within ten (10) calendar days after receipt of any progress payments from the Department. This clause applies to both DBE and non-DBE subcontractors, and all tiers of subcontracts.
- C. The contractor will verify that payment or retainage has been released to the subcontractors or its suppliers within the specified time through entries in the Department's online tracking system during the corresponding monthly audits. Prompt payment will be monitored and enforced through the contractor's reporting of payments to its subcontractors and suppliers in the online tracking system.

Subcontractors, including lower tier subcontractors and/or suppliers will confirm the timeliness and the payment amounts received utilizing the online tracking system. Discrepancies will be investigated by the DBE Program Office and the project engineer. Payments to the subcontractors, including lower tier subcontractors, and including retainage released after the subcontractor or lower tier subcontractor's work has been completed to the Department's satisfaction, will be reported by the Contractor or the subcontractor.

- D. When any subcontractor has satisfactorily completed its work as specified in the subcontract, and there are no bona fide disputes, the contractor shall make prompt and full payment to the subcontractor of all monies due, including retainage, within ten (10) calendar days after the subcontractor's work is satisfactorily completed. A subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented, as required by the Department. The contractor must obtain the prior written approval from the Department before it can continue to withhold retainage from any subcontractor who has completed its portion of the work. This clause applies to both DBE and non-DBE subcontractors, and all tiers of subcontracts.

#### **XIV. RECORDS**

The contractor shall maintain and keep all records necessary for the Department to determine compliance with the contractor's DBE obligations. The records shall be available at reasonable times and places for inspection by the Department and appropriate Federal agencies. The records to be kept by the contractor shall include:

1. The names, race/ethnicity, gender, address, phone number, and contact person of all DBE and non-DBE consultants, subcontractors, manufacturers, suppliers, truckers and vendors identified as DBEs;
2. The nature of work of each DBE and non-DBE consultant, subcontractor, manufacturer, supplier, trucker and vendor;
3. The dollar amount contracted with each DBE and non-DBE consultant, subcontractor, manufacturer, supplier, trucker and vendor; and
4. Cumulative dollar amount of all change orders to the subcontract.

#### **XV. FAILURE TO COMPLY WITH DBE REQUIREMENTS**

The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT assisted contracts. All contractors, subcontractors, manufacturers and suppliers are hereby advised that failure to carry out all DBE requirements specified herein shall constitute a material breach of contract that may result in termination of the contract or such other remedy as deemed appropriate by the Department including but not limited to: 1) withholding monthly progress payments; 2) assessing sanctions; 3) liquidated damages; and/or 4) disqualifying the contractor from future bidding as non-responsible.

**REQUIRED CONTRACT PROVISIONS  
FEDERAL-AID CONSTRUCTION CONTRACTS**

- I. General
- II. Nondiscrimination
- III. Non-segregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
- XI. Certification Regarding Use of Contract Funds for Lobbying
- XII. Use of United States-Flag Vessels:

**ATTACHMENTS**

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

**I. GENERAL**

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under title 23, United States Code, as required in 23 CFR 633.102(b) (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services). 23 CFR 633.102(e).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider. 23 CFR 633.102(e).

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services) in accordance with 23 CFR 633.102. The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in solicitation-for-bids or request-for-proposals documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract). 23 CFR 633.102(b).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work

performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract. 23 CFR 633.102(d).

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. 23 U.S.C. 114(b). The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors. 23 U.S.C. 101(a).

**II. NONDISCRIMINATION (23 CFR 230.107(a); 23 CFR Part 230, Subpart A, Appendix A; EO 11246)**

The provisions of this section related to 23 CFR Part 230, Subpart A, Appendix A are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR Part 60, 29 CFR Parts 1625-1627, 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR Part 60, and 29 CFR Parts 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR Part 230, Subpart A, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

**1. Equal Employment Opportunity:** Equal Employment Opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (see 28 CFR Part 35, 29 CFR Part 1630, 29 CFR Parts 1625-1627, 41 CFR Part 60 and 49 CFR Part 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140, shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR Part 35 and 29 CFR Part 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract. 23 CFR 230.409 (g)(4) & (5).

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, sexual orientation, gender identity, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

**2. EEO Officer:** The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

**3. Dissemination of Policy:** All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action or are substantially involved in such action, will be made fully cognizant of and will implement the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer or other knowledgeable company official.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

**4. Recruitment:** When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

**5. Personnel Actions:** Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to ensure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action

within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

#### **6. Training and Promotion:**

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs (i.e., apprenticeship and on-the-job training programs for the geographical area of contract performance). In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

**7. Unions:** If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. 23 CFR 230.409. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide

sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

**8. Reasonable Accommodation for Applicants / Employees with Disabilities:** The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established thereunder. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

**9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment:** The contractor shall not discriminate on the grounds of race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors, suppliers, and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

#### **10. Assurances Required:**

a. The requirements of 49 CFR Part 26 and the State DOT's FHWA-approved Disadvantaged Business Enterprise (DBE) program are incorporated by reference.

b. The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as non-responsible.

c. The Title VI and nondiscrimination provisions of U.S. DOT Order 1050.2A at Appendixes A and E are incorporated by reference. 49 CFR Part 21.

**11. Records and Reports:** The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women.

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on [Form FHWA-1391](#). The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

### III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of more than \$10,000. 41 CFR 60-1.5.

As prescribed by 41 CFR 60-1.8, the contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location under the contractor's control where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

### IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size), in accordance with 29 CFR 5.5. The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. 23 U.S.C. 113. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. 23 U.S.C. 101. Where applicable law requires that projects be treated as a project on a Federal-aid highway, the provisions of this subpart will apply regardless of the location of the project. Examples include: Surface Transportation Block Grant Program projects funded under 23 U.S.C. 133 [excluding recreational trails projects], the Nationally Significant Freight and Highway

Projects funded under 23 U.S.C. 117, and National Highway Freight Program projects funded under 23 U.S.C. 167.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

#### 1. Minimum wages (29 CFR 5.5)

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b.(1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

## **2. Withholding (29 CFR 5.5)**

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics,

including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

## **3. Payrolls and basic records (29 CFR 5.5)**

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b.(1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency.

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or

subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 231.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

#### 4. Apprentices and trainees (29 CFR 5.5)

##### a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State

Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

##### b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the

corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. 23 CFR 230.111(e)(2). The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

**5. Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract as provided in 29 CFR 5.5.

**6. Subcontracts.** The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

**7. Contract termination: debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

**8. Compliance with Davis-Bacon and Related Act requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract as provided in 29 CFR 5.5.

**9. Disputes concerning labor standards.** As provided in 29 CFR 5.5, disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor

set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

#### **10. Certification of eligibility (29 CFR 5.5)**

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

#### **V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

Pursuant to 29 CFR 5.5(b), the following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

**1. Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek. 29 CFR 5.5.

**2. Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph 1 of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph 1 of this section, in the sum currently provided in 29 CFR 5.5(b)(2)\* for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1 of this section. 29 CFR 5.5.

\* \$27 as of January 23, 2019 (See 84 FR 213-01, 218) as may be adjusted annually by the Department of Labor; pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990).

### **3. Withholding for unpaid wages and liquidated damages.**

The FHWA or the contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 2 of this section. 29 CFR 5.5.

**4. Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs 1 through 4 of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1 through 4 of this section. 29 CFR 5.5.

## **VI. SUBLETTING OR ASSIGNING THE CONTRACT**

This provision is applicable to all Federal-aid construction contracts on the National Highway System pursuant to 23 CFR 635.116.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" in paragraph 1 of Section VI refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions: (based on longstanding interpretation)

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;
- (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
- (4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or

equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract. 23 CFR 635.102.

2. Pursuant to 23 CFR 635.116(a), the contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. Pursuant to 23 CFR 635.116(c), the contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract. (based on longstanding interpretation of 23 CFR 635.116).

5. The 30-percent self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements. 23 CFR 635.116(d).

## **VII. SAFETY: ACCIDENT PREVENTION**

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR Part 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract. 23 CFR 635.108.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR Part 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704). 29 CFR 1926.10.

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance

with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

### **VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS**

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR Part 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 11, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

### **IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT (42 U.S.C. 7606; 2 CFR 200.88; EO 11738)**

This provision is applicable to all Federal-aid construction contracts in excess of \$150,000 and to all related subcontracts. 48 CFR 2.101; 2 CFR 200.326.

By submission of this bid/proposal or the execution of this contract or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, subcontractor, supplier, or vendor agrees to comply with all applicable standards, orders

or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Highway Administration and the Regional Office of the Environmental Protection Agency. 2 CFR Part 200, Appendix II.

The contractor agrees to include or cause to be included the requirements of this Section in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements. 2 CFR 200.326.

### **X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION**

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200. 2 CFR 180.220 and 1200.220.

#### **1. Instructions for Certification – First Tier Participants:**

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

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction. 2 CFR 180.320.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default. 2 CFR 180.325.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances. 2 CFR 180.345 and 180.350.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900-180.1020, and 1200. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant

who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction. 2 CFR 180.330.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold. 2 CFR 180.220 and 180.300.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. 2 CFR 180.300; 180.320, and 180.325. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. 2 CFR 180.335. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>). 2 CFR 180.300, 180.320, and 180.325.

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

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default. 2 CFR 180.325.

\*\*\*\*\*

## **2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:**

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.335;.

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property, 2 CFR 180.800;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification, 2 CFR 180.700 and 180.800; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default. 2 CFR 180.335(d).

(5) Are not a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(6) Are not a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability (USDOT Order 4200.6 implementing appropriations act requirements).

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal. 2 CFR 180.335 and 180.340.

## **3. Instructions for Certification - Lower Tier Participants:**

(Applicable to all subcontracts, purchase orders, and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200). 2 CFR 180.220 and 1200.220.

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

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

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances. 2 CFR 180.365.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900 – 180.1020, and 1200. You may contact the person to which this proposal is

submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contractor). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated. 2 CFR 1200.220 and 1200.332.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold. 2 CFR 180.220 and 1200.220.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>), which is compiled by the General Services Administration. 2 CFR 180.300, 180.320, 180.330, and 180.335.

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

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment. 2 CFR 180.325.

\*\*\*\*\*

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:**

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals:

(a) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.355;

(b) is a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(c) is a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability. (USDOT Order 4200.6 implementing appropriations act requirements)

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

\*\*\*\*\*

**XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING**

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000. 49 CFR Part 20, App. A.

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier

subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

## **XII. USE OF UNITED STATES-FLAG VESSELS:**

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, or any other covered transaction. 46 CFR Part 381.

This requirement applies to material or equipment that is acquired for a specific Federal-aid highway project. 46 CFR 381.7. It is not applicable to goods or materials that come into inventories independent of an FHWA funded-contract.

When oceanic shipments (or shipments across the Great Lakes) are necessary for materials or equipment acquired for a specific Federal-aid construction project, the bidder, proposer, contractor, subcontractor, or vendor agrees:

1. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels. 46 CFR 381.7.
2. To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (b)(1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Office of Cargo and Commercial Sealift (MAR-620), Maritime Administration, Washington, DC 20590. (MARAD requires copies of the ocean carrier's (master) bills of lading, certified onboard, dated, with rates and charges. These bills of lading may contain business sensitive information and therefore may be submitted directly to MARAD by the Ocean Transportation Intermediary on behalf of the contractor). 46 CFR 381.7.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS  
PREFERENCE FOR APPALACHIAN DEVELOPMENT  
HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS  
ROAD CONTRACTS (23 CFR 633, Subpart B, Appendix B)**

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

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

**SPECIAL PROVISIONS**

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

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

3  
4 **“DIVISION 100 - GENERAL PROVISIONS**

5  
6  
7 **SECTION 101 - TERMS, ABBREVIATIONS, AND DEFINITIONS**

8  
9 **101.01 Meaning of Terms.** The specifications are generally written in the  
10 imperative mood. In sentences using the imperative mood, the subject, “the  
11 Contractor shall”, is implied. In the material specifications, the subject may also  
12 be the supplier, fabricator, or manufacturer supplying material, products, or  
13 equipment for use on the project. The word “will” generally pertains to decisions  
14 or actions of the State. Must and shall when used in a directive to or describing the  
15 use of an action needed to be done by the Contractor are considered a mandatory  
16 contractual duty of the Contractor.

17  
18 When a publication is specified, it refers to the most recent date of issue,  
19 including interim publications, before the bid opening date for the project, unless a  
20 specific date or year of issue is provided.

21  
22 **101.02 Abbreviations.** Meanings of abbreviations used in the specifications,  
23 on the plans, or in other contract documents are as follows:

24		
25	AAN	American Association of Nurserymen
26		
27	AASHTO	American Association of State Highway and 28 Transportation Officials
29		
30	ACI	American Concrete Institute
31		
32	ADA	Americans with Disabilities Act
33		
34	ADAAG	Americans with Disabilities Act Accessibility Guidelines
35		
36	AGC	Associated General Contractors of America
37		
38	AIA	American Institute of Architects
39		
40	AISC	American Institute of Steel Construction
41		
42	AISI	American Iron and Steel Institute
43		
44	ANSI	American National Standards Institute
45		

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

91	HDOT	Department of Transportation, State of Hawaii
92		
93	HIOSH	Occupational Safety and Health, Department of Labor and
94		Industrial Relations, State of Hawaii
95		
96	HMA	Hot Mix Asphalt
97		
98	HRS	Hawaii Revised Statutes
99		
100	ICEA	Insulated Cable Engineers Association (formerly IPCEA)
101		
102	IMSA	International Municipal Signal Association
103		
104	IRS	Internal Revenue Service
105		
106	ITE	Institute of Transportation Engineers
107		
108	MASH	Manual for Assessing Safety Hardware
109		
110	MTRB	HDOT's Material and Testing Branch
111		
112	MUTCD	Manual on Uniform Traffic Control Devices for Streets and
113		Highways, FHWA, U.S. Department of Transportation
114		
115	NCHRP	National Cooperative Highway Research Program
116		
117	NEC	National Electric Code
118		
119	NEMA	National Electrical Manufacturers Association
120		
121	NFPA	National Forest Products Association
122		
123	NPDES	National Pollutant Discharge Elimination System
124		
125	OSHA	Occupational Safety and Health Administration/Act,
126		U.S. Department of Labor
127		
128	SAE	Society of Automotive Engineers
129		
130	SI	International Systems of Units
131		
132	UFAS	Uniform Federal Accessibility Standards
133		
134	UL	Underwriter's Laboratory
135		
136	USGS	U.S. Geological Survey
137		

138 VECP Value Engineering Cost Proposal

139

140

141 **101.03 Definitions.** Whenever the following words, terms, or pronouns are  
142 used in the contract documents, unless otherwise prescribed therein and without  
143 regards to the use or omission of uppercase letters, the intent and meaning shall  
144 be interpreted as follows:

145

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

150

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

153

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

156

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

159

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

162

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

166

167 **Bag** - 94 pounds of cement.

168

169 **Barrel** - 376 pounds of cement.

170

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

173

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

176

177 **Bid** - See Proposal.

178

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

182

183 **Bidding Documents (or Solicitation Documents)** - The published solicitation  
184 notice, bid requirements, bid forms and the proposed contract documents including  
185 all addenda and clarifications issued prior to receipt of the bid.  
186

187 **Bid Security** - The security furnished by the bidder from which the State may  
188 recover its damages in the event the bidder breaches its promise to enter into a  
189 contract with the State, or fails to execute the required bonds covering the work  
190 contemplated, if its proposal is accepted.  
191

192 **Blue Book** - EquipmentWatch Cost Recovery (formerly known as  
193 EquipmentWatch Rental Rate Blue Book), available from EquipmentWatch, a  
194 division of Penton, Inc.  
195

196 **Calendar Day** - See Day.  
197

198 **Change Order (or Contract Change Order)** - A written order signed by the  
199 Engineer issued with or without the consent of the Contractor directing changes in  
200 the work, contract time or contract price. The purposes of a change order include,  
201 but are not limited to (1) establishing a price or time adjustment for changes in the  
202 work; (2) establishing full payment for direct, indirect, and consequential costs,  
203 including costs of delay; (3) establishing price adjustment or time adjustment for  
204 work covered and affected by one or more field orders; or (4) settling Contractor's  
205 claims for direct, indirect, and consequential costs, or for additional contract time,  
206 in whole or in part.  
207

208 **Completion** - See Substantial Completion and Final Completion.  
209

210 **Completion Date** - The date specified by the contract for the completion of all  
211 work on the project or of a designated portion of the project.  
212

213 **Comptroller** - the Comptroller of the State of Hawaii, Department of Accounting  
214 and General Services.  
215

216 **Contract** - The written agreement between the Contractor and the State, by which  
217 the Contractor shall provide all labor, equipment, and materials and perform the  
218 specified work within the contract time stipulated, and by which the State of Hawaii  
219 is obligated to compensate the Contractor at the prices set forth in the contract  
220 documents.  
221

222 **Contract Certification Date** - The Date on which the Deputy Comptroller for the  
223 State of Hawaii (or authorized representative) signs the Contract Certification.  
224

225 **Contract Completion Date** - The calendar day on which all work on the project,  
226 required by the contract, must be completed. See CONTRACT TIME.  
227

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

235  
236 **Contract Item (Pay Item)** - A specific unit of work for which there is a price in the  
237 contract.

238  
239 **Contract Modification (Modification)** - A change order that is mutually agreed to  
240 and signed by the parties to the contract.

241  
242 **Contract Price** - The amount designated on the face of the contract for the  
243 performance of work.

244  
245 **Contract Time (or Contract Duration)** - The number of calendar or working days  
246 provided for completion of the contract, inclusive of authorized time extensions.  
247 Contract time shall commence on the Start Work Date and end on the Substantial  
248 Completion Date. If in lieu of providing a number of calendar or working days, the  
249 contract requires completion by a certain date, the work shall be completed by that  
250 date.

251  
252 **Contracting Officer** - See Engineer.

253  
254 **Contractor** - Any individual, partnership, firm, corporation, joint venture, or other  
255 legal entity undertaking the execution of the work under the terms of the contract  
256 with the State.

257  
258 **Critical Path** - Longest logical sequence of activities that must be completed on  
259 schedule for the entire project to be completed on schedule.

260  
261 **Day** - Any day shown on the calendar, beginning at midnight and proceeding up  
262 to, but not including, midnight the following day. If no designation of calendar or  
263 working day is made, "day" shall mean calendar day.

264  
265 **Department** - The Department of Transportation of the State of Hawaii  
266 (abbreviated HDOT).

267  
268 **Director** - The Director of the HDOT acting directly or through duly authorized  
269 representatives.

270  
271 **Plans (or Drawings)** - The contract drawings in graphic or pictorial form including  
272 the notes, tables and other notations thereon indicating the design, location,  
273 character, dimensions, and details of the work.

274

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

277

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

279

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

286

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

291

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

294

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

299

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

303

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

306

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

309

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

312

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

316

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

319

320

321 **Informational Submittal** – A submittal, e.g., additional-advance-direct submittal  
322 by e-mail by the contractor to the Material Testing and Research Branch, of such  
323 things as but not limited to: a final copy of fully executed contract change order  
324 with attachments, contractor QC test results or schedules, or other documents that  
325 are designated as an Informational Submittal. It is a process to inform the receiver  
326 of a task that has been performed or will soon be performed. Submitted for  
327 workload scheduling purposes; it does not require a response or action from the  
328 designated receiver, in general, is not used for payment purposes unless the  
329 Engineer or MTRB designated it as such. Nor does it count as one of the other  
330 required submittals in number.

331

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

334

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

337

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

340

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

343

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

348

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

351

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

354

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

359

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

364

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

367

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

371

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

375

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

384

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

390

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

393

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

396

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

400

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

402

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

405

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

408

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

412

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

415  
416 **Roadbed** - The graded portion of a highway within top and side slopes, prepared  
417 as a foundation for the pavement structure and shoulders.

418  
419 **Roadside** - The area between the outside edges of the shoulders and the right-of-  
420 way boundaries. Unpaved median areas between inside shoulders of divided  
421 highways and infield areas of interchanges are included.

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

424  
425 **Shop Drawings** - All drawings, diagrams, illustrations, schedules and other data  
426 or information which are specifically prepared or assembled by or for the  
427 Contractor and submitted by the Contractor to illustrate some portion of the work.

428  
429 **Shoulder** - The portion of the roadway next to the traveled way for:  
430 accommodation of stopped vehicles, placement of underground facilities,  
431 emergency use, and lateral support of base and surface courses.

432  
433 **Sidewalk** - That portion of the roadway primarily constructed for use by  
434 pedestrians.

435  
436 **Solicitation** - An invitation to bid or request for proposals or any other document  
437 issued by the Department to solicit bids or offers to perform a contract. The  
438 solicitation may indicate the time and place to receive the bids or offers and the  
439 location, nature and character of the work, construction or materials to be provided.

440  
441 **Specifications** - Compilation of provisions and requirements to perform  
442 prescribed work.

443  
444 **(A) Standard Specifications.** Specifications by the State intended for  
445 general application and repetitive use, i.e., State of Hawaii Standard  
446 Specifications for Road and Bridge Construction.

447  
448 **(B) Special Provisions.** Revisions and additions to the standard  
449 specifications applicable to an individual project.

450  
451 **Standard Plans** - Drawings provided by the State for specific items of work  
452 approved for repetitive use.

453  
454 **State** - The State of Hawaii, its Departments and agencies, acting through its  
455 authorized representative(s).

456  
457 **State Waters** – All waters, fresh, brackish, or salt, around and within the State,  
458 including, but not limited to, coastal waters, streams, rivers, drainage ditches,  
459 ponds, reservoirs, canals, ground waters, and lakes; provided that drainage

460 ditches, ponds, and reservoirs required as a part of a water pollution control system  
461 are excluded.

462

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

465

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

469

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

472

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

476

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

481

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

484

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

488

489 (1) All traffic lanes (including shoulders, ramps, sidewalks and bike  
490 paths) are in their final configuration as designed and the final  
491 wearing surface has been installed;

492

493 (2) All operational and safety devices have been installed in accordance  
494 with the contract documents including guardrails, end treatments,  
495 traffic barriers, required signs and pavement markings, drainage,  
496 parapet, and bridge and pavement structures;

497

498 (3) All required illumination and lighting for normal and safe use and  
499 operation is installed and functional in accordance with the contract  
500 documents;

501

502 (4) All utilities and services are connected and working;

503

504 (5) The need for temporary traffic controls or lane closures at any time  
505 has ceased, except for lane closures required for routine  
506 maintenance;

507

508

- (6) The building, structure, improvement or facility can be used for its intended purpose.

509

510

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

512

513

**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.

514

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**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

553 standards, treatment and pretreatment standards, or standards of performance for  
554 new sources adopted by the Department of Health.

555  
556 **Work** - The furnishing of all labor, material, equipment, and other incidentals  
557 necessary or convenient for the successful execution of all the duties and  
558 obligations imposed by the contract.

559  
560 **Working Day** - A calendar day in which a Contractor is capable of working four or  
561 more hours with its normal work force, exclusive of:

562  
563 (1) Saturdays, Sundays, and recognized legal State holidays and such  
564 other days specified by the contract documents as non-working days,

565  
566 (2) Day in which the Engineer suspends work for four or more hours  
567 through no fault of the Contractor.”

568  
569  
570  
571  
572

**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

47 Papers bound with or attached to the proposal form are part of the  
48 proposal. The bidder shall not detach or alter the papers bound with or attached  
49 to the proposal when the bidder submits its proposal through HlePRO.  
50

51 Also, the bidder shall consider other documents including the plans and  
52 specifications a part of the proposal form whether attached or not.  
53

54 **102.03 List of Past Projects.** All bidders must email the list of past projects  
55 per the Notice to Bidders to [sharen.h.cho-ibanez@hawaii.gov](mailto:sharen.h.cho-ibanez@hawaii.gov) by the deadline  
56 stated in the Notice to Bidders. Submit a list of project(s) on which a minimum  
57 of 3,000 square yards of high friction surface treatment has been placed within  
58 the last 3 years. Include the following information on the project list:

- 59 • Owner/client name and contact information;
- 60 • Project name and number;
- 61 • Project completion date;
- 62 • Project description/detail, including square yards of high friction  
63 surface treatment placed; and
- 64 • HFST subcontractor (if not placed by bidder).

65 All bidders shall email the list of past projects as instructed in the Notice to  
66 Bidders. Failure to provide the list of past projects shall be cause for  
67 bid/proposal rejection. If the lowest responsive bidder does not meet the  
68 minimum qualification requirements of a minimum 3,000 square yards of high  
69 friction surface treatment placed in the last 3 years, such bid shall be rejected as  
70 non-responsible. The Department will then consider the next lowest responsive  
71 and responsible bidder for award.  
72

73 **102.04 Estimated Quantities.** The quantities shown in the contract are  
74 approximate and are for the comparison of bids only. The actual quantity of work  
75 may not correspond with the quantities shown in the contract. The Department  
76 will make payment to the Contractor for unit price items in accordance with the  
77 contract for only the following:  
78

- 79 (1) Actual quantities of work done and accepted, not the estimated  
80 quantities; or
- 81
- 82 (2) Actual quantities of materials furnished, not the estimated  
83 quantities.  
84

85 The Department may increase, decrease, or omit each scheduled  
86 quantities of work to be done and materials to be furnished. When the  
87 Department increases or decreases the estimated quantity of a contract item by  
88 more than 15% the Department will make payment for such items in accordance  
89 with Subsection 104.06 - Methods of Price Adjustment.  
90

91 **102.05 Examination of Contract and Site of Work.** The bidder shall  
92 examine carefully the site of the proposed work and contract before submitting a  
93 proposal.

94  
95 By the act of submitting a bid for the proposed contract, the bidder  
96 warrants that:

97  
98 **(1)** The bidder and its Subcontractors have reviewed the contract  
99 documents and found them free from ambiguities and sufficient for the  
100 purpose intended;

101  
102 **(2)** The bidder and its workers, employees and subcontractors have  
103 the skills and experience in the type of work required by the contract  
104 documents bid upon;

105  
106 **(3)** Neither the bidder nor its employees, agents, suppliers or  
107 subcontractors have relied upon verbal representations from the  
108 Department, its employees or agents, including architects, engineers or  
109 consultants, in assembling the bid figure; and

110 **(4)** The basis for the bid figure are solely on the construction contract  
111 documents.

112  
113 Also, the bidder warrants that the bidder has examined the site of the  
114 work. From its investigations, the bidder acknowledges satisfaction on:

115  
116 **(1)** The nature and location of the work;

117  
118 **(2)** The character, quality, and quantity of materials;

119  
120 **(3)** The difficulties to be encountered; and

121  
122 **(4)** The kind and amount of equipment and other facilities needed;

123  
124 Subsurface information or hydrographic survey data furnished are for the  
125 bidders' convenience only. The data and information furnished are the product of  
126 the Department's interpretation gathered in investigations made at the specific  
127 locations. These conditions may not be typical of conditions at other locations  
128 within the project area or that such conditions remain unchanged. Also,  
129 conditions found at the time of the subsurface explorations may not be the same  
130 conditions when work starts. The bidder shall be solely responsible for  
131 assumptions, deductions, or conclusions the bidder may derive from the  
132 subsurface information or data furnished.

133  
134 If the Engineer determines that the natural conditions differ from that  
135 originally anticipated or contemplated by the Contractor in the items of

136 excavation, the State may treat the difference in natural conditions, as falling  
137 within the meaning of Subsection 104.02 – Changes.

138  
139 **102.06 Preparation of Proposal.** The submittal of its proposal shall be on  
140 forms furnished by the Department. The bidder shall specify in words or figures:

- 141  
142 (1) A unit price for each pay item with a quantity given;  
143  
144 (2) The products of the respective unit prices and quantities  
145  
146 (3) The lump sum amount; and  
147  
148 (4) The total amount of the proposal obtained by adding the amounts  
149 of the several items.

150  
151 The words and figures shall be in ink or typed. If a discrepancy occurs  
152 between the prices written in words and those written in figures, the prices written  
153 in words shall govern.

154  
155 When an item in the proposal contains an option to be made, the bidder  
156 shall choose in accordance with the contract for that particular item.  
157 Determination of an option will not permit the Contractor to choose again.

158  
159 The bidder shall sign the proposal properly in ink. A duly authorized  
160 representatives of the bidder or by an agent of the bidder legally qualified and  
161 acceptable to the Department shall sign, including one or more partners of the  
162 bidder and one or more representatives of each entity comprising a joint venture.

163  
164 When an agent, other than the officer(s) of a corporation authorized to  
165 sign contracts for the corporation or a partner of a partnership, signs the  
166 proposals, a 'Power of Attorney' shall be on file with the Department or submitted  
167 with the proposal. Otherwise, the Department will reject the proposal as irregular  
168 and unauthorized.

169  
170 The bidder shall submit acceptable evidence of the authority of the  
171 partner, member(s) or officer(s) to sign for the partnership, joint venture, or  
172 corporation respectively with the proposal. Otherwise, the Department will reject  
173 the proposal as irregular and unauthorized.

174  
175 **102.07 Irregular Proposals.** The Department may consider proposals  
176 irregular and may reject the proposals for the following reasons:

- 177  
178 (1) The proposal is a form not furnished by the Department, altered, or  
179 detached;

- 181           **(2)** The proposal contains unauthorized additions, conditions, or  
182 alternates. Also, the proposal contains irregularities that may tend to  
183 make the proposal incomplete, indefinite, or ambiguous to its meaning;  
184
- 185           **(3)** The bidder adds provisions reserving the right to accept or reject an  
186 award. Also, the bidder adds provisions into a contract before an award;  
187
- 188           **(4)** The proposal does not contain a unit price for each pay item listed  
189 except authorized optional pay items; and  
190
- 191           **(5)** Prices for some items are out of proportion to the prices for other  
192 items.  
193
- 194           **(6)** If in the opinion of the Director, the bidder and its listed  
195 subcontractors do not have the Contactor's licenses or combination of  
196 Contactor's licenses necessary to complete the work.  
197

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

203  
204 **102.08 Proposal Guaranty.** The Department will not consider a proposal of  
205 \$25,000 or more unless accompanied by:

206  
207 (1) A deposit of legal tender; or

208  
209 (2) A valid surety bid bond, underwritten by a company licensed to  
210 issue bonds in the State of Hawaii, in the form and composed,  
211 substantially, with the same language as provided herewith and signed by  
212 both parties; or

213  
214 (3) A certificate of deposit, share certificate, cashier's check,  
215 treasurer's check, teller's check, or official check drawn by, or a certified  
216 check accepted by and payable on demand to the State by a bank,  
217 savings institution, or credit union insured by the Federal Deposit  
218 Insurance Corporation (FDIC) or the National Credit Union Administration  
219 (NCUA).

220  
221 (a) The bidder may use these instruments only to a maximum of  
222 \$100,000.

223  
224 (b) If the required security or bond amount totals over \$100,000  
225 more than one instrument not exceeding \$100,000 each and issued  
226 by different financial institutions shall be acceptable.

227  
228 (c) The instrument shall be made payable at sight to the  
229 Department.

230  
231 (d) Proposal Guaranty listed in (1) and (3) shall be in its original  
232 form, and shall be received at the Contracts Office, Department of  
233 Transportation, 869 Punchbowl Street, Honolulu, Hawaii 96813  
234 before the bid deadline.

235  
236 In accordance with HRS Chapter 103D-323, the above shall be in a sum  
237 not less than 5% of the amount bid.

238  
239 **102.09 Delivery of Proposal.** The bidder shall submit the proposal in  
240 HlePRO. Bids received after said due date and time shall not be considered.  
241 Original bid documents do not have to be submitted. Award will be made based  
242 on proposals submitted in HlePRO.  
243

244 **102.10 Withdrawal or Revision of Proposals.** A bidder may withdraw or  
245 revise a proposal after the bidder submits the proposal in HlePRO. Withdrawal  
246 or revision of proposal must be completed before the time set for the receiving of  
247 bids.

248  
249 **102.11 Public Opening of Proposals.** Not applicable.

250  
251 **102.12 Disqualification of Bidders.** The Department may disqualify a bidder  
252 and reject its proposal for the following reasons:

253  
254 (1) Submittal of more than one proposal whether under the same or  
255 different name.

256  
257 (2) Evidence of collusion among bidders. The Department will not  
258 recognize participants in collusion as bidders for any future work of the  
259 Department until such participants are reinstated as qualified bidders.

260  
261 (3) Lack of proposal guaranty.

262  
263 (4) Submittal of an unsigned or improperly signed proposal.

264  
265 (5) Submittal of a proposal without a listing of subcontractors or  
266 containing only a partial or incomplete listing of subcontractors.

267  
268 (6) Submittal of an irregular proposal in accordance with Subsection  
269 102.07 - Irregular Proposals.

270  
271 (7) Evidence of assistance from a person who has been an employee  
272 of the agency within the preceding two years and who participated while in  
273 State office or employment in the matter with which the contract is directly  
274 concerned, pursuant to HRS Chapter 84-15.

275  
276 (8) Suspended or debarred in accordance with HRS Chapter 104-25.

277  
278 (9) Failure to complete the prequalification questionnaire, if applicable.

279  
280 (10) Failure to attend the mandatory pre-bid meeting, if applicable.

281  
282 **102.13 Material Guaranty.** The successful bidder may be required to furnish  
283 a statement of the composition, origin, manufacture of materials, and samples.

284  
285 **102.14 Substitution of Materials and Equipment Before Bid Opening.** See  
286 Subsection 106.13 for Substitution Of Materials and Equipment After Bid  
287 Opening.

288

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

300  
301 An addendum will be issued to inform all prospective bidders of any  
302 accepted substitution in accordance with Subsection 102.17 – Addenda.

303  
304 **(B) Statement of Variances.** The statement of variances must list all  
305 features of the proposed substitution that differ from the contract  
306 documents and must further certify that the substitution has no other  
307 variant features. The brochure and information submitted shall be clearly  
308 marked showing make, model, size, options, and any other features  
309 requested by the Engineer and must include sufficient evidence to  
310 evaluate each feature listed as a variance. A request will be denied if  
311 submitted without sufficient evidence. If after installing the substituted  
312 product, an unlisted variance is discovered, the Contractor shall  
313 immediately replace the product with a specified product at no increase in  
314 contract price and contract time.

315  
316 **(C) Substitution Denial.** Any substitution request not complying with  
317 the above requirements will be denied.

318  
319 **102.15 Preferences.** Preferences are not applicable for this project.

320  
321 **102.16 Certification for Safety and Health Program for Bids in excess of**  
322 **\$100,000.** In accordance with HRS Chapter 396-18, the bidder or offeror, by  
323 signing and submitting this proposal, certifies that a written safety and health plan  
324 for this project will be available and implemented by the notice to proceed date  
325 for this project. Details of the requirements of this plan may be obtained from the  
326 State Department of Labor and Industrial Relations, Occupational Safety and  
327 Health Division (HIOSH).

328  
329 **102.17 Addenda.** Addenda issued shall become part of the contract  
330 documents. Addenda to the bid documents will be provided to all prospective  
331 bidders via HlePRO. Each addendum shall be an addition to the contract  
332 documents. The terms and requirements of the bid documents (i.e., drawings,  
333 specifications and other bid and contract documents) cannot be changed prior to  
334 the bid opening except by a duly issued addendum.”

335  
336  
337

**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 “Buy America” provisions in the Surface Transportation Assistance Act  
13 of 1982 is applicable to Federal-aid projects. Bidders may submit a bid based  
14 upon the furnishing and use of domestic steel or foreign steel. Manufacturing  
15 processes for domestic steel shall occur in the United States.

16  
17 The Department reserves the right to reject proposals, waive technicalities  
18 or advertise for new proposals, if the rejection, waiver, or new advertisement favors  
19 the Department.  
20

21 **103.02 Award of Contract.** The award of contract, if it be awarded, will be  
22 made within 60 calendar days after the opening of bids, to the lowest responsible  
23 and responsive bidder whose bid meets all the requirements and criteria set forth  
24 in the invitation for bids. (Through HlePRO). The successful bidder will be notified  
25 by letter mailed to the address shown in its proposal, that its proposal has been  
26 accepted, and that it has been awarded the contract.  
27

28 **(1) Requirement for Award.** To be eligible for award, the  
29 apparent low bidder will be contacted to submit copies of the  
30 documents listed below to demonstrate compliance with HRS  
31 Section 103D-310(c). The documents shall be submitted to the  
32 Department within 14 days after bid opening unless otherwise  
33 specified in the invitation for bids or an extension is granted in writing  
34 by the Department. If a valid certificate/clearance is not submitted  
35 on a timely basis for award of a contract, a bidder otherwise  
36 responsive and responsible may not receive the award. See also  
37 Subsection 108.03 – Preconstruction Data Submittal.  
38

39 The Department may request the bidders to allow the  
40 Department to consider the bids for the issuance of an award beyond  
41 the 60 calendar day period. Agreement to such an extension must  
42 be made by a bidder in writing. Only bidders who have agreed to  
43 such an extension will be eligible for the award.  
44

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

53  
54 FORM A6, TAX CLEARANCE CERTIFICATE, is available at the  
55 following website:

56  
57 <https://tax.hawaii.gov/>

58  
59 To receive DOTAX Forms by fax or mail, phone  
60 (808) 587-7572 or 1-800-222-7572.

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

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

78  
79 FORM LIR#27, APPLICATION FOR CERTIFICATE OF  
80 COMPLIANCE WITH SECTION 3-122-112, HAR, is available at the  
81 following website:

82  
83 <http://labor.hawaii.gov/>

84  
85 More information is available by calling the DLIR Unemployment Insurance  
86 Division at (808) 586-8926.

87  
88 Inquiries regarding the status of a LIR#27 Form may be made by  
89 calling the DLIR Disability Compensation Division at (808) 586-9200.

91 The application for the Certificate of Compliance is the responsibility  
92 of the bidder and must be submitted directly to the DLIR. The approved  
93 certificate may then be submitted to the Department.  
94

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

101  
102 **(1)** Incorporated or organized under the laws of the State; or

103  
104 **(2)** Registered to do business in the State as a separate branch  
105 or division that is capable of fully performing under the contract.  
106

107 The Certificate of Good Standing is valid for six (6) months  
108 from the approval date on the certificate and must be valid on the  
109 bid's first legal advertisement date or any date thereafter up to the  
110 bid opening date. A Hawaii business that is a sole proprietorship,  
111 however, is not required to register with the BREG, and therefore not  
112 required to submit a Certificate of Good Standing. Bidders are  
113 advised that there are costs associated with registering and  
114 obtaining a Certificate of Good Standing from the DCCA.  
115

116 To purchase a CERTIFICATE OF GOOD STANDING, go to On-Line  
117 Services at the following website:

118  
119 <http://cca.hawaii.gov/>  
120

121 The application for the Certificate of Good Standing is the  
122 responsibility of the bidder and must be submitted directly to the DCCA.  
123 The approved certificate may then be submitted to the Department.  
124

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

130  
131 <https://vendors.ehawaii.gov/hce/>  
132

133 **103.03 Cancellation of Award.** The Department reserves the right to cancel  
134 the award of contracts before the execution of said contract by the parties. There  
135 will be no liability to the awardee and to other bidders.

136 **103.04 Return of Proposal Guaranty.** The Department will return the proposal  
137 guaranties, except those of the three lowest bidders, after the Department checks  
138 the proposals. The Department will return the proposal guaranties of the remaining  
139 two lowest bidders, not awarded the contract, within five working days following  
140 the execution of the contract. The Department will return the successful bidder's  
141 proposal guaranty after the successful bidder furnishes a bond and executes the  
142 contract.

143  
144 **103.05 Requirement of Contract Bond.** At the time of execution of the  
145 contract, the successful bidder shall file a good and sufficient performance bond  
146 and a payment bond on the forms furnished by the Department conditioned for the  
147 full and faithful performance of the contract in accordance with the terms and intent  
148 thereof and for the prompt payment to all others for all labor and material furnished  
149 by them to the bidder and used in the prosecution of the work provided for in the  
150 contract. The bonds shall be of an amount equal to 100 percent of the amount of  
151 the contract price and include 5 percent of the contract amount estimated to be  
152 required for extra work. The bidder shall limit the acceptable performance and  
153 payment bonds to the following:

- 154  
155 (a) Legal tender;  
156  
157 (b) Surety bond underwritten by a company licensed to issue bonds in  
158 the State of Hawaii; or  
159  
160 (c) A certificate of deposit; share certificate; cashier's check; treasurer's  
161 check, teller's check drawn by or a certified check accepted by and payable  
162 on demand to the State by a bank savings institution or credit union insured  
163 by the Federal Deposit Insurance Corporation (FDIC) or the National Credit  
164 Union Administration (NCUA).  
165  
166 1. The bidder may use these instruments only to a maximum of  
167 \$100,000.  
168  
169 2. If the required security or bond amount totals over \$100,000  
170 more than one instrument not exceeding \$100,000 each and issued  
171 by different financial institutions shall be acceptable.

172  
173 Such bonds shall also by the terms insure to the benefit of any and all  
174 persons entitled to file claims for labor done or material furnished in the work so as  
175 to give them a right of action as contemplated by HRS Section 103D-324.  
176

177 **103.06 Execution of the Contract.** The contract bond and HRS Chapter 104  
178 - Compliance Certificate, similar to a copy of the same annexed hereto, shall be  
179 executed by the successful bidder and returned within ten days after the award  
180 of the contract or within such further time as the Director may allow after the  
181 bidder has received the contract for execution.

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

185

186 **103.07 Failure to Execute Contract.** Failure to execute the contract and file  
187 acceptable bonds shall be cause for the cancellation of the award in accordance  
188 with Subsection 103.06 - Execution of the Contract. Also, the Contractor forfeits  
189 the proposal guaranty which becomes the property of the Department. This is not  
190 a penalty, but liquidated damages sustained by the State. The Department may  
191 then make award to the next lowest responsible and responsive bidder or the  
192 Department may readvertise and construct the work under contract.”

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**END OF SECTION 103**



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

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

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

**“(4)** The Contractor shall contact the Hawaii One Call Center at 811 prior to any execution in a public right of way or on private property.”

END OF SECTION 104



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 105.16(A) – Subcontract Requirements** by adding the following  
85           paragraph after line 483:  
86

87           The 'Specialty Items' of work for this project are as follows:  
88

	<b>Section No.</b>	<b>Description</b>
89		
90		
91		
92	421	All Contract Items under Section 421 – High Friction Surface Treatment
93		
94		
95	629	All Contract Items under Section 629 – Pavement Markings
96		
97	645	Contract Item No. 645.0100 under Section 645 – Work Zone Traffic Control”
98		
99		

100 **(VI)** Amend **Subsection 105.16(B) – Substituting Subcontractors** from line  
101 487 to line 494 to read:

102  
103 **“(B) Substituting Subcontractors.** Under HRS Chapter 103D-302, the  
104 Contractor is required to list the names of persons or firms to be engaged  
105 by the Contractor as a subcontractor or joint contractor in the performance  
106 of the contract. No subcontractor may be added or deleted, unless  
107 authorized by the Engineer. Substitutions will be allowed only if the  
108 subcontractor:

109  
110  
111  
112  
113

**END OF SECTION 105**

1                   **SECTION 106 – MATERIAL RESTRICTIONS AND REQUIREMENTS**

2  
3           Make the following amendment to said Section:

4  
5           **(I)**     Amend **106.05(B) – Deviation** by revising the third sentence from line 106  
6           to 108 to read as follows:

7  
8           “Any deviations will be subject to Subsection 102.14 – Substitution of Materials  
9           and Equipment Before Bid Opening.

10  
11          **(II)**    Amend **Section 106 – Material Restrictions and Requirements** by  
12          adding the following after line 334

13  
14          **106.14 Construction Materials.**

15  
16               **(A)**    Buy America requirements apply to the following construction  
17               materials unless otherwise specified:

18  
19                   **(1)**    Non-ferrous metals.

20  
21                   **(2)**    Plastic and polymer-based products such as:

22  
23                            (a)    Polyvinylchloride.

24  
25                            (b)    Composite building materials.

26  
27                            (c)    Polymers used in fiber optic cables.

28  
29                   **(3)**    Glass.

30  
31                   **(4)**    Lumber.

32  
33                   **(5)**    Drywall.

34  
35               Where one or more of these construction materials have been  
36               combined by a manufacturer with other materials through a manufacturing  
37               process, Buy America requirements do not apply unless otherwise  
38               specified. Furnish construction materials to be incorporated into the work  
39               with certificates of compliance with each project delivery. Manufacturer’s  
40               certificate of compliance must identify where the construction material was  
41               manufactured and attest specifically to Buy America compliance. All  
42               manufacturing processes for these materials must occur in the United  
43               States.  
44  
45  
46  
47

**END OF SECTION 106**

**NH-0300(181)R  
106-1a**

**11/10/22**

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

2  
3       Make the following amendments to said Section:

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

7  
8           **“(A) Obligation of Contractor.** Contractor shall not commence any  
9       work until it obtains, at its own expense, all required insurance described  
10      herein. Such insurance shall be provided by an insurance company  
11      authorized by the laws of the State to issue such insurance in the State of  
12      Hawaii. Coverage by a “Non-Admitted” carrier is permissible provided the  
13      carrier has a Best’s Rating of “A-VII” or better. The Contractor shall  
14      maintain and ensure all insurance policies are current for the full period of  
15      the contract until final acceptance of the work by the State.

16  
17           The Certificate of Insurance shall contain: a clause that it is agreed  
18      that any insurance maintained by the State of Hawaii will apply in excess  
19      of, and not contribute with, insurance provided by this policy; and shall be  
20      accompanied by endorsement form CG2010 or equivalent naming the  
21      State as an additional insured to the policy which status shall be  
22      maintained for the full period of the contract until final acceptance of the  
23      work by State.

24  
25           The Contractor shall obtain all required insurance as part of the  
26      contract price. Where there is a requirement for the State of Hawaii and  
27      its officers and employees to be named as additional insureds under any  
28      Contractor’s insurance policy, before the State of Hawaii issues the Notice  
29      to Proceed, the Contractor shall obtain and submit to the Engineer a  
30      Certificate of Insurance and a written policy endorsement that confirms the  
31      State of Hawaii and its officers and employees are additional insureds for  
32      the specific State project number and project title under such insurance  
33      policies. The written policy endorsement must be issued by the insurance  
34      company insuring the Contractor for the specified policy type or by an  
35      agent of such insurance company who is vested with the authority to issue  
36      a written policy endorsement. The insurer’s agent shall also submit  
37      written confirmation of such authority to bind the insurer. Any delays in  
38      the issuance of the Notice to Proceed attributed to the failure to obtain the  
39      proof of the State of Hawaii and its officers and employees’ additional  
40      insured status shall be charged to the Contractor.

41  
42           A mere Certificate of Insurance issued by a broker who represents  
43      the Contractor (but not the Contractor’s insurer), or by any other party who  
44      is not authorized to contractually name the State as an additional insured  
45      under the Contractor’s insurance policy, is not sufficient to meet the  
46      Contractor’s insurance obligations.

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

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

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

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

**(B) Types of Insurance.** Contractor shall purchase and maintain insurance described below which shall provide coverage 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.

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**(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."

138  
139

**END OF SECTION 107**

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.

## 108.03

46 **108.02 Prosecution of Work.** Unless otherwise permitted by the Engineer, in  
47 writing, the Contractor shall not commence with physical construction unless  
48 sufficient materials and equipment are available for either continuous construction  
49 or completion of a specified portion of the work.

50  
51 **108.03 Preconstruction Submittals.** The awardee shall submit to the  
52 Engineer for information and review the pre-construction submittals within 21  
53 calendar days from award. Until the items listed below are received and found  
54 acceptable by the Engineer, the Contractor shall not start physical work unless  
55 otherwise authorized to do so in writing and subject to such conditions set by the  
56 Engineer. Charging of Contract Time will not be delayed, and additional contract  
57 time will not be granted due to Contractor delay in submitting acceptable  
58 preconstruction submittals. No progress payment will be made to the Contractor  
59 until the Engineer acknowledges, in writing, receipt of the following  
60 preconstruction submittals acceptable to the Engineer:

- 61
- 62 (1) List of the Superintendent and other Supervisory Personnel, and  
63 their contact information.
  - 64
  - 65 (2) Name of person(s) authorized to sign for the Contractor.
  - 66
  - 67 (3) Work Schedule including hours of operation.
  - 68
  - 69 (4) Initial Progress Schedule (See Subsection 108.06 – Progress  
70 Schedule).
  - 71
  - 72 (5) Water Pollution and Siltation Control Submittals, including Site-  
73 Specific Best Management Practice Plan.
  - 74
  - 75 (6) Solid Waste Disposal form.
  - 76
  - 77 (7) Tax Rates.
  - 78
  - 79 (8) Insurance Rates.
  - 80
  - 81 (9) Certificate of Insurance, satisfactory to the Engineer, indicating that  
82 the Contractor has in place all insurance coverage required by the contract  
83 documents.
  - 84
  - 85 (10) Schedule of agreed prices.
  - 86
  - 87 (11) List of suppliers.
  - 88
  - 89 (12) Traffic Control Plan, if applicable.

90 **108.04 Character and Proficiency of Workers.** The Contractor shall at all  
91 times provide adequate supervision and sufficient labor and equipment for  
92 prosecuting the work to full completion in the manner and within the time required  
93 by the contract. The superintendent and all other representatives of the  
94 Contractor shall act in a civil and honest manner in all dealings with the Engineer,  
95 all other State officials and representatives, and the public, in connection with the  
96 work.

97  
98 All workers shall possess the proper license, certification, job classification,  
99 skill, training, and experience necessary to properly perform the work assigned to  
100 them.

101  
102 The Engineer may direct the removal of any worker(s) who does not carry  
103 out the assigned work in a proper and skillful manner or who is disrespectful,  
104 intemperate, violent, or disorderly. The worker shall be removed forthwith by the  
105 Contractor and will not work again without the written permission of the Engineer.

106  
107 **108.05 Contract Time.**

108  
109 **(A) Calculation of Contract Time.** When the contract time is on a  
110 working day basis, the total contract time allowed for the performance of  
111 the work will be the number of working days shown in the contract plus any  
112 additional working days authorized in writing as provided hereinafter. The  
113 count of elapsed working days to be charged against contract time, will  
114 begin from the Start Work Date and will continue consecutively to the date  
115 of Substantial Completion. When multiple shifts are used to perform the  
116 work, the State will not consider the hours worked over the normal eight  
117 working hours per day or night as an additional working day.

118  
119 When the contract is on a calendar day basis, the total contract time  
120 allowed for the performance of the work will be the number of days shown  
121 in the contract plus any additional days authorized in writing as provided  
122 hereinafter. The count of elapsed days to be charged against contract time  
123 will begin from the Start Work Date and will continue consecutively to the  
124 date of Substantial Completion. The Engineer will exclude days elapsing  
125 between the orders of the Engineer to suspend work and resume work for  
126 suspensions not the fault of the Contractor.

127  
128 **(B) Modifications of Contract Time.** Whenever the Contractor  
129 believes that an extension of contract time is justified, the Contractor shall  
130 serve written notice on the Engineer not more than five working days after  
131 the occurrence of the event that causes a delay or justifies a contract time  
132 extension. Contract time may be adjusted for the following reasons or  
133 events, but only if and to the extent the critical path has been affected:  
134

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

146  
147 Additional time to perform the extra work will be added to the  
148 time allowed in the contract without regard to the date the change  
149 directive was issued, even if the contract completion date has  
150 passed. A change requiring time issued after contract time has  
151 expired will not constitute an excusal or waiver of pre-existing  
152 Contractor delay.

153  
154 **(2) Delay for Permits.** For delays in the routine application and  
155 processing time required to obtain necessary permits, including  
156 permits to be obtained from State agencies, the Engineer may grant  
157 an extension provided that the permit takes longer than 30 days to  
158 acquire and the delay is not caused by the Contractor, and provided  
159 that as soon as the delay occurs, the Contractor notifies the  
160 Engineer in writing that the permits are not available. Permits  
161 required by the contract that take less than 30 days to acquire from  
162 the time which the appropriate documents are granted shall be  
163 acquired between Notice to Proceed and Start Work Date or  
164 accounted for in the contractor's progress schedule. Time  
165 extensions will be the exclusive relief granted on account of such  
166 delays.

167  
168 **(3) Delays Beyond Contractor's Control.** For delays caused by  
169 acts of God, a public enemy, fire, inclement weather days or  
170 adverse conditions resulting therefrom, earthquakes, floods,  
171 epidemics, quarantine restrictions, labor disputes impacting the  
172 Contractor or the State, freight embargoes and other reasons  
173 beyond the Contractor's control, the Contractor may be granted an  
174 extension of time provided that:

175  
176 **(a)** In the written notice of delay to the Engineer, the  
177 Contractor describes possible effects on the completion date  
178 of the contract. The description of delays shall:  
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1. State specifically the reason or reasons for the delay and fully explain in a detailed chronology how the delay affects the critical path.
  2. Include copies of pertinent documentation to support the time extension request.
  3. Cite the anticipated period of delay and the time extension requested.
  4. State either that the above circumstances have been cleared and normal working conditions restored as of a certain day or that the above circumstances will continue to prevent completion of the project.

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

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

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

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

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

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- 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.

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(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

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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.

359 **(2) For Contracts Which Have A Contract Amount More Than**  
360 **\$2,000,000 Or Having A Contract Time Of More Than 100**  
361 **Working Days Or 140 Calendar Days.** For contracts which have a  
362 contract amount more than \$2,000,000 or contract time of more than  
363 100 working days or 140 calendar days, the Contractor shall submit  
364 a Timed-Scaled Logic Diagram (TSLD) meeting the following  
365 requirements and having these essential and distinctive elements:  
366

367 **(a)** The information and requirements listed in Subsection  
368 108.06(A)(1) – For Contracts \$2,000,000 or Less or For  
369 Contract Time 100 Working Days or 140 Calendar Days or  
370 Less.

371  
372 **(b)** Additional reports and graphics available from the  
373 software as requested by the Engineer.

374  
375 **(c)** Sufficient detail to allow at least weekly monitoring of  
376 the Contractor and subcontractor's operations.  
377

378 **(d)** The time scaled schematic shall be on a calendar or  
379 working days basis. What will be used shall be determined by  
380 how the contract keeps track of time. It will be the same. Plot  
381 the critical calendar dates anticipated.  
382

383 **(e)** Breakdown of activity, such as forming, placing  
384 reinforcing steel, concrete pouring and curing, and stripping  
385 in concrete construction. Indicate location of work to be done  
386 in such detail that it would be easily determined where work  
387 would be occurring within approximately 200 feet.  
388

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

390  
391 **(g)** Identify responsible subcontractor, supplier, and others  
392 for their respective activity.  
393

394 **(h)** No individual activity shall have duration of more than  
395 20 calendar days unless requested and approved by the  
396 Engineer.  
397

398 **(i)** All activities shall have work breakdown structure  
399 codes and activity codes. The activity codes shall have  
400 coding that incorporates information for phase, location, who  
401 is responsible for doing work and type of operation and  
402 activity description.  
403

404 (j) Incorporate all physical access and availability  
405 restraints.

406

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

409

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

432

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

436

437 (1) Four sets of the TSLD schedule.

438

439 (2) All the software files and data to re-create the TSLD in a  
440 computerized software format as specified by the Engineer.

441

442 (3) A listing of equipment that is anticipated to be used on the  
443 project. Including the type, size, make, year of manufacture, and all  
444 information necessary to identify the equipment in the Rental Rate  
445 Blue Book for Construction Equipment.

446

447 (4) An anticipated manpower requirement graph plotting contract  
448 time and total manpower requirement. This may be superimposed  
449 over the payment graph.

450

451 (5) A Method Statement that is a detailed narrative describing the  
 452 work to be done and the method by which the work shall be  
 453 accomplished for each major activity. A major activity is an activity  
 454 that has one or more of the following:

- 455
- 456 (a) Has a duration longer than five days.
  - 457
  - 458 (b) Is a milestone activity.
  - 459
  - 460 (c) Is a contract item that exceeds \$10,000 on the contract  
 461 cost proposal.
  - 462
  - 463 (d) Is a critical path activity.
  - 464
  - 465 (e) Is an activity designated as such by the Engineer.
  - 466

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

- 469
- 470 (a) Quantity, type, make, and model of equipment.
  - 471
  - 472 (b) The manpower to do the work, specifying worker  
 473 classification.
  - 474
  - 475 (c) The production rate per eight hour day, or the working  
 476 hours established by the contract documents needed to meet  
 477 the time indicated on the schedule. If the production rate is  
 478 not for eight hours, the number of working hours shall be  
 479 indicated.
  - 480
  - 481 (6) Two sets of color time-scaled project evaluation and review  
 482 technique charts ("PERT") using the activity box template of Logic –  
 483 Early Start or such other template designated by the Engineer.
  - 484

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

487

**(E) Contractor's Continuing Schedule Submittal Requirements.**  
 488 After the acceptance of the initial TSLD and when construction starts, the  
 489 Contractor shall submit four plotted progress schedules, two PERT charts,  
 490 and reports on all construction activities every two weeks (bi-weekly). This  
 491 scheduled bi-weekly submittal shall also include an updated version of the  
 492 project schedule in a computerized software format as specified by the  
 493 Engineer. The submittal shall have all the information needed to re-create  
 494 that time period's TSLD plot and reports. The bi-weekly submittal shall  
 495 include, but not limited to, an update of activities based on actual durations,  
 496

## 108.06

497 all new activities and any changes in duration or start or finish dates of any  
498 activity.

499  
500 The Contractor shall submit with every update, in report form  
501 acceptable to the Engineer, a list of changes to the progress schedule since  
502 the previous schedule submittal. The Engineer may change the frequency  
503 of the submittal requirements but may not require a submittal of the  
504 schedule to be more than once a week. The Engineer may decrease the  
505 frequency of the submittal of the bi-weekly schedule.

506  
507 The Contractor shall submit updates of the anticipated work  
508 completion graph, equipment listing, manpower requirement graph or  
509 method statement when requested by the Engineer. The Contractor shall  
510 submit such updates within 4 calendar days from the date of the request by  
511 the Engineer.

512  
513 The Engineer may withhold progress payment until the Contractor is  
514 in compliance with all schedule update requirements

515  
516 **(F) Float.** All float appearing on a schedule is a shared commodity.  
517 Float does not belong to or exist for the exclusive use or benefit of either  
518 the State or the Contractor. The State or the Contractor has the opportunity  
519 to use available float until it is depleted. Float has no monetary value.

520  
521 **(G) Scheduled Meetings.** The Contractor shall meet on a bi-weekly  
522 basis with the Engineer to review the progress schedule. The Contractor  
523 shall have someone attending the meeting that can answer all questions on  
524 the TSLD and other schedule related submittals.

525  
526 **(H) Accelerated Schedule; Early Completion.** If the Contractor  
527 submits an accelerated schedule (shorter than the contract time), the  
528 Engineer's review and acceptance of an accelerated schedule does not  
529 constitute an agreement or obligation by the State to modify the contract  
530 time or completion date. The Contractor is solely responsible for and shall  
531 accept all risks and any delays, other than those that can be directly and  
532 solely attributable to the State, that may occur during the work, until the  
533 contract completion date. The contract time or completion date is  
534 established for the benefit of the State and cannot be changed without an  
535 appropriate change order or Substantial Completion granted by the State.  
536 The State may accept the work before the completion date is established,  
537 but is not obligated to do so.

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

545  
 546 **(I) Contractor Responsibilities.** The Contractor shall promptly  
 547 respond to any inquiries from the Engineer regarding any schedule  
 548 submission. The Contractor shall adjust the schedule to address directives  
 549 from the Engineer and shall resubmit the TSLD package to the Engineer  
 550 until the Engineer finds it acceptable.

551  
 552 The Contractor shall perform the work in accordance with the  
 553 submitted TSLD. The Engineer may require the Contractor to provide  
 554 additional work forces and equipment to bring the progress of the work into  
 555 conformance with the TSLD at no increase in contract price or contract time  
 556 whenever the Engineer determines that the progress of the work does not  
 557 insure completion within the specified contract time.

558  
 559 **108.07 Weekly Meeting.** In addition to the bi-weekly schedule meetings, the  
 560 Contractor shall be available to meet once a week with the Engineer at the time  
 561 and place as determined by the Engineer to discuss the work and its progress  
 562 including but not limited to, the progress of the project, potential problems,  
 563 coordination of work, submittals, erosion control reports, etc. The Contractor's  
 564 personnel attending shall have the authority to make decisions and answer  
 565 questions.

566  
 567 The Contractor shall bring to weekly meetings a detailed work schedule  
 568 showing the next three weeks' work. Directly submit an informational copy of the  
 569 three-week schedule to the Material Testing Research Branch (MTRB) on the  
 570 same day as the weekly meeting is held or was to be held. An informational copy  
 571 is for informational use only and requires no response or further action from the  
 572 MTRB. Number of copies of the detailed work schedule to be submitted will be  
 573 determined by the Engineer. The three-week schedule is in addition to the TSLD  
 574 and shall in no way be considered as a substitute for the TSLD or vice versa. The  
 575 three-week schedule shall show:

576  
 577 **(a)** All construction events, traffic control and BMP related activities in  
 578 such detail that the Engineer will be able to determine at what location and  
 579 type of work will be done for any day for the next three weeks. This is for  
 580 the State to use to plan its manpower requirements for that time period.

581  
 582 **(b)** The duration of all events and delays.

583

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

587  
588 (d) Critical submittals and requests for information (RFI's).

589  
590 (e) The project title, project number, date created, period the schedule  
591 covers, Contractor's name and creator of the schedule on each page.

592  
593 Two days prior to each weekly meeting, the Contractor shall submit  
594 a list of outstanding submittals, RFIs and issues that require discussion.

595  
596 **108.08 Liquidated Damages for Failure to Complete the Work or Portions**  
597 **of the Work on Time.** The actual amount of damages resulting from the  
598 Contractor's failure to complete the contract in a timely manner is difficult to  
599 accurately determine. Therefore, the amount of such damages shall be liquidated  
600 damages as set forth herein and in the special provisions. The State may, at its  
601 discretion, deduct the amount from monies due or that may become due under the  
602 contract.

603  
604 When the Contractor fails to reach substantial completion of the work for  
605 which liquidated damages are specified, within the time or times fixed in the  
606 contract or any extension thereof, in addition to all other remedies for breach that  
607 may be available to the State, the Contractor shall pay liquidated damages to the  
608 State, in the amount of \$1,300 per working day.

609  
610 (A) **Liquidated Damages Upon Termination.** If the State terminates  
611 on account of Contractor's default, liquidated damages may be charged  
612 against the defaulting Contractor and its surety until final completion of  
613 work.

614  
615 (B) **Liquidated Damages for Failure to Complete the Punchlist.** The  
616 Contractor shall complete the work on any punchlist created after the pre-  
617 final inspection, within the contract time or any extension thereof.

618  
619 When the Contractor fails to complete the work on such punchlist  
620 within the contract time or any extension thereof, the Contractor shall pay  
621 liquidated damages to the State of 20 percent of the amount of liquidated  
622 damages established for failure to substantially complete the work within  
623 contract time. Liquidated damages shall not be assessed for the period  
624 between:

625  
626 (1) Notice from the Contractor that the project is substantially  
627 complete and the time the punchlist is delivered to the Contractor.

628

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

631  
632                   (3)    The date of the Final Inspection that results in Substantial  
633                   Completion and the receipt by the Contractor of the written notice of  
634                   Substantial Completion.

635  
636                   **(C)    Actual Damages Recoverable If Liquidated Damages Deemed**  
637                   **Unenforceable.** In the event a court of competent jurisdiction holds that  
638                   any liquidated damages assessed pursuant to this contract are  
639                   unenforceable, the State will be entitled to recover its actual damages for  
640                   Contractor's failure to complete the work, or any designated portion of the  
641                   work within the time set by the contract.

642  
643                   **108.09   Rental Fees for Unauthorized Lane Closure or Occupancy.** In  
644                   addition to all other remedies available to the State for Contractor's breach of the  
645                   terms of the contract, the Engineer will assess the rental fees in the amount of  
646                   \$500 for every one-to fifteen-minute increment or portion thereof, for each location,  
647                   for each roadway lane closed to public use or encroached upon or occupied  
648                   beyond the time periods authorized in the contract or by the Engineer. The State  
649                   may, at its discretion, deduct the amount from monies due or that may become  
650                   due under the contract. The rental fee may be waived in whole or part if the  
651                   Engineer determines that the unauthorized period of lane closure or occupancy  
652                   was due to factors beyond the control of the Contractor. Equipment breakdown is  
653                   not a cause to waive lane rental fees.

654  
655                   **108.10   Suspension of Work.**

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

661  
662                   (1)    Weather or soil conditions considered unsuitable for  
663                   prosecution of the work.

664  
665                   (2)    Whenever a redesign that may affect the work is deemed  
666                   necessary by the Engineer.

667  
668                   (3)    Unacceptable noise or dust arising from the construction even  
669                   if it does not violate any law or regulation.

670  
671                   (4)    Failure on the part of the Contractor to:

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673                   (a)    Correct conditions unsafe for the general public or for  
674                   the workers.

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(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.

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

722  
723 **(E) Claims for Adjustment.** Any adjustment in contract price made  
724 shall be determined in accordance with Subsections 104.02 – Changes and  
725 104.06 – Methods of Price Adjustment.

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

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

742  
743 **108.11 Termination of Contract for Cause.**

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

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

## 108.06

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**(C) Costs and Charges.** All costs and charges incurred by the State, 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.

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

813  
814 **(1)** Any completed work.

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

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

828  
829 **(D) Compensation.**

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

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

847  
848 **(3)** Absent complete agreement, the Engineer will pay the  
849 Contractor the following amounts less any payments previously  
850 made under the contract:

851  
852 **(a)** The cost of all contract work performed prior to the  
853 effective date of the notice of termination work plus a 5  
854 percent markup on the actual direct costs, including amounts  
855 paid to subcontractor, less amounts paid or to be paid for

## 108.06

856 completed portions of such work; provided, however, that if it  
857 appears that the Contractor would have sustained a loss if the  
858 entire contract would have been completed, no markup shall  
859 be allowed or included and the amount of compensation shall  
860 be reduced to reflect the anticipated rate of loss. No  
861 anticipated profit or consequential damage will be due or paid.

862  
863 **(b)** Subcontractors shall be paid a markup of 10 percent on  
864 their direct job costs incurred to the date of termination. No  
865 anticipated profit or consequential damage will be due or paid  
866 to any subcontractor. These costs must not include payments  
867 made to the Contractor for subcontract work during the  
868 contract period.

869  
870 **(c)** The total sum to be paid the Contractor shall not  
871 exceed the total contract price reduced by the amount of any  
872 sales of construction supplies, and construction materials.

873  
874 **(4)** Cost claimed, agreed to, or established by the State shall be  
875 in accordance with HAR Chapter 3-123.

876  
877 **108.13 Pre-Final and Final Inspections.**

878  
879 **(A) Inspection Requirements.** Before the Engineer undertakes a final  
880 inspection of any work, a pre-final inspection must first be conducted. The  
881 Contractor shall notify the Engineer that the work has reached substantial  
882 completion and is ready for pre-final inspection.

883  
884 **(B) Pre-Final Inspection.** Before notifying the Engineer that the work  
885 has reached substantial completion, the Contractor shall inspect the project  
886 and test all installed items with all of its subcontractors as appropriate. The  
887 Contractor shall also submit the following documents as applicable to the  
888 work:

889  
890 **(1)** All written guarantees required by the contract.

891  
892 **(2)** Two accepted final field-posted drawings as specified in  
893 Section 648 – Field-Posted Drawings;

894  
895 **(3)** Complete weekly certified payroll records for the Contractor  
896 and Subcontractors.

897  
898 **(4)** Certificate of Plumbing and Electrical Inspection.

899  
900 **(5)** Certificate of building occupancy as required.

901

- 902                   (6)    Certificate of Soil and Wood Treatments.  
 903  
 904                   (7)    Certificate of Water System Chlorination.  
 905  
 906                   (8)    Certificate of Elevator Inspection, Boiler and Pressure Pipe  
 907                   Inspection.  
 908  
 909                   (9)    Maintenance Service Contract and two copies of a list of all  
 910                   equipment installed.  
 911  
 912                   (10)   Current Tax clearance. The contractor will be required to  
 913                   submit an additional tax clearance certificate when the final payment  
 914                   is made.  
 915  
 916                   (11)   And any other final items and submittals required by the  
 917                   contract documents, e.g., test results, certifications, Certificate of  
 918                   Compliance, samples, pile or drilled shaft location drawings, and  
 919                   reports and final items.

920  
 921   **(C) Procedure.** When in compliance with the above requirements, the  
 922   Contractor shall notify the Engineer in writing that the project has reached  
 923   substantial completion and is ready for pre-final inspection.  
 924

925                   The Engineer will then make a preliminary determination as to  
 926                   whether or not the project is substantially complete and ready for a pre-final  
 927                   inspection. The Engineer may, in writing, postpone the pre-final inspection  
 928                   until all the items listed in Subsection 108.13(B) – Pre-Final Inspection, are  
 929                   submitted and accepted or in the sole opinion of the Engineer the work is  
 930                   not substantially complete or a combination of both. The Engineer may  
 931                   give a waiver to the Contract Document requirements for the pre-final,  
 932                   which will be written, only if the waiver can justify that it is in the best  
 933                   interest of the State to do so.  
 934

935                   If in the sole opinion of the Engineer, the project's work status is not  
 936                   substantially complete, the Engineer may deny the pre-inspection from  
 937                   being held until it is a qualifying condition. The Engineer may at its sole  
 938                   discretion provide the Contractor a punchlist of specific deficiencies in  
 939                   writing which shall be corrected or finished before the work will be ready for  
 940                   a pre-final inspection. The Engineer needs to do so only if in its sole  
 941                   opinion the project's status of the work is near or at an acceptable condition  
 942                   for a pre-final inspection. The Contractor shall use due diligence to make  
 943                   the project's work status acceptable for a pre-final inspection before  
 944                   requesting one. The Engineer may add to or otherwise modify this punchlist  
 945                   from time to time. The Contractor shall take immediate action to correct the  
 946                   deficiencies and must repeat all steps described above including written  
 947                   notification.

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If the Engineer finds the work status is substantially complete after a pre-final inspection but finds deficiencies that are required to be corrected before the work is ready for a final inspection, the Engineer will prepare in writing and deliver to the Contractor a punchlist describing such deficiencies.

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.

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

993 deficiencies by whatever method it deems appropriate and deduct the cost  
 994 from any payments due the Contractor.

995

996 **108.14 Substantial Completion and Final Acceptance.**

997

998 **(A) Substantial Completion.** When the Engineer finds that the  
 999 Contractor has satisfactorily completed all work for the project in  
 1000 compliance with the contract, with the exception of the planting period and  
 1001 the plant establishment period, the Engineer will notify the Contractor, in  
 1002 writing, of the project's substantial completion, effective as of the date of the  
 1003 final inspection. The substantial completion date shall determine end of  
 1004 contract time and relieve contractor of any additional accumulation of  
 1005 liquidated damages for failure to complete the punchlist.

1006

1007 **(B) Final Acceptance.** When the Engineer finds that the Contractor has  
 1008 satisfactorily completed all contract work in compliance with the contract  
 1009 including all plant establishment requirements, and all the materials have  
 1010 been accepted by the State, the Engineer will issue a Final Acceptance  
 1011 Letter. The Final Acceptance date shall determine the commencement of  
 1012 all guaranty periods subject to Subsection 108.16 – Contractor's  
 1013 Responsibility for Work; Risk of Loss or Damage.

1014

1015 **108.15 Use of Structure or Improvement.** The State has the right to use the  
 1016 structure, equipment, improvement, or any part thereof, at any time after it is  
 1017 considered by the Engineer as available. In the event that the structure,  
 1018 equipment or any part thereof is used by the State before final acceptance, the  
 1019 Contractor is not relieved of its responsibility to protect and preserve all the work  
 1020 until final acceptance.

1021

1022 **108.16 Contractor's Responsibility for Work; Risk of Loss or Damage.**  
 1023 Until the written notice of final acceptance has been received, the Contractor shall  
 1024 take every precaution against loss or damage to any part of the work by the action  
 1025 of the elements or from any other cause whatsoever, whether arising from the  
 1026 performance or from the non-performance of the work. The Contractor shall  
 1027 rebuild, repair, restore and make good all loss or damage to any portion of the  
 1028 work resulting from any cause before its receipt of the written notice of final  
 1029 acceptance and shall bear the risk and expense thereof.

1030

1031 The risk of loss or damage to the work from any hazard or occurrence that  
 1032 may or may not be covered by a builder's risk policy is that of the Contractor and  
 1033 Surety, unless such risk of loss is placed elsewhere by express language in the  
 1034 contract documents.

1035

1036 **108.17 Guarantee of Work.**

1037

## 108.06

1038 (1) Regardless of, and in addition to, any manufacturers' warranties, all  
1039 work and equipment shall be guaranteed by the Contractor against defects  
1040 in materials, equipment or workmanship for one year from the date of final  
1041 acceptance or as otherwise specified in the contract documents.

1042  
1043 (2) When the Engineer determines that repairs or replacements of any  
1044 guaranteed work and equipment is necessary due to materials, equipment,  
1045 or workmanship which are inferior, defective, or not in accordance with the  
1046 terms of the contract, the Contractor shall, at no increase in contract price  
1047 or contract time, and within five working days of receipt of written notice  
1048 from the State, commence to all of the following:

1049  
1050 (a) Correct all noted defects and make replacements, as directed  
1051 by the Engineer, in the equipment and work.

1052  
1053 (b) Repair or replace to new or pre-existing condition any  
1054 damages resulting from such defective materials, equipment or  
1055 installation thereof.

1056  
1057 (3) The State will be entitled to the benefit of all manufacturers and  
1058 installers warranties that extend beyond the terms of the Contractor's  
1059 guaranty regardless of whether or not such extended warranty is required  
1060 by the contract documents. The Contractor shall prepare and submit all  
1061 documents required by the providers of such warranties to make them  
1062 effective, and submit copies of such documents to the Engineer. If an  
1063 available extended warranty cannot be transferred or assigned to the State  
1064 as the ultimate user, the Contractor shall notify the Engineer who may direct  
1065 that the warranted items be acquired in the name of the State as purchaser.

1066  
1067 (4) If a defect is discovered during a guarantee period, all repairs and  
1068 corrections to the defective items when corrected shall be guaranteed for a  
1069 new duration equal to the original full guarantee period. The running of the  
1070 guarantee period shall be suspended for all other work affected by any  
1071 defect. The guarantee period for all other work affected by any such defect  
1072 shall restart for its remaining duration upon confirmation by the Engineer  
1073 that the deficiencies have been repaired or remedied.

1074  
1075 (5) Nothing in this section is intended to limit or affect the State's rights  
1076 and remedies arising from the discovery of latent defects in the work after  
1077 the expiration of any guarantee period.

1078  
1079 **108.18 No Waiver of Legal Rights.** The following will not operate or be  
1080 considered as a waiver of any portion of the contract, or any power herein  
1081 reserved, or any right to damages provided herein or by law:

1082  
1083 (1) Any payment for, or acceptance of, the whole or any part of the work.

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(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**



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claims have been fully and completely discharged or otherwise satisfied.”

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

81 **(A) Preconstruction Requirements.**  
82

83 **(1) Water Pollution, Dust, and Erosion Control Meeting.**  
84 Schedule a water pollution, dust, and erosion control meeting with the  
85 Engineer after Site-Specific BMP is accepted in writing by the  
86 Engineer. Meeting shall be scheduled a minimum of 7 calendar days  
87 prior to the Start Work Date. Discuss sequence of work, plans and  
88 proposals for water pollution, dust, and erosion control.  
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 1. An identification of potential pollutants and their  
101 sources.
- 102 2. A list of all materials and heavy equipment to be  
103 used during construction.
- 104 3. Descriptions of the methods and devices used to  
105 minimize the discharge of pollutants into State waters,  
106 drainage or sewer systems.
- 107 4. Details of the procedures used for the  
108 maintenance and subsequent removal of any erosion or  
109 siltation control devices.
- 110 5. Methods of removing and disposing hazardous  
111 wastes encountered or generated during construction.
- 112 6. Methods of removing and disposing concrete and  
113 asphalt pavement cutting slurry, concrete curing water,  
114 and hydrodemolition water.
- 115 7. Spill Control and Prevention and Emergency Spill  
116 Response Plan.
- 117 8. Fugitive dust control, including dust from grinding,  
118 sweeping, or brooming off operations or combination  
119 thereof.
- 120 9. Methods of storing and handling of oils, paints  
121 and other products used for the project.
- 122 10. Material storage and handling areas, and other  
123 staging areas.
- 124 11. Concrete truck washouts.

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- 12.** Concrete waste control.
- 13.** Fueling and maintenance of vehicles and other equipment.
- 14.** Tracking of sediment offsite from project entries and exits.
- 15.** Litter management.
- 16.** Toilet facilities.
- 17.** Other factors that may cause water pollution, dust and erosion control.

**(b)** Provide plans indicating location of water pollution, dust and erosion control devices; provide plans and details of BMPs to be installed or utilized; show areas of soil disturbance in cut and fill, indicate areas used for construction staging and storage including items (1) through (17) above, storage of aggregate (indicate type of aggregate), asphalt cold mix, soil or solid waste, equipment and vehicle parking, and show areas where vegetative practices are to be implemented. Indicate intended drainage pattern on plans. Include flow arrows. Include separate drawing for each phase of construction that alters drainage patterns. Indicate approximate date when device will be installed and removed.

**(c)** Construction schedule.

**(d)** Name(s) of specific individual(s) designated responsible for water pollution, dust, and erosion controls on the project site. Include home, cellular, and business telephone numbers, fax numbers, and e-mail addresses.

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

**(f)** For projects with an NPDES Permit for Construction Activities, submit information to address all sections in the Storm Water Pollution Prevention Plan (SWPPP).

**(g)** For projects with an NPDES Permit, information required for compliance with the conditions of the Notice of General Permit Coverage (NGPC)/NPDES Permit.

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

225 If necessary, furnish and install rain gage in a secure location prior to  
226 field work including installation of site-specific BMP. Provide rain gage with  
227 a tolerance of at least 0.05 inches of rainfall. Install rain gage on project site  
228 in an area that will not deter rainfall from entering the gate opening. Do not  
229 install in a location where rain water may splash into rain gage. The rain  
230 gage installation shall be stable and plumbed. Maintain rain gage and  
231 replace rain gage that is stolen, does not function properly or accurately, is  
232 worn out, or needs to be relocated. Do not begin field work until rain gage is  
233 installed and Site-Specific BMPs are in place. Rain gage data logs shall be  
234 readily available. Submit rain gage data logs weekly to the Engineer.  
235

236 Address all comments received from the Engineer.  
237

238 Modify and resubmit plans and construction schedules to correct  
239 conditions that develop during construction which were unforeseen during  
240 the design and pre-construction stages.  
241

242 Coordinate temporary control provisions with permanent control  
243 features throughout the construction and post-construction period.  
244

245 Limit maximum surface area of earth material exposed at any time to  
246 300,000 square feet. Do not expose or disturb surface area of earth material  
247 (including clearing and grubbing) until BMP measures are installed and  
248 accepted in writing by the Engineer. Protect temporarily or permanently  
249 disturbed soil surface from rainfall impact, runoff and wind before end of the  
250 work day.  
251

252 Immediately initiate stabilizing exposed soil areas upon completion of  
253 earth disturbing activities for areas permanently or temporarily ceased on any  
254 portion of the site. Earth-disturbing activities have permanently ceased when  
255 clearing and excavation within any area of the construction site that will not  
256 include permanent structures has been completed. Earth-disturbing  
257 activities have temporarily ceased when clearing, grading, and excavation  
258 within any area of the site that will not include permanent structures will not  
259 resume for a period of 14 or more calendar days, but such activities will  
260 resume in the future. The term "immediately" is used in this section to define  
261 the deadline for initiating stabilization measures. "Immediately" means as  
262 soon as practicable, but no later than the end of the next work day, following  
263 the day when the earth-disturbing activities have temporarily or permanently  
264 ceased.  
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266 For projects with an NPDES Permit for Construction activities:  
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**(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:

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

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

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

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

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

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

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

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

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

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

365  
366 Chemicals may be used as soil stabilizers for either or both erosion  
367 and dust control if acceptable to the Engineer.

368  
369 Provide temporary slope drains of rigid or flexible conduits to carry  
370 runoff from cuts and embankments. Provide portable flume at the entrance.  
371 Shorten or extend temporary slope drains to ensure proper function.

372  
373 Protect ditches, channels, and other drainageways leading away from  
374 cuts and fills at all times by either:

- 375  
376 (1) Hydro-mulching the lower region of embankments in the  
377 immediate area.  
378  
379 (2) Installing check dams and siltation control devices.  
380  
381 (3) Other methods acceptable to the Engineer.

382  
383 Provide for controlled discharge of waters impounded, directed, or  
384 controlled by project activities or erosion control measures.

385  
386 Cover exposed surface of materials completely with tarpaulin or  
387 similar device when transporting aggregate, soil, excavated material or  
388 material that may be source of fugitive dust.

389  
390 Cleanup and remove any pollutant that can be attributed to the  
391 Contractor.

392  
393 Install or modify Site-Specific BMP measures due to change in the  
394 Contractor's means and methods, or for omitted condition that should have  
395 been allowed for in the accepted Site-Specific BMP or a Site-Specific BMP  
396 that replaces an accepted Site-Specific BMP that is not satisfactorily  
397 performing. Modifications to Site-Specific BMP measures shall be accepted  
398 in writing by the Engineer prior to implementation.

399  
400 Properly maintain all Site-Specific BMP measures.

401  
402 For projects with an NPDES Permit for Construction Activities:

403

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

- 407
- 408 (a) Weekly.
- 409
- 410 (b) Within 24 hours of any rainfall of 0.25 inch or greater  
411 which occurs in a 24-hour period.
- 412
- 413 (c) When existing erosion control measures are damaged  
414 or not operating properly as required by Site-Specific BMP.
- 415

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

- 419
- 420 (a) Weekly.
- 421
- 422 (b) When existing erosion control measures are damaged  
423 or not operating properly as required by Site-Specific BMP.
- 424

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

- 428
- 429 (a) Weekly.
- 430
- 431 (b) When existing erosion control measures are damaged  
432 or not operating properly as required by Site-Specific BMP.
- 433

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

437

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

441

442 The Contractor's designated representative specified in Subsection  
443 209.03(A)(2)(d) shall address any Site-Specific BMP deficiencies brought up  
444 by the Engineer immediately, including weekends and holidays, and  
445 complete work to fix the deficiencies by the close of the next work day if the  
446 problem does not require significant repair or replacement, or if the problem  
447 can be corrected through routine maintenance. Address any Site-Specific  
448 BMP deficiencies brought up by the State's Third-Party Inspector in the  
449 timeframe above or as specified in the Consent Decree or MS4 NPDES

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

473  
474 **(C) Discharges of Storm Water Associated with Construction**  
475 **Activities.** If work includes disturbance of one acre or more, an NPDES  
476 Permit authorizing Discharges of Storm Water Associated with Construction  
477 Activity (CWB-NOI Form C) or Individual Permit authorizing storm water  
478 discharges associated with construction activity is required from the  
479 Department of Health Clean Water Branch (DOH-CWB).

480  
481 Do not begin construction activities until all required conditions of the  
482 permit are met and submittals detailed in Subsection 209.03(A)(2) – Water  
483 Pollution, Dust, and Erosion Control Submittals are completed and accepted  
484 in writing by the Engineer.

485  
486 **(D) Discharges Associated with Hydrotesting Activities.** If  
487 hydrotesting activities require effluent discharge into State waters or drainage  
488 systems, an NPDES Hydrotesting Waters Permit (CWB-NOI Form F) or  
489 Individual Permit authorizing discharges associated with hydrotesting from  
490 DOH-CWB is required from the DOH-CWB.

491  
492 Do not begin hydrotesting activities until the DOH-CWB has issued an  
493 Individual NPDES Permit or Notice of General Permit Coverage (NGPC).  
494 Conduct Hydrotesting operations in accordance with the conditions of the  
495 permit or NGPC.

496 **(E) Discharges Associated with Dewatering Activities.** If dewatering  
497 activities require effluent discharge into State waters or drainage systems, an  
498 NPDES Dewatering Permit (CWB-NOI Form G) or Individual Permit  
499 authorizing discharges associated with dewatering from DOH-CWB is  
500 required from the DOH-CWB.  
501

502 Do not begin dewatering activities until the DOH-CWB has issued an  
503 Individual NPDES Permit or Notice of General Permit Coverage (NGPC).  
504 Conduct dewatering operations in accordance with the conditions of the  
505 permit or NGPC.  
506

507 **(F) Solid Waste.** Submit the Solid Waste Disclosure Form for  
508 Construction Sites to the Engineer within 21 calendar days of date of award.  
509 Provide a copy of all the disposal receipts from the facility permitted by the  
510 Department of Health to receive solid waste to the Engineer monthly. This  
511 should also include documentation from any intermediary facility where solid  
512 waste is handled or processed, or as directed by the Engineer.  
513

514 **(G) Construction BMP Training.** The Contractor's representative  
515 responsible for development of the Site-Specific BMP Plan and  
516 implementation of Site-Specific BMPs in the field shall attend the State's  
517 Construction Best Management Practices Training. The Contractor shall  
518 keep training logs updated and readily available.  
519

520 **209.04 Measurement.**

521  
522 **(A)** Installation, maintenance, monitoring, and removal of BMP will be paid  
523 on a lump sum basis. Measurement for payment will not apply.  
524

525 **(B)** The Engineer will only measure additional water pollution, dust and  
526 erosion control required and requested by the Engineer on a force account  
527 basis in accordance with Subsection 109.06 – Force Account Provisions and  
528 Compensation.  
529

530 **209.05 Payment.** The Engineer will pay for accepted pay items listed below at  
531 contract price per pay unit, as shown in the proposal schedule. Payment will be full  
532 compensation for work prescribed in this section and contract documents.  
533

534 The Engineer will pay for each of the following pay items when included in  
535 proposal schedule:  
536

537 <b>Pay Item</b>	538 <b>Pay Unit</b>
539 Installation, Maintenance, Monitoring, and Removal of BMP	Lump Sum
540 Additional Water Pollution, Dust, and Erosion Control	Force Account

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542

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

562 **Appendix A**

563

564 The following list identifies potential pollutant sources and corresponding  
565 BMPs used to mitigate the pollutants. Each BMP is referenced to the corresponding  
566 section of the current HDOT Construction Best Management Practices Field Manual  
567 or appropriate Supplemental Sheets. The Manual may be obtained from the HDOT  
568 Statewide Stormwater Management Program Website at  
569 <http://www.stormwaterhawaii.com/resources/contractors-and-consultants/> under  
570 Construction Best Management Practices Field Manual. Supplemental BMP sheets  
571 are located at [http://www.stormwaterhawaii.com/resources/contractors-and-](http://www.stormwaterhawaii.com/resources/contractors-and-consultants/storm-water-pollution-prevention-plan-swppp/)  
572 [consultants/storm-water-pollution-prevention-plan-swppp/](http://www.stormwaterhawaii.com/resources/contractors-and-consultants/storm-water-pollution-prevention-plan-swppp/) under Concrete Curing  
573 and Irrigation Water.  
574

<b>Pollutant Source</b>	<b>Appropriate Site-Specific BMP to be Implemented</b>	<b>BMP Requirements</b>
<p>Construction debris, green waste, general litter</p>	<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>	<p>See Solid Waste Management Section SM-6. Storm Drain Inlet Protection SC-1, and Perimeter Sediment Controls where applicable.</p>

<b>Pollutant Source</b>	<b>Appropriate Site-Specific BMP to be Implemented</b>	<b>BMP Requirements</b>
<p>Materials associated with the operation and maintenance of equipment, such as oil, fuel, and hydraulic fluid leakage</p>	<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 cleanup 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>	<p>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.</p>

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

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<b>Pollutant Source</b>	<b>Appropriate Site-Specific BMP to be Implemented</b>	<b>BMP Requirements</b>
		<p><i>Controlling Storm Water Flowing onto and Through the Project</i></p> <ol style="list-style-type: none"> <li>1. <i>EC-3 Run-On Diversion</i></li> <li>2. <i>EC-5 Earth Dike, Swales and Ditches</i></li> </ol> <p><i>Post Construction BMPs</i></p> <ol style="list-style-type: none"> <li>1. <i>EC-2 Flared Culvert End Sections</i></li> <li>2. <i>EC-10 Rip-Rap and Gabion Inflow Protection</i></li> <li>3. <i>EC-8 Outlet Protection and Velocity Dissipation Devices</i></li> <li>4. <i>SM-22 Topsoil Management</i></li> </ol> <p><i>Non-Structural BMPs</i></p> <ol style="list-style-type: none"> <li>1. <i>SM-1 Construction BMP Training</i></li> <li>2. <i>SM-14 Scheduling</i></li> <li>3. <i>SM-15 Location of Potential Sources of Sediment</i></li> <li>4. <i>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>
Sediment from soil stockpiles	<ul style="list-style-type: none"> <li>• 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.</li> <li>• Place bagged materials on pallets and under cover.</li> <li>• Provide physical diversion to protect stockpiles from concentrated runoff.</li> <li>• Cover stockpiles with plastic or comparable material when practicable.</li> <li>• Place silt fence, fiber filtration tubes, or straw wattles around stockpiles.</li> <li>• 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.</li> <li>• Unless infeasible, contain and securely protect stockpiles from the wind.</li> <li>• Provide Storm Drain Inlet Protection and/or Perimeter Sediment Controls as applicable. See Stockpile Management Section SM-3 for additional requirements.</li> </ul>	See Stockpile Management Section SM-3. Storm Drain Inlet Protection SC-1, and Perimeter Sediment Controls where applicable.
Emulsified asphalt or prime/tack coat	<ul style="list-style-type: none"> <li>• Provide training for employees and contractors on proper material delivery and storage practices and procedures.</li> <li>• Restrict paving operations during wet weather to prevent paving materials from being discharged.</li> <li>• Use asphalt emulsions such as prime coat when possible.</li> <li>• Protect drain inlet structures and manholes during application of tack coat, seal coat, slurry seal, and fog seal.</li> <li>• Keep ample supplies of drip pans and absorbent materials on site.</li> <li>• Inspect inlet protection devices.</li> <li>• See Material Storage and Handling Section SM-2 and Paving Operations Section SM-20 for additional requirements.</li> <li>• Provide Storm Drain Inlet Protection and/or Perimeter Sediment Controls as applicable.</li> </ul>	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.

<b>Pollutant Source</b>	<b>Appropriate Site-Specific BMP to be Implemented</b>	<b>BMP Requirements</b>
<p><i>Materials associated with painting, such as paint and paint wash solvent</i></p>	<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>Dispose container only after all of the product has been used.</i></li> <li>• <i>Remove as much paint from brushes on painted surface.</i></li> <li>• <i>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.</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>Do not dump liquid wastes into the storm drainage system.</i></li> <li>• <i>Filter and re-use solvents and thinners.</i></li> <li>• <i>Dispose of oil-based paints and residue as a hazardous waste.</i></li> <li>• <i>Ensure collection, removal, and disposal of hazardous waste complies with regulations.</i></li> <li>• <i>Immediately clean up spills and leaks.</i></li> <li>• <i>Properly store paints, solvents, and epoxy compounds.</i></li> <li>• <i>Properly store and dispose waste materials generated from painting and structure repair and construction activities.</i></li> <li>• <i>Mix paints in a covered and contained area, when possible, to minimize adverse impacts from spills.</i></li> <li>• <i>Do not apply traffic paint or thermoplastic if rain is forecasted.</i></li> <li>• <i>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.</i></li> </ul> <p><i>Provide Storm Drain Inlet Protection and/or Perimeter Sediment Controls as applicable.</i></p>	<p><i>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.</i></p>

<b>Pollutant Source</b>	<b>Appropriate Site-Specific BMP to be Implemented</b>	<b>BMP Requirements</b>
<p><i>Industrial chemicals, fertilizers, and/or pesticides</i></p>	<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>	<p><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></p>

<b>Pollutant Source</b>	<b>Appropriate Site-Specific BMP to be Implemented</b>	<b>BMP Requirements</b>
	<ul style="list-style-type: none"> <li>• <i>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.</i></li> <li>• <i>See Material Storage and Handling Use SM-2, and Hazardous Materials and Waste Management Section SM-9 for additional requirements.</i></li> </ul>	
<p><i>Hazardous waste (Batteries, Solvents, Treated Lumber, etc.)</i></p>	<ul style="list-style-type: none"> <li>• <i>Do not dispose of toxic materials in dumpsters allocated for construction debris.</i></li> <li>• <i>Ensure collection, removal, and disposal of hazardous waste complies with regulations.</i></li> <li>• <i>Hazardous waste that cannot be reused or recycled shall be disposed of by a licensed hazardous waste hauler.</i></li> <li>• <i>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.</i></li> <li>• <i>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.</i></li> <li>• <i>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.</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 continuation of an ongoing discharge.</i></li> </ul>	<p><i>See Hazardous Materials and Waste Management Section SM-9 and Vehicle and Equipment Maintenance SM-12</i></p>

<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>	<i>See Solid Waste Management Section SM-6</i>
<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>	<i>See Waste Management, Contaminated Soil Management Section SM-8 and/or Hazardous Materials and Waste Management Section SM-9</i>

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

<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.</i></li> </ul> <i>Provide Storm Drain Inlet Protection and/or Perimeter Sediment Controls as applicable.</i>	<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**

1 Make this section a part of the Standard Specifications:  
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4 **“SECTION 219 – DETERMINATION AND CHARACTERIZATION OF FILL**  
5 **MATERIAL**  
6

7 **219.01 Description.** This section describes determination and characterization of  
8 fill material for project sites.  
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10 Requirements of this section apply to all waste generated from construction  
11 and demolition (C&D) activities on the project.  
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13 **219.02 Definitions.**  
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15 **(A) Inert Fill Material.** Inert Fill Material is defined in the Hawaii Revised  
16 Statutes (HRS) 342H-1. Materials that do not meet this definition shall be  
17 disposed of at the appropriate Hawaii Department of Health (HDOH) Solid and  
18 Hazardous Waste Branch permitted solid waste management facility.  
19

20 The January 2008 State of Hawaii Department of Transportation,  
21 Highways Division, Construction Best Management Practices Field Manual,  
22 specifies inert fill material shall not be contaminated with asbestos or lead-  
23 based paint. In addition, inert fill materials do not decompose or produce  
24 leachate or other products harmful to the environment.  
25

26 **(B) Lead-Based Paint (LBP).** Lead Based Paint (LBP) is defined by  
27 Section 403 of the Toxic Substance Control Act (TSCA), as amended by the  
28 Environmental Protection Agency (EPA) or as defined in approved subsequent  
29 revisions.  
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31 **219.03 Construction.**  
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33 **(A) Preconstruction Requirements.** Retain the services of an  
34 Environmental Professional as accepted by the Engineer. Submit  
35 documentation the Environmental Professional has a minimum of five (5) years  
36 of experience in solid and hazardous waste management and fill material  
37 characterization within 30 calendar days of contract certification date.  
38

39 **(B) Construction Requirements.**  
40

41 **(1) Reclassification of Solid Waste into Inert Fill Material.** If  
42 reclassifying solid waste as inert fill, obtain written acceptance from  
43 the Engineer before following the requirements of Section 219.02(A)  
44 Inert Fill Material.  
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46 **(2) Inert Fill Material.** The State reserves the right to reject  
47 imported fill from sources known to contain hazardous material or if

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any of the requirements in this specification are not met. The source and/or stockpiled location of the material shall remain accessible at all times to State personnel for sampling, testing, and inspection as determined by the Engineer. Prior to importing/removal of material, the Contractor shall provide the specific location and quantity of material that is to be transported to/from the project site.

**(a) Certificates.** Provide a written certificate indicating that the fill material meets the inert fill material definition specified herein. The written certificate shall include a description of the evidence (including but not limited to historical documentation of land use, test results, fill material characterization report, and/or Phase I Environmental Site Assessment) used by the Contractor to determine that the fill material is inert fill material. The written certificate shall be prepared and signed by an Environmental Professional. Submit the written certificate to the Engineer 14 calendar days before the fill material is imported to or removed from the project site. Do not import the fill material to or export the fill material from the project site until the Engineer has accepted the certificate. Revise the written certificate as requested by the Engineer until the Engineer has accepted the certificate at no additional cost to the State. If the Engineer does not accept the certificate, the fill material shall not be considered inert fill material; and the Contractor shall dispose of the fill material in accordance with all applicable Federal, State, and Local laws and regulations at no additional cost to the State.

**(b) Documentation.** Provide documentation that the material will be taken to a properly permitted site. At minimum the documentation shall include the location of the disposal site (name, address, Tax Map Key No., telephone number, and map) with a revised Solid Waste Disclosure Form to indicate the material that was reclassified as inert fill and the location that the inert fill will be taken to.

**(c) Laboratory Certification.** Samples shall be tested by a laboratory certified to perform the specific analyses.

**(d) Hawaii Department of Health Guidance Documents.** The HDOH has published guidance documents for the characterization of fill material and construction and demolition (C&D) waste. Comply with all applicable Federal, State, and Local laws and regulations. The procedures of the most recent versions of the following guidance documents or their replacements for the determination and characterization of the fill material or waste may be used as a reference:

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1. Guidance for Soil Stockpile Characterization and Evaluation of Imported and Exported Fill Material.
2. Evaluation of Fill Material for Chemical Contaminants (Fact Sheet).
3. Guidance for Construction & Demolition (C&D) Waste Disposal.
4. Technical Guidance Manual for the Implementation of the Hawai'i State Contingency Plan.

Obtain and follow the latest versions of the applicable HDOH guidance documents.

**(e) Lead Based paint Restriction.** Test for lead based paint as directed by the Engineer a minimum of five (5) working days prior to cold planing existing pavement or other demolition activities. Remove lead based paint from cold planed asphalt prior to use as a fill material. Lead based paint does not have to be removed if recycled for reclaimed asphalt for pavement.

**(C) Solid Waste.** The Contractor shall dispose of solid waste directly from the project to a Solid Waste Management Facility that is permitted by the Hawaii Department of Health (HDOH) Solid and Hazardous Waste Branch. The Contractor shall not, under any condition, temporarily store, process, or handle solid waste at an intermediate facility.

**219.04 Measurement.** Determination and characterization of fill material will be paid on a lump sum basis. Measurement for payment will not apply. The Engineer will only measure testing for lead based paint required and requested by the Engineer on a force account basis in accordance with Subsection 109.06 – Force Account Provisions and Compensation.

**219.05 Payment.** The Engineer will pay for the 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 the following pay item when included in proposal schedule:

Pay Item	Pay Unit
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142 Determination and Characterization of Fill Material Lump Sum  
143  
144 Testing for Lead Based Paint Force Account

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146 An estimated amount for force account is allocated in the proposal schedule  
147 under "Testing for Lead Based Paint", but actual amount to be paid will be the  
148 sum shown on accepted force account record, whether this sum be more or  
149 less than the estimated amount allocated in the proposal schedule.

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151 The Engineer may assess liquidated damages up to \$27,500 per day for non-  
152 compliance of each requirement, all other requirements in this section, and/or  
153 the contract shall be subject to termination under Subsection 108.11 –  
154 Termination of Contract for Cause, at the sole discretion of the Engineer.

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**END OF SECTION 219**

1 Make the following Section a part of the Standard Specifications:  
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4 **“SECTION 421 – HIGH FRICTION SURFACE TREATMENT**  
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7 **421.01 Description.** This section describes furnishing and applying a high  
8 friction surface treatment (HFST) system on a prepared surface as specified and  
9 in conformity with the lines and details shown on the plans.  
10

11 **421.02 Materials.**  
12

13 **(A) General.** Use a two-part modified exothermic epoxy or polymer resin  
14 binder treatment containing epoxy or polymer binder capable of retaining a  
15 bauxite aggregate topping under vehicle conditions. Reference to epoxy  
16 binder herein refer also to polymer binder unless otherwise specified.  
17

18 **(B) Epoxy or Polymer Binder:** The epoxy binder shall consist of a  
19 thermosetting modified epoxy compound which holds the aggregate firmly  
20 in position. The epoxy binder shall meet the requirements in TABLE  
21 421.02-1 EPOXY OR POLYMER BINDER requirements.  
22

<b>TABLE 421.02-1 EPOXY OR POLYMER BINDER</b>		
<b>Property</b>	<b>Requirements</b>	<b>Test Method</b>
Ultimate Tensile Strength	2,500 psi min.	ASTM D638
Compressive Strength	1,600 psi min.	ASTM D695
Gel Time	10 minutes min.	ASTM D2471
Water Absorption	Less than 0.50%	ASTM D570
Shore Hardness	65 min.	ASTM D2240
Viscosity	3,000 cP	ISO 2555
Cure Rate	3 hours max.	Thin Film @ 75 °F
Mixing Ratio	*	n/a

23 \*As recommended by the Manufacturer

24 Two-part epoxy materials which are not exothermic in curing and do  
25 not meet the viscosity requirements will not be allowed. Independent  
26 laboratory report documents shall be current, not older than 12 months old,  
27 and shall provide documentation that the epoxy binder meets the  
28 requirements in this section.  
29

30 **(C) Aggregate Topping:** The aggregate topping shall be a calcined  
31 bauxite consisting of a 1-3 mm nominal-size polish- and abrasion-resistant  
32 aggregate. The aggregate will be delivered to the construction site in plastic  
33 wrapped bags or super sacks, with Manufacturer's information clearly  
34 labeled. Wrapping shall protect from moisture and contamination to

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maintain aggregates clean, dry, and free from foreign matter. The aggregate shall meet the requirements in TABLE 421.02-2 AGGREGATE REQUIREMENTS.

TABLE 421.02-2 AGGREGATE REQUIREMENTS		
Property	Requirement	Test Methods
Aggregate Abrasion Value	10% max.	LA Abrasion Test
Moisture Content	0.2% max.	AASHTO T255
Aluminum Oxide	87% min.	ASTM C25
	Sieve Designation	Requirement
Aggregate Gradation	No. 6 Sieve Size	95 % min. Passing
	No. 16 Sieve Size	5% max. Passing

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**(D) Certification.** Submit certification from the manufacturer that the aggregate meets the above requirements. Submit documentation of the in-place friction characteristics (minimum 65 FN40R in accordance with ASTM E274) of aggregate bonded to a vehicular bearing surface using the modified epoxy binder.

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**(E) Storage of material.** Materials shall be stored in accordance to the manufacturer’s recommendations.

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Safety Data Sheet (SDS), Product Data Sheet, and other information pertaining to the safe practices for the storage, handling, and disposal of the materials, and to their health hazards shall be obtained from the manufacturer and posted at storage areas and shall be submitted to the Engineer.

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**421.03 Construction.**

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- (A) General:** Submit a project-specific QC plan to include the following:
- Surface preparation methods for areas where HFST is to be placed.
  - Method of protecting areas and exposed facilities not to receive HFST.
  - Method of protecting and reestablishing existing longitudinal and transverse joints and working cracks in concrete pavements and structures.
  - Type of binder to be used.
  - Certified instruments to assure that the ambient conditions are compliant. Wet film thickness gauge to make thickness measurements of the binder.
  - Binder manufacturer’s recommended mixing and placement instructions, including mixing ratios and temperatures.
  - Binder manufacturer’s estimated cure times for resin binder to be used using anticipated local ambient temperatures.

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- Method for safe storage and handling of HFST components.
- Disposal methods for excess HFST, debris, and containers for HFST components.
- Contingency plan that describes corrective actions to be taken in the event of equipment failure or material issues, etc. during HFST placement.
- Corrective actions to address irregularities or unsatisfactory final surface.

1. **Training.** QC plan must be submitted to the Engineer and accepted before training can be held. The HFST manufacturer's representative, who must be knowledgeable about the components of the HFST and its installation must train HDOT, the contractor's personnel, e.g., supervisor, foreman, operator, workers who will be involved in the HFST installation. Handouts shall be provided. The manufacturer's representative shall report to the construction site prior to surface treatment and shall be present during preparation and application for the test strip and first full location. Complete training a minimum of seven days ahead of the first installation of HFST. Topics of the training to include:

- Surface Preparation,
- Treatment of cracks and protection of working joints and cracks,
- Acceptable vs unacceptable surface conditions,
- Acceptable ambient weather conditions,
- Mixing of the binder.
- Distribution of the HFST binder and HFST aggregate
- QC procedures to be taken, e.g., wet film thickness measurements, ambient weather conditions, pavement temperature.

2. **Test Strip.** At a location chosen by the Engineer, install a test strip of the HFST. The Contractor may suggest suitable test strip locations for acceptance. The test strip shall be done before production installation of the HFST is started. The manufacturer's employed representative shall be present at the installation of the test strip. The test strip shall use all the personnel, material, equipment, i.e., means and methods the Contractor intends to use during the production of the HFST. The test strip shall demonstrate the Contractor's ability to do HFST work that meets the requirements of the Contract Documents. The Engineer may reject or deem the test strip acceptable with comments. Adjust means and methods to address the engineer's comments, or if considered extra work requiring a contract change order and additional cost or contract time or both inform the Engineer in writing.

Construct test strips of 50-linear feet minimum length and one lane

118 minimum width of the lanes within the project area. The test strip  
119 shall demonstrate the hand or mechanical application method or  
120 both if both application method is to be used and for application on  
121 AC and PCC pavements. In those cases, four test strips shall be  
122 constructed. When a mechanical method is used, check that the  
123 machine has been properly calibrated. Verify application rates and  
124 cure time. No HFST production installation shall take place until an  
125 acceptable test strip for the method used is installed. The test strip  
126 will be part of the HFST quantity of the project when accepted by the  
127 Engineer. If the test strip is not found acceptable, remove and  
128 restore test strip area. This shall be at the Contractor's cost and no  
129 additional time shall be given. Redo the test strip until it is acceptable  
130 to the Engineer. Conduct a post-installation meeting with the  
131 manufacturer's representatives, HDOT, and the Contractor's  
132 personnel after the installed test strip area has been open to traffic,  
133 and HDOT has had an opportunity to inspect the test strip area.  
134

135 3. HFST installation work must not start if any of the following conditions  
136 exist:

- 137 • Pavement surface preparation is not acceptable to the Engineer
- 138 • Pavement surface is wet
- 139 • The ambient and/or surface temperature is below 40 °F or above  
140 105° F, or when the anticipated weather conditions would prevent  
141 the proper application of the surface treatment as determined by  
142 the manufacturer's representative. Conditions include rain within  
143 6 hours of application or forecast over 40%. Recommend waiting  
144 at least 24 hours after rain before application.  
145

146 For unaccepted HFST application, square the end of the accepted HFST  
147 making an edge of the last finished HFST. Remove the remaining  
148 unfinished HFST material in a manner that will not impact the newly  
149 placed HFST or the installation of the HFST that will be placed over the  
150 area.  
151

152 **(B) Preparation.** Surfaces shall be clean, dry and free of all deleterious  
153 materials e.g. dust, oil, debris, tar, prior crack treatment etc. and any other  
154 material that might interfere with the bond between the HFST material and  
155 existing surface before the start of HFST application.

156 Use detergent or cleaners and water to remove oil. Remove  
157 detergent/cleaner-water liquid from the pavement surface to a degree that  
158 it does not affect the bonding properties of the binder to the pavement. A  
159 4,000-psi minimum hydropower washer, i.e., water blasting system, may  
160 also be used to clean and remove oil and other deleterious material from  
161 the pavement's surface. Allow pavement to dry to the required maximum  
162 allowable pavement moisture before application of HFST.

163 The texture of the concrete surface profile of the portland cement  
164 concrete surfaces must be achieved by shot blasting or hydrodemolition.

165 Shot blasting and hydrodemolition equipment must be equipped with a fully  
166 functioning vacuum recovery of shot or water and debris. When using  
167 hydrodemolition the pressure at the nozzle must be approximately 25,000  
168 psi minimum or an Engineer accepted pressure needed to achieve the  
169 required textures. The nozzles must be in close proximity to the pavement  
170 surface.

171 Existing asphalt pavement surfaces that have a seal coat or a dense  
172 mix design or are embedded with dirt and pavement with potentially  
173 detrimental contaminants must be prepared by shot blasting or water  
174 blasting.

175 Clean the concrete or asphalt pavement surfaces by using dry, oil-  
176 free compressed air (185 cfm min) and mechanical broom or with vacuum  
177 to remove all dust and other loose material. Grind, shot blast, or hydrowash  
178 any remaining concerned areas. Perform a final blowdown using 185 cfm  
179 dry, oil-free compressed air. Adequate cleaning of all surfaces must be  
180 determined by the manufacturer's employed representative and the  
181 Engineer, or solely the Engineer in the absence of the manufacturer's  
182 representative.

183 Check pavement before and after cleaning for conditions that must  
184 be addressed before application of HFST. The conditions to be addressed  
185 and recorded only and is not intended to be included within the scope of this  
186 project. Conditions include, but are not necessarily limited to:

187 Asphalt pavement

- 188 • Rutting that is 0.25 inches or deeper.
- 189 • Raveling of the surface course.
- 190 • Bleeding surface mix.
- 191 • Cracking in or outside the wheel path that covers 6 percent or  
192 more of the surface.

193 Concrete pavement, slab replacement is required for:

- 194 • Any single slab with moderate or severe distress (transverse  
195 cracking, longitudinal cracking, patching, spalling, and corner  
196 cracking).
- 197 • Any single shattered slab in more than 3 pieces.
- 198 • Cracking in or outside the wheel path that covers 6 percent or  
199 more of the surface.

200 Slab replacement must be a full-depth repair with dowels and tie-  
201 bars. The repair area must be from the existing joint to the existing  
202 joint.

203  
204 Protect utilities, drainage structures, curbs, joints and any other  
205 structure within or adjacent to the treatment location against the application  
206 of the surface treatment materials.

207  
208 Remove by grinding or using a high-pressure water blasting/hydro-  
209 blasting system with vacuum recovery of water and debris all permanent  
210 and work zone pavement markings that conflict with the surface  
211 application.

212 All wet areas must be left to dry, squeegeed, and if needed, dried  
213 with a hot torch air blaster lance/heat lance or similar drying tool accepted  
214 by the Engineer. All drying of the pavement must be completed  
215 satisfactorily before the application of HFST starts. Pavement Marking tape  
216 may be peeled or burned off; however, all remnants or burn marks must be  
217 hydro-blasted.

218 Remove all pavement markings debris with a mechanical broom with  
219 vacuum recovery of water and debris. Fill all depressions caused by the  
220 removal of the pavement markings with a binder material, letting it set  
221 before proceeding with the application of the HFST. The pavement surface  
222 cleaning must be followed by a final blowdown using 185 cfm minimum dry,  
223 oil-free compressed air before the start of the HFST application.  
224

225 Pre-treat joints and cracks, other than Portland cement concrete  
226 working joints, greater than 1/4 inches in width and depth, and as directed  
227 by the engineer, with the mixed epoxy specified herein. Treatment of joints  
228 and cracks shall be in accordance with the manufacturer's employed  
229 representative.  
230

231 HFST application must not start until the binder in the pre-treated  
232 joints and cracks has gelled. Consider, be attentive to, and make  
233 accommodations for conditions that may affect gel time of the binder. e.g.,  
234 long runs, pavement temperature, and ambient temperature, since gelling  
235 can occur faster with warmer temperatures.  
236

237 The installation of HFST must not start for application on new  
238 underlying and adjacent to new asphalt concrete or portland cement  
239 concrete pavement surfaces, including patches or repair areas using those  
240 materials, until a minimum of 30 days after completion of the pavement or  
241 repair.  
242

243 **(C) Mixing and Application of Epoxy Binder and Aggregate Wearing**  
244 **Surface.** Utilize one of the following methods for application of the  
245 binder and aggregate wearing course, as applicable. Use instruments to  
246 assure that the ambient conditions are compliant. Take measurements  
247 immediately before and during the application of the HFST binder. Using  
248 a wet film thickness gauge make thickness measurements during the  
249 application of the binder and perform every 50 linear feet.  
250

- 251 **1. Hand mixing and application.** Method must be used only for:
- 252 • Low volume application areas, e.g., intersections, areas less  
253 than 250 square yards, or
  - 254 • Where truck mounted machines cannot be used due to the  
255 specified location's logistical restrictions.  
256

257 Proportion the two-part modified epoxy base binder components, Part A  
258 and Part B to the correct ratio as recommended by the Manufacturer and

259 mix using a low speed, high torque drill fitted with a helical stirrer. The  
260 stirrer shall be a Jiffy Mixer or an Engineer accepted equivalent.  
261 Manually apply the mixed components onto the prepared pavement  
262 surface at a thickness of 60 mil +/- 5 mils Uniformly spread the hand  
263 applied base binder onto the substrate. The average wet thickness must  
264 be approximately 60 mils. Spread the binder by hand onto the substrate  
265 using a method that will generally achieve a uniform thickness of 60 mils.  
266 Immediately, spread the high friction surfacing aggregate onto the two part  
267 modified epoxy binder at a minimum rate of 13 lbs/sy and at a saturation  
268 state where no wet spots appear. Ensure leveling of HFST liquid is not  
269 disturbed. Ensure that the aggregate distribution method leaves no  
270 holidays in the aggregate distribution pattern spread and has a uniform  
271 look to it. The aggregate application shall cover the entire area of the  
272 binder application. Check thickness of HFST liquid using a mil gauge every  
273 50 linear feet.

274  
275 **2. Mechanical mixing and application.** Apply the binder by a truck  
276 mounted application machine. The binder must be applied onto the  
277 pavement section to be treated across the entire lane width and at a  
278 uniform compliant application thickness. Do not allow the epoxy base  
279 binder material to separate in the mixing lines, cure, dry, or otherwise  
280 impair retention bonding or depth of the high friction surfacing aggregate.  
281 Apply the mixed components mechanically onto the prepared pavement  
282 surface with a uniform thickness of 60 mil +/- 5 mils onto the pavement  
283 surface. Within 2 minutes of the binder being applied, mechanically spread  
284 the high friction surfacing aggregate onto the installed binder, at a minimum  
285 rate of 13 lbs/sy coverage across the full lane width in a uniform continuous  
286 application and until saturation such that no wet spots appear. Ensure that  
287 the aggregate distribution method leaves no holidays in the aggregate  
288 distribution pattern spread and has a uniform look to it. Aggregate  
289 application shall cover the entire area of the epoxy binder application  
290 without disturbing the leveling of HFST liquid. Check thickness of HFST  
291 liquid using a mil gauge every 50 linear feet.

292  
293  
294 **3. For either method hand or mechanical,** Do not compact  
295 aggregate after placement. Completely cover the wet epoxy binder with  
296 aggregate to achieve a uniform surface. No exposed wet spots shall be  
297 visible once the aggregate is placed. Wet spots indicate insufficient  
298 aggregate being applied; if wet spots are present, add more aggregate to  
299 the wet spot immediately upon discovery.

300  
301 Check thickness of epoxy base binder every 50 linear feet using a mil  
302 gauge.

303  
304 **(D) Curing.** Allow the high friction surface treatment to cure in  
305 accordance with the manufacturer recommendations. Refer to

306 Manufacturer's data/charts for cure times vs temperature. Protect treated  
307 surfaces from traffic and environmental effects until the area has cured.  
308 The new HFST area must not be open to traffic until it has cured and swept  
309 clean of all loose HFST aggregate.

310  
311 Once cured, remove excess aggregate by mechanical broom,  
312 mechanical sweeper with a vacuum followed by compressed air (minimum  
313 185 cfm compressor) before opening to traffic. Excess aggregate can be  
314 reused for one reuse time only, provided the aggregate is kept clean, dry  
315 and free from contaminants. Recovered aggregate must be blended with  
316 new aggregate at a rate of 2:1 (two parts of new HFST aggregate to one  
317 part of recovered HFST aggregate). Remove and dispose excess  
318 aggregate from project site.

319  
320 The Engineer may require additional mechanical broom, sweep or  
321 vacuum as necessary after the system fully cures and the treated surface  
322 is open to traffic. Broom or vacuum immediately before opening to traffic  
323 and perform a final sweep 7 to 14 days after opening. Provide traffic control  
324 during the cleaning operation.

325  
326 **(E) Pavement Markings.** All pavement markings shall be at the height  
327 specified in the Contract Documents measured from the HFST surface.  
328 Temporary pavement markings must comply with the size and shape  
329 shown in the MUTCD and must be in place before the pavement is open  
330 to public traffic. Flexible temporary raised pavement markers must not be  
331 used in place of raised markers that are shown on Standard Plans TE-26.

332  
333 **(F) Additional Signs.** Install traffic warning signage "Loose Gravel",  
334 and "Motorcycles Use Caution" or both should conditions require the  
335 warning. Maintain signs until street sweep is no longer required by the  
336 Contract Document and the Engineer.

337 **(G) Acceptance and Warranty.** Ninety (90) days after construction is  
338 completed all HFST applications require a minimum 1.5-year warranty from  
339 surface defects. At the end of the warranty period, the Contractor must in  
340 the presence of the Engineer inspect for any surface defects attributable  
341 to materials, equipment or workmanship. The warranty will comply with  
342 Subsection 108.17 Guarantee of Work.

343  
344 **421.04 Measurement.** The quantities to be paid for will be the plan quantity, in  
345 square yards, completed and accepted. No deduction will be made for the areas  
346 occupied by manholes, inlets, drainage structures, pavement markings or by any  
347 public utility appurtenances within the area.

348  
349 **421.05 Payment.** The Engineer will pay for the accepted high friction surface  
350 treatment at the contract price per square yard as shown on the proposal schedule.  
351 All work will be full compensation for the work prescribed in this section and the  
352 contract documents.

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

<b>Pay Item</b>	<b>Pay Unit</b>
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High Friction Surface Treatment	Square Yard
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Partial Payment Schedule for High Friction Surface Treatment. The Engineer will pay for:

**(A)** 72 percent of the contract unit bid price upon completion of the installation of the High Friction Surface Treatment and the second sweep of the High Friction Surface Treatment installation performed one week after its installation.

**(B)** 18 percent of the contract unit bid price in eighteen monthly payments of 1 percent for satisfactory progress during the High Friction Surface Treatment warranty period.

**(D)** 10 percent of the contract bid price at the final acceptance of the High Friction Surface Treatment and the end of the warranty period.

**END OF SECTION 421**

**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.
<p><b>Note:</b> Paint may be used for temporary markings in areas where final paving is not complete. The use of temporary flexible pavement marking tabs is prohibited.”</p>	

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

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**“629.04 Measurement.**

(A) The Engineer will measure thermoplastic and preformed pavement marking tape per linear foot in accordance with the contract documents. The longitudinal pavement markings will be measured per linear foot as a single stripe for the width specified in the contract and in the proposal. The Engineer will include the longitudinal gaps for skip striping, up to thirty (30) feet long, in the measurement.

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

(B) The Engineer will measure the pavement markers per each for the types shown in the proposal.

(C) The Engineer will measure the painted stripes that are twelve (12) inches wide or less as a single stripe. The Engineer will measure the double stripes that are twelve (12) inches or less in total width including the transverse space between the stripes as a single stripe.

The Engineer will measure the longitudinal pavement markings by the linear foot according to the contract. Longitudinal gaps for skip striping that are 30 feet or less will be included in the measurement.”

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

**“629.05 Payment.**

(A) The Engineer will pay for thermoplastic and preformed pavement marking tape at the contract price per linear foot 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 not pay for the temporary pavement markings including flexible delineator posts with reflector markers or Type I Barricades and temporary signs installed for the longitudinal guidance of public traffic over reconstructed areas, cold planed surfaces, newly paved surfaces or other unmarked or scarified areas for payment if not

65 shown in the proposal separately. The Engineer will consider them  
66 incidental to the various contract items.

67  
68 (B) The Engineer will pay for the various types of pavement markers at  
69 the contract price per each according to the contract, complete in  
70 place, including adhesives.

71  
72 (C) The Engineer will pay for painted pavement striping at the contract  
73 price per linear foot according to the contract.

74  
75 The Engineer will pay for the following pay items when included in  
76 the proposal schedule:

77	Pay Item	Pay Unit
78		
79		
80	4 – Inch White Profiled Thermoplastic Striping	Linear Foot
81		
82	4 – Inch White Pavement Striping (Thermoplastic Extrusion)	
83		Linear Foot
84		
85	6 – Inch Yellow Pavement Striping (Thermoplastic Extrusion)	
86		Linear Foot
87		
88	6 – Inch White Pavement Striping (Thermoplastic Extrusion)	
89		Linear Foot
90		
91	8 – Inch White Pavement Striping (Thermoplastic Extrusion)	
92		Linear Foot
93		
94	12 – Inch White Pavement Striping (Thermoplastic Extrusion)	
95		Linear Foot
96		
97	Type “C” Pavement Marker	Each
98		
99	Type “H” Pavement Marker	Each

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103

**END OF SECTION 629**

1 Make the following amendments to said Section:

2  
3 **SECTION 645 – WORK ZONE TRAFFIC CONTROL**

4  
5 **(I)** Amend **Subsection 645.03(F) – Lane Closures** by revising the section  
6 from line 248 to 252 to read:

7  
8 **“(F) Lane Closures.** Exceptions to lane closure hours specified require  
9 written acceptance by the Engineer. No increase in contract price or  
10 contract time will be given for lane closure restrictions specified.

11  
12 **(1) Nighttime Work.** Nighttime exit or ramp closures will be allowed  
13 during the following hours:

14  
15 Sunday 8:00 p.m. to Midnight  
16 Monday through Thursday Midnight to 5:00 a.m., 8:00 p.m. to  
17 Midnight.  
18 Friday Midnight to 5:00 a.m.

19  
20 The Contractor shall not close consecutive on/off ramps.

21  
22 **(II)** Amend **Subsection 645.03(F) – Lane Closures** line 276 to 278 to read  
23 as follows:

24  
25 “At the Engineer’s discretion, with a one week prior notification to the  
26 Contractor, work may be suspended to allow traffic to flow freely during major  
27 public events, such as concerts, parades, sporting events, etc. The Contractor  
28 will not be compensated but the Contractor’s Roadway Completion Time and/or  
29 Contract Time will be adjusted accordingly.

30  
31 The Engineer may also suspend work at any time due to unforeseen  
32 circumstances that occur within the immediate vicinity that may disrupt the traffic  
33 on the freeway and/or alternate routes or in times of emergencies.

34  
35 **(III)** Amend **Subsection 645.03 Construction** by adding the following after  
36 line 393:

37  
38 **“645.03(I) – Variable Message Sign.** Furnish, install, maintain and  
39 remove variable message sign at locations and durations as specified in the  
40 Signing and Pavement Marking Plans and Traffic Control Plans.”

41  
42 **(IV)** Amend **Subsection 645.05 – Payment** line 415 to 420 to read as follows:

43  
44 

Pay Item	Pay Unit
Ko Olina Traffic Control	Lump Sum

48	Palailai Traffic Control	Lump Sum
49		
50	Aiea Traffic Control	Lump Sum
51		
52	Waiau Traffic Control	Lump Sum
53		
54	Halawa Traffic Control	Lump Sum
55		
56	Puuloa Traffic Control	Lump Sum
57		
58	Kaneohe Traffic Control	Lump Sum
59		
60	Mokapu Traffic Control	Lump Sum
61		
62	Additional Police Officers, Additional Traffic Control	
63	Devices and Advertisement	Force Account
64		
65		
66		
67		
68		

**END OF SECTION 645**



## Requirements of Chapter 104, HRS Wages and Hours of Employees on Public Works Law

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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; §12-22-4.1, HAR]

### 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. [§104-3(a), HRS; §12-22-10, HAR]
- 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; §12-22-10, HAR]
- Payroll records shall be maintained by the contractor and subcontractors for three years after completion of construction. The records shall contain: [§104-3(b), HRS; §12-22-10, HAR]
  - the name and home address of each employee
  - the last four digits of social security number
  - a copy of the apprentice's registration with DLIR
  - 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
  - total net wages paid
  - date of payment
- Records shall be made available for examination by the contracting agency, the Department of Labor and Industrial Relations (DLIR), or any of its authorized representatives, who may also interview employees during working hours on the job. [§§104-3(c), 104-22(a), HRS; §12-22-10, HAR]

## 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

- Apprentice wage rates apply to contractors who are a party to a bona fide apprenticeship program which has been registered with the DLIR. In order to be paid apprentice rates, apprentices must be parties to an agreement either registered with or recognized as a USDOL nationally approved apprenticeship program by the DLIR, Workforce Development Division, (808) 586-8877, and the apprentice must be individually registered by name with the DLIR. [§12-22-6(1) and (2), HAR]
- The number of apprentices on any public work in relation to the number of journeyworkers in the same craft classification as the apprentices employed by the same employer on the same public work may not exceed the ratio allowed under the apprenticeship standards registered with or recognized by the DLIR. A registered or recognized apprentice receiving the journeyworker rate will not be considered a journeyworker for the purpose of meeting the ratio requirement. [§12-22-6(3), 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: [§104-24, HRS]
  - 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**. [§104-24, HRS; §12-22-25(b), HAR]
- **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, HRS]
- **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), HRS; §12-22-26, HAR]
- 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), HRS; §12-22-26, HAR]
- 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), HRS]



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) 974-6464  
Maui and Kauai .....(808) 243-5322

Superseded General Decision Number: HI20220001

State: Hawaii

Construction Types: Building, Heavy (Heavy and Dredging), Highway and Residential

Counties: Hawaii Statewide.

BUILDING CONSTRUCTION PROJECTS; RESIDENTIAL CONSTRUCTION PROJECTS (consisting of single family homes and apartments up to and including 4 stories); HEAVY AND HIGHWAY CONSTRUCTION PROJECTS AND DREDGING

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60).

If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:	. Executive Order 14026 generally applies to the contract. . The contractor must pay all covered workers at least \$16.20 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2023.
If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:	. Executive Order 13658 generally applies to the contract. . The contractor must pay all covered workers at least \$12.15 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2023.

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at <http://www.dol.gov/whd/govcontracts>.

Modification Number	Publication Date
0	01/06/2023
1	01/13/2023

ASBE0132-001 06/05/2022

	Rates	Fringes
Asbestos Workers/Insulator Includes application of all insulating materials, protective coverings, coatings and finishes to all types of mechanical systems. Also the application of firestopping material for wall openings and penetrations in walls, floors, ceilings and curtain walls.....	\$ 42.80	25.85

BOIL0627-005 01/01/2021

	Rates	Fringes
BOILERMAKER.....	\$ 37.25	31.25

\* BRHI0001-001 09/05/2022

	Rates	Fringes
BRICKLAYER Bricklayers and Stonemasons.	\$ 47.24	31.33
Pointers, Caulkers and Weatherproofers.....	\$ 47.49	31.33

\* BRHI0001-002 09/05/2022

	Rates	Fringes
Tile, Marble & Terrazzo Worker Terrazzo Base Grinders.....	\$ 43.79	33.10
Terrazzo Floor Grinders and Tenders.....	\$ 42.24	33.10
Tile, Marble and Terrazzo Workers.....	\$ 45.60	33.10

CARP0745-001 10/01/2021

	Rates	Fringes
Carpenters: Carpenters; Hardwood Floor Layers; Patent Scaffold Erectors (14 ft. and over); Piledrivers; Pneumatic Nailers; Wood Shinglers and Transit and/or Layout Man.....	\$ 51.25	24.84
Millwrights and Machine Erectors.....	\$ 51.50	24.84
Power Saw Operators (2 h.p. and over).....	\$ 51.40	24.84

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CARP0745-002 10/01/2021

	Rates	Fringes
Drywall and Acoustical Workers and Lathers.....	\$ 51.50	24.84

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ELEC1186-001 08/22/2022

	Rates	Fringes
Electricians:		
Cable Splicers.....	\$ 60.51	30.90
Electricians.....	\$ 53.55	30.69
Telecommunication worker....	\$ 34.94	13.69

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ELEC1186-002 08/22/2022

	Rates	Fringes
Line Construction:		
Cable Splicers.....	\$ 60.51	30.90
Groundmen/Truck Drivers.....	\$ 40.16	25.34
Heavy Equipment Operators...	\$ 48.20	28.43
Linemen.....	\$ 53.55	30.69
Telecommunication worker....	\$ 34.94	13.69

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\* ELEV0126-001 01/01/2023

	Rates	Fringes
ELEVATOR MECHANIC.....	\$ 68.08	37.335+a+b

a. VACATION: Employer contributes 8% of basic hourly rate for 5 years service and 6% of basic hourly rate for 6 months to 5 years service as vacation pay credit.

b. PAID HOLIDAYS: New Year's Day, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day, the Friday after Thanksgiving Day and Christmas Day.

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ENGI0003-002 09/03/2018

	Rates	Fringes
Diver (Aqua Lung) (Scuba))		
Diver (Aqua Lung) (Scuba) (over a depth of 30 feet)...	\$ 66.00	31.26
Diver (Aqua Lung) (Scuba) (up to a depth of 30 feet)..	\$ 56.63	31.26
Stand-by Diver (Aqua Lung) (Scuba).....	\$ 47.25	31.26
Diver (Other than Aqua Lung)		
Diver (Other than Aqua Lung).....	\$ 66.00	31.26
Diver Tender (Other than Aqua Lung).....	\$ 44.22	31.26
Stand-by Diver (Other than Aqua Lung).....	\$ 47.25	31.26
Helicopter Work		
Airborne Hoist Operator for Helicopter.....	\$ 45.80	31.26
Co-Pilot of Helicopter.....	\$ 45.98	31.26

Pilot of Helicopter.....	\$ 46.11	31.26
Power equipment operator - tunnel work		
GROUP 1.....	\$ 42.24	31.26
GROUP 2.....	\$ 42.35	31.26
GROUP 3.....	\$ 42.52	31.26
GROUP 4.....	\$ 42.79	31.26
GROUP 5.....	\$ 43.10	31.26
GROUP 6.....	\$ 43.75	31.26
GROUP 7.....	\$ 44.07	31.26
GROUP 8.....	\$ 44.18	31.26
GROUP 9.....	\$ 44.29	31.26
GROUP 9A.....	\$ 44.52	31.26
GROUP 10.....	\$ 44.58	31.26
GROUP 10A.....	\$ 44.73	31.26
GROUP 11.....	\$ 44.88	31.26
GROUP 12.....	\$ 45.24	31.26
GROUP 12A.....	\$ 45.60	31.26
Power equipment operators:		
GROUP 1.....	\$ 41.94	31.26
GROUP 2.....	\$ 42.05	31.26
GROUP 3.....	\$ 42.22	31.26
GROUP 4.....	\$ 42.49	31.26
GROUP 5.....	\$ 42.80	31.26
GROUP 6.....	\$ 43.45	31.26
GROUP 7.....	\$ 43.77	31.26
GROUP 8.....	\$ 43.88	31.26
GROUP 9.....	\$ 43.99	31.26
GROUP 9A.....	\$ 44.22	31.26
GROUP 10.....	\$ 44.28	31.26
GROUP 10A.....	\$ 44.43	31.26
GROUP 11.....	\$ 44.58	31.26
GROUP 12.....	\$ 44.94	31.26
GROUP 12A.....	\$ 45.30	31.26
GROUP 13.....	\$ 42.22	31.26
GROUP 13A.....	\$ 42.49	31.26
GROUP 13B.....	\$ 42.80	31.26
GROUP 13C.....	\$ 43.45	31.26
GROUP 13D.....	\$ 43.77	31.26
GROUP 13E.....	\$ 43.88	31.26

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP 1: Fork Lift (up to and including 10 tons); Partsman (heavy duty repair shop parts room when needed).

GROUP 2: Conveyor Operator (Handling building material); Hydraulic Monitor; Mixer Box Operator (Concrete Plant).

GROUP 3: Brakeman; Deckhand; Fireman; Oiler; Oiler/Gradechecker; Signalman; Switchman; Highline Cableway Signalman; Bargeman; Bunkerman; Concrete Curing Machine (self-propelled, automatically applied unit on streets, highways, airports and canals); Leveeman; Roller (5 tons and under); Tugger Hoist.

GROUP 4: Boom Truck or dual purpose "A" Frame Truck (5 tons or less); Concrete Placing Boom (Building Construction); Dinky Operator; Elevator Operator; Hoist and/or Winch (one drum); Straddle Truck (Ross Carrier, Hyster and similar).

GROUP 5: Asphalt Plant Fireman; Compressors, Pumps, Generators and Welding Machines ("Bank" of 9 or more, individually or collectively); Concrete Pumps or Pumpcrete Guns; Lubrication and Service Engineer (Grease Rack);

Screedman.

GROUP 6: Boom Truck or Dual Purpose "A" Frame Truck (over 5 tons); Combination Loader/Backhoe (up to and including 3/4 cu. yd.); Concrete Batch Plants (wet or dry); Concrete Cutter, Groover and/or Grinder (self-propelled unit on streets, highways, airports, and canals); Conveyor or Concrete Pump (Truck or Equipment Mounted); Drilling Machinery (not to apply to waterliners, wagon drills or jack hammers); Fork Lift (over 10 tons); Loader (up to and including 3 and 1/2 cu. yds); Lull High Lift (under 40 feet); Lubrication and Service Engineer (Mobile); Maginnis Internal Full Slab Vibrator (on airports, highways, canals and warehouses); Man or Material Hoist; Mechanical Concrete Finisher (Large Clary, Johnson Bidwell, Bridge Deck and similar); Mobile Truck Crane Driver; Portable Shotblast Concrete Cleaning Machine; Portable Boring Machine (under streets, highways, etc.); Portable Crusher; Power Jumbo Operator (setting slip forms, etc., in tunnels); Rollers (over 5 tons); Self-propelled Compactor (single engine); Self-propelled Pavement Breaker; Skidsteer Loader with attachments; Slip Form Pumps (Power driven by hydraulic, electric, air, gas, etc., lifting device for concrete forms); Small Rubber Tired Tractors; Trencher (up to and including 6 feet); Underbridge Personnel Aerial Platform (50 feet of platform or less).

GROUP 7: Crusher Plant Engineer, Dozer (D-4, Case 450, John Deere 450, and similar); Dual Drum Mixer, Extend Lift; Hoist and/or Winch (2 drums); Loader (over 3 and 1/2 cu. yds. up to and including 6 yards.); Mechanical Finisher or Spreader Machine (asphalt), (Barber Greene and similar) (Screedman required); Mine or Shaft Hoist; Mobile Concrete Mixer (over 5 tons); Pipe Bending Machine (pipelines only); Pipe Cleaning Machine (tractor propelled and supported); Pipe Wrapping Machine (tractor propelled and supported); Roller Operator (Asphalt); Self-Propelled Elevating Grade Plane; Slusher Operator; Tractor (with boom) (D-6, or similar); Trencher (over 6 feet and less than 200 h.p.); Water Tanker (pulled by Euclids, T-Pulls, DW-10, 20 or 21, or similar); Winchman (Stern Winch on Dredge).

GROUP 8: Asphalt Plant Operator; Barge Mate (Seagoing); Cast-in-Place Pipe Laying Machine; Concrete Batch Plant (multiple units); Conveyor Operator (tunnel); Deckmate; Dozer (D-6 and similar); Finishing Machine Operator (airports and highways); Gradesetter; Kolman Loader (and similar); Mucking Machine (Crawler-type); Mucking Machine (Conveyor-type); No-Joint Pipe Laying Machine; Portable Crushing and Screening Plant; Power Blade Operator (under 12); Saurman Type Dragline (up to and including 5 yds.); Stationary Pipe Wrapping, Cleaning and Bending Machine; Surface Heater and Planer Operator, Tractor (D-6 and similar); Tri-Batch Paver; Tunnel Badger; Tunnel Mole and/or Boring Machine Operator Underbridge Personnel Aerial Platform (over 50 feet of platform).

GROUP 9: Combination Mixer and Compressor (gunite); Do-Mor Loader and Adams Elegrader; Dozer (D-7 or equal); Wheel and/or Ladder Trencher (over 6 feet and 200 to 749 h.p.).

GROUP 9A: Dozer (D-8 and similar); Gradesetter (when required by the Contractor to work from drawings, plans or specifications without the direct supervision of a foreman or superintendent); Push Cat; Scrapers (up to and including

20 cu. yds); Self-propelled Compactor with Dozer;  
Self-Propelled, Rubber-Tired Earthmoving Equipment (up to and including 20 cu. yds) (621 Band and similar); Sheep's Foot; Tractor (D-8 and similar); Tractors with boom (larger than D-6, and similar).

GROUP 10: Chicago Boom; Cold Planers; Heavy Duty Repairman or Welder; Hoist and/or Winch (3 drums); Hydraulic Skooper (Koehring and similar); Loader (over 6 cu. yds. up to and including 12 cu. yds.); Saurman type Dragline (over 5 cu. yds.); Self-propelled, rubber-tired Earthmoving Equipment (over 20 cu. yds. up to and including 31 cu. yds.) (637D and similar); Soil Stabilizer (P & H or equal); Sub-Grader (Gurries or other automatic type); Tractors (D-9 or equivalent, all attachments); Tractor (Tandem Scraper); Watch Engineer.

GROUP 10A: Boat Operator; Cable-operated Crawler Crane (up to and including 25 tons); Cable-operated Power Shovel, Clamshell, Dragline and Backhoe (up to and including 1 cu. yd.); Dozer D9-L; Dozer (D-10, HD41 and similar) (all attachments); Gradall (up to and including 1 cu. yd.); Hydraulic Backhoe (over 3/4 cu. yds. up to and including 2 cu. yds.); Mobile Truck Crane Operator (up to and including 25 tons) (Mobile Truck Crane Driver Required); Self-propelled Boom Type Lifting Device (Center Mount) (up to and including 25 tons) (Grove, Drott, P&H, Pettibone and similar); Trencher (over 6 feet and 750 h.p. or more); Watch Engineer (steam or electric).

GROUP 11: Automatic Slip Form Paver (concrete or asphalt); Band Wagon (in conjunction with Wheel Excavator); Cable-operated Crawler Cranes (over 25 tons but less than 50 tons); Cable-operated Power Shovel, Clamshell, Dragline and Backhoe (over 1 cu. yd. up to 7 cu. yds.); Gradall (over 1 cu. yds. up to 7 cu. yds.); DW-10, 20, etc. (Tandem); Earthmoving Machines (multiple propulsion power units and 2 or more Scrapers) (up to and including 35 cu. yds., "" struck"" m.r.c.); Highline Cableway; Hydraulic Backhoe (over 2 cu. yds. up to and including 4 cu. yds.); Leverman; Lift Slab Machine; Loader (over 12 cu. yds); Master Boat Operator; Mobile Truck Crane Operator (over 25 tons but less than 50 tons); (Mobile Truck Crane Driver required); Pre-stress Wire Wrapping Machine; Self-propelled Boom-type Lifting Device (Center Mount) (over 25 tons m.r.c); Self-propelled Compactor (with multiple-propulsion power units); Single Engine Rubber Tired Earthmoving Machine (with Tandem Scraper); Tandem Cats; Trencher (pulling attached shield).

GROUP 12: Clamshell or Dipper Operator; Derricks; Drill Rigs; Multi-Propulsion Earthmoving Machines (2 or more Scrapers) (over 35 cu. yds ""struck""m.r.c.); Operators (Derricks, Piledrivers and Cranes); Power Shovels and Draglines (7 cu. yds. m.r.c. and over); Self-propelled rubber-tired Earthmoving equipment (over 31 cu. yds.) (657B and similar); Wheel Excavator (up to and including 750 cu. yds. per hour); Wheel Excavator (over 750 cu. yds. per hour).

GROUP 12A: Dozer (D-11 or similar or larger); Hydraulic Excavators (over 4 cu. yds.); Lifting cranes (50 tons and over); Pioneering Dozer/Backhoe (initial clearing and excavation for the purpose of providing access for other equipment where the terrain worked involves 1-to-1 slopes that are 50 feet in height or depth, the scope of this work

does not include normal clearing and grubbing on usual hilly terrain nor the excavation work once the access is provided); Power Blade Operator (Cat 12 or equivalent or over); Straddle Lifts (over 50 tons); Tower Crane, Mobile; Traveling Truss Cranes; Universal, Liebherr, Linden, and similar types of Tower Cranes (in the erection, dismantling, and moving of equipment there shall be an additional Operating Engineer or Heavy Duty Repairman); Yo-Yo Cat or Dozer.

GROUP 13: Truck Driver (Utility, Flatbed, etc.)

GROUP 13A: Dump Truck, 8 cu.yds. and under (water level); Water Truck (up to and including 2,000 gallons).

GROUP 13B: Water Truck (over 2,000 gallons); Tandem Dump Truck, over 8 cu. yds. (water level).

GROUP 13C: Truck Driver (Semi-trailer. Rock Cans, Semi-Dump or Roll-Offs).

GROUP 13D: Truck Driver (Slip-In or Pup).

GROUP 13E: End Dumps, Unlicensed (Euclid, Mack, Caterpillar or similar); Tractor Trailer (Hauling Equipment); Tandem Trucks hooked up to Trailer (Hauling Equipment)

BOOMS AND/OR LEADS (HOURLY PREMIUMS):

The Operator of a crane (under 50 tons) with a boom of 80 feet or more (including jib), or of a crane (under 50 tons) with leads of 100 feet or more, shall receive a per hour premium for each hour worked on said crane (under 50 tons) in accordance with the following schedule:

Booms of 80 feet up to but not including 130 feet or Leads of 100 feet up to but not including 130 feet	0.50
Booms and/or Leads of 130 feet up to but not including 180 feet	0.75
Booms and/or Leads of 180 feet up to and including 250 feet	1.15
Booms and/or Leads over 250 feet	1.50

The Operator of a crane (50 tons and over) with a boom of 180 feet or more (including jib) shall receive a per hour premium for each hour worked on said crane (50 tons and over) in accordance with the following schedule:

Booms of 180 feet up to and including 250 feet	1.25
Booms over 250 feet	1.75

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 ENGI0003-004 09/04/2017

	Rates	Fringes
Dredging: (Boat Operators)		
Boat Deckhand.....	\$ 41.22	30.93
Boat Operator.....	\$ 43.43	30.93
Master Boat Operator.....	\$ 43.58	30.93
Dredging: (Clamshell or		

Dipper Dredging)		
GROUP 1.....	\$ 43.94	30.93
GROUP 2.....	\$ 43.28	30.93
GROUP 3.....	\$ 42.88	30.93
GROUP 4.....	\$ 41.22	30.93
Dredging: (Derricks)		
GROUP 1.....	\$ 43.94	30.93
GROUP 2.....	\$ 43.28	30.93
GROUP 3.....	\$ 42.88	30.93
GROUP 4.....	\$ 41.22	30.93
Dredging: (Hydraulic Suction Dredges)		
GROUP 1.....	\$ 43.58	30.93
GROUP 2.....	\$ 43.43	30.93
GROUP 3.....	\$ 43.28	30.93
GROUP 4.....	\$ 43.22	30.93
GROUP 5.....	\$ 37.88	26.76
Group 5.....	\$ 42.88	30.93
GROUP 6.....	\$ 37.77	26.76
Group 6.....	\$ 42.77	30.93
GROUP 7.....	\$ 36.22	26.76
Group 7.....	\$ 41.22	30.93

CLAMSHELL OR DIPPER DREDGING CLASSIFICATIONS

- GROUP 1: Clamshell or Dipper Operator.
- GROUP 2: Mechanic or Welder; Watch Engineer.
- GROUP 3: Barge Mate; Deckmate.
- GROUP 4: Bargeman; Deckhand; Fireman; Oiler.

HYDRAULIC SUCTION DREDGING CLASSIFICATIONS

- GROUP 1: Leverman.
- GROUP 2: Watch Engineer (steam or electric).
- GROUP 3: Mechanic or Welder.
- GROUP 4: Dozer Operator.
- GROUP 5: Deckmate.
- GROUP 6: Winchman (Stern Winch on Dredge)
- GROUP 7: Deckhand (can operate anchor scow under direction of Deckmate); Fireman; Leveeman; Oiler.

DERRICK CLASSIFICATIONS

- GROUP 1: Operators (Derricks, Piledrivers and Cranes).
- GROUP 2: Saurman Type Dragline (over 5 cubic yards).
- GROUP 3: Deckmate; Saurman Type Dragline (up to and including 5 yards).
- GROUP 4: Deckhand, Fireman, Oiler.

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ENGI003-044 09/03/2018

	Rates	Fringes
Power Equipment Operators (PAVING)		
Asphalt Concrete Material Transfer.....	\$ 42.92	32.08
Asphalt Plant Operator.....	\$ 43.35	32.08
Asphalt Raker.....	\$ 41.96	32.08
Asphalt Spreader Operator...	\$ 43.44	32.08
Cold Planer.....	\$ 43.75	32.08
Combination Loader/Backhoe (over 3/4 cu.yd.).....	\$ 41.96	32.08
Combination Loader/Backhoe		

(up to 3/4 cu.yd.).....	\$ 40.98	32.08
Concrete Saws and/or Grinder (self-propelled unit on streets, highways, airports and canals).....	\$ 42.92	32.08
Grader.....	\$ 43.75	32.08
Laborer, Hand Roller.....	\$ 41.46	32.08
Loader (2 1/2 cu. yds. and under).....	\$ 42.92	32.08
Loader (over 2 1/2 cu. yds. to and including 5 cu. yds.).....	\$ 43.24	32.08
Roller Operator (five tons and under).....	\$ 41.69	32.08
Roller Operator (over five tons).....	\$ 43.12	32.08
Screed Person.....	\$ 42.92	32.08
Soil Stabilizer.....	\$ 43.75	32.08

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IRON0625-001 09/01/2022

	Rates	Fringes
Ironworkers:.....	\$ 45.00	39.00
a. Employees will be paid \$.50 per hour more while working in tunnels and coffer dams; \$1.00 per hour more when required to work under or are covered with water (submerged) and when they are required to work on the summit of Mauna Kea, Mauna Loa or Haleakala.		

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LAB00368-001 09/05/2022

	Rates	Fringes
Laborers:		
Driller.....	\$ 41.00	24.25
Final Clean Up.....	\$ 30.45	19.57
Gunite/Shotcrete Operator and High Scaler.....	\$ 40.50	24.25
Laborer I.....	\$ 40.00	24.25
Laborer II.....	\$ 37.40	24.25
Mason Tender/Hod Carrier....	\$ 40.50	24.25
Powderman.....	\$ 41.00	24.25
Window Washer (bosun chair).\$	39.50	24.25

LABORERS CLASSIFICATIONS

Laborer I: Air Blasting run by electric or pneumatic compressor; Asphalt Laborer, Ironer, Raker, Luteman, and Handroller, and all types of Asphalt Spreader Boxes; Asphalt Shoveler; Assembly and Installation of Multiplates, Liner Plates, Rings, Mesh, Mats; Batching Plant (portable and temporary); Boring Machine Operator (under streets and sidewalks); Buggymobile; Burning and Welding; Chainsaw, Faller, Logloader, and Bucker; Compactors (Jackson Jumping Jack and similar); Concrete Bucket Dumpman; Concrete Chipping; Concrete Chuteman/Hoseman (pouring concrete) (the handling of the chute from ready-mix trucks for such jobs as walls, slabs, decks, floors, foundations, footings, curbs, gutters, and sidewalks); Concrete Core Cutter (Walls, Floors, and Ceiling); Concrete Grinding or Sanding; Concrete: Hooking on, signaling, dumping of concrete for treme work over water on caissons, pilings, abutments, etc.; Concrete: Mixing, handling, conveying, pouring, vibrating, otherwise placing of concrete or aggregates or

by any other process; Concrete: Operation of motorized wheelbarrows or buggies or machines of similar character, whether run by gas, diesel, or electric power; Concrete Placement Machine Operator: operation of Somero Hammerhead, Copperheads, or similar machines; Concrete Pump Machine (laying, coupling, uncoupling of all connections and cleaning of equipment); Concrete and/or Asphalt Saw (Walking or Handtype) (cutting walls or flatwork) (scoring old or new concrete and/or asphalt) (cutting for expansion joints) (streets and ways for laying of pipe, cable or conduit for all purposes); Concrete Shovelers/Laborers (Wet or Dry); Concrete Screeding for Rough Strike-Off: Rodding or striking-off, by hand or mechanical means prior to finishing; Concrete Vibrator Operator; Coring Holes: Walls, footings, piers or other obstructions for passage of pipes or conduits for any purpose and the pouring of concrete to secure the hole; Cribbers, Shorer, Lagging, Sheeting, and Trench Jacking and Bracing, Hand-Guided Lagging Hammer Whaling Bracing; Curbing (Concrete and Asphalt); Curing of Concrete (impervious membrane and form oiler) mortar and other materials by any mode or method; Cut Granite Curb Setter (setting, leveling and grouting of all precast concrete or stone curbs); Cutting and Burning Torch (demolition); Dri Pak-It Machine; Environmental Abatement: removal of asbestos, lead, and bio hazardous materials (EPA and/or OSHA certified); Falling, bucking, yarding, loading or burning of all trees or timber on construction site; Forklift (9 ft. and under); Gas, Pneumatic, and Electric tools; Grating and Grill work for drains or other purposes; Green Cutter of concrete or aggregate in any form, by hand, mechanical means, grindstone or air and/or water; Grout: Spreading for any purpose; Guinea Chaser (Grade Checker) for general utility trenches, sitework, and excavation; Headerboard Man (Asphalt or Concrete); Heat Welder of Plastic (Laborers' AGC certified workers) (when work involves waterproofing for waterponds, artificial lakes and reservoir) heat welding for sewer pipes and fusion of HDPE pipes; Heavy Highway Laborer (Rigging, signaling, handling, and installation of pre-cast catch basins, manholes, curbs and gutters); High Pressure Nozzleman - Hydraulic Monitor (over 100# pressure); Jackhammer Operator; Jacking of slip forms: All semi and unskilled work connected therewithin; Laying of all multi-cell conduit or multi-purpose pipe; Magnesite and Mastic Workers (Wet or Dry)(including mixer operator);Mortar Man; Mortar Mixer (Block, Brick, Masonry, and Plastering); Nozzleman (Sandblasting and/or Water Blasting): handling, placing and operation of nozzle; Operation, Manual or Hydraulic jacking of shields and the use of such other mechanical equipment as may be necessary; Pavement Breakers; Paving, curbing and surfacing of streets, ways, courts, under and overpasses, bridges, approaches, slope walls, and all other labor connected therewith; Pilecutters; Pipe Accessment in place, bolting and lining up of sectional metal or other pipe including corrugated pipe; Pipelayer performing all services in the laying and installation of pipe from the point of receiving pipe in the ditch until completion of operation, including any and all forms of tubular material, whether pipe, HDPE, metallic or non-metallic, conduit, and any other stationary-type of tubular device used for conveying of any substance or element, whether water, sewage, solid, gas, air, or other product whatsoever and without regard to the nature of material from which tubular material is fabricated; No-joint pipe and stripping of same, Pipewrapper, Caulker, Bander, Kettlemen, and men applying

asphalt, Laykold, treating Creosote and similar-type materials (6-inch) pipe and over); Piping: resurfacing and paving of all ditches in preparation for laying of all pipes; Pipe laying of lateral sewer pipe from main or side sewer to buildings or structure (except Contactor may direct work be done under proper supervision); Pipe laying, leveling and marking of the joint used for main or side sewers and storm sewers; Laying of all clay, terra cotta, ironstone, vitrified concrete, HDPE or other pipe for drainage; Placing and setting of water mains, gas mains and all pipe including removal of skids; Plaster Mortar Mixer/Pump; Pneumatic Impact Wrench; Portable Sawmill Operation: Choker setters, off bearers, and lumber handlers connected with clearing; Posthole Digger (Hand Held, Gas, Air and Electric); Powderman's Tender; Power Broom Sweepers (Small); Preparation and Compaction of roadbeds for railroad track laying, highway construction, and the preparation of trenches, footings, etc., for cross-country transmission by pipelines, electrical transmission or underground lines or cables (by mechanical means); Raising of structure by manual or hydraulic jacks or other methods and resetting of structure in new locations, including all concrete work; Ramming or compaction; Rigging in connection with Laborers' work (except demolition), Signaling (including the use of walkie talkie) Choke Setting, tag line usage; Tagging and Signaling of building materials into high rise units; Riprap, Stonepaver, and Rock Slinger (includes placement of stacked concrete, wet or dry and loading, unloading, signaling, slinging and setting of other similar materials); Rotary Scarifier (including multiple head concrete chipping Scarifier); Salamander Heater, Drying of plaster, concrete mortar or other aggregate; Scaffold Erector Leadman; Scaffolds: (Swing and hanging) including maintenance thereof; Scaler; Septic Tank/Cesspool and Drain Fields Digger and Installer; Shredder/Chipper (tree branches, brush, etc.); Stripping and Setting Forms; Stripping of Forms: Other than panel forms which are to be re-used in their original form, and stripping of forms on all flat arch work; Tampers (Barko, Wacker, and similar type); Tank Scaler and Cleaners; Tarman; Tree Climbers and Trimmers; Trencher (includes hand-held, Davis T-66 and similar type); Trucks (flatbed up to and including 2 1/2 tons when used in connection with on-site Laborers' work; Trucks (Refuse and Garbage Disposal) (from job site to dump); Vibra-Screed (Bull Float in connection with Laborers' work); Well Points, Installation of or any other dewatering system.

Laborer II: Asphalt Plant Laborer; Boring Machine Tender; Bridge Laborer; Burning of all debris (crates, boxes, packaging waste materials); Chainman, Rodmen, and Grade Markers; Cleaning, clearing, grading and/or removal for streets, highways, roadways, aprons, runways, sidewalks, parking areas, airports, approaches, and other similar installations; Cleaning or reconditioning of streets, ways, sewers and waterlines, all maintenance work and work of an unskilled and semi-skilled nature; Concrete Bucket Tender (Groundman) hooking and unhooking of bucket; Concrete Forms; moving, cleaning, oiling and carrying to the next point of erection of all forms; Concrete Products Plant Laborers; Conveyor Tender (conveying of building materials); Crushed Stone Yards and Gravel and Sand Pit Laborers and all other similar plants; Demolition, Wrecking and Salvage Laborers: Wrecking and dismantling of buildings and all structures, with use of cutting or wrecking tools,

breaking away, cleaning and removal of all fixtures, All hooking, unhooking, signaling of materials for salvage or scrap removed by crane or derrick; Digging under streets, roadways, aprons or other paved surfaces; Driller's Tender; Chuck Tender, Outside Nipper; Dry-packing of concrete (plugging and filling of she-bolt holes); Fence and/or Guardrail Erector: Dismantling and/or re-installation of all fence; Finegrader; Firewatcher; Flagman (Coning, preparing, stablishing and removing portable roadway barricade devices); Signal Men on all construction work defined herein, including Traffic Control Signal Men at construction site; General Excavation; Backfilling, Grading and all other labor connected therewith; Digging of trenches, ditches and manholes and the leveling, grading and other preparation prior to laying pipe or conduit for any purpose; Excavations and foundations for buildings, piers, foundations and holes, and all other construction. Preparation of street ways and bridges; General Laborer: Cleaning and Clearing of all debris and surplus material. Clean-up of right-of-way. Clearing and slashing of brush or trees by hand or mechanical cutting. General Clean up: sweeping, cleaning, wash-down, wiping of construction facility and equipment (other than "Light Clean up (Janitorial) Laborer. Garbage and Debris Handlers and Cleaners. Appliance Handling (job site) (after delivery unloading in storage area); Ground and Soil Treatment Work (Pest Control); Gunite/Shotcrete Operator Tender; Junk Yard Laborers (same as Salvage Yard); Laser Beam "Target Man" in connection with Laborers' work; Layout Person for Plastic (when work involves waterproofing for waterponds, artificial lakes and reservoirs); Limbers, Brush Loaders, and Pilers; Loading, Unloading, carrying, distributing and handling of all rods and material for use in reinforcing concrete construction (except when a derrick or outrigger operated by other than hand power is used); Loading, unloading, sorting, stockpiling, handling and distribution of water mains, gas mains and all pipes; Loading and unloading of all materials, fixtures, furnishings and appliances from point of delivery to stockpile to point of installation; hooking and signaling from truck, conveyance or stockpile; Material Yard Laborers; Pipelayer Tender; Pipewrapper, Caulker, Bander, Kettlemen, and men applying asphalt, Laykold, Creosote, and similar-type materials (pipe under 6 inches); Plasterer Laborer; Preparation, construction and maintenance of roadbeds and sub-grade for all paving, including excavation, dumping, and spreading of sub-grade material; Prestressed or precast concrete slabs, walls, or sections: all loading, unloading, stockpiling, hooking on of such slabs, walls or sections; Quarry Laborers; Railroad, Streetcar, and Rail Transit Maintenance and Repair; Roustabout; Rubbish Trucks in connection with Building Construction Projects (excluding clearing, grubbing, and excavating); Salvage Yard: All work connected with cutting, cleaning, storing, stockpiling or handling of materials, all cleanup, removal of debris, burning, back-filling and landscaping of the site; Sandblasting Tender (Pot Tender): Hoses and pots or markers; Scaffolds: Erection, planking and removal of all scaffolds used for support for lathers, plasters, brick layers, masons, and other construction trades crafts; Scaffolds: (Specially designed by carpenters) laborers shall tend said carpenter on erection and dismantling thereof, preparation for foundation or mudsills, maintenance; Scraping of floors; Screeds: Handling of all screeds to be reused; handling, dismantling and conveyance of screeds; Setting, leveling

and securing or bracing of metal or other road forms and expansion joints; Sheeting Piling/trench shoring (handling and placing of skip sheet or wood plank trench shoring); Ship Scalers; Shipwright Tender; Sign Erector (subdivision traffic, regulatory, and street-name signs); Sloper; Slurry Seal Crews (Mixer Operator, Applicator, Squeegee Man, Shuttle Man, Top Man); Snapping of wall ties and removal of tie rods; Soil Test operations of semi and unskilled labor such as filling sand bags; Striper (Asphalt, Concrete or other Paved Surfaces); Tool Room Attendant (Job Site); Traffic Delineating Device Applicator; Underpinning, lagging, bracing, propping and shoring, loading, signaling, right-of-way clearance along the route of movement, The clearance of new site, excavation of foundation when moving a house or structure from old site to new site; Utilities employees; Water Man; Waterscape/Hardscape Laborers; Wire Mesh Pulling (all concrete pouring operations); Wrecking, stripping, dismantling and handling concrete forms an false work.

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 LAB00368-002 09/05/2022

	Rates	Fringes
Landscape & Irrigation Laborers		
GROUP 1.....	\$ 27.25	15.80
GROUP 2.....	\$ 28.25	15.80
GROUP 3.....	\$ 22.15	15.80

LABORERS CLASSIFICATIONS

GROUP 1: Installation of non-potable permanent or temporary irrigation water systems performed for the purposes of Landscaping and Irrigation architectural horticultural work; the installation of drinking fountains and permanent or temporary irrigation systems using potable water for Landscaping and Irrigation architectural horticultural purposes only. This work includes (a) the installation of all heads, risers, valves, valve boxes, vacuum breakers (pressure and non-pressure), low voltage electrical lines and, provided such work involves electrical wiring that will carry 24 volts or less, the installation of sensors, master control panels, display boards, junction boxes, conductors, including all other components for controllers, (b) and metallic (copper, brass, galvanized, or similar) pipe, as well as PVC or other plastic pipe including all work incidental thereto, i.e., unloading, handling and distribution of all pipes fittings, tools, materials and equipment, (c) all soldering work in connection with the above whether done by torch, soldering iron, or other means; (d) tie-in to main lines, thrust blocks (both precast and poured in place), pipe hangers and supports incidental to installation of the entire irrigation system, (e) making of pressure tests, start-up testing, flushing, purging, water balancing, placing into operation all irrigation equipment, fixtures and appurtenances installed under this agreement, and (f) the fabrication, replacement, repair and servicing of landscaping and irrigation systems. Operation of hand-held gas, air, electric, or self-powered tools and equipment used in the performance of Landscape and Irrigation work in connection with architectural horticulture; Choke-setting, signaling, and rigging for equipment operators on job-site in the performance of such

Landscaping and Irrigation work; Concrete work (wet or dry) performed in connection with such Landscaping and Irrigation work. This work shall also include the setting of rock, stone, or riprap in connection with such Landscape, Waterscape, Rockscape, and Irrigation work; Grubbing, pick and shovel excavation, and hand rolling or tamping in connection with the performance of such Landscaping and Irrigation work; Sprigging, handseeding, and planting of trees, shrubs, ground covers, and other plantings and the performance of all types of gardening and horticultural work relating to said planting; Operation of flat bed trucks (up to and including 2 1/2 tons):.

GROUP 2. Layout of irrigation and other non-potable irrigation water systems and the layout of drinking fountains and other potable irrigation water systems in connection with such Landscaping and Irrigation work. This includes the layout of all heads, risers, valves, valve boxes, vacuum breakers, low voltage electrical lines, hydraulic and electrical controllers, and metallic (coppers, brass, galvanized, or similar) pipe, as well as PVC or other plastic pipe. This work also includes the reading and interpretation of plans and specifications in connection with the layout of Landscaping, Rockscape, Waterscape, and Irrigation work; Operation of Hydro-Mulching machines (sprayman and driver), Drillers, Trenchers (riding type, Davis T-66, and similar) and fork lifts used in connection with the performance of such Landscaping and Irrigation work; Tree climbers and chain saw tree trimmers, Sporadic operation (when used in connection with Landscaping, Rockscape, Waterscape, and Irrigation work) of Skid-Steer Loaders (Bobcat and similar), Cranes (Bantam, Grove, and similar), Hoptos, Backhoes, Loaders, Rollers, and Dozers (Case, John Deere, and similar), Water Trucks, Trucks requiring a State of Hawaii Public Utilities Commission Type 5 and/or type 7 license, sit-down type and "gang" mowers, and other self-propelled, sit-down operated machines not listed under Landscape & Irrigation Maintenance Laborer; Chemical spraying using self-propelled power spraying equipment (200 gallon capacity or more).

GROUP 3: Maintenance of trees, shrubs, ground covers, lawns and other planted areas, including the replanting of trees, shrubs, ground covers, and other plantings that did not "take" or which are damaged; provided, however, that re-planting that requires the use of equipment, machinery, or power tools shall be paid for at the rate of pay specified under Landscape and Irrigation Laborer, Group 1; Raking, mowing, trimming, and runing, including the use of "weed eaters", hedge trimmers, vacuums, blowers, and other hand-held gas, air, electric, or self-powered tools, and the operation of lawn mowers (Note: The operation of sit-down type and "gang" mowers shall be paid for at the rate of pay specified under Landscape & Irrigation Laborer, Group 2); Guywiring, staking, propping, and supporting trees; Fertilizing, Chemical spraying using spray equipment with less than 200 gallon capacity, Maintaining irrigation and sprinkler systems, including the staking, clamping, and adjustment of risers, and the adjustment and/or replacement of sprinkler heads, (Note: the cleaning and gluing of pipe and fittings shall be paid for at the rate of pay specified under Landscape & Irrigation Laborer(Group 1); Watering by hand or sprinkler system and the performance of other types of gardening, yardman, and horticultural-related work.

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LAB00368-003 09/05/2022

	Rates	Fringes
Underground Laborer		
GROUP 1.....	\$ 40.60	24.25
GROUP 2.....	\$ 42.10	24.25
GROUP 3.....	\$ 42.60	24.25
GROUP 4.....	\$ 43.60	24.25
GROUP 5.....	\$ 43.95	24.25
GROUP 6.....	\$ 44.20	24.25
GROUP 7.....	\$ 44.65	24.25

GROUP 1: Watchmen; Change House Attendant.

GROUP 2: Swamper; Brakeman; Bull Gang-Muckers, Trackmen; Dumpmen (any method); Concrete Crew (includes rodding and spreading); Grout Crew; Reboundmen

GROUP 3: Chucktenders and Cabletenders; Powderman (Prime House); Vibratorman, Pavement Breakers

GROUP 4: Miners - Tunnel (including top and bottom man on shaft and raise work); Timberman, Retimberman (wood or steel or substitute materials thereof); Blasters, Drillers, Powderman (in heading); Microtunnel Laborer; Headman; Cherry Pickerman (where car is lifted); Nipper; Grout Gunmen; Grout Pumpman & Potman; Gunite, Shotcrete Gunmen & Potmen; Concrete Finisher (in tunnel); Concrete Screed Man; Bit Grinder; Steel Form Raisers & Setters; High Pressure Nozzleman; Nozzleman (on slick line); Sandblaster-Potman (combination work assignment interchangeable); Tugger

GROUP 5: Shaft Work & Raise (below actual or excavated ground level); Diamond Driller; Gunite or Shotcrete Nozzleman; Rodman; Groundman

GROUP 6: Shifter

GROUP 7: Shifter (Shaft Work & Raiser)

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PAIN1791-001 07/01/2022

	Rates	Fringes
Painters:		
Brush.....	\$ 40.00	30.59
Sandblaster; Spray.....	\$ 40.00	30.59

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PAIN1889-001 07/01/2022

	Rates	Fringes
Glaziers.....	\$ 41.50	38.37

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PAIN1926-001 02/27/2022

	Rates	Fringes
Soft Floor Layers.....	\$ 38.77	33.31

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\* PAIN1944-001 01/01/2023

	Rates	Fringes
Taper.....	\$ 44.60	33.65
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PLAS0630-001 09/05/2022		

	Rates	Fringes
PLASTERER.....	\$ 45.00	33.58
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PLAS0630-002 08/31/2020		

	Rates	Fringes
Cement Masons:		
Cement Masons.....	\$ 42.65	32.29
Trowel Machine Operators....	\$ 42.80	32.29
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PLUM0675-001 07/03/2022		

	Rates	Fringes
Plumber, Pipefitter, Steamfitter & Sprinkler Fitter...	\$ 50.13	29.05
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ROOF0221-001 09/05/2021		

	Rates	Fringes
Roofers (Including Built Up, Composition and Single Ply).....	\$ 42.55	20.78
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SHEE0293-001 02/27/2022		

	Rates	Fringes
Sheet metal worker.....	\$ 46.22	30.64
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* SUHI1997-002 09/15/1997		

	Rates	Fringes
Drapery Installer.....	\$ 13.60 **	1.20
FENCE ERECTOR (Chain Link Fence).....	\$ 9.33 **	1.65
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WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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\*\* Workers in this classification may be entitled to a higher minimum wage under Executive Order 14026 (\$16.20) or 13658 (\$12.15). Please see the Note at the top of the wage determination for more information.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours

they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at <https://www.dol.gov/agencies/whd/government-contracts>.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

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The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of ""identifiers"" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

#### Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"" or ""UAVG"" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

#### Survey Rate Identifiers

Classifications listed under the ""SU"" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the

wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

#### Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

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#### WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter
- \* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour National Office because National Office has responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations  
Wage and Hour Division  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISIO"

**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: HIGH FRICTION SURFACE TREATMENT  
INSTALLATION AT VARIOUS LOCATIONS ON OAHU,  
ISLAND OF OAHU**

**PROJECT NO.: NH-0300(181)R**

**COMPLETION TIME: 95 working days from the date indicated in the Notice  
to Proceed from the Department.**

**DBE PROJECT GOAL: 5.5%**

**DESIGN PROJECT MANAGER:**

<b>NAME</b>	<b>Sharen Cho-Ibanez</b>
<b>ADDRESS</b>	<b>Department of Transportation 601 Kamokila Blvd, Room 602 Kapolei, Hawaii 96707</b>
<b>PHONE NO.</b>	<b>(808) 692-7682</b>
<b>EMAIL</b>	<b>sharen.h.cho-ibanez@hawaii.gov</b>

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.
4. It will not maintain for its employees any segregated facilities at any of its establishments.
5. Does not and will not permit its employees to perform their services at any location under its control, where segregated facilities are maintained.

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 after the undersigned has received the contract documents for execution, and is fully aware that non-compliance with the aforementioned terms will result in the forfeiture of the full amount of the bid guarantee required under Section 1032D-323, Hawaii Revised Statutes.
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. Unless amended by Special Provision, 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, and/or the General Provisions for Construction Projects for AIR and WATER Transportation Facilities Division dated 2016, as applicable, the Notice to Bidders, Special Provisions, Proposal, Contract, Bond Forms, and Project Plans.

In accordance with Section 103D-323, Hawaii Revised Statutes, this proposal is accompanied with a bid security in the amount of 5% of the total amount bid, in the form checked below. (Check applicable bid security submitted with bid.)

\_\_\_\_\_ Surety Bid Bond (Use standard form),

\_\_\_\_\_ Cash,

\_\_\_\_\_ Cashier's Check,

\_\_\_\_\_ Certified Check, or

\_\_\_\_\_ (Fill in other acceptable security.)

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 \_\_\_\_\_

In accordance with Section 103D-302, Hawaii Revised Statutes, the undersigned as Bidder has listed the name of each person or firm who will be engaged by the Bidder on the project as Subcontractor or Joint Contractor and the nature of work to be done by each on the following page. The Bidder must adequately and unambiguously disclose the unique nature and scope of the work to be performed by each Subcontractor or Joint Contractor. For each listed firm, the Bidder declares the respective firm is a Subcontractor or Joint Contractor and is subject to evaluation as a Subcontractor or Joint Contractor. It is understood that failure to comply with the aforementioned requirements may be cause for rejection of the bid submitted.

The undersigned Bidder asserts that affirmative action has been taken to seek out and consider Disadvantaged Business Enterprises (DBEs) for portions of the work which can be subcontracted, and the affirmative actions of the Bidder are fully documented in its records and are available upon request by the Department. It is also understood that it must meet or exceed the DBE contract goal listed on page P-1 or demonstrate that it made good faith efforts to meet the DBE project goal. The undersigned as Bidder, agrees to utilize each participating DBE that it submitted to meet the contract goal of \_\_\_\_\_% (percentage to be completed by Bidder) DBE participation if the contract is awarded to it, and shall maintain such DBE participation during the construction of this project.

**SUBCONTRACTOR LISTING**  
(Attach additional sheets if necessary.)

	NAME OF FIRM	NATURE OF WORK
<b>SUBCONTRACTOR:</b>		
1.	_____	_____
	1a <sup>1</sup> . _____	_____
2.	_____	_____
	2a. _____	_____
3.	_____	_____
	3a. _____	_____
4.	_____	_____
	4a. _____	_____
5.	_____	_____
	5a. _____	_____
6.	_____	_____
	6a. _____	_____
7.	_____	_____
	7a. _____	_____

**NOTES:**

The Name of Firm and Nature of Work shall be indicated for all listed firms. The Bidder must adequately and unambiguously disclose the unique nature and scope of the work to be performed by each Sub- or Joint Contractor.

For each listed firm, the Bidder declares the respective firm is a Sub- or Joint Contractor and subject to evaluation as a Sub- or Joint Contractor.

\_\_\_\_\_

<sup>1</sup> Second tier subcontractors

**JOINT CONTRACTOR LISTING**  
 (Attach additional sheets if necessary.)

	NAME OF FIRM	NATURE OF WORK
<b>JOINT CONTRACTOR:</b>		
1.	_____	_____
	1a <sup>1</sup> . _____	_____
2.	_____	_____
	2a. _____	_____
3.	_____	_____
	3a. _____	_____
4.	_____	_____
	4a. _____	_____
5.	_____	_____
	5a. _____	_____
6.	_____	_____
	6a. _____	_____
7.	_____	_____
	7a. _____	_____

**NOTES:**

The Name of Firm and Nature of Work shall be indicated for all listed firms. The Bidder must adequately and unambiguously disclose the unique nature and scope of the work to be performed by each Sub- or Joint Contractor.

For each listed firm, the Bidder declares the respective firm is a Sub- or Joint Contractor and subject to evaluation as a Sub- or Joint Contractor.

\_\_\_\_\_

<sup>1</sup> Second tier joint contractors

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 (Company Name)

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

\_\_\_\_\_  
Title

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

\_\_\_\_\_  
Business Telephone

\_\_\_\_\_  
Email

\_\_\_\_\_  
Date

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

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

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**

<b>ITEM NO.</b>	<b>ITEM</b>	<b>APPROX. QUANTITY</b>	<b>UNIT</b>	<b>UNIT PRICE</b>	<b>AMOUNT</b>
209.0100	Installation, Maintenance, Monitoring, and Removal of BMP	L.S.	L.S.	L.S.	\$ _____
209.0200	Additional Water Pollution, Dust, and Erosion Control	F.A.	F.A.	F.A.	\$ <u>10,000.00</u>
219.0100	Determination and Characterization of Fill Material	L.S.	L.S.	L.S.	\$ _____
219.0200	Testing for Lead Based Paint	F.A.	F.A.	F.A.	\$ <u>10,000.00</u>
421.1000	High Friction Surface Treatment	18,012	S.Y.	\$ _____	\$ _____
629.1010	4-Inch White Profiled Thermoplastic Striping	487	L.F.	\$ _____	\$ _____
629.1020	4-Inch White Pavement Striping (Thermoplastic Extrusion)	90	L.F.	\$ _____	\$ _____
629.1030	6-Inch Yellow Pavement Striping (Thermoplastic Extrusion)	6,026	L.F.	\$ _____	\$ _____
629.1040	6-Inch White Pavement Striping (Thermoplastic Extrusion)	7,598	L.F.	\$ _____	\$ _____
629.1050	8-Inch White Pavement Striping (Thermoplastic Extrusion)	1,005	L.F.	\$ _____	\$ _____
629.1060	12-Inch White Pavement Striping (Thermoplastic Extrusion)	35	L.F.	\$ _____	\$ _____
629.1070	Type "C" Pavement Marker	273	EA	\$ _____	\$ _____

**PROPOSAL SCHEDULE**

ITEM NO.	ITEM	APPROX. QUANTITY	UNIT	UNIT PRICE	AMOUNT
629.1080	Type "H" Pavement Marker	152	EA	\$ _____	\$ _____
645.1000	Ko Olina Traffic Control	L.S.	L.S.	L.S.	\$ _____
645.2000	Palailai Traffic Control	L.S.	L.S.	L.S.	\$ _____
645.3000	Aiea Traffic Control	L.S.	L.S.	L.S.	\$ _____
645.4000	Waiiau Traffic Control	L.S.	L.S.	L.S.	\$ _____
645.5000	Halawa Traffic Control	L.S.	L.S.	L.S.	\$ _____
645.6000	Puuloa Traffic Control	L.S.	L.S.	L.S.	\$ _____
645.7000	Kaneohe Traffic Control	L.S.	L.S.	L.S.	\$ _____
645.8000	Mokapu Traffic Control	L.S.	L.S.	L.S.	\$ _____
645.9000	Additional Police Officers, Additional Traffic Control Devices and Advertisement	F.A.	F.A.	F.A.	\$ <u>25,000.00</u>
699.1000	Mobilization (Not to Exceed 6 Percent of the Sum of All Items Excluding the Bid Price of this Item)	L.S.	L.S.	L.S.	\$ _____

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

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





## Summary of Good Faith Efforts (GFE)

As required by the specifications “*Disadvantaged Business Enterprise Requirements*,” documentation of GFE shall be submitted by the close of business, 4:30 P.M. HST five (5) days of bid opening. **The bidder/offeror shall respond to the following questions and describe efforts to obtain DBE participation whether or not the DBE project goal is met.** Responses must be sufficient to properly evaluate the bidder’s/offeror’s good faith efforts. Copies of correspondence return receipts, telephone logs, or other documentation will be required to support GFE. Attach additional sheets, if necessary. Based on responses given, HDOT shall make a determination of the bidders’ GFE. **Failure to provide required information sufficient to evaluate the bid/proposal shall be cause for bid/proposal rejection.**

1. Did you submit the required information by the close of business, 4:30 P.M. HST, five (5) days after bid opening (i.e. DBE name, address, NAICS code, description of work, project name, and number)?
2. Explain your GFE if any, to solicit through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform part or all of the work to be included under the contract.
  - a. Explain your GFE if any, to solicit the participation of potential DBEs as early in the procurement process as practicable.
  - b. Explain your GFE if any, to allow sufficient time for the DBEs to properly inquire about the project and respond to the solicitation.
  - c. Explain your GFE if any, to take appropriate steps to follow up with interested DBEs in a timely manner to facilitate participation by DBEs in this project.
3. Explain your GFE if any, to identify and break up portions of work that can be performed by DBEs in order to increase the likelihood that a DBE will be able to participate, and that the DBE goal could be achieved (e.g. breaking out contract items into economically feasible units to facilitate DBE participation even when you might otherwise prefer to self-perform these work items).
4. Explain your GFE if any, to make available or provide interested DBEs with adequate information about the plans, specifications, and requirements of the project in a timely manner, and assist them in responding to your solicitation.
5. Explain your GFE if any, to negotiate in good faith with interested DBEs. Evidence of such negotiations includes documenting:
  - a) the names, addresses and telephone numbers of DBEs that were contacted; b) a description of the information that was provided to DBEs regarding the plans and specifications; and c) detailed explanation for not utilizing individual DBEs on the project.
6. Did you solely rely on price in determining whether to use a DBE? If yes please explain. The fact that there may be additional or higher costs associated with finding and utilizing DBEs are not, by themselves, sufficient reasons for your refusal to utilize a DBE or

NAME and SIGNATURE of AUTHORIZED REPRESENTATIVE of PRIME CONTRACTOR:

DATE:

failure to meet the DBE goal, provided that such additional costs are not unreasonable. Also, the ability or desire to perform a portion of the work with your own forces, that could have been undertaken by an available DBE, does not relieve you of the responsibility to make good faith efforts to meet the DBE goal, and to make available and solicit DBE participation in other areas of the project to meet the DBE goal.

7. Did you reject DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities? If yes, please explain. The DBEs standing within the industry, membership in specific groups, organizations or associates, and political or social affiliation are not legitimate basis for the rejection or non-solicitation of bids from particular DBEs.
8. Explain your GFE to assist interested DBEs in obtaining bonding, lines of credit, or insurance.
9. Explain your GFE if any, to assist interested DBEs in obtaining necessary equipment, supplies, materials or related assistance or services.
10. If you selected a non-DBE over a DBE subcontractor, please provide the quotes of each DBE and non-DBE subcontractor submitted to you for work on the contract; and for each DBE that was contacted but not utilized for a contract, provide a detailed written explanation for each DBE detailing the reasons for not utilizing or allowing the DBE to participate in the contract.
11. Explain your GFE if any, to effectively use the services of available minority/women community organizations, minority/women business groups, contractors' groups, and local, state and federal minority/women business assistance offices or other organizations to provide assistance in recruitment and placement of DBEs.

NAME and SIGNATURE of AUTHORIZED REPRESENTATIVE of PRIME CONTRACTOR:

DATE:



**Disadvantaged Business Enterprise (DBE)  
Contract Goal Verification and Good Faith Efforts (GFE)  
Documentation For Construction  
INSTRUCTIONS**

Project #	Self-explanatory
County	County where project is located
DBE Project Goal	Indicate DBE goal listed in the proposal on P-1
Prime Contractor	Name of prime contractor
Name of Subcontractor, Supplier, Manufacturer, and Trucking Company	Company name of subcontractor, supplier, manufacturer, or trucking firm
DBE (Y/N)	Y for yes and N for no
Bid Item Number and Description	Pay item and description
Approx. Quantity/ Hours	Self-explanatory
Unit	Unit of measure
Unit Price/ Rate	Self-explanatory
Dollar Amount	Total dollar amount committed to subcontractor, supplier, manufacturer, or trucking firm
A. Dollar amount of the work to be performed by DBE subcontractors, manufacturers, and trucking companies, plus 60% of the dollar amount of DBE suppliers	Total amount of DBE participation
B. Sum of all work items less mobilization, force account items, allowance items	List total of work items minus mobilization, force accounts and allowances. DBE credit shall not be given for mobilization, force account items, and allowance items.
A/B = DBE contract goal	Self-explanatory
Name and Signature of Authorized Representative of Prime Contractor	Self-explanatory (Note: bidder must sign and date every page of form.)
Date	Date form is signed
Summary of Good Faith Efforts (GFE)	Complete by answering questions in detail and providing documentation to support how bidder demonstrated good faith efforts to meet the goal, irrespective of whether or not the goal was met.



## Disadvantaged Business Enterprise (DBE) Confirmation and Commitment Agreement Trucking Company

This commitment is subject to the award and receipt of a signed contract from the Hawaii Department of Transportation (HDOT) for the subject project. DBEs must be certified by the bid opening date.

<b>Project #:</b>	<b>County:</b>
<b>NAICS CODE/DESCRIPTION OF WORK:</b>	<b>SECONDARY NAICS CODE:</b>

\*All quantities and units should match the bid tab item whenever possible.

The prime contractor shall inform HDOT the dates when the trucking firm starts and completes all work under the subcontract.

<b>Estimated Beginning Date (Month/Year):</b>	<b>Estimated Completion Date (Month/Year):</b>
---	--

<b>TRUCKING COMPANY:</b>	Item No.	Item Description	Unit	Unit Price / Rate	Amount
				\$	\$
				\$	\$
				\$	\$
<b>TOTAL COMMITMENT AMOUNT</b>					<b>\$</b>

1. Number of hours contracted or quantities to be hauled: \_\_\_\_\_
2. Number of fully operational trucks to be used: \_\_\_\_\_ Tractor/trailers: \_\_\_\_\_ Dump trucks: \_\_\_\_\_
3. Number of fully operational trucks owned by DBE: \_\_\_\_\_ Dump trucks: \_\_\_\_\_ Tractors/trailers: \_\_\_\_\_
4. If Owner Operators or additional trucking companies are to be used answer the following:

Name of Trucking Company	DBE Y/N	Estimated Dollar Amount to be Contracted	Number and Type of Trucks (specify)
		\$	
		\$	

The prime contractor certifies by signature on this agreement to utilize the DBE trucking company as listed on the agreement form. If a DBE trucking company is unable to perform the work as listed on this agreement form, the prime contractor will follow the substitution/replacement approval process as outlined in the contract DBE requirements. **IMPORTANT! The signatures of the DBE, prime contractor, and subcontractor (only if the DBE will be a second tier sub) confirms that all information on this Agreement is true and correct. Parties should sign Agreement in the order in which they are listed.**

<b>DBE NAME:</b>	Name/Title (please print):
Address:	Signature:
Phone:                      Fax:	
Email:	
<b>Prime Contractor:</b>	Name/Title (please print):
Address:	Signature:
Phone:                      Fax:	
Email:	
<b>Subcontractor (only if the DBE will be a second tier sub):</b>	Name/Title (please print):
Address:	Signature:
Phone:                      Fax:	
Email:	

HDOT retains the information collected through this form. With few exceptions, you are entitled on request to be informed about the information that we collect about you.



**Disadvantaged Business Enterprise (DBE)  
Confirmation and Commitment Agreement  
Trucking Company  
INSTRUCTIONS**

The purpose of this agreement is to secure the commitment of the bidder/offeror to utilize the listed DBE trucking company, and the DBE's confirmation that it will perform work for the bidder/offeror on this project. The information on this form shall be provided by the DBE.

Project #	Self-explanatory
County	County where project is located
NAICS Code/Description of Work	Primary North American Industry Classification System code under which DBE is certified to perform and description of work to be done
Secondary NAICS Code	List other NAICS codes firm is certified to perform
Estimated Beginning Date (Month/Year)	Date DBE shall begin work on the project
Estimated Completion Date (Month/Year)	Date DBE's work will be completed
Trucking Company	Name of DBE trucking company
Item No.	List pay item number
Item Description	Description of item
Unit	Unit of measure – e.g. weight or hours
Unit Price/Rate	Cost per unit or hourly rate
Amount	Total amount per pay item
Total Commitment Amount	Sum of all pay items and total commitment of bidder/offeror to DBE
Number of hours contracted or quantities to be hauled	Approximate number of hours or tonnage to be hauled
Number of fully operational trucks to be used:	Total number of trucks to be used for the project
Tractor/Trailers	Number of tractor trailers to be used
Dump Trucks	Number of dump trucks to be used
Number of fully operational trucks owned by DBE	Number of listed DBE's trucks to be used on this project
Name of Trucking Company	If other trucking companies (DBE or non-DBE) are to be leased, list name and information about type of trucks in this section
Estimated Dollar Amount to be Contracted	Provide information about estimated cost to lease trucks
Number of Dump Trucks, Tractor/Trailer	Self-explanatory
DBE NAME	DBE Company name
Name/Title	Name and title of DBE's representative
Address	Self-explanatory
Phone	Self-explanatory
Fax	Self-explanatory
Email	Self-explanatory
Signature	Signature of DBE's representative
Date	Date agreement is signed
Prime Contractor	Company name

Name/Title	Name and title of prime contractor's representative
Address	Self-explanatory
Phone	Self-explanatory
Fax	Self-explanatory
Email	Self-explanatory
Signature	Signature of prime contractor's representative
Date	Date agreement is signed
Subcontractor (only if the DBE will be a second tier sub):	Name of subcontractor only if the listed DBE trucking company will be performing work under this subcontractor
Name/Title	Name and title of the subcontractor's representative
Address	Self-explanatory
Phone	Self-explanatory
Fax	Self-explanatory
Email	Self-explanatory
Signature	Signature of subcontractor
Date	Date agreement is signed



## Disadvantaged Business Enterprise (DBE) Confirmation and Commitment Agreement Subcontractor, Manufacturer, or Supplier

This commitment is subject to the award and receipt of a signed contract from the Hawaii Department of Transportation (HDOT) for the subject project. DBEs must be certified by the bid opening date.

<b>Project #:</b>	<b>County:</b>
<b>NAICS CODE/DESCRIPTION OF WORK:</b>	<b>SECONDARY NAICS CODE:</b>

\*All quantities and units should match the bid tab item whenever possible.

The prime contractor shall inform HDOT of the dates when the subcontractor starts and completes all work under the subcontract.

<b>Estimated Beginning Date (Month/Year):</b>	<b>Estimated Completion Date (Month/Year):</b>
---	--

<b>SUBCONTRACTOR:</b>	Item No.	Item	Approx. Quantity	Unit	Unit Price	Amount
					\$	\$
					\$	\$
					\$	\$
					\$	\$
<b>TOTAL COMMITMENT AMOUNT</b>						\$

<b>MANUFACTURER:</b>	Item No.	Item	Approx. Quantity	Unit	Unit Price	Amount
					\$	\$
					\$	\$
<b>TOTAL COMMITMENT AMOUNT</b>						\$

<b>SUPPLIER:</b>	Item No.	Item	Approx. Quantity	Unit	Unit Price	Amount
					\$	\$
					\$	\$
<b>TOTAL COMMITMENT AMOUNT</b>						\$

The prime contractor certifies by signature on this agreement that subcontracts will be executed between the prime contractor and the DBE subcontractors as listed on the agreement form. If a DBE subcontractor is unable to perform the work as listed on this agreement form, the prime contractor will follow the substitution/replacement approval process as outlined in the contract DBE requirements. **IMPORTANT! The signatures of the DBE, prime contractor, and subcontractor (only if the DBE will be a second tier sub) confirms that all information on this Agreement is true and correct. Parties should sign Agreement in the order in which they are listed.**

<b>DBE NAME:</b>	Name/Title (please print):
Address:	Signature:
Phone:                      Fax:	
Email:	Date:
<b>Prime Contractor:</b>	Name/Title (please print):
Address:	Signature:
Phone:                      Fax:	
Email:	Date:
<b>Subcontractor (only if the DBE will be a second tier sub):</b>	Name/Title (please print):
Address:	Signature:
Phone:                      Fax:	
Email:	Date:

HDOT retains the information collected through this form. With few exceptions, you are entitled on request to be informed about the information that we collect about you.



## Disadvantaged Business Enterprise (DBE) Confirmation and Commitment Agreement Subcontractor, Manufacturer, or Supplier INSTRUCTIONS

The purpose of this agreement is to secure the commitment of the bidder/offeror to utilize the listed DBE, and the DBE's confirmation that it will perform work for the bidder/offeror on this project. The information on this form shall be provided by the DBE.

Project #	Self-explanatory
County	County where project is located
NAICS Code/Description of Work	Primary North American Industry Classification System code under which DBE is certified to perform and description of work to be done
Secondary NAICS Code	List other NAICS codes firm is certified to perform
Estimated Beginning Date (Month/Year)	Date DBE shall begin work on the project
Estimated Completion Date (Month/Year)	Date DBE's work will be completed
Subcontractor	Name of DBE subcontractor (company name)
Item No.	List pay item number
Item	Description of item
Approx. Quantity	Self-explanatory
Unit	List unit of measure
Unit Price	Cost per unit
Amount	Total amount per pay item
Total Commitment Amount	Sum of all pay items and total commitment of bidder/offeror to DBE
Manufacturer	Name of DBE manufacturer
Supplier	Name of DBE supplier (aka regular dealer)
DBE NAME	DBE Company name
Name/Title	Name and title of DBE's representative
Address	Self-explanatory
Phone	Self-explanatory
Fax	Self-explanatory
Email	Self-explanatory
Signature	Signature of DBE's representative
Date	Date agreement is signed
Prime Contractor	Company name
Name/Title	Name and title of prime contractor's representative
Address	Self-explanatory
Phone	Self-explanatory
Fax	Self-explanatory
Email	Self-explanatory
Signature	Signature of prime contractor's representative
Date	Date agreement is signed
Subcontractor (only if the DBE will be a second tier sub):	Name of subcontractor only if the listed DBE will be performing work under this subcontractor as a second tier subcontractor/supplier/manufacturer

Name/Title	Name and title of the subcontractor's representative that the listed DBE will work under as a second tier subcontractor/supplier/manufacture
Address	Self-explanatory
Phone	Self-explanatory
Fax	Self-explanatory
Email	Self-explanatory
Signature	Signature of subcontractor's representative
Date	Date agreement is signed

# SURETY BID BOND

Bond No. \_\_\_\_\_

KNOW ALL BY THESE PRESENTS:

That we, \_\_\_\_\_  
(Full name or legal title of offeror)

as Offeror, hereinafter called the Principal, and

\_\_\_\_\_  
(Name of bonding company)

as Surety, hereinafter called Surety, a corporation authorized to transact business as a  
Surety in the State of Hawaii, are held and firmly bound unto

\_\_\_\_\_  
(State/county entity)

as Owner, hereinafter called Owner, in the penal sum of

\_\_\_\_\_  
(Required amount of bid security)

Dollars (\$ \_\_\_\_\_), lawful money of the United States of  
America, for the payment of which sum well and truly to be made, the said Principal and  
the said Surety bind ourselves, our heirs, executors, administrators, successors and  
assigns, jointly and severally, firmly by these presents.

## WHEREAS:

The Principal has submitted an offer for \_\_\_\_\_

\_\_\_\_\_  
(Project by number and brief description)

## NOW, THEREFORE:

The condition of this obligation is such that if the Owner shall reject said offer, or  
in the alternate, accept the offer of the Principal and the Principal shall enter into a  
contract with the Owner in accordance with the terms of such offer, and give such bond  
or bonds as may be specified in the solicitation or Contract Documents with good and  
sufficient surety for the faithful performance of such Contract and for the prompt  
payment of labor and material furnished in the prosecution thereof as specified in the  
solicitation then this obligation shall be null and void, otherwise to remain in full force  
and effect.

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

(Seal) \_\_\_\_\_  
Name of Principal (Offeror)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

(Seal) \_\_\_\_\_  
Name of Surety

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
HONOLULU, HAWAII

SAMPLE FORMS

Contract

Performance Bond (Surety)

Performance Bond

Labor and Material Payment Bond (Surety)

Labor and Material Payment Bond

Disclosure of Lobbying Activities (Standard Form - LLL and LLL-A)

Statement of Compliance (Form WH-348)

Chapter 104, HRS Compliance Certificate

# C O N T R A C T

THIS AGREEMENT, made this \_\_\_\_\_ day \_\_\_\_\_ 20\_\_\_\_\_, by and between the STATE OF HAWAII, by its Director of Transportation, hereinafter referred to as "STATE," and \_\_\_\_\_ whose business and/or post office address is \_\_\_\_\_

\_\_\_\_\_ hereafter referred to as "CONTRACTOR":

WITNESSETH: That for and in consideration of the payments hereinafter mentioned, the CONTRACTOR hereby covenants and agrees with the STATE to complete in place, furnish and pay for all labor and materials necessary for

or such a part thereof as shall be required by the STATE, the total amount of which labor, material and construction shall be computed at the unit and/or lump sum prices set forth in the attached proposal schedule and shall be the sum of \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_) as follows:

which sum shall be provided from the following fund(s):

all in accordance with the specifications, the special provisions, if any, the notice to bidders, the instructions to bidders, the proposal, and plans for \_\_\_\_\_, on file in the office of the Director of Transportation. These documents, together with all alterations, amendments, and additions thereto and deductions therefrom, are attached hereto or incorporated herein by reference and made a part of this contract.

The CONTRACTOR hereby covenants and agrees to complete such construction within \_\_\_\_\_ ( \_\_\_\_\_ ) working days from the date indicated in the notice to proceed from the STATE subject, however, to such extensions as may be provided for under the specifications.

For and in consideration of the covenants, undertaking and agreements of the CONTRACTOR herein set forth and upon the full and faithful performance thereof by the CONTRACTOR, the STATE hereby agrees to pay the CONTRACTOR the sum of \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_ ) in lawful money, but not more than such part of the same as is actually earned according to the STATE'S determination of the actual quantities of work performed and materials furnished by the CONTRACTOR at the unit or lump sum prices set forth in the attached proposal schedule. Such payment, including any extras, shall be made, subject to such additions or deductions hereto or hereafter made in the manner and at the time prescribed in the specifications and this contract. In any event, extras shall not exceed \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_ ) in lawful money and shall be provided from the following fund(s):

Where Federal funds are involved, it is covenanted and agreed by and between the parties hereto that the sums of

shall be paid out of the applicable Federal funds, and that this contract shall be construed to be an agreement to pay said sums to the Contractor only out of the aforesaid Federal funds if and when such Federal funds shall be received from the Federal Government, and that this contract shall not be construed to be a general agreement to pay said portions at all events out of any funds other than those which may be so received from the Federal Government; provided, that if the Federal share of the cost of the project is not immediately forthcoming from the Federal Government, the STATE may advance the CONTRACTOR the anticipated Federal reimbursement of the cost of the completed portions of the work from funds which have been appropriated by the STATE for its pro rata share.

The CONTRACTOR further agrees to execute the attached non-gratuity affidavit form prior to payment of the final estimate by the STATE.

All words used herein in the singular number shall extend to and include the plural. All words used in the plural number shall extend to and include the singular. The use of any gender shall extend to and include all genders.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed the day and year first above written.

STATE OF HAWAII

By \_\_\_\_\_  
Director of Transportation

By \_\_\_\_\_

By \_\_\_\_\_

APPROVED AS TO FORM

\_\_\_\_\_  
Deputy Attorney General

**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 Oblige 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 Oblige 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 Oblige, hereinafter called Oblige, in the amount

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

lawful money of the United States of America, for the payment of which to the said Oblige, 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 Oblige, 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 Oblige 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

## DISCLOSURE OF LOBBYING ACTIVITIES..

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352..  
(See reverse for public burden disclosure.)..

Approved by..  
0348-0046..

<p>1. Type of Federal Action:..</p> <p><input type="checkbox"/> a. contract</p> <p><input type="checkbox"/> b. grant</p> <p><input type="checkbox"/> c. cooperative agreement</p> <p><input type="checkbox"/> d. loan</p> <p><input type="checkbox"/> e. loan guarantee</p> <p><input type="checkbox"/> f. loan insurance</p>	<p>2. Status of Federal Action:</p> <p><input type="checkbox"/> a. bid/offer/application</p> <p><input type="checkbox"/> b. initial award</p> <p><input type="checkbox"/> c. post-award</p>	<p>3. Report Type:</p> <p><input type="checkbox"/> a. initial filing</p> <p><input type="checkbox"/> b. material change</p> <p>For Material Change Only:</p> <p>year _____ quarter _____</p> <p>date of last report _____</p>
<p>4. Name and Address of Reporting Entity:</p> <p><input type="checkbox"/> Prime <input type="checkbox"/> Subawardee</p> <p>Tier _____, <i>if known:</i></p> <p>Congressional District, <i>if known:</i></p>		<p>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime</p> <p>Congressional District, <i>if known:</i></p>
<p>6. Federal Department/Agency:</p>	<p>7. Federal Program Name/Destination:</p> <p>CFDA Number, <i>if applicable:</i></p>	
<p>8. Federal Action Number, <i>if known:</i></p>	<p>9. Award Amount, <i>if known:</i></p> <p>\$ _____</p>	
<p>10. a. Name and address of Lobbying Entity <i>(if individual, last name, first name, MI):</i></p>		<p>b. Individuals Performing Services <i>(including address if different from No. 10a)</i> <i>(last name, first name, MI):</i></p>
<p>(attach Continuation Sheet(s) SF-LLL-A, if necessary)</p>		
<p>11. Amount of Payment <i>(check all that apply):</i></p> <p>\$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned</p>	<p>13. Type of Payment <i>(check all that apply):</i></p> <p><input type="checkbox"/> a. retainer</p> <p><input type="checkbox"/> b. one-time fee</p> <p><input type="checkbox"/> c. commission</p> <p><input type="checkbox"/> d. contingent fee</p> <p><input type="checkbox"/> e. deferred</p> <p><input type="checkbox"/> f. other; specify: _____</p>	
<p>12. Form of Payment <i>(check all that apply):</i></p> <p><input type="checkbox"/> a. cash</p> <p><input type="checkbox"/> b. in-kind; specify: nature _____ value _____</p>		
<p>14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employees(s) or Member(s) contacted, for Payment Indicated in Item 11:</p> <p>(attach Continuation Sheet(s) SF-LLL-A, if necessary)</p>		
<p>15. Continuation Sheet(s) SF-LLL-A attached: <input type="checkbox"/> Yes <input type="checkbox"/> No</p>		
<p>16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.</p>		<p>Signature: _____</p> <p>Print Name: _____</p> <p>Title: _____</p> <p>Telephone No.: _____ Date: _____</p>
<p>Federal Use Only:</p>		<p>Authorized for Local Reproduction Standard Form - LLL</p>

## INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal Agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10.
  - (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.
  - (b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) or Congress that were contacted.
15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction (0348-0046), Washington, D.C. 20503.

DISCLOSURE OF LOBBYING ACTIVITIES  
CONTINUATION SHEET

Approved by  
0348-0046

Reporting Entity: \_\_\_\_\_ Page \_\_\_\_\_ of \_\_\_\_\_

STATEMENT OF COMPLIANCE

Date \_\_\_\_\_

I, \_\_\_\_\_ do hereby state:

(Name of signatory party) (Title)  
(1) That I pay or supervise the payment of the persons employed by \_\_\_\_\_ on  
(Contractor or subcontractor)  
the \_\_\_\_\_; that during the payroll period commencing on the \_\_\_\_\_ day of \_\_\_\_\_,  
(Building or work)  
\_\_\_\_\_ and ending the \_\_\_\_\_ day of \_\_\_\_\_, all persons employed on said project have been paid the  
full weekly wages earned, that no rebates have been or will be made either directly or indirectly to or on behalf of said  
\_\_\_\_\_ from the full weekly wages earned by any person and that no deductions have  
(Contractor or subcontractor)  
been made either directly or indirectly from the full wages earned by any person, other than permissible deductions as defined in  
Regulations, Part 3 (29 CFR Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948.63  
Stat. 108, 72 Stat. 967; 76 Stat. 357; 40 U.S.C. 2760), and described below:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(2) That any payrolls otherwise under this contract required to be submitted for the above period are correct and complete; that the wage rates for laborers or mechanics contained therein are not less than the applicable wage rates contained in any wage determination incorporated into the contract; that the classifications set forth therein for each laborers or mechanic conform with the work he performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship program registered with a State apprenticeship agency recognized by the Bureau of Apprenticeship and Training, United States Department of Labor, or if no such recognized agency exists in a State, are registered with the Bureau of Apprenticeship and Training, United States Department of Labor.

(4) That:

(a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS

In addition to the basic hourly wage rates paid to each laborer or mechanic listed in the above-Referenced payroll, payments of fringe benefits as listed in the contract have been or will be made to appropriate program for the benefit of such employees, except as noted in Section 4(c) below.

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

Each Laborer or mechanic listed in the above referenced payroll has been paid as indicated on the payroll, an amount not less than the sum of the applicable basic hourly wage rate plus the amount of the required fringe benefits as listed in the contract, except as noted in Section 4(c) below.

(c) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION
REMARK	

NAME AND TITLE	SIGNATURE
THE WILFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. SEE SECTION 1001 OF TITLE 18 AND SECTION 231 OF TITLE 31 OF THE UNITED STATES CODE.	

## INSTRUCTIONS FOR PREPARATION OF STATEMENT OF COMPLIANCE

This statement of compliance meets needs resulting from the amendment of the Davis-Bacon Act to include fringe benefits provisions. Under this amended law, the contractor is required to pay fringe benefits as predetermined by the Department of Labor, in addition to payment of the minimum rates. The contractor's obligation to pay fringe benefits may be met by payment of the fringes to the various plans, funds, or programs or by making these payments to the employees as cash in lieu of fringes.

The contractor should show on the face of his payroll all monies paid to the employees whether as basic or as cash in lieu of fringes. The contractor shall represent in the statement of compliance that he is paying to others fringes required by the contract and not paid as cash in lieu of fringes. Detailed instructions follow:

### Contractors who pay all required fringe benefits:

A contractor who pays fringe benefits to approved plans, funds, or programs in amounts not less than were determined in the applicable wage decision of the Secretary of Labor shall continue to show on the face of his payroll the basic cash hourly rate and overtime rate paid to his employees, just as he has always done. Such a contractor shall check paragraph 4(a) of the statement to indicate that he is also paying to approved plans, funds, or programs not less than the amount predetermined as fringe benefits for each craft. Any exception shall be noted in Section 4(c).

### Contractors who pay no fringe benefits:

A contractor who pays no fringe benefits shall pay to the employee and insert in the straight time hourly rate column of his payroll an amount not less than the predetermined rate for each classification plus the amount of fringe benefits determined for each classification in the applicable wage decision. Inasmuch as it is not necessary to pay time and a half on cash paid in lieu of fringes, the overtime rate shall be not less than the sum of the basic predetermined rate, plus the half time premium on the basic or regular rate plus the required cash in lieu of fringes at the straight time rate. To simplify computation of overtime, it is suggested that the straight time basic rate and cash in lieu of fringes be separately stated in the hourly rate column, thus \$3.25/.40. In addition, the contractor shall check paragraph 4(b) of the statement to indicate that he is paying fringe benefits in cash directly to his employees. Any exceptions shall be noted in Section 4(c).

### Use of Section 4(c), Exceptions

Any contractor who is making payment to approved plans, funds, or programs in amounts less than the wage determination requires is obliged to pay the deficiency directly to the employees as cash in lieu of fringes. Any exceptions to Section 4(a) or 4(b), whichever the contractor may check, shall be entered in Section 4(c). Enter in the Exception column the craft, and enter in the Explanation column the hourly amount paid the employees as cash in lieu of fringes, and the hourly amount paid to plans, funds, or programs as fringes.

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 \_\_\_\_\_