

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
AIRPORTS

SPECIFICATIONS AND PROPOSAL
FOR THE MAINTENANCE OF TREES AND LANDSCAPING
ELLISON ONIZUKA KONA INTERNATIONAL AIRPORT AT KEAHOLE
KAILUA-KONA, HAWAII
PROJECT NO. BH2420-33

NOTICE TO BIDDERS
(Chapter 103D, HRS)

SEALED BIDS for MAINTENANCE OF TREES AND LANDSCAPING,
ELLISON ONIZUKA KONA INTERNATIONAL AIRPORT AT KEAHOLE,
KAILUA-KONA, HAWAII, PROJECT NO. BH2420-33, will begin as advertised on
July 12, 2023 in HiePRO. Bidders are to register and submit bids through HiePRO only.
See the following HiePRO link for important information on registering:
<https://hiepro.ehawaii.gov/welcome.html>.

Deadline to submit bids is August 3, 2023, 2:00 P.M., Hawaii Standard Time. The complete bid Proposal Schedule shall be uploaded into HiePRO prior to bid opening date and time. All other confidential and proprietary documents shall be uploaded separately. Failure to upload the bid Proposal Schedule into HiePRO shall be grounds for rejection of the bid. Bids received after said due date and time shall not be considered.

The scope of work consists of the maintenance of the trees and landscaping located in areas served by the R-1 reclaimed water and around the Wastewater Treatment Plant and Pump Station at the Ellison Onizuka Kona International Airport at Keahole.

To be eligible for award, bidders must possess a valid State of Hawaii Specialty Contractors "C-27" license at the time of bidding.

ALL requests for information shall be received in writing via HiePRO prior to the Question Due Date in General Information of the HiePRO solicitation. Questions received after the deadline will not be addressed. Verbal requests for information will not receive a response.

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

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.

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 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).

For additional information, contact Ms. Maritez Arca Marquez, our Airports State Project Manager at (808) 838-8808, or via email at maritez.a.marquez@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.

Ford Fuchigami

FORD N. FUCHIGAMI
Airports Deputy Director

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STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
HONOLULU, HAWAII

S P E C I A L P R O V I S I O N S

2023

SPECIAL PROVISIONS

The Specifications contained herein are amended as follows:

A. SECTION 1 - DEFINITION AND TERMS is amended as follows:

1. The following definition shall be deleted in its entirety and replace with the following:

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

2. Add the following new definition:

"1.39 HAWAII ePROCUREMENT SYSTEM (HIePRO) - The State of Hawaii eProcurement System for issuing solicitations, receiving proposals and responses, and issuing notices of award."

B. SECTION 2 - PROPOSAL REQUIREMENTS AND CONDITIONS is amended as follows:

1. 2.3 PROPOSAL GUARANTY is deleted in its entirety.

2. 2.4 DELIVERY OF PROPOSALS is amended by replacing the entire subsection with:

"2.4 DELIVERY OF PROPOSALS - The bidder shall submit the proposal in HIePRO. The proposal shall be UPLOADED to HIePRO prior to the bid opening date and time. Proposals received after said due date and time shall not be considered. Original (wet ink) proposal documents are not required to be submitted. The award will be made based on proposals uploaded in HIePRO. Any and all other additional documents explicitly designated and labeled as CONFIDENTIAL OR PROPRIETARY shall be UPLOADED SEPARATELY to HIePRO. If there is a conflict between this specification and its HIePRO solicitation, the specifications shall govern and control unless otherwise specified."

3. 2.5 WITHDRAWAL OF PROPOSALS is amended by replacing The entire subsection with:

"2.5 WITHDRAWAL OF PROPOSALS - A bidder may withdraw or revise a proposal after the bidder submits the proposal in HIePRO. Withdrawal or revision of proposal must be completed before the time set for receiving of bids."

4. 2.6 PUBLIC OPENING OF PROPOSALS is not applicable.

5. Add the following to the end of the section:

"2.9 CERTIFICATION FOR PERFORMANCE OF SERVICES - Pursuant to Section 103-55, Hawaii Revised Statutes, and unless indicated otherwise, each bidder is required to submit the attached "Certificate for Performance of Services" in the event the bidder submits a bid in excess of \$25,000.00. This certificate must be submitted to said Contracts Office, Department of Transportation, 869 Punchbowl Street, Honolulu, Hawaii 96813, upon execution of the contract.

As of the bid opening date, salaries of State employees performing work similar to the work called for under this contract are as follows:

<u>Class</u>	<u>Salary Range</u>	<u>Minimum Hourly Rate</u>
Groundskeeper 1	BC-2	\$23.19

The above information is provided to the Contractor for guidance only and is subject to change in accordance with existing collective bargaining contracts or shall change as contracts are renegotiated. It is the bidder's responsibility to verify the accuracy of the wage rates contained herein and to provide for changes in the minimum wages, which must be paid personnel working on this project at all times. Information on the status of Bargaining Unit (BU) contracts can be obtained from the Airports, Personnel Management Office, (808) 838-8619.

Bidders are advised that they are not restricted to hire only those classifications of employees as listed, but are free to employ such other classifications of workers as the bidder deems proper and proposes to use on the project, and as may be according to the bidder's common hiring practice. However, the principal duties of employees other than those listed hereinabove working on the project will be matched against those of State workers to determine the closest equivalent State employee classification, and the Contractor must compensate such employee(s) at a rate which is no less than that of the equivalent State employee."

C. SECTION 6 - CONTROL OF MATERIALS AND EQUIPMENT

6.2 TRADE NAMES AND ALTERNATES is amended as follows:

1. The first paragraph of A. QUALIFICATION BEFORE BID OPENING shall be replaced with the following:

"A. QUALIFICATION BEFORE BID OPENING - When the specifications and/or plans specify one or more manufacturer's brand names of materials or equipment to indicate a quality, style, appearance, or performance, the bidder will be assumed to have based its bid on one of the specified named products, except where such proprietary product are specified, alternate brands may be qualified if found equal or better by the Department. The bidder shall submit a request to the Department for review and approval at the earliest date possible. Requests shall be submitted via email to the Contact person listed in HIePRO for the solicitation and also posted as a question in HIePRO under the question/answer tab referencing the email with the request. The request must be posted in HIePRO no later than fourteen (14) calendar days before the bid opening date, not including the bid opening date."

2. The first sentence of the second paragraph of A. QUALIFICATION BEFORE BID OPENING shall be replaced with the following:

"It shall be the responsibility of the bidder to submit sufficient evidence based upon which a determination can be made by the Department that the alternate brand is a qualified equivalent."

D. SECTION 7 - LEGAL RELATIONS AND RESPONSIBILITY is amended as follows:

7.8 LABOR AND COMPENSATION REQUIREMENTS - is amended by replacing the first two paragraphs with the following:

Pursuant to Section 103-55, H.R.S., Wages, Hours, Working Conditions of Employees of Contractor's Supplying Services, services to be rendered shall be performed by employees paid at wages or salaries not less than the wages paid to public officers and employees for similar work.

Additional information on the requirements of Section 103-55, H.R.S. may be obtained at http://www.capitol.hawaii.gov/hrscurrent/Vol102_Ch0046-0115/HRS0103/HRS_0103-0055.htm

Add the following subsection:

"7.10 SPECIAL REQUIREMENTS FOR CONTRACTOR'S OPERATIONS IN THE AIRPORT OPERATIONAL AREAS (AOA) - The Contractor shall conform with the applicable sections of the State Airports Rules and Regulations pertaining to its access and operation in the AOA hereinafter described as follows:

A. Comprehensive General Liability Insurance - The Contractor shall obtain and maintain during the course of work, insurance coverage as specified by Section 7.9.

B. Authorized Vehicles

1. Only vehicles considered safe and necessary for the performance of this contract shall be allowed to operate in the AOA.
2. All authorized vehicles shall be identified with the Contractor's company name on each side with letters not less than four (4) inches in height or a logo no less than six (6) inches in height.
3. As a condition to enter and operate in the AOA, the Contractor shall obtain insurance coverage as required by Section 7.9.

4. The Contractor's operations on, over, across, and/or immediately adjacent to any runway and/or taxiway at a towered airport may require the use of a two-way radio communication. The Contractor shall obtain the necessary equipment at its own expense.
 5. No person shall operate a motor vehicle on the AOA without personally possessing a current Motor Vehicle Operator's Permit issued by the Airport Manager to that person.
 - a. The Motor Vehicle Operator's Permit will be issued only to persons who apply through the Airport Security Section and pass a written exam covering those portions of the Airport Rules and Regulations relating to the operation of vehicles in the AOA.
 - b. Permits issued may be suspended or revoked for cause at any time by the Airports.
- C. Airport Operational Area Identification Badge - Contractor's employees requiring entrance to the AOA must apply and obtain identification badges through the Airport Security Office.
1. All persons employed under this contract who have unescorted access to the AOA shall have background checks (to the extent permitted by law) including at a minimum, references and prior employment histories by the employees relating to employment in the preceding ten (10) years.
 2. As a condition in the issuance of AOA Identification Badges, Certification of Compliance shall be submitted with the application. The Certification shall affirm that a background check has been performed, correct and complete of those persons requiring access to the AOA. Background check records shall be maintained by the Contractor during the course of the work and shall contain the name, address, social security number, and

previous employment and the person(s) contacted to verify such employment. The records shall be made available for inspection by the State."

E. SECTION 8 - PROSECUTION AND PROGRESS is amended as follows:

Subsection 8.2 SUBCONTRACTING is amended by adding the following sentence after the first (1st) sentence in the second (2nd) paragraph:

"The Contractor, however, shall perform with its own organization, work amounting to not less than fifty percent (50%) of the total contract cost."

F. SECTION 9 - PAYMENT is amended by adding the following subsection:

"9.6 RELEASE OF RETAINAGE - The State may release the payments withheld (retainage) at the end of one-year term provided:

- (a) The Contractor has satisfactorily fulfilled the terms and conditions of the Contract for that one-year term.
- (b) The Contractor submits a current tax clearance certificate."

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
HONOLULU, HAWAII

S P E C I F I C A T I O N S

2023

SECTION 1 - DEFINITION AND TERMS

Whenever the following pronouns are used in these specifications, or in any documents or instruments where these specifications govern, the intent and meaning shall be interpreted as follows:

1.1 ADDENDA - A written document which may be issued by the Director during the bidding period involving changes to the specifications and plans, if any, which shall be considered and made a part of the contract.

1.2 AIRPORTS DIVISION - Airports Division, Department of Transportation, State of Hawaii.

1.3 AWARD - The written acceptance of a proposal by the State.

1.4 BIDDER - Any individual, partnership, corporation or other legal entity, or combination thereof, submitting a proposal for the work contemplated, acting either directly or through a duly authorized representative.

1.5 CALENDAR DAY - Every day shown on the calendar. If no designation of calendar or working day is made, "day" shall mean calendar day.

1.6 CHANGE ORDER - A written order issued by the Director to the Contractor requiring the contract work to be performed in accordance with a change or changes that may involve an adjustment in contract time and price or requiring performance of any unforeseen work essential to complete the contract.

1.7 CONTRACT - The written agreement between the State and the Contractor setting forth the obligations of the parties thereunder, including, but not limited to, the performance of the work, the furnishing of labor and materials, and the basis of payment.

The contract includes the (1) notice to bidders, (2) proposal, (3) contract form and contract bond, (4) specifications, (5) special provisions and plans, if any, (6) addenda, (7) notice to proceed, and (8) change orders and agreements that are required to complete the work, all of which constitute one instrument.

1.8 CONTRACT BOND - The approved form of security, executed by the Contractor and its Surety or Sureties, guaranteeing the completion of the work in accordance with the terms of the contract, and guaranteeing full payment of all claims for labor, materials, and supplies used or incorporated in the work.

1.9 CONTRACT TIME - The number of working days or calendar days allowed for completion of the contract, including authorized time extensions.

If a calendar date is specified as the date of completion in lieu of the number of working days or calendar days, the contract shall be completed by that date.

In case the contract is for a specified period of time, the contract time shall be for said specified period of time.

1.10 CONTRACTOR - The individual, partnership, corporation or other legal entity, or combination thereof, contracting with the State for performance of the prescribed work.

1.11 DEPARTMENT - The State Department of Transportation.

1.12 DIRECTOR - The Director of Transportation, acting either directly or through the Director's duly authorized representative.

1.13 EQUAL OR APPROVED EQUAL - Whenever this term is used in the specifications and plans, if any, it means a brand or article pre-qualified in accordance with Section 6.2 Trade Names and Alternates and which may be used in place of the one specified.

1.14 H.A.R. or HAR - Hawaii Administrative Rules.

1.15 H.R.S. or HRS - Hawaii Revised Statutes.

1.16 HARBORS DIVISION - Harbors Division, Department of Transportation, State of Hawaii.

1.17 HIGHWAYS DIVISION - Highways Division, Department of Transportation, State of Hawaii.

1.18 HOLIDAYS - The days which are set apart and established as State holidays pursuant to Section 8-1, H.R.S.

1.19 INSPECTOR - The Director's authorized representative assigned to make detailed inspections of contract performance and materials supplied.

1.20 NOTICE TO BIDDERS - The public announcement, as required by law, inviting proposals for the work to be performed or materials to be furnished.

1.21 NOTICE OF FINAL ACCEPTANCE - Written notice from the Director to the Contractor that the entire contract has been completed in all respects in accordance with the specifications and plans, if any, and any changes thereof previously approved by the Director.

1.22 NOTICE TO PROCEED - Written notice from the Director to the Contractor advising the Contractor of the date on which he is to begin the prosecution of the work.

1.23 PLANS - The contract drawings approved by the Director which show the location, character, dimensions and details of the work to be done and shall be a part of the contract.

1.24 PROCUREMENT OFFICER - The Director's duly authorized representative including project managers, project engineers and contract administrators assigned to prepare, evaluate and administer contracts for the purchasing of goods and services.

1.25 PROPOSAL (OR BID) - The offer of a bidder, on the prescribed form, to perform the work and to furnish the labor and materials at the prices quoted.

1.26 PROPOSAL FORM - The approved format prepared by the Department or a facsimile thereof on which bids for the work must be prepared and submitted. (Reasonable facsimile acceptable for bidding.)

1.27 PROPOSAL GUARANTY - The security furnished with a proposal to guarantee that the bidder will enter into the contract and furnish all other requirements if the bidder's proposal is accepted.

1.28 QUALIFICATION QUESTIONNAIRE - The specified forms on which the bidder shall furnish required information as to the bidder's ability to perform and finance the work.

1.29 S.L.H. or SLH - Session Laws of Hawaii.

1.30 SPECIAL PROVISIONS - Revisions to the specifications. The specific clauses setting forth conditions or requirements peculiar to the project under consideration which are not thoroughly or satisfactorily stipulated in these specifications.

1.31 SPECIFICATIONS - The directions, provisions, and requirements pertaining to the method and manner of performing the work and to the quantities and qualities of materials to be furnished under the contract.

1.32 STATE - The State of Hawaii.

1.33 SUBCONTRACTOR - An individual, partnership, corporation, other legal entity, or any combination thereof, that enters into an agreement with the Contractor to perform a portion of the work for the Contractor.

1.34 SUPERINTENDENT - The Contractor's representative who is responsible for and in charge of the work.

1.35 SURETY - The corporation, partnership or individual, other than the Contractor, executing a bond furnished by the Contractor and guaranteeing performance by the Contractor.

1.36 TITLES (OR HEADINGS) - The titles or headings of the Sections herein are intended for convenience of reference and shall not be considered as having any bearing on their interpretation. Unless otherwise indicated, whenever the word "Section" is used, reference is being made to a Section in these specifications.

1.37 WORK - The furnishing of all labor, materials, equipment, and other incidentals necessary or convenient for the successful completion of the project and the execution of all the duties and obligations imposed by the contract.

1.38 WORKING DAY - Any day, except Saturdays, Sundays and State holidays.

SECTION 2 - PROPOSAL REQUIREMENTS AND CONDITIONS

2.1 QUALIFICATION OF BIDDERS - Prospective bidders must be capable of performing the work for which bids are called.

In accordance with Section 103D-310, HRS, the Department may require any prospective bidder to submit answers to questions contained in the "Standard Qualification Questionnaire for Prospective Bidders on Public Works Contracts" on the form furnished by the Department, properly executed and notarized, setting forth a complete statement of the experience of such prospective bidder and its organization in performing similar work and a statement of the equipment proposed to be used, together with adequate proof of the availability of such equipment. Whenever it appears to the Department, from answers to the questionnaire or otherwise, that the prospective bidder is not fully qualified and able to perform the intended work, the Department will, after affording the prospective bidder an opportunity to be heard and if still of the opinion that the bidder is not fully qualified to perform the work, refuse to receive or consider any bid offered by the prospective bidder. All information contained in the answers to the questionnaire shall be kept confidential. Questionnaire so submitted shall be returned to the bidders after serving their purpose.

Failure to complete the qualification questionnaire will be sufficient cause for the Department to disqualify a prospective bidder.

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

2.2 REJECTION OF PROPOSALS CONTAINING ALTERATIONS, ERASURES, OR IRREGULARITIES - Proposals may be rejected if they show any alterations of form, additions not called for, conditional bids, incomplete bids, erasures, or irregularities of any kind.

When proposals are signed by any agent, other than the officer or officers of a corporation authorized to sign contract on its behalf or a member of copartnership, a Power of Attorney must be on file with the Department prior to opening bids or shall be submitted with the proposal; otherwise, the proposal may be rejected as irregular and unauthorized.

Members of a joint venture may be requested to supply the Department with a copy of their joint venture agreement or each member of the joint venture may be required to sign the proposal.

2.3 PROPOSAL GUARANTY - A proposal guaranty (bid bond) is not required except when specifically noted in the proposal section of the bid document.

When a proposal guaranty is required with a bid, it will be specifically stated in the proposal; and no proposal totaling \$25,000 or more will be considered unless accompanied by one of the following forms of bidder's security:

- A. a deposit of legal tender; or
- B. a surety bid bond underwritten by a company licensed to issue bonds in the State of Hawaii and submitted on the standard form provided herewith; or
- C. a certificate of deposit, share certificate, cashier's check, treasurer's check, teller's check, or official check drawn by, or a certified check accepted by and payable on demand to the State by a bank, savings institution, or credit union insured by the Federal Deposit Insurance Corporation (FDIC) or the National Credit Union Administration (NCUA).
 - 1. The bidder may use these instruments only to a maximum of one hundred thousand dollars (\$100,000.00).
 - 2. If the required security or bond amount totals over one hundred thousand dollars (\$100,000.00), more than one instrument not exceeding one hundred thousand dollars (\$100,000.00) each and issued by different financial institutions shall be acceptable.
 - 3. The instrument shall be made payable at sight to the Department of Transportation, State of Hawaii.

According to Section 103D-323, HRS, the above shall be in a sum not less than five percent (5%) of the amount bid.

2.4 DELIVERY OF PROPOSALS - Each proposal shall be placed, together with the proposal guaranty when required, in an envelope and sealed and so marked as to indicate the identity of the project, the name and address of the bidder, and other required information and then delivered as indicated in the Notice to Bidders. Proposals will be received up to the time fixed in the Notice to Bidders for the opening of bids.

2.5 WITHDRAWAL OF PROPOSALS - Any proposal may be withdrawn at any time prior to the time fixed in the Notice to Bidders for the opening of proposals upon the filing of a written request therefore with the Department, executed by the bidder or a duly authorized representative. The withdrawal of a proposal shall not preclude a bidder from submitting a new proposal.

2.6 PUBLIC OPENING OF PROPOSALS - Proposals will be opened and read publicly at the time and place indicated in the Notice to Bidders. Bidders or their authorized agents are invited to be present.

2.7 DISQUALIFICATION OF BIDDERS - Any of the following reasons may be considered as being sufficient grounds for the disqualification of a bidder and the rejection of his proposal or proposals.

A. More than one proposal for the same work from an individual, firm, or corporation under the same or different name.

B. Evidence of collusion among bidders. Participants in such collusion will receive no recognition as bidders for any future work of the Department until such participant shall have been reinstated as a qualified bidder.

C. Evidence of assistance from a person who has been an employee of the agency within the preceding two years and who participated while in State office or employment in the matter with which the contract is directly concerned, pursuant to Section 84-15, H.R.S.

D. Lack of proposal guaranty.

E. Unsigned proposal or proposal not signed in ink by person or persons legally authorized to submit a proposal on behalf of the bidder.

2.8 MATERIAL GUARANTY - The bidder may be required to furnish a complete statement of the origin, composition and manufacture of any or all materials to be used in the prosecution of the work, together with samples. Such samples may be subjected to tests to determine their quality and fitness for the work.

SECTION 3 - AWARD AND EXECUTION OF CONTRACT

3.1 AWARD OF CONTRACT - The State reserves the right to reject any and all proposals and to waive any defects as may be deemed to be in the best interest of the public.

The award of contract, if it be awarded, will be made within sixty (60) calendar days after the opening of bids to the lowest responsive and responsible bidder whose proposal complies with all the prescribed requirements. The successful bidder will be notified, by letter mailed to the address shown in its proposal, that its proposal has been accepted and it has been awarded the contract.

Requirement for award. To be eligible for award, the apparent low Bidder will be contacted to submit copies of the documents listed below to demonstrate compliance with Section 103D-310(c), HRS. The documents should be submitted to the Department as soon as possible. If a valid certificate/clearance is not submitted on a timely basis for award of a contract, a Bidder otherwise responsive and responsible may not receive the award.

A. Tax Clearance.

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

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

<http://www.hawaii.gov/tax/>

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

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

B. DLIR Certificate of Compliance.

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

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

www.hawaii.gov/labor

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

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

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

C. DCCA Certificate of Good Standing.

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

- (1) incorporated or organized under the laws of the State; or
- (2) registered to do business in the State as

a separate branch or division that is capable of fully performing under the contract.

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

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

www.hawaii.gov/dcca/

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

3.2 CANCELLATION OF AWARD - The State reserves the right to cancel the award of any contract any time before the execution of said contract by all parties without any liability to the successful bidder or any other bidder.

3.3 RETURN OF PROPOSAL GUARANTY - All proposal guaranties, except those of the lowest two (2) bidders, will be returned immediately following the opening and checking of the proposals. The retained proposal guaranty of the second lowest bidder, if not a bid bond, will be returned within ten (10) calendar days following execution of contract by the successful bidder. The successful bidder's proposal guaranty, if not a bid bond, will be returned after a satisfactory contract bond has been furnished and the contract has been executed.

3.4 REQUIREMENT OF CONTRACT BOND - Only when required by the proposal, the successful bidder at the time of the execution of the contract shall file good and sufficient performance and payment bonds on the forms furnished by the Department, or a facsimile thereof, conditioned for the full and faithful performance of the contract in accordance with the terms and intent thereof and also for the prompt payment to all others for all labor and materials furnished by them to it and use in the prosecution of the work provided for in such contract,

in the manner, form and amount required by Section 3-122-224(b)(2), H.A.R., which bonds shall be in an amount equal to fifty per cent (50%) of the contract price, including amounts estimated to be required for extra work, or in the case of price-term, open-end, or requirements contract under which the total amount to be paid to the Contractor cannot be accurately estimated at the time the contract is to be awarded, the bond amounts shall be as designated in the bid documents. Such bonds shall also by their terms inure to the benefit of any and all persons entitled to file claims for labor performed or materials furnished in the work so as to give them a right of action as contemplated by Section 103D-324, H.R.S.

The bidder shall limit the acceptable performance and payment bonds to the following:

- (a) Legal tender; or
- (b) Surety bond underwritten by a company licensed to issue bonds in the State of Hawaii; or
- (c) A certificate of deposit; share certificate,; cashier's check; treasurer's check; teller's check drawn by or a certified check accepted by and payable on demand to the State by a bank, savings institution or credit union insured by the Federal Deposit Insurance Corporation (FDIC) or the National Credit Union Administration (NCUA).

1. The bidder may use these instruments only to a maximum of one hundred thousand dollars (\$100,000.00).

2. If the required security or bond amount totals over one hundred thousand dollars (\$100,000.00) more than one instrument not exceeding one hundred thousand dollars (\$100,000.00) each and issued by different financial institutions shall be acceptable.

3.5 EXECUTION OF CONTRACT - The contract and the "Certificate for Performance of Services", similar to a copy of the same annexed hereto, shall be executed by the successful bidder and returned, together with the contract bonds, when required, within ten (10) days after the award of the contract or within such further time as the Director may allow after the bidder has received the contract for execution.

Pursuant to Section 103D-309, H.R.S., the contract shall not bind the State in any way unless said contract has been fully and properly executed by all the parties thereto and

the Comptroller has endorsed thereon a certificate that there is available an unexpended appropriation over and above all outstanding contracts, sufficient to cover the amount required by the contract.

3.6 FAILURE TO EXECUTE CONTRACT - Failure to execute the contract, Certificate for Performance of Services and file acceptable bonds, when required, within ten (10) days after the award of the contract, or within such further time as the Director may allow, shall be cause for the cancellation of the award and the forfeiture of the proposal guaranty. Award of the contract may then be made to the next lowest responsible bidder.

SECTION 4 - SCOPE OF WORK

4.1 WORK TO BE DONE - The work to be done is described in the Section(s) following Section 9 of these specifications.

4.2 PERFORMANCE OF WORK - The Contractor shall employ, so far as possible, such methods and means in carrying out his work so as not to cause any interruption, disturbance, or interference with the public.

In case the Contractor is performing work in a building, the Contractor shall conduct the work in such a manner so as not to cause any interruption, disturbance, or interference with the business activities of the tenants in the building.

4.3 EXTRA WORK - New and unforeseen items of work will be classed as extra work when they cannot be covered by any of the various items for which there is a bid price.

4.4 CHANGES AND CLAIMS FOR ADJUSTMENT

A. Change order. By a written order, at any time, and without notice to any surety, the procurement officer may, subject to all appropriate adjustments, make changes within the general scope of this contract in any one or more of the following:

1. Drawings, designs, or specifications, if the goods to be furnished are to be specially manufactured for the State in accordance therewith;
2. Method of shipment or packing;
3. Place of delivery;
4. Changes in the work within the scope of the contract; or
5. Changes in the time of performance of the contract that do not alter the scope of work.

B. Adjustments of price or time for performance. If any change order increases or decreases the contractor's cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, an adjustment shall be made and the contract modified in writing accordingly. Any adjustment in contract price made pursuant to this clause shall be determined in accordance with the price adjustment clause of this contract. Failure of the parties to agree to an adjustment shall not excuse the contractor from proceeding with the contract as changed, provided that the procurement officer promptly and duly make the provisional adjustments in payment or time for performance as may be reasonable. By proceeding with the work, the contractor shall not be deemed to have

prejudiced any claim for additional compensation, or an extension of time for completion.

C. Time period for claim. Within thirty (30) days after receipt of a written change order under subsection (a) unless the period is extended by the procurement officer in writing, the contractor shall file notice of intent to assert a claim for an adjustment. Later notification shall not bar the contractor's claim unless the State or county is prejudiced by the delay in notification.

D. Claim barred after final payment. No claim by the contractor for an adjustment hereunder shall be allowed if notice is not given prior to final payment under this contract.

E. Other claims not barred. In the absence of a change order, nothing in this clause shall be deemed to restrict the contractor's right to pursue a claim as under the contract or for breach of contract.

4.5 PRICE ADJUSTMENT

Any adjustment in contract price pursuant to a clause in this contract shall be made in one or more of the following ways:

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

B. By unit prices specified in the contract or subsequently agreed upon;

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

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

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

4.6 VARIATION IN QUANTITY

Upon agreement of the parties, the quantity of goods or services or both specified in this contract may be increased by a maximum of ten (10) percent provided (1) the unit prices will remain the same except for any price adjustments otherwise applicable and (2) the procurement officer makes a written determination that such an increase will either be more economical than awarding another contract or that it would not be practical to award another contract.

SECTION 5 - CONTROL OF WORK

5.1 AUTHORITY OF DIRECTOR - The Director shall decide all questions which may arise as to the quality or acceptability of materials furnished and work performed; the manner of performance and rate of progress of the work; the compensation for work performed; the interpretation of the contract and the fulfillment of the contract on the part of the Contractor. The Director's decision shall be final and the Director shall have the authority to enforce any such decision and order which the Contractor fails to carry out promptly and diligently. The Director shall have the following powers in the way of enforcement:

- A. The right to suspend the work.
- B. The right to withhold payment due the Contractor.

5.2 COORDINATION OF PLANS, SPECIFICATIONS AND SPECIAL PROVISIONS - These specifications, the plans, special provisions, and all supplementary documents are essential parts of the contract, and a requirement occurring in one is as binding as though occurring in all. They are intended to describe and provide for the complete work.

5.3 COOPERATION OF CONTRACTOR AND DIRECTOR - The Contractor shall have available at the work site at all times, a copy of the specifications, special provisions and plans. The Contractor shall give the work constant attention to facilitate the progress thereof and shall cooperate with the Director in every way possible.

Before starting work on the project, the Contractor shall designate in writing a superintendent who shall have complete authority to represent and to act for the Contractor.

5.4 INSPECTION - The Director at all times shall have access to the work during its prosecution and shall be furnished with every reasonable facility for ascertaining that the materials and the workmanship are in accordance with the requirements and intentions of these specifications and special provisions. All work done and all materials furnished shall be subject to the Director's inspection and approval.

The inspection of the work shall not relieve the Contractor of any of its obligations to fulfill its contract as prescribed, and defective work shall be made good and unsuitable materials may be rejected, notwithstanding that such defective work and materials may have been previously overlooked by the Director and accepted or included in an estimate for payment.

Projects financed in whole or in part with Federal funds shall be subject to inspection at all times by representatives of the Federal agency involved.

5.5 REMOVAL OF DEFECTIVE AND UNAUTHORIZED WORK - All work which has been rejected shall be corrected or removed and replaced by the Contractor in an acceptable manner and no compensation will be allowed the Contractor for such correction or removal and replacement. Upon failure on the part of the Contractor to comply promptly with any order of the Director, the Director may cause any rejected work to be corrected or removed and replaced and to deduct the costs thereof from any monies due or to become due the Contractor.

5.6 CLAIMS AND DISPUTES - The Contractor may give notice in writing to the Director for claims that extra compensation, damages, or an extension of time for completion is due the Contractor for one or more of the following reasons:

- A. Requirements not clearly covered in the contract, or not ordered by the Director as extra work;
- B. Failure between the State and the Contractor to agree to an adjustment in price for a contract change order issued by the State; or
- C. An action or omission on the part of the Director requiring performance changes within the scope of the contract.

The Contractor shall continue with performance of the contract in compliance with the directions or orders of the procurement officer, but by so doing, the Contractor shall not be deemed to have prejudiced any claim for additional compensation, damages, or an extension of time for completion; provided:

- A. The notice in writing be given:
 - 1. Before the commencement of the work involved, if at that time the Contractor knows of such requirements or the occurrence of such actions or omissions; or
 - 2. Within thirty (30) calendar days after the Contractor knows of such requirements or the occurrence of such action or omission if the Contractor did not have such knowledge before the commencement of the work; or
 - 3. Within thirty (30) calendar days after receipt of the written contract change order that was not

agreed upon by both parties; or

4. Within such further time as may be allowed by the Director in writing.

B. The notice shall clearly state the Contractor's intention to make claim and the reasons why the Contractor believes that additional compensation, changes or an extension of time may be remedies to which the Contractor is entitled; and afford the Director every facility for keeping records of the actual cost of work. Failure on the part of the Contractor to give such notification or to afford the procurement officer proper facilities for keeping strict account of actual cost shall constitute waiver of the claim for such extra compensation. The filing of such notice by the Contractor and the keeping of costs by the procurement officer shall not in any way be construed to prove the validity of the claim.

The Director will review the notice and render a decision. The Director's decision shall be final and conclusive unless, within thirty (30) calendar days from the date of the decision, the Contractor mails or otherwise furnishes a written appeal to the Director. The decision of the Director shall be final. Later notification of such claims shall not bar the Contractor's claim unless the State is prejudiced by the delay in notification. No claim by the Contractor for an adjustment hereunder shall be allowed if notice is not given before final payment under this contract. Any adjustment in the contract price made pursuant to this clause shall be determined according to Section 4.5 - Price Adjustment.

The provisions of this Section shall not be construed as establishing any claims contrary to the terms of Section 4.4 - Changes and Claims for Adjustment.

Nothing herein contained, however, shall excuse the Contractor from compliance with any rules of law precluding any state officers and any Contractors from acting in collusion or bad faith in issuing or performing contract change orders which are clearly not within the scope of the contract.

SECTION 6 - CONTROL OF MATERIAL AND EQUIPMENT

6.1 DEFECTIVE MATERIALS - All materials not conforming to the requirements of these specifications or the special provisions shall be considered defective and all such materials, whether in place or not, shall be rejected. They shall be removed immediately from the site of the work, unless otherwise permitted by the Director. No rejected materials, the defects of which have been subsequently corrected, shall be used until approval in writing has been given by the Director. Upon failure on the part of the Contractor to comply promptly with any order to remove and replace defective materials, the Director may remove and replace defective material and to deduct the cost of removal and replacement from any monies due or to become due the Contractor.

6.2 TRADE NAMES AND ALTERNATES - For convenience in designation on the plans or in the specifications, certain equipment or articles or materials may be designated under a trade name or the name of a manufacturer and its information catalogue. The use of alternate equipment or an article or material which is of equal quality and of the required characteristics for the purposes intended will be permitted, subject to the written approval of the Director, in accordance with the following requirements:

A. QUALIFICATION BEFORE BID OPENING - When the specifications and/or plans specify one or more manufacturer's brand names of materials or equipment to indicate a quality, style, appearance, or performance, the bidder will be assumed to have based its bid on one of the specified named products, except where such proprietary product are specified, alternate brands may be qualified if found equal or better by the Director. Bidders requesting qualification of alternate proprietary products must submit a request to the Director for review and approval at the earliest date possible, but in any event, such request must be received at the Contracts office not later than ten (10) days before the bid opening date, not including the bid opening date.

It shall be the responsibility of the bidder to submit sufficient evidence based upon which a determination can be made by the Director that the alternate brand is qualified. The evidence shall be transmitted with a covering letter which shall list the evidence submitted and the items for which the substitution is requested.

If the evidence accompanying a request for substitution is insufficient to qualify a particular

model, the request shall be denied provided that further evidence may be submitted to qualify the item five (5) days prior to the bid opening date if the initial request was made prior to the deadline set above.

B. SUBSTITUTION AFTER BID OPENING - Substitution of material or equipment will not be allowed after the bid opening date except under the following unforeseen circumstances:

1. If a specified or pre qualified item is delayed by a lengthy strike in the factory or other unforeseeable contingency beyond the control of the Contractor which would cause an abnormal delay in the project completion.
2. If a specified or pre qualified item is found to be unusable due to change or other circumstances.
3. If the Contractor is willing to provide a more recently developed or manufactured item of material or equipment of the same manufacturer which the Director determines to be equal or better than the one specified or pre-qualified.

A substitution request, regardless of reason, shall be fully explained in writing by the Contractor and shall include its justification for said request, the quantities and unit prices involved, quotations and such other documents as are deemed necessary to support the request. Any savings in cost will accrue to the State and any additional cost for the substituted items will be paid by the Contractor.

The burden of proof as to the comparative quality and suitability of alternate equipment, articles, or materials shall be upon the bidder or Contractor and bidder or Contractor shall furnish, at its own expense, all information necessary or related thereto as required by the Director. The Director shall be the sole judge as to the comparative quality and suitability of alternate equipment, articles or materials and the Director's decisions shall be final.

The above shall not be construed to mean that substitution for brand name specified materials and equipment will be allowed; the Director reserves the right to deny any request he deems irregular or not in the best interest of the State.

6.3 ASSIGNMENT OF ANTITRUST CLAIMS FOR OVERCHARGES FOR GOODS AND MATERIALS PURCHASED

A. Vendor and purchaser recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the purchaser. Therefore, vendor hereby assigns to purchaser any and all claims for such overcharges as to goods and materials purchased in connection with this order or contract, except as to overcharges which result from antitrust violations commencing after the price is established under this order or contract and which are not passed on to the purchaser under an escalation clause.

B. Contractor and owner recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the owner. Therefore, contractor hereby assigns to owner any and all claims for such overcharges as to goods and materials purchased in connection with this order or contract, except as to overcharges which result from antitrust violations commencing after the price is established under this order or contract and any change order. In addition, contractor warrants and represents that each of its first tier suppliers and subcontractors shall assign any and all such claims to owner, subject to the aforementioned exception.

SECTION 7 - LEGAL RELATIONS AND RESPONSIBILITY

7.1 LAWS TO BE OBSERVED - The Contractor shall comply with all federal, state, city and county laws, ordinances, rules and regulations which in any manner affect those engaged or employed in the work, the materials used in the work, and the conduct of the work. Any reference to such laws, ordinances, rules and regulations shall include any amendments thereto effective as of the date of the call for sealed proposals.

The Contractor shall hold harmless, indemnify, defend and where appropriate, insure the State, its officers, agents and employees against any claim or liability arising from or based on the violation of any such laws, ordinances, rules or regulations. If any discrepancy or inconsistency is discovered in the contract for the work in relation to any law, ordinance, rule, regulation, order or decree, the Contractor shall forthwith report the same to the Director in writing.

7.2 PERMITS AND LICENSES - The Contractor shall procure all permits and licenses, pay all charges and fees, and give all notices necessary and incident to the due and lawful prosecution of the work.

7.3 PATENTS - The Contractor shall assume all costs arising from the use of patented materials, equipment, devices, or processes used on or incorporated in the work, and shall hold harmless, indemnify, defend and where appropriate, insure the State, its officers, agents and employees from all suits at law or actions of every nature, for or on account of the use of any patented materials, equipment, devices or processes.

7.4 RESPONSIBILITY FOR INJURY AND DAMAGE - The State, its officers, agents and employees shall not be held accountable in any manner for any loss or damage to the work or any part thereof, or for any of the materials and equipment used or employed in performing the work, or for any injury to any person or persons either workers or the public, or for any damage to property caused by the Contractor or its workers or any one employed by the Contractor. The Contractor shall be responsible for any liability imposed by law for any injury to any person or any damage to property resulting from defects or obstructions or from any cause whatsoever during the progress of the work or at any time before its completion and final acceptance. The acceptance of the completed work of the Contractor by the Director shall not relieve the Contractor from any liability which may have accrued or may accrue as a result of the performance of the work by the Contractor. The Contractor shall hold harmless, indemnify, defend and where appropriate, insure the State, its officers, agents and employees, from all suits or actions of every name, kind and description, brought for or on account of

any injuries or damages sustained by any persons or property caused by the Contractor, its servants or agents, or by or on account of any act or omission of the Contractor or its servants or agents, regardless of whether such actions or any claim is brought against them or any one of them before or after the final acceptance of the work. In addition to any remedy authorized by law, the State may withhold payment of any money due to Contractor as shall be reasonable until disposition has been made of any suits or claims for injuries or damages.

It is not the intention of the parties to this contract to make the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party hereto to maintain a suit for personal injuries or property damage based on a contract theory of liability. In any event, the Contractor shall hold harmless, indemnify, defend and where appropriate, insure the State from suits and claims for personal injuries or property damage where such injuries or damage are caused by the negligent acts or omissions of the Contractor, its agents or employees.

7.5 COOPERATION BETWEEN CONTRACTORS - Where two or more Contractors are employed on related or adjacent work, each shall conduct its operations in such a manner as not to cause any unnecessary delay or hindrance to the other.

7.6 CONTRACTOR'S RESPONSIBILITY FOR WORK - Until the acceptance of the contract, the Contractor shall have the charge and care thereof and shall bear the risk of injury or damage to any part thereof by the action of the elements or from any other cause, whether arising from the execution or from the non-execution of the work. The Contractor shall rebuild, repair, restore, and make good all damages to any portion of the work occasioned by any of the above causes before its completion and acceptance and shall bear the expenses thereof.

7.7 NO PERSONAL LIABILITY - Neither the Director nor any other officer or authorized employee of the Department shall be personally responsible for any liability arising under the contract.

7.8 LABOR AND COMPENSATION REQUIREMENTS - Wages paid each laborer employed by the Contractor or any subcontractor shall not be less than the prevailing minimum wage rate prescribed by law.

Every laborer employed by the Contractor or any subcontractor whose rate of compensation is Five Dollars (\$5.00) or less per day shall be paid his wages weekly pursuant to Section 103-54, H.R.S.

The Contractor's attention is directed to Chapter 377, H.R.S., Hawaii Employment Relations Act; Chapter 378, H.R.S., Employment Practices; Chapter 383, H.R.S., Hawaii Employment Security Law; Chapter 386, H.R.S., Workers' Compensation Law; Chapter 387, H.R.S., Wage and Hour Law; Chapter 392, H.R.S., Temporary Disability Insurance; Chapter 393, H.R.S., Prepared Health Care Act; Chapter 396, H.R.S., Occupational Safety and Health; and Section 103-55, H.R.S., Wages, Hours, Working Conditions of Employees of Contractor's Supplying Services.

7.9 INSURANCE - Prior to commencing with the work, the Contractor shall, at its own expense, obtain and submit to the Department, Certificate of Insurance from an insurance company authorized by the laws of the State to issue such insurance in the State of Hawaii showing full policy coverage of the Contractor.

TYPES OF INSURANCE:

A. 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. The minimum limit of liability for workers compensation is the HRS 386 statutory limit.

B. Comprehensive Automobile 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 accident for bodily injury and property damage with the State of Hawaii named as additional insured. The required limit of insurance may be provided by a single policy or with a combination of primary and excess

policies.

C. Commercial General Liability:

The Contractor shall obtain General Liability insurance with a limit of not less than \$1,000,000 per occurrence and in the aggregates. The General liability insurance shall include the State of Hawaii 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.

All policies must provide that 30 days prior written notice of cancellation or material change in coverage be given to certificate holders stated above.

Such insurance when accepted by the Director in writing shall become applicable and shall remain unmodified throughout the entire term of the contract and in no event shall be terminated or otherwise allowed to lapse prior to written certification of final acceptance of the work by the State. Such insurance aforementioned shall cover the State for all work performed under the contract, all work performed incidental thereto or directly or indirectly connected therewith, including other work performed outside of the work area, and all change orders.

Any delay in the submission and approval of insurance certificates shall not be justification of or grounds for a request by the Contractor postponing the issuance of a notice to proceed notwithstanding the fact that the Contractor shall not be allowed to proceed with the work until said certificates are submitted and approved.

Failure to obtain insurance in accordance with the Section, on the part of the Contractor, shall be considered a major breach of the contract; and should the State be forced to expend funds which would have been covered under the insurance, the Contractor agrees to assume the liability for such funds and to indemnify and hold the State harmless.

SECTION 8 - PROSECUTION AND PROGRESS

8.1 NOTICE TO PROCEED - A "Notice to Proceed" letter will be written to the Contractor by the Director. Such letter will indicate the date the Contractor is to begin work and from which date the contract time will commence to run.

The Contractor shall diligently perform the required duties during the term of the contract, or if the work is to be completed within a specified time limit, the Contractor shall diligently prosecute the work to completion within the specified time limit.

8.2 SUBCONTRACTING - The Contractor shall give its personal attention to the fulfillment of the contract and shall keep the work under its control.

Subject to Section 103D-302, H.R.S., the Contractor may subcontract a portion of the work pursuant to the provisions of this section, but the Contractor shall be primarily responsible for the work so subcontracted. The Contractor shall not subcontract any work to any subcontractor who has been suspended by the State.

Before any work is started under a subcontract, the Contractor shall have the written approval of the Director on a written statement on forms furnished by the Department, indicating the work to be subcontracted, the names of the subcontractors and the description of each portion of the work to be so subcontracted and showing that the subcontractors are particularly experienced and equipped to do the work subcontracted. The Contractor shall give assurance that the minimum wage rate schedule as stated in the contract shall apply to labor performed on the work so subcontracted. Consent of the Director to the subcontracting of work shall not be construed to relieve the Contractor of any responsibility for the fulfillment of the contract.

When any portion of the work which has been subcontracted by the Contractor is not prosecuted in a manner satisfactory to the Director, the Contractor, upon receipt of a notice thereof in writing from the Director, shall remove the subcontractor immediately from the project and the subcontractor shall not again be employed on the work.

8.3 ASSIGNMENT OF CONTRACT - The performance of the contract may be assigned only with the prior written consent of the Director and when applicable, the Contractor's surety. Consent to any assignment shall not relieve the Contractor or the Contractor's surety of any obligations of the contract.

8.4 INSUBORDINATION - If any subcontractor or person employed by the Contractor shall fail or refuse to carry out the directions of the Director or shall appear to the Director to be incompetent or to act in a disorderly or improper manner, the subcontractor or person shall be removed immediately upon request by the Director and shall not again be employed on the work, nor shall it be employed upon any other Department project currently under contract to the same Contractor or subcontractor.

8.5 TEMPORARY SUSPENSION OF WORK

A. Order to stop work. The Director, may, by written order to the contractor, at any time, and without notice to any surety, require the contractor to stop all or any part of the work called for by this contract. This order shall be for a specified period not exceeding sixty (60) days after the order is delivered to the contractor, unless the parties agree to any further period. Any such order shall be identified specifically as a stop work order issued pursuant to this section. Upon receipt of such an order, the contractor shall forthwith comply with its terms and take all reasonable steps to minimize the occurrence of costs allocable to the work covered by the order during the period of work stoppage. Before the stop work order expires, or within any further period to which the parties shall have agreed, the Director shall either:

1. Cancel the stop work order; or
2. Terminate the work covered by such order as provided in the "termination for default clause" or the "termination for convenience clause" of this contract.

B. Cancellation or expiration of the order. If a stop work order issued under this section is canceled or if the period of the order or any extension thereof expires, the contractor shall have the right to resume work. An appropriate adjustment shall be made in the delivery schedule or contract price, or both, and the contract shall be modified in writing accordingly; if:

1. The stop work order results in an increase in the time required for, or in the contractor's cost properly allocable to, the performance of any part of this contract; and
2. The contractor asserts a claim for such an adjustment within thirty (30) days after the end of the period of work stoppage; provided that, if the Director decides that the facts justify such

action, any such claim asserted may be received and acted upon at any time prior to final payment under this contract.

C. Termination of stopped work. If a stop work order is not canceled and the work covered by such order is terminated for default or convenience, the reasonable costs resulting from the stop work order shall be allowable by adjustment or otherwise.

D. Adjustment of price. Any adjustment in contract price made pursuant to this clause shall be determined in accordance with the price adjustment clause of this contract.

8.6 LIQUIDATED DAMAGES - It is mutually understood and agreed by and between the parties to the contract that the performance by the Contractor of its duties every calendar/working day is an essential part of the contract and in case of failure on the part of the Contractor to perform its duties for the time specified in the contract, the State will be damaged thereby and the amounts of said damages being difficult, if not impossible of definite ascertainment and proof, shall be estimated, agreed upon and fixed at the sum shown in the proposal for each and every calendar/working day that the Contractor fails to perform its duties during the period the contract is in effect; and the Contractor shall pay the liquidated damages as provided for in the proposal and, in case the same are not paid, the Department may deduct the amount thereof from any monies due or that may become due the Contractor under the contract.

8.7 DEFAULT AND TERMINATION OF CONTRACT

A. Termination by Default. If the contractor refuses or fails to perform any of the provisions of this contract with such diligence as will ensure its completion within the time specified in this contract, or any extension thereof, otherwise fails to timely satisfy the contract provisions, or commits any other substantial breach of this contract, the Director may notify the contractor in writing of the delay or non-performance and if not cured in ten (10) days or any longer time specified in writing by the Director, such officer may terminate the contractor's right to proceed with the contract or such part of the contract as to which there has been delay or a failure to properly perform. In the event of termination in whole or in part the Director may procure similar goods or services in the manner and upon terms deemed appropriate by the Director. The contractor shall continue performance of the contract to the extent it is not terminated and shall be liable for excess costs incurred in procuring

similar goods or services.

1. Contractor's duties. Notwithstanding termination of the contract and subject to any directions from the Director, the contractor shall take timely, reasonable, and necessary action to protect and preserve property in the possession of the contractor in which the State or county has an interest.

2. Compensation. Payment for completed goods delivered and accepted by the State shall be at the contract price. Payment for the protection and preservation of property shall be in an amount agreed upon by the contractor and Director; if the parties fail to agree, the Director shall set an amount subject to the contractor's rights under chapter 3-126, HAR. The State may withhold from amounts due the contractor such sums as the Director deems to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders and to reimburse the State for the excess costs incurred in procuring similar goods and services.

3. Excuse for nonperformance or delayed performance. Except with respect to defaults of subcontractors, the contractor shall not be in default by reason of any failure in performance of this contract in accordance with its terms, including any failure by the contractor to make progress in the prosecution of the work hereunder which endangers such performance, if the contractor has notified the Director within fifteen (15) days after the cause of the delay and the failure arises out of causes such as: acts of God; acts of the public enemy; acts of the State and any other governmental body in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather. If the failure to perform is caused by the failure of a subcontractor to perform or to make progress, and if such failure arises out of causes similar to those set forth above, the contractor shall not be deemed to be in default, unless the goods or services to be furnished by the subcontractor were unreasonably obtained from other sources in sufficient time to permit the contractor to meet the contract requirements. Upon request of the contractor, the Director shall ascertain the facts and extent of such failure, and if such officer determines that any failure to perform was

occasioned by any one or more of the excusable causes, and that, but for the excusable cause, the contractor's progress and performance would have met the terms of the contract, the delivery schedule shall be revised accordingly, subject to the rights of the State under the clause entitled "Termination for Convenience". As used in this paragraph of this clause, the term "subcontractor" means subcontractor at any tier.

4. Erroneous termination for default. If, after notice of termination of the contractor's right to proceed under the provisions of this clause, it is determined for any reason that the contractor was not in default under the provisions of the clause, or that the delay was excusable under the provisions of paragraph 3 above, Excuse for nonperformance or delayed performance of this clause, the rights and obligations of the parties shall, if the contract contains a clause providing for termination for convenience of the State, be the same as if the notice of termination had been issued pursuant to such clause.

5. Additional rights and remedies. The rights and remedies provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

B. Termination for convenience. 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 shall give written notice of the termination to the contractor specifying the part of the contract terminated and when termination becomes effective.

1. Contractor's obligation. The contractor shall incur no further obligations in connection with the terminated work and on the dates set in the notice of termination the contractor will stop work to the extent specified. The contractor shall also terminate outstanding orders and subcontracts as they relate to the terminated work. The contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The Director 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 are necessary to do so.

2. Right to goods. The Director may require the contractor to transfer title and deliver to the State in the manner and to the extent directed by the Director:

- a. Any completed goods; and
- b. The partially completed goods and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights hereinafter called "manufacturing material," as the contractor has specifically produced or specially acquired for the performance of the terminated part of this contract.

The Contractor shall, upon direction of the Director, protect and preserve property in the possession of the contractor in which the State has an interest. If the Director does not exercise this right, the contractor shall use the Contractor's best efforts to sell such goods and manufacturing materials. Use of this section in no way implies that the State has breached the contract by exercise of the termination for convenience clause.

3. Compensation:

- a. The Contractor shall submit a termination claim specifying the amounts due because of the termination for convenience together with cost or pricing data to the extent required by subchapter 15, chapter 3-122, HAR, bearing on such claim. If the Contractor fails to file a termination claim within one (1) year from the effective date of termination, the Director may pay the Contractor, if at all, an amount set in accordance with subparagraph c. below.
- b. The Director and the Contractor may agree to settlement provided the Contractor has filed a termination claim supported by cost or pricing data to the extent required by subchapter 15, chapter 3-122, HAR, and that the settlement does not exceed the total contract price plus settlement costs reduced by payments previously made by the State, the proceeds of any sales of goods and manufacturing materials under paragraph (2) of this clause, and the contract price of the work not terminated.

c. Absent complete agreement under subparagraph b above, the Director shall pay the Contractor the following amounts, provided payments agreed to under subparagraph b shall not duplicate payments under this subparagraph for the following:

(i) Contract prices for goods or services accepted under the contract;

(ii) Costs incurred in preparing to perform and performing the terminated portion of the work plus a fair and reasonable profit on such portion of the work, such profit shall not include anticipatory profit or consequential damages, less amounts paid or to be paid for accepted goods or services; provided that if it appears that the Contractor would have sustained a loss if the entire contract would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss;

(iii) Costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to paragraph 1 of this clause. These costs must not include costs paid in accordance with subparagraph (ii) above.

(iv) The reasonable settlement costs of the Contractor including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the contract and for the termination of subcontracts thereunder, together with reasonable storage, transportation, and other costs incurred in connection with the protection or disposition of property allocable to the terminated portion of this contract. The total sum to be paid the Contractor under this subparagraph shall not exceed the total contract price plus the reasonable settlement cost of the Contractor reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under subparagraph b of this paragraph, and the contract price of work not terminated.

d. Cost claimed, agreed to, or established under subparagraphs b and c shall be in accordance with chapter 3-123, HAR. bearing on such claim.

8.8 FINAL INSPECTION - Upon notice from the Contractor of the completion of the work or contract, the Director shall make an inspection. If the contract is found completed to the Director's satisfaction, such inspection shall constitute the final inspection and acceptance of the work.

If the work is unsatisfactory in whole or in part, the Director shall notify the Contractor of the work necessary for final completion and acceptance and the Contractor shall forthwith perform the work required by the Director. Upon performance of such required work by the Contractor, another inspection shall be made which shall constitute the final inspection if the work is completed satisfactorily.

Within ten (10) days after final inspection and acceptance of the work, or as soon thereafter as is practicable, the Contractor shall be notified by the Director in writing of such acceptance.

8.9 TERMINATION OF CONTRACTOR'S RESPONSIBILITY - The contract will be considered complete when all work has been completed, the final inspection made, the work accepted by the Director, and the final estimate paid. The Contractor will then be released from further obligation except as set forth in the contract and bond, when applicable.

SECTION 9 - PAYMENT

9.1 SCOPE OF PAYMENT - The Contractor's bid price shall be inclusive of all costs, direct or indirect, including all taxes, required for the fulfillment of the contract.

Contract payments to the Contractor by the State shall be full payment for the furnishing of all labor, tools, equipment, and other incidentals, including all taxes, necessary for performing all work and services contemplated and embraced under the contract.

9.2 RETAINAGE/DEDUCTION FROM PAYMENT - The Director may at any time retain or deduct out of any sums due the Contractor to cover claims of the State against the Contractor, or such sums sufficient to cover any unpaid claims of others supported by sworn statements filed in the office of the Director, without any liability for damages, interest or otherwise to the Contractor for such retention or deduction.

Provided the work of the Contractor is progressing satisfactorily in the judgment of the Director and in accordance with the provisions of this contract, monthly payments, less five percent (5%), will be made to the Contractor. The amount of such monthly payments shall be determined by the Director based on the Director's estimate of the items of work performed and materials incorporated in the work and the value therefor at the unit prices or lump sum prices set forth in the contract. All monthly payments are shall be subject to correction at any time prior to or in the final payment.

At any time after fifty per cent (50%) of the work has been completed, if the State determines that the work contracted to be performed is progressing satisfactorily, the State may make any of the remaining monthly payments in full.

If the Director finds that unsatisfactory progress is being made, the State may, from the beginning of such unsatisfactory progress, withhold any amount up to five per cent (5%) of any subsequent monthly payment.

9.3 ASSIGNMENT OF PAYMENTS - All monies payable under the contract, or any part thereof, shall be paid to the Contractor in accordance with the provisions of this Section and no assignment or order executed by the Contractor directing payment of any portion or all of such funds to any other person or persons shall be recognized by the State unless such assignment or order specifies the amounts to be so paid and the purposes for which the assignment or order is given. Such assignment or order shall have attached thereto, by endorsement or otherwise, the consent of the surety, when

applicable. No such assignment or order shall be binding on the State.

Any assignment of money shall, however, be subject to all proper set-offs in favor of the State, to all deductions provided for in the contract and to all liens and rights conferred by law on the State. All money withheld, whether assigned or not, shall be subject to being used by the State for the completion of the work in the event of the Contractor's default.

9.4 PROGRESS PAYMENTS - Payments under this contract shall be made only upon submission by the Contractor of an original invoice and 2 copies. The invoice shall specify the amount due less retainage and shall also certify that services requested under the contract have been performed by the Contractor according to the contract.

9.5 FINAL PAYMENT - Final payment will only be made after the Contractor receives final acceptance by the Director as provided in Section 8.8, and until the Contractor has filed with the Department the following:

A. Consent of the surety, when applicable, to payment of the final estimate;

B. Satisfactory evidence by affidavit that all debts resulting from the contract have been fully paid or satisfactorily secured;

C. A current "Certificate of Vendor Compliance" issued by the Hawaii Compliance Express (HCE). The Certificate of Vendor Compliance is used to certify the Contractor's compliance with (a) Section 103D-328, HRS (for all contracts \$25,000 or more) which requires a current tax clearance certificate issued by the Hawaii State Department of Taxation and the Internal Revenue Service; (b) Chapters 383, 386, 392, and 393, HRS; and (c) Subsection 103D-310(c), HRS. The State reserves the right to verify that compliance is current prior to the issuance of final payment. Contractors are advised that non-compliance status will result in final payment being withheld until compliance is attained.

The filing of willfully false affidavits will disqualify the Contractor from bidding on future work of the Department.

SECTION 10 - GENERAL REQUIREMENTS

10.1 GENERAL - The Contractor shall maintain the trees and landscaping at the Ellison Onizuka Kona International Airport at Keahole (KOA). All work is subject to the requirements of Sections 1 to 9 inclusive, and this Section 10.

10.2 REQUIRED QUALIFICATIONS AND SUBMITTALS

A. CONTRACTOR QUALIFICATIONS - At the time of the bidding, the Contractor shall possess a valid State of Hawaii Specialty Contractor license, "C-27" Landscaping Contractor, and must have experience in landscaping maintenance of an area of at least 50,000 square feet over at least two (2) consecutive years in the State of Hawaii.

B. PERSONNEL QUALIFICATIONS

1. Journeyperson type of personnel assigned to this job shall have a minimum experience of two (2) years to perform the work required by these specifications.
2. Helper personnel assigned to this job shall work only under direct supervision of the journeyperson type personnel.
3. All pesticide and herbicide work shall be performed by an individual certified in accordance with Federal, State and County laws and regulations.

C. Prospective bidders must be able to produce documented experience records to substantiate their claims of experience and qualifications. These documents shall be submitted to the State Project Manager thru email five (5) calendar days after bid opening. Falsification of documented experience and/or qualifications shall constitute a major breach of this contract.

D. SUBMITTALS - Contractor shall submit for Airport Manager's approval, six (6) copies of manufacturer's product and application brochures for all of the proposed fertilizer and pesticide products to be used for this project.

10.3 COORDINATION OF WORK

A. All work under this contract shall be coordinated with the State's Airports Manager at Ellison Onizuka Kona International Airport at Keahole, or his duly authorized representative. Upon award of the contract, work schedules, parts requirements and other essential information concerning the system to be maintained shall be given to the Airports Manager by the Contractor.

The Contractor shall furnish the Airports Manager with telephone numbers through which the Contractor can be called during regular and off-hours, including Saturdays, Sundays, and State holidays. All telephone numbers shall be local.

10.4 OPERATION AND MAINTENANCE SERVICES

- A. The Contractor shall pay for and furnish all labor, equipment, tools, supplies, fuel and other incidentals, useful or required and shall capably and skillfully manage, operate, repair and maintain the landscaping and irrigation systems. The Contractor shall pay all costs incurred in normal operations, except for costs payable by the State in accordance with this contract.
- B. The Contractor shall perform all maintenance and repairs for the Project and shall submit a monthly accounting to the Airport Manager, along with a detailed invoice of maintenance and repair costs. The Contractor shall submit copies of third party billings and invoices to the Airport Manager for payment of each item.
- C. The Contractor shall not be responsible for fines or legal action as a result of discharge violations within the period that reclaimed R1 water effluent exceeds design parameters from the wastewater treatment plant. However, the Contractor shall in all events exercise due diligence in mitigating discharge violations. The Contractor must contact the wastewater treatment plant operator every day the R1 effluent water is used for irrigation purposes and confirm R1 effluent water meets all required specifications.
- D. The Contractor shall assist the Airport Manager in obtaining all future authorizations, permits and approvals required by governmental authority in connection with the management, operation, repair or maintenance of the Project; and the Contractor shall manage, operate, repair and maintain the Project and do all other things to be performed and done by it under or in connection with this contract in compliance with all governmental laws, rules and regulations and all authorizations, permits and approvals which now or hereafter shall be applicable thereto, the tariff and general sewer service rules and regulations for the Project and any renewals or replacements thereof.
 - 1. Prior to applying for any authorization, permit or approval, the Contractor shall first obtain the Airport Manager's written approval.

2. In each case where any authorization, permit or approval or any application or other documents in connection therewith is to be in the State's name or executed by the State, the Contractor's name shall also appear as the party responsible for the management, operation, repair and maintenance of the Project.
- E. The Contractor shall keep the selected grounds of the airport serviced by the R1 effluent water system in good, safe, neat and attractive repair, order and condition.
1. Contractor shall provide landscape maintenance services specified herein at the work areas indicated below and on the Appendix A. All materials, tools and equipment used for this work shall be of the best quality and workmanship shall be in conformance with the best horticultural practices and standards. The Contractor shall confine his work to the immediate vicinity of the work area. There shall be absolutely no smoking on the job site.
 2. This obligation shall include inspection and maintenance of the landscaped areas adjacent to the fences of the treatment facility and the pump station.
 3. The Contractor shall make all inspections required and shall inform the Airport Manager in a reasonable time period when any repairs are required to be made by the State that are not included in the repairs budget.
- F. Within thirty (30) days after the start of this contract, the Contractor shall provide a physical inventory of chemicals, supplies and spare parts on hand when the Contractor begins services under this contract. The Contractor shall provide the Airport Manager with the same quantity of chemicals, supplies and spare parts upon termination of this contract.
- G. To ensure smooth start-up and operation of the Project, the Contractor shall:
1. Become familiar with the Project and its operations prior to the start of the Maintenance Contract.
 2. Train staff such that at the start of the Maintenance Contract, staff shall be familiar with and capable of operating the Project.

3. Provide, in writing, on the day services begin under this portion of the contract, the name of the Contractor's authorized representative.
 4. The Contractor shall submit a work schedule to the Airport Manager for approval within fifteen (15) workdays after the effective date of the Notice to Proceed. A copy shall also be submitted to the Engineer. The schedule shall provide the dates for the following work: Grass cutting, Fertilization, Hedge trimming and Herbicide/Pesticide application (estimated).
 5. Develop maintenance equipment, small tools and supplies inventory list within thirty (30) days after the start of the Maintenance Contract.
 6. Establish initial maintenance priorities within thirty (30) days after the start of the Maintenance Contract.
- H. Reference APPENDIX A for extent of landscaping work areas. Bidders shall be responsible to prepare their bids by conducting an on-site visit to confirm the extent of landscaped areas and the R1 effluent water irrigation system.
- I. The Contractor shall confine his work to the immediate vicinity of the project and shall coordinate all work under this contract with the Airport Manager. The Contractor shall not be responsible for dead or dying plants and trees prior to bid unless the previous Contract was also held by the Contractor.
- J. PROTECTION
1. Provide necessary safeguards and exercise caution against injury to the public and defacement of existing State properties. Do not store materials or equipment, or operate equipment near or under the branches of any existing plants that are to remain, except as actually required for work in those areas.
 2. The Contractor shall be responsible for any damage resulting from landscape planting, trimming, or cutting operations. The Contractor shall repair all damage and return the area to the previous conditions at Contractor's expense.
- K. The Contractor shall be responsible for following the "Guidelines for the Treatment and Use of Recycled Water," prepared by the Hawaii State Department of

Health Wastewater Branch, dated May 15, 2002 (or latest revision).

10.5 SCOPE OF WORK - Contractor shall provide maintenance for those landscaped areas designated in these specifications including the areas surrounding the Wastewater Treatment Plant (WWTP), pump station and triturator. The turn-over of the landscape areas shall be based on an "as is" condition. The Contractor shall replace at his own expense, all trees, hedges and plants that are damaged or have died because of the Contractor's neglect or malpractice.

- A. TURN-OVER OF LANDSCAPE AREA - Two weeks prior to the official Notice To Proceed date, representatives from the Airport Maintenance office shall meet with the Contractor and perform the following:
1. Inspect and identify specific locations in the landscape area where the health and growth of the vegetation (plants, trees, hedges, etc.) is considered to be unsatisfactory.
 2. The Contractor shall determine the proper treatment and timeframe required to enable full recovery of the poor condition of the growth of vegetation and submit recommendation and schedule to the Airport Manager.
- B. LANDSCAPING - The Contractor shall continuously maintain the area so that they have a neat and clean appearance with lush and healthy vegetation.
1. Contractor shall water all landscaped and grass areas in accordance to the plant's needs to maintain a healthful, vigorous and lush growth. The Contractor shall be responsible for the control and maintenance of the water sprinkler systems as specified herein. Contractor shall submit a water sprinkler time schedule and obtain approval by the Airport Manager. A copy of the approved time schedule shall be submitted to the Engineer for the record. No payments will be made until the schedule is submitted to the Engineer.
 2. Contractor shall remove and dispose of all rubbish, debris, dead plants and all other unwanted materials along fencelines, sidewalks, roadside curbs and gutters, gravel beds and planted areas to maintain a neat and clean appearance.

3. Contractor shall cut grass areas uniformly, height 1½" to 2" above ground surface using manual labor, machinery or other approved industry methods.
 4. Contractor shall trim/or edge grass uniformly along edges of sidewalks, roadways, plant beds, structures, etc. to a height of 1½" to 2" above ground surface using manual labor, machinery or other approved industry methods.
 5. Contractor shall trim/or edge vines and ground cover to maintain a neat and clean appearance, and safe travelway. Vines and ground cover shall not be allowed to overgrow shrubbery, signs, fencelines, guardrails, etc. unless otherwise directed by the Airport Manager. Ground cover shall be maintained at a uniform height not exceeding six (6) inches or not less than four (4) inches above ground (unless otherwise directed by the Airport Manager) and shall be cleared from around all sprinkler heads, valves, control boxes, structures, etc.
 6. Contractor shall weed all landscaped and grass areas, fencelines, sidewalks, roadside curbs and gutters, etc. to maintain a neat and clean appearance. Conspicuous and deleterious weeds shall be removed by its roots. Removal by cutting or topping at ground level will not be allowed. Weed infestation shall not exceed 10 percent (10%) of each designated areas.
 7. Contractor shall trim and shape hedges on a quarterly basis. Hedges shall be trimmed to a height of not more than four (4) feet above the ground unless otherwise directed by the airport Manager and not less than six (6) inches inside from the curb and fence line to a neat, straight and uniform appearance. All dead limbs and old stubs shall be removed. Hedges shall be trimmed using hedge trimming shears or other approved industry equipment.
- C. TREES AND HEDGES - Contractor shall trim and shape coconut trees, palm trees, other trees and hedges, in accordance with accepted horticultural practices and methods. The work shall include but not be limited to the trimming of dead branches, insect infested branches, dry branches, broken stubs, drooping and excessively heavy branches, clearing of excessive growth, including parasitic banyan branches, obstructing branches to driveways, street lights, roadways, walkways, fencelines, utility lines, etc. Tree branches shall be

trimmed to maintain a clear space below. Height (measured from the ground directly below the affected branch) of the space shall be 50 percent (50%) of the tree height or ten (10) feet, whichever is lower. Trees and hedges shall be trimmed to eliminate traffic hazards and to make signs visible at all times. Tree limbs shall not hang over the travelway. Stakes and guy wires shall be adjusted or if need to, removed to prevent damage to the tree and reduce hazards to the public. A clear area of approximately three (3) feet minimum shall be maintained around each tree to prevent mowing damages. Hedges shall be trimmed to a minimum height of four (4) feet.

1. Semi-Annual - Contractor shall trim and shape coconut trees.
 - a. Remove all dry fronds, flowers, sheaths, buds and nuts.
 - b. Remove all fronds growing against, into, or on structures, buildings, utility lines, etc.
 - c. Trees shall not be over-trimmed resulting in fronds appearing like "Feathers in the Sky." Fronds to be trimmed shall be removed entirely up to surface of tree trunk. No stubs allowed.
 - d. Damages to all plants, trees, property and equipment resulting from the removal of fronds, nuts, etc. shall be restored to original condition or replaced by the Contractor at no cost to the State.
 - e. Only "burlap" surrounding the fronds that are to be removed shall be neatly trimmed and disposed of. Remaining "burlap" shall not be disturbed.
 - f. Coconut trees are to be trimmed by climbing only. No spikes are permitted to be used to climb any coconut trees.
2. Quarterly - Contractor shall trim and shape hedges.
 - a. Hedges shall be trimmed to a height of not more than four (4) feet above the ground unless otherwise directed by the Airport Manager and

not less than six (6) inches inside from the curb and fence line to a neat, straight, and uniform appearance.

- b. Remove all dead limbs and old stubs.
 - c. Hedges shall be trimmed using hedge trimming shears or other approved industry equipment.
3. Semi-Annual - Contractor shall trim and shape palm trees
- a. Remove all dry and excessive fronds, flowers, sheaths, buds and nuts.
 - b. Remove all fronds growing against, into or on structures, buildings and electrical and communication lines by topping individual fronds so the bases of leaf stalks are retained to protect the heart of the palm.
 - c. Trees shall not be over trimmed, resulting in fronds appearing like "Feathers in the Sky." Short stubs shall be left on the uppermost whorl of trimmed fronds to protect the heart and to minimize excessive drooping of the remaining fronds.
4. Semi-Annual - Contractor shall trim and shape all other trees.
- a. Trim, prune, and shape trees and shrubs in accordance with accepted horticultural practice, unless directed otherwise by the Airport Manager.
 - b. Remove all dead limbs, old stubs, young suckers, and bean pods from trees.
 - c. All diseased and/or dead branches of trees or plants shall be cut off at the live portion of the tree unless otherwise directed by the Airport Manager. The exposed live wood area shall be treated with a tree seal compound.
 - d. Remove all low hanging branches drooping within ten feet (10') from the ground and those

branches touching or approaching structures, wiring, and neighboring private properties.

- e. Pruned or trimmed ends of branches exceeding a one (1) inch in diameter shall be treated with a tree seal compound.

- 5. Rodent control tree bands damaged by the Contractor shall be replaced by the Contractor at his own expense.

D. REPAIRS - Contractor shall be responsible to maintain and perform incidental repair of plastic headers, stakes, guy wires, etc. presently used in landscape and grass areas. Contractor shall perform incidental repair of all damaged or broken items.

E. FERTILIZATION - Contractor shall fertilize all landscaped areas, grass areas, trees and hedges four (4) times per year (every three months) in accordance to the plant's needs to maintain their natural health, color, appearance and texture. The type and quantity of fertilizer to be used shall be submitted to the Airport Manager for approval. Fertilizer shall be applied by mechanical apparatus, centrifugal throw spreader or motorized spreader and shall be applied per the manufacturer's recommendation.

Minimum Fertilizer Requirements:

- 1. Granulated slow release fertilizer with IBDU Nitrogen, 25-4-8.
- 2. Iron Sulfate, 20% FE.

F. WATER SPRINKLER SYSTEMS - Contractor is advised that the supply of R-1 irrigation water in the landscaped areas is non-potable water and that proper operation/maintenance of the water sprinkler system may require frequent cleaning of strainers, sprinkler heads, valves, etc. because of the impurities in the water. Water sprinkler systems in the work areas will be turned over to the Contractor in a "as is" condition. Contractor shall be responsible for the operation and maintenance including the cost to replace broken sprinkler heads, make system adjustments (spray patterns, controller, valves, etc.) and incidental minor repairs not exceeding two hundred dollars (\$200.00) for parts and labor.

The Contractor and Airport Maintenance representative shall conduct a quarterly inspection of the entire R1

effluent water sprinkler system to ensure that the Contractor is properly operating/maintaining the system. Any deficiencies found during the inspection shall be resolved before the next quarterly inspection.

- G. WATER OUTAGES - During water outages (Scheduled or Unscheduled), the Airport Manager will assist the Contractor by furnishing a water tanker at no cost to the Contractor; however, the Contractor shall be responsible to submit a request and coordinate the watering requirements with the Airport Manager.

- H. PESTICIDE AND HERBICIDE - When there is a need, insecticides and other pesticides shall be applied to control insect pests and diseases. Herbicides shall be used for weed control. The Contractor must comply with all applicable rules and regulations governing the use of insecticides, pesticides and herbicides. All pesticides shall be procured, processed, handled and applied in strict accordance with the manufacturer's label which shall be registered with the U.S. Environmental Protection Agency and any applicable State Lead Agency for enforcement of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA).

Whenever any such application is necessary, the Contractor shall record the chemical use by providing all the information that is requested (reference APPENDIX B).

- I. GREEN WASTE - The collection, transportation and proper disposal of all waste products, organic and inorganic, are the responsibility of the Contractor.

10.6 SUPPORT FUNCTIONS

- A. As required by the Airport Manager, the Contractor shall assist and cooperate with the Airport Manager and make all of its books and records related to the Project available to the Airport Manager. If requested by the Airport Manager, the Contractor shall assist and cooperate and shall provide testimony and appear before the Public Utilities Commission (PUC). If the Airport Manager requests the Contractor to appear before the PUC and testify, the Contractor will do so. The State shall reimburse the Contractor for time and expenses related to the PUC-related assistance and the actual preparation of any rate studies.

10.7 RECORD KEEPING AND REPORTING

- A. The Contractor shall at all times during the term of contract, keep and maintain at Ellison Onizuka Kona International Airport at Keahole, complete logs and records of all maintenance and repairs performed in connection with the R1 water irrigation system. The Contractor shall furnish to the Airport Manager on or before the tenth (10th) of each month a report in form and detail satisfactory to the Airport Manager of all maintenance and repairs performed during the preceding month along with a detailed invoice of maintenance and repair costs. The monthly report shall provide full documentation that preventive maintenance is being performed on all State-owned equipment in accordance with manufacturer's recommendations at intervals and in sufficient detail as may be determined by the Airport Manager. Upon any termination of this contract, the Contractor shall furnish the Airport Manager with the originals of all such logs and records.
- B. The Contractor shall compile, keep and maintain a complete list of warranties and guarantees and file of copies and shall compile, keep and maintain a list and file of copies of all warranties and guarantees for each new item of equipment acquired throughout the term of this contract.

The Contractor shall furnish the Airport Manager with a complete list of all written warranties and guarantees and a copy of each such warranties and guarantees within two (2) weeks after the commencement of the maintenance portion of this contract.

10.8 STAFFING

- A. The Contractor shall employ and provide, at its expense, all qualified management, supervisory, operation, maintenance, technical, accounting, testing and all other personnel required for the management, operation and maintenance of the Project and for the performance of its other obligations hereunder, including, without limitation, any repair work which is reasonably practicable for the Contractor to perform with its own staff. The Contractor's compensation therefore, is a part of and is included in the Monthly Fee specified in the contract. The Contractor shall have all the rights, duties, obligations and responsibilities in connection with such employment and employees.
1. The Contractor shall employ the number of full-time employees the Contractor deems necessary for safe operation of this Project and required to operate the Project in compliance with all regulatory

requirements.

2. The employees hired by the Contractor shall meet certification requirements of the State of Hawaii or any other governmental agency.
3. The Contractor shall comply with Federal and State laws in the hiring and employment of employees and the use of independent contractors.
4. Businesses contracted by the Contractor to perform services for the Contractor or the Airport Manager shall have the appropriate license to perform the service required.

10.9 MAINTENANCE SERVICE PAYMENT - Payment for maintenance services (basic tasks and periodic services) shall be based on the unit bid prices and the actual number of times the services are performed. Services not substantiated with submitted documentation (Sections 10.2.B and 10.5.A) will not be paid for, nor will repair services (Section 10.8) be subject to payment if at the sole discretion of the State, the repairs were necessitated by the failure of the Contractor to perform the specified maintenance services. The Contractor must advise the State at least 48 hours in advance of performing the specified tasks to ensure approval of payment. Unit bid prices shall be inclusive of all costs: Labor, materials, tools, taxes, overhead and profit, etc., to maintain the R1 effluent water irrigation systems and landscaping as specified herein.

10.10 REPAIR SERVICES - The number and skill of personnel utilized to perform the work shall be fully justified by the Contractor and is subject to the approval of the Airport Manager.

Incidental repair services performed during the scheduled "periodic services" will not be paid for separately unless specifically authorized in writing by the Airport Manager. Trouble call response and repair services will only be paid due to abuse, vandalism, or acts of God.

Payment for the use of subcontractors while performing repairs during trouble calls shall be paid for at the same hourly rate as bid by the Contractor in the Proposal Schedule.

All repair work orders shall be submitted to the Airport Manager or duly authorized representative thereof for approval at the end of each day or job. Each work order shall include the following information:

- Date and time of receipt of notification to perform incidental repair work;

- All chargeable time (man-hours);
- Material and/or spare parts used for the incidental repair work;
- Location and description of work performed; and
- Date and time of completion of work.

The Engineer will not authorize payment for incidental repair services, including replacement parts, unless a copy of the Airport Manager approved work order has been submitted with the payment request.

When the repair work becomes extensive (estimated to be in excess of \$500.00 by the State), the State reserves the right to solicit competitive bids and have the repair work done by the lowest bidder.

- A. INCIDENTAL REPAIR DURING REGULAR WORK HOURS - In the event of any mechanical and/or operational malfunction at any of the irrigation systems or the appearance of any hazardous landscaping conditions, the Contractor is subject to be called to perform the repair services by the Airport Manager. Should the Contractor be called during the regular working hours, he shall respond within one (1) hour to the job site.

10.11 TROUBLE CALLS, INCIDENTAL REPAIRS, ELECTIVE AND/OR UPGRADE WORK - The term "regular working hours" as used in these specifications shall mean 7:00a.m. to 3:30 p.m., Monday through Friday, State holidays excepted.

The term "Off-hours" as used in these specifications shall mean 3:30 p.m. to 7:00 a.m. Monday through Friday, excluding State holidays, and all hours on Saturdays, Sundays and State holidays.

In case of failure or malfunction of the system for any cause, the Contractor is subject to be called by the State; such calls hereinafter referred to as "trouble calls".

The Contractor shall respond to trouble calls within one (1) hour. For purposes of this specification, the definition of the term "respond" means to have maintenance personnel on site working on the equipment or doing a remote diagnostic on the system and making remedial measures to eliminate a failure and/or trouble conditions as well as to correct a malfunction.

If additional manpower is required, the contractor must respond with additional manpower within four (4) hours of the initial troubleshoot. If technicians need to be flown to the airport from off island, those technicians must be on site no later than

7:00 AM the following morning. All travel, lodging and other associated expenses shall be considered incidental to the Contractor's bid prices and no additional payment will be made for such costs.

All corrective measures done in response to trouble calls shall be at no cost to the State unless the trouble has been caused by abuse, vandalism, or acts of God as determined by the State and shall be paid for based on the time spent at the job site to complete the work.

The Contractor shall present his work sheets or trouble tickets to the authorized representative of the State for certification at the end of each day or job, whichever is earlier. The trouble call ticket shall include all chargeable time and material for equipment repaired.

Payment to the Contractor for repair work shall be as follows:

- A. Normal repair work performed during regular working hours shall be provided by the Contractor at no additional cost to the State. Normal repair work is herein defined as repair work which is required as a result of wear and tear on the equipment through normal use for which the equipment has been designed.
 1. Normal wear and tear also includes but is not limited to damages caused by power failures, and sun exposure.
 2. Costs for all trouble calls and normal repair work shall be included in the bid prices for the maintenance of the equipment.
 3. All time tickets shall be certified and signed by an authorized representative of the Airports District Manager to verify completion of the work.
 4. Only damages caused by abuse, vandalism, or acts of God, as determined by the State Project Manager, shall be paid for based on the hourly price in the Contractor's proposal for incidental repairs caused by abuse, vandalism, acts of God, upgrades or elective repairs, multiplied by the time spent at the job site to complete the repair work. Time spent at the job

site to complete the repair work during regular working hours shall be taken to the closest one-half (1/2) of an hour and any fraction of one-half (1/2) of an hour shall be considered a full one-half (1/2) of an hour.

5. Except as noted in Subsection 1 herein below, the hourly bid price shall include all labor, miscellaneous materials, equipment, overhead, insurance, taxes, and all other incidents necessary to complete the repair work.

6. For bidding purposes, it is estimated that there will be a total of 100 hours of incidental repair work as a result of abuse, vandalism, acts of God or natural disaster, and/or elective/upgrade work.

B. All normal incidental repair work, as described above, performed during-off hours shall be provided by the Contractor at no cost to the State.

The Contractor shall secure the Maintenance Superintendent or a designated representative's authorization prior to doing any incidental repair work during off-hours.

All time tickets shall be certified and signed by an authorized representative of the State in order to verify the completion of the work.

C. Incidental repair work during regular working hours for damages which the State Project Manager determines to have been caused by abuse, vandalism, or acts of God shall be paid for based on the hourly bid rate in the Contractor's proposal for repairs caused by abuse, vandalism, acts of God, upgrades or elective repairs, multiplied by the time spent at the job site to complete the repair work. Time spent at the job site to complete the work during regular working hours shall be taken to the closest one-half (1/2) of an hour and any fraction of one-half (1/2) of an hour shall be considered a full one-half (1/2) of an hour.

Except as noted in Section 10.12 of these specifications, the Contractor's hourly bid price

shall include all labor, miscellaneous materials, equipment, overhead, insurance, taxes, travel time, air fare, per diem, car rental, lodging and all other incidentals necessary to complete the repair work.

All time tickets shall be certified and signed by an authorized representative of the State in order for the Contractor to receive payment.

- D. Incidental repair work during off-hours for which the State Project Manager has determined to have been caused abuse, vandalism, or acts of God shall be paid for based on the Contractor's hourly price in the Contractor's proposal for repairs caused by abuse, vandalism, acts of God, upgrades or elective repairs, plus 50 percent of the Contractor's hourly bid rate, multiplied by the time spent at the job site to complete the repair work or two (2) hours, whichever is longer. Time spent at the job site to complete the repair work during off-hours shall be taken to the closest one-half (1/2) of an hour and any fraction on one-half (1/2) of an hour shall be considered a full one-half (1/2) of an hour.

Except as noted in Section 10.12 of these specifications, the Contractor's hourly bid price shall include all labor, miscellaneous materials, equipment, overhead, insurance, taxes, travel time, air fare, per diem, car rental, lodging and all other incidentals necessary to complete the repair work.

All time tickets shall be certified and signed by an authorized representative of the State in order for the Contractor to receive payment.

- E. Elective and/or upgrade work, as determined by the State Project Manager, shall be paid for based on the hourly bid rate in the Contractor's proposal for repairs caused by abuse, vandalism, acts of God, upgrades or elective repairs, multiplied by the time spent at the job site to complete the work.

All time tickets shall be certified and signed by an authorized representative of the State in order for the Contractor to receive payment.

- F. For elective and/or upgrade work performed during

off-hours, the Contractor shall be paid based on the Contractor's hourly price in the Contractor's proposal for repairs caused by abuse, vandalism, acts of God, upgrades or elective repairs, plus 50 percent of the Contractor's hourly bid rate, multiplied by the time spent at the job site to complete the work.

Time spent at the job site to complete the upgrade work during off-hours shall be taken to the closest one-half (1/2) of an hour and any fraction on one-half (1/2) of an hour shall be considered a full one-half (1/2) of an hour. In any event, the Contractor shall receive a minimum of one (1) hour of pay even if the work is completed in less than one (1) hour. The Contractor shall secure the Airports District Manager or a designated representative's authorization for any work in excess of one (1) hour during off-hours.

Except as noted in Section 10.12 of these specifications, the Contractor's hourly bid price shall include all labor, miscellaneous materials, equipment, overhead, insurance, taxes, travel time, air fare, per diem, car rental, lodging and all other incidentals necessary to complete the work.

All time tickets shall be certified and signed by an authorized representative of the State in order for the Contractor to receive payment.

- G. Any incidental repair work due to abuse, vandalism or acts of God, upgrade or elective repairs initiated during off-hours and finished during regular working hours shall be paid accordingly. That is, off-hours hourly rate shall only apply to work performed during off-hours, and regular hours hourly rate shall apply for work performed during regular working hours.
- H. If additional manpower from off island is required for repairs, all travel and lodging costs shall be considered incidental to the Contractor's bid prices and no additional payment will be made for such costs.
- I. In cases where upgrade is the only viable incidental repair. Costs will be estimated by the Contractor for both the repair/replacement and upgrade of the failed component and approved by the State Project

Manager. The State will pay the difference between the repair/replacement and upgrade of the failed component plus actual labor hours. In instances where upgrading the failed component costs less than repair/replacement, only actual labor hours shall be paid by the State.

10.12 REPLACEMENT OF PARTS - The Contractor shall replace necessary parts of the system which are worn through normal wear and tear at no cost to the State. Labor costs for removing old parts and replacing new parts during the course of inspection and maintenance services shall be considered incidental to the Contractor's bid price and no additional payment will be made by the State.

If the replacement of parts is necessary due to damage by abuse, vandalism, or act of God or the replacement of parts is not covered under any specific provisions of this contract as determined by the State, the Contractor shall be reimbursed for the cost of the new parts, excluding taxes but including shipping charges, plus 20% for overhead, profit, taxes and other incidental expenses. The Contractor shall substantiate his charges by submitting original billing as requested by the State.

10.13 ADVISORY SERVICES AND SUBCONTRACTORS - All advisory services by a foreman or any other Contractor's personnel to the mechanics or State personnel in performing their work shall be considered as incidental costs to the Contractor and included in the Contractor's hourly bid rate for regular working hours trouble calls. No separate payment shall be made therefore.

10.14 INSPECTION AND CORRECTION OF DEFECTS - All materials furnished and services performed by the Contractor under this contract shall be subject to inspection and test by the Airport Manager to the extent practicable at all times (including the period of performance) and places, and in any event, prior to acceptance. All inspections and tests by the Airport Manager shall be performed in such a manner as will not unduly delay or interrupt the Contractor's work.

Unless otherwise specifically provided for in the specifications, all equipment, materials and articles incorporated in the work covered by this contract are to be new and of the most suitable grade for the usage intended and all workmanship shall be first-class. Where equipment, materials and articles are referred to in the specifications as "equal to" any particular standard, the Director shall decide the question of equality.

All labor and/or materials furnished by the Contractor, which are found to be defective within 90 days of its completion and acceptance, shall be repaired and/or replaced at no additional cost to the State.

10.15 MATERIALS

- A. WATER - The State will furnish R-1 water at no cost to the Contractor; however, the Contractor shall take appropriate measures to ensure that water is not wasted.
- B. FERTILIZER - Contractor shall furnish all of the fertilizers to be used for this project.
- C. PESTICIDE - Contractor shall furnish all of the insecticides, fungicides, herbicides and other pesticides needed for this project. All pesticides shall be procured, processed, handled and applied in strict conformance with the manufacturer's label which shall be registered with the U.S. Environmental Protection Agency and any applicable State Lead Agency for enforcement of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA).

10.16 LIQUIDATED DAMAGES - Whenever the Contractor fails to respond to an operating and maintenance problem in accordance to the project specifications, the State may either perform the work themselves or have the work performed by another Contractor. Cost incurred by the State due to non-responsiveness of the Contractor shall be deducted from the Contractor's payment for that period.

For delay in timely maintenance services, as determined by the airport district manager, the Contractor shall be assessed ten percent (10%) of the unit bid price of the maintenance service item for each and every calendar day the service is delayed.

For trouble calls, any response after one (1) hour during work hours or ninety (90) minutes during off-hours may be assessed ten percent (10%) of the current total monthly billing.

10.17 PAYMENT - Payment shall be made in accordance with the unit prices of the actual non-warranted work performed less liquidated damages, if any.

The Contractor shall complete a maintenance checklist, signed by the Airport Maintenance Superintendent certifying that the maintenance tasks have been completed. This checklist shall be submitted to the Airport Maintenance Superintendent and the State Project Manager on a monthly basis. The copy sent to the State Project Manager shall be submitted with the monthly invoices and shall serve as verification that the work has been

satisfactorily completed.

One original monthly invoice and two copies shall be submitted to the State Project Manager by the 15th of the month and shall include the signed completed maintenance list log and individual maintenance service reports. Payment will be made to the Contractor at the contract unit price per service rendered as indicated in the Proposal Schedule. These prices shall be full compensation for furnishing all labor, materials, equipment, and incidentals necessary to complete the work.

The State shall withhold payment on any invoice missing any reports, certifications, checklists and/or proper documentation. All documentation shall be in the proper format in order for processing to proceed.

The State also reserves the right to withhold payment on any invoice if it has been determined that the performance is not in compliance with these specifications, up to standard, and/or if work has not been completed to the satisfaction of the State.

10.18 TERM OF CONTRACT - The term of this contract shall be for a three (3) year period beginning from the date indicated in the Notice to Proceed from the State.

The Contractor is advised that the initial contract will only be funded for year one. Years two and three will be amended as additional funding becomes available, and only after a contract amendment has been executed. The Contract amount for years two and three shall be the same amount as year one, with no price escalations.

The Contractor is advised that the State is only available to fund the contract for one (1) year at a time. Inasmuch as this contract calls for payment by the State in more than one (1) fiscal year, it is understood that the State Comptroller is not permitted under Section 10D-309, Hawaii Revised Statutes, to certify to that portion of the total funds that is currently available as may be allocated to satisfy State's obligations for periodic payments in future fiscal periods. It is strictly understood that this contract is enforceable only to the extent that funds have been certified as available and is contingent upon future legislative appropriations or special fund revenues. It is therefore the intent of this contract that the State will be amending this contract for additional funds for each one-year period.

The State, in accordance with the General Conditions, will have the right to terminate the Contract at any time and will be under

no obligations nor does it guaranty that the Contract will be fully funded for the entire three (3) years. The Contractor will not make any claims against the State for anticipated profits or damages, either tort or for breach of contract.

10.20 TRAINING AND CONTINUITY - Should the State elect to solicit bids for maintenance and repair services, the Contractor shall provide a minimum of 14 days training period for two (2) personnel designated by the State. The training shall be conducted on-site. No additional payment shall be made to maintain this continuity.

10.21 LAWS TO BE OBSERVED - The Contractor shall at all times observe and comply with all Federal, State, County laws, ordinances, rules and regulations which in any manner affect those engaged or employed in the work, the materials used in the work, and the conduct of the work. The Contractor shall also comply with all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the work. Any reference to such laws, ordinances, rules and regulations shall include any amendments thereto.

The Contractor shall hold harmless, indemnify, defend and where appropriate, insure the State and all its officers, agents and employees against any claim or liability arising from or based on the violation of any such laws, ordinances, rules and regulations, orders or decrees, whether such violation is committed by the Contractor or his subcontractor or the employee of either or both. If any discrepancy or inconsistency is discovered in the contract for the work in relation to any such laws, ordinances, rules and regulations, orders or decrees, the Contractor shall forthwith report the same to the Airport Manager in writing.

10.22 PERMITS, LICENSES AND TAXES - The Contractor shall procure all permits and licenses, pay all charges, fees and taxes, and give all notices necessary and incidental to the due and lawful prosecution of the work.

10.23 PUBLIC CONVENIENCE AND SAFETY

- A. The Contractor shall, through observation and experience, at all times conduct his work to assure the least possible obstruction to public traffic. The safety and convenience of the general public and of the residents along the project and the protection of persons and property shall be provided for by the Contractor.

- B. The Contractor shall take all necessary precautions to protect all his workmen and all other personnel from injuries. The rules and regulations promulgated by the Occupational Safety and Health Acts (OSHA) are not physically included herein, but included by reference and are applicable and made a part of these specifications.

10.24 PROTECTION AND RESTORATION OF PROPERTY - The Contractor shall be responsible for the preservation of all public and private property.

- A. The Contractor shall be responsible for all damage or injury to property of any character, during the prosecution of the work, resulting from any act, omission, neglect, or misconduct in his manner or method of executing the work, or due to defective work or materials.
- B. When or where any direct or indirect damage or injury is done to public or private property by or on account of any act, omission, neglect, or misconduct of the Contractor, his employees or agents, the Contractor shall, at his own expense, restore, repair, or rebuild such property to a condition similar or equal to that existing before such damage or injury was done or make restitution in an acceptable manner.

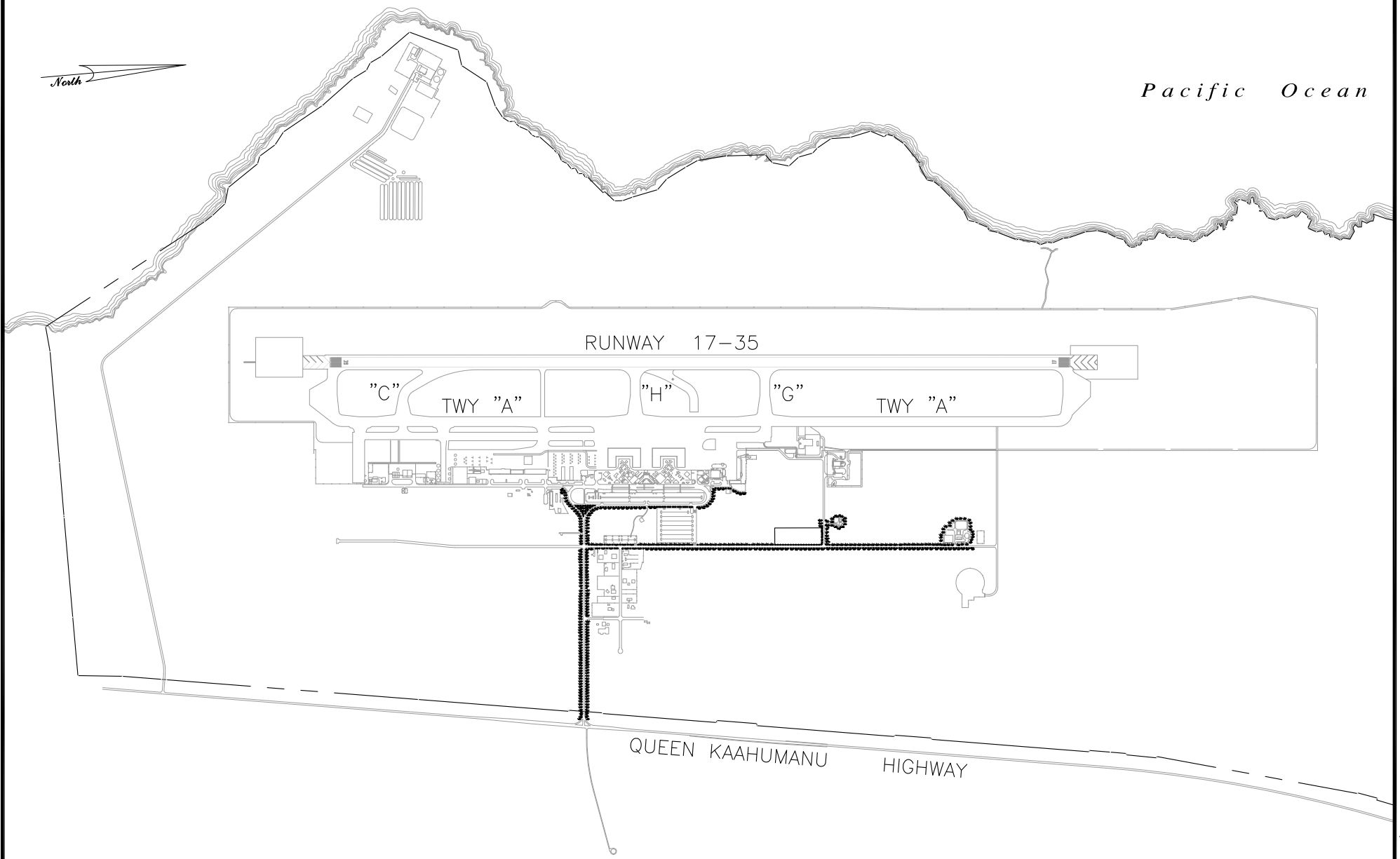
10.25 ENVIRONMENTAL - Contractor shall comply with Federal, State and County laws and regulations regarding the control of dust, noise and hazardous materials at the work place.

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
HONOLULU, HAWAII

A P P E N D I X - A
L A N D S C A P E L O C A T I O N P L A N

North

Pacific Ocean



KONA INTERNATIONAL AIRPORT AT KEAHOLE

Date : APRIL 2023

EXHIBIT:



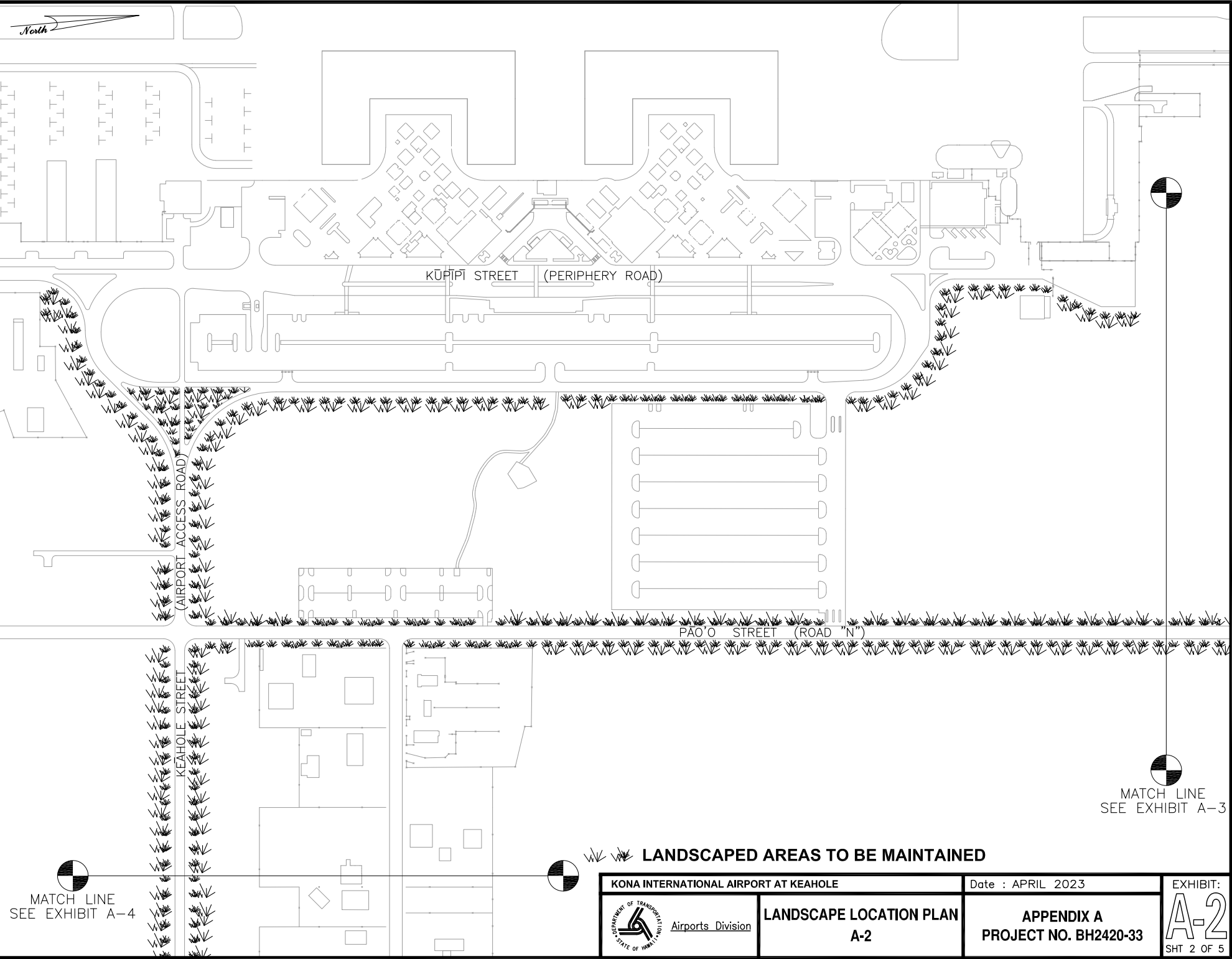
LANDSCAPE LOCATION PLAN
A-1

APPENDIX A
PROJECT NO. BH2420-33

A-1
SHT 1 OF 5

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North



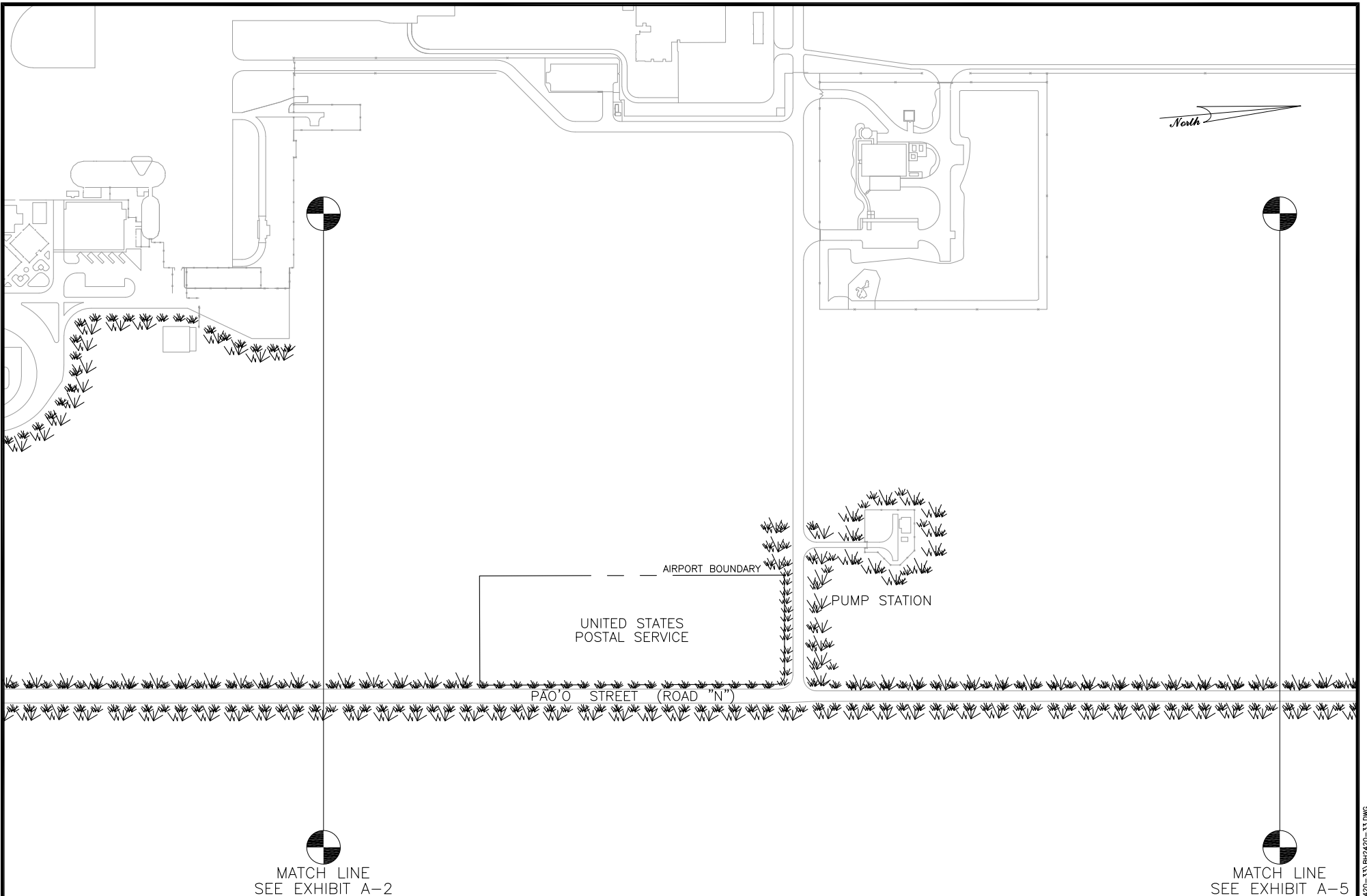
MATCH LINE
SEE EXHIBIT A-4

MATCH LINE
SEE EXHIBIT A-3

 **LANDSCAPED AREAS TO BE MAINTAINED**

KONA INTERNATIONAL AIRPORT AT KEAHOLE  Airports Division		Date : APRIL 2023	EXHIBIT: A-2 SHT 2 OF 5
LANDSCAPE LOCATION PLAN A-2		APPENDIX A PROJECT NO. BH2420-33	

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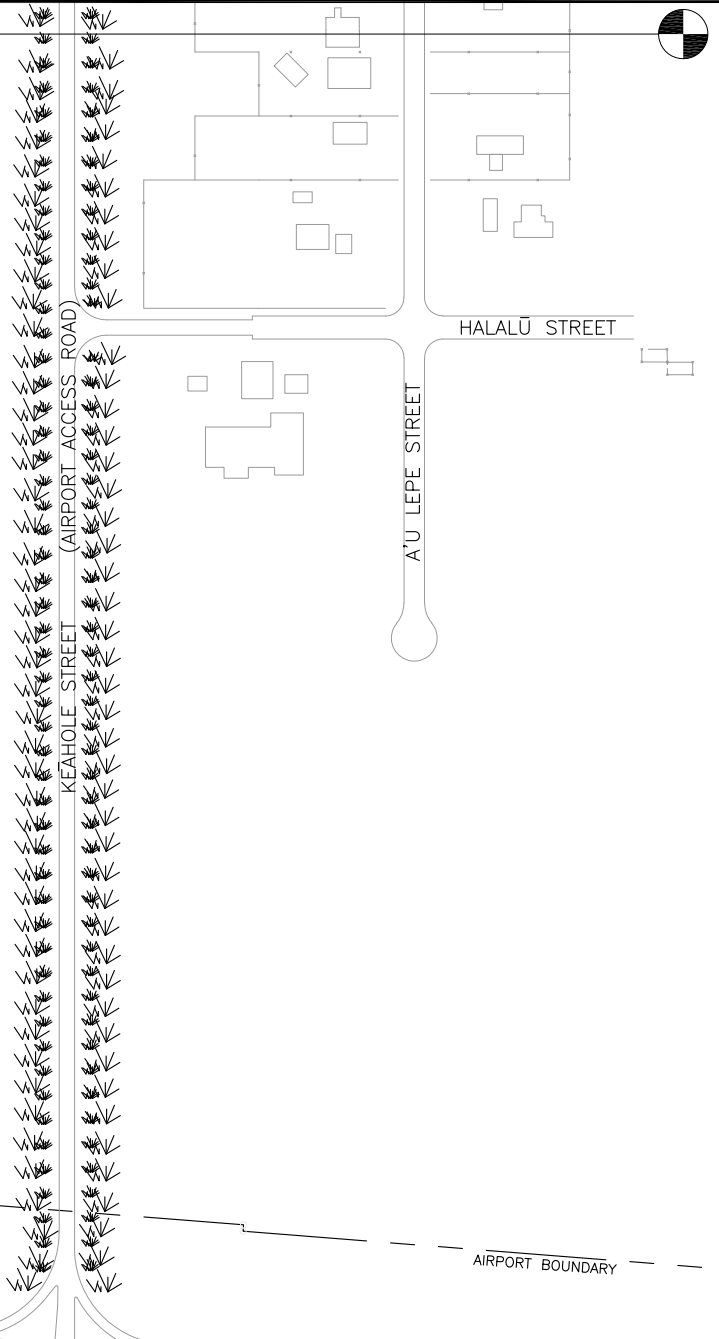


LANDSCAPED AREAS TO BE MAINTAINED

KONA INTERNATIONAL AIRPORT AT KEAHOLE		Date : APRIL 2023	EXHIBIT:
 Airports Division	LANDSCAPE LOCATION PLAN	APPENDIX A	A-3
	A-3		
			SHT 3 OF 5



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MATCH LINE
SEE EXHIBIT A-2



QUEEN KAAHUMANU HIGHWAY KAWAIHAE →

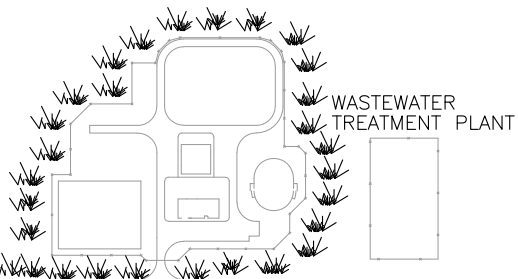
LANDSCAPED AREAS TO BE MAINTAINED

KONA INTERNATIONAL AIRPORT AT KEAHOLE		Date : APRIL 2023	EXHIBIT:
 Airports Division	LANDSCAPE LOCATION PLAN	APPENDIX A PROJECT NO. BH2420-33	 SHT 4 OF 5
	A-4		



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MATCH LINE
SEE EXHIBIT A-3



 **LANDSCAPED AREAS TO BE MAINTAINED**

KONA INTERNATIONAL AIRPORT AT KEAHOLE		Date : APRIL 2023		EXHIBIT:	
 Airports Division	LANDSCAPE LOCATION PLAN		APPENDIX A		
	A-5		PROJECT NO. BH2420-33		
			 SHT 5 OF 5		

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STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
HONOLULU, HAWAII

A P P E N D I X - B
R E C O R D O F P E S T I C I D E
A P P L I C A T I O N

2023

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
HONOLULU, HAWAII

P R O P O S A L

2023

PROPOSAL TO THE STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
AIRPORTS DIVISION

PROJECT: Maintenance of Trees and Landscaping
Ellison Onizuka Kona International Airport
at Keahole, Kailua-Kona, Hawaii

PROJECT NUMBER: BH2420-33

TERM OF CONTRACT: Contract is for a term of three (3) years
commencing from the date indicated in the
Notice to Proceed from the State.

LIQUIDATED DAMAGES: Reference - Section 10.16

PROJECT MANAGER: Name: Maritez Arca Marquez
Address: 400 Rodgers Blvd, Suite 700
Honolulu, Hawaii 96819
Phone No: (808) 838-8808
E-mail: maritez.a.marquez@hawaii.gov

ELECTRONIC SUBMITTAL: The bidder shall submit the proposal in
HIePRO. The proposal shall be UPLOADED to
HIePRO prior to the bid opening date and
time. See SPECIAL PROVISIONS - Section 2.4
DELIVERY OF PROPOSALS - for additional
information.

NOTE: PERFORMANCE, BID, AND PAYMENT BONDS ARE NOT
REQUIRED FOR THIS PROJECT.

Director of Transportation
Aliiainmoku Hale
869 Punchbowl Street
Honolulu, Hawaii 96813

Dear Sir:

The undersigned bidder declares the following:

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

The undersigned bidder further agrees to the following:

1. If this proposal is accepted, it shall execute a contract with the Department to provide all necessary labor, machinery, tools, equipment, apparatus and any other means of construction, to do all the work and to furnish all the materials specified in the contract in the manner and within the time therein prescribed in the contract, and that it shall accept in full payment therefore the sum of the unit and/or lump sum prices as set forth in the attached proposal schedule for the actual quantities of work performed and materials furnished and furnish satisfactory security in accordance with Section 103D-324, Hawaii Revised Statutes, within 10 days after the award of the contract or within such time as the Director of Transportation may allow 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 103D-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. 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.

Receipt is hereby acknowledged and complete examination is hereby expressly guaranteed of the following listed items: the specifications, the notice to bidders, the special provisions, if any, the proposal, the plans, if any, and the contract form.

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

Addendum No. 1 _____ Addendum No. 3 _____

Addendum No. 2 _____ Addendum No. 4 _____

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

Bidder (Company Name)

By _____
Authorized Signature

Print Name and 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 on behalf of the corporation. Please attach to this page current (not more than six months old) evidence of the authority of the officer(s) to sign on behalf of 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) authorized to sign contracts on behalf of the partnership. Please attach to this page current (not more than six months old) evidence of the authority of the partner(s) to sign on behalf of the partnership.

If bidder is an INDIVIDUAL, the bidder's signature shall be placed in the space provided therefore on page PF-4.

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 prior to the opening of bids or submitted with the bid; otherwise, the bid may be rejected as irregular and unauthorized.

PROPOSAL SCHEDULE

MAINTENANCE OF TREES AND LANDSCAPING
ELLISON ONIZUKA KONA INTERNATIONAL AIRPORT AT KEAHOLE, KAILUA-KONA, HAWAII
PROJECT NO. BH2420-33

Item (a)	Description (b)	Qty (c)	Unit	Unit Price (d)	Total (cxd)
1.	Monthly maintenance services for trees and landscaping	12	month	\$ _____	\$ _____
2.	All quarterly services for hedge trimming and shaping	4	quarter	\$ _____	_____
3	All quarterly services for fertilization	4	quarter	\$ _____	\$ _____
4	Regular working hours "trouble call" repair work	100 man-hours (est.)	hour	_____	\$ _____
5	All semi-annually services to trim and shape palm trees, coconut trees and all other trees	2	semi-annual	\$ _____	\$ _____
6	Parts and Materials for Repair		ALLOWANCE		\$ <u>10,000.00</u>
TOTAL AMOUNT FOR COMPARISON OF BIDS					\$ _____

NOTES: 1. Bids shall include all Federal, State, County, and other applicable taxes.

2. The TOTAL AMOUNT FOR COMPARISON OF BIDS will be used to determine the lowest responsible bidder
3. Bidders must complete all unit prices and amounts. Failure to do so may be grounds for rejection of bid.
4. If a discrepancy occurs between unit bid price and the bid price, the unit price shall govern.
5. The equipment listed in these specifications shall not be construed as being complete and accurate.
6. Payment(s) to the Contractor shall be made on the basis of actual number of service(s) performed or material supplied and the unit price.
7. The bidder shall submit the proposal in HiePRO. The proposal shall be UPLOADED to HiePRO prior to the bid opening date and time. Proposals received after said due date and time shall not be considered. Original (wet ink) proposal documents are not required to be submitted. The award will be made based on proposals uploaded in HiePRO. Any and all other additional documents explicitly designated and labeled as CONFIDENTIAL OR PROPRIETARY shall be UPLOADED SEPARATELY to HiePRO. If there is a conflict between this specification and its HiePRO solicitation, the specifications shall govern and control unless otherwise specified.

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
HONOLULU, HAWAII

F O R M S

Contents:

Contract

Certificate for Performance of Services

CONTRACT

THIS AGREEMENT, made this day _____, by and between the STATE OF HAWAII, by its Director of Transportation, hereinafter referred to as "STATE", and «CONTRACTOR», «STATE_OF_INCORPORATON» whose business/post office address is «ADDRESS», hereinafter 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 furnish, perform and/or deliver and pay for all labor, supplies, materials, equipment and services called for in «PROJECT_NAME_AND_NO», or such a part thereof as shall be required by the STATE, the total amount of which labor, supplies, materials, equipment and services shall be computed at the unit and/or lump sum prices set forth in the attached proposal schedule and shall be the sum of «BASIC»-----DOLLARS (\$«BASIC_NUMERIC») as follows:

Total Amount for Comparison of Bids.....\$«BASIC_NUMERIC»

which sum shall be provided from State funds, all in accordance with the specifications, the special provisions, if any, the notice to bidders, the instructions to bidders, the proposal and plans, if any, for «PROJECT_NO_ONLY», 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 furnish, perform and/or deliver all labor, supplies, materials, equipment and services as provided herein «WORKING_DAYS» from the date indicated in the Notice to Proceed from the State, with an option to extend for TWO (2) additional TWELVE (12) MONTH periods subject to the terms specified in Section «SECTION_REFERENCING_OPTION_YEAR» of the Specifications. The total term of this contract shall not exceed THIRTY SIX (36) MONTHS.

For and in consideration of the covenants, undertakings 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 «BASIC»-----DOLLARS (\$«BASIC_NUMERIC») in lawful money, such payment to be made, subject to such additions hereto or deductions therefrom heretofore or hereafter made, in the manner and at the time prescribed in the specifications and this contract.

An additional sum of «EXTRAS»-----DOLLARS (\$«EXTRA_NUMERIC») is hereby provided for extra work and shall be provided from State funds.

All words used herein in the singular shall extend to and include the plural. All words used in the plural 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

Director of Transportation

«CONTRACTOR»

Signature

Print name

Print Title

Date

SAMPLE

CERTIFICATE FOR PERFORMANCE OF SERVICES

The undersigned bidder does hereby certify that in performing the services required for MAINTENANCE OF TREES AND LANDSCAPING, ELLISON ONIZUKA KONA INTERNATIONAL AIRPORT AT KEAHOLE, KAILUA-KONA, HAWAII, PROJECT NO. BH2420-33, it will fulfill the following conditions:

1. All applicable laws of the Federal and State governments relating to workers' compensation, unemployment compensation, payment of wages, and safety will be fully complied with; and
2. The services to be rendered shall be performed by employees paid at wages or salaries not less than the wages paid to public officers and employees for similar work, with the exception of professional, managerial, supervisory, and clerical personnel who are not covered by Section 103-55, HRS.

I understand that failure to comply with the above conditions during the period of the contract shall result in cancellation of the contract, unless such noncompliance is corrected within a reasonable period as determined by the Director of Transportation. Payment in the final settlement of the contract or the release of bonds, if applicable, or both shall not be made unless the Director of Transportation has determined that the noncompliance has been corrected; and

I further understand that all payments required by Federal and State laws to be made by employers for the benefit of their employees are to be paid in addition to the base wage required by Section 103-55, HRS.

DATED at Honolulu, Hawaii, this ____ day of _____, 20__.

Name of Corporation, Partnership, or Individual

Signature and Title of Signer

NOTARY ACKNOWLEDGEMENT

Subscribed and sworn before me this
_____ day of _____

Notary signature
Notary public, State of _____
My Commission Expires: _____

Doc. Date: _____ #Pages: _____
Notary Name: _____ Circuit
Doc. Description: _____

Notary signature
Date _____

NOTARY CERTIFICATION