State of Hawaii
DEPARTMENT OF AGRICULTURE
AGRICULTURAL RESOURCE MANAGEMENT DIVISION
Honolulu, Hawaii

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BOARD OF AGRICULTURE

Sharon Hurd
Chairperson

# CONTRACT SPECIFICATIONS AND PLANS

Job No. DOAH-23
Waimea Irrigation System
Drainage Improvements
Kamuela, Hawaii, Hawaii

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|---|---|
| Civil Engineer: | The Limtiaco Consulting Group, Inc. |
| Structural Engineer: | Iwamoto Engineering Consultants, Inc. |
| Geotechnical: | Kokua Geotech LLC |
| Electrical Engineer: | Wes Thomas Associates, Inc. |

March 2024

State of Hawaii
DEPARTMENT OF AGRICULTURE
AGRICULTURAL RESOURCE MANAGEMENT DIVISION
Honolulu, Hawaii

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# CONTRACT SPECIFICATIONS AND PLANS

Job No. DOAH-23
Waimea Irrigation System
Drainage Improvements
Kamuela, Hawaii, Hawaii

Brian Kau, P.E.
Administrator and Chief Engineer
Agricultural Resource Management Division

March 2024

NOTICE TO BIDDERS ..... iii

INFORMATION AND INSTRUCTIONS TO BIDDERS ..... I-1

PROPOSAL ..... P-1

SPECIAL PROVISIONS..... SP-1

TECHNICAL SPECIFICATIONS ..... S-1

PLANS

DEPARTMENT OF LAND AND NATURAL RESOURCES INTERIM GENERAL CONDITIONS, DATED OCTOBER 1994.

General Conditions, AG-008

NOTICE TO BIDDERS
(Chapter 103D, HRS)

COMPETITIVE BIDS for Job No. DOAH23, Waimea Irrigation System, Drainage Improvements, Kamuela, Hawaii, Hawaii Island, shall be submitted to the Department of Agriculture, Agricultural Resource Management Division, on the specified date and time through the Hawaii State e-Procurement (HIePRO). HIePRO is accessible through the State Procurement Office website at www.spo.hawaii.gov.

The Department of Land and Natural Resources Interim General Condition, dated October 1994, as amended, and the General Conditions –AG008, latest revision, shall be made part of the specifications.

The project is located at Kamuela, Island of Hawaii, Hawaii.

The work shall generally consist of drainage improvements including the installation of a concrete drain inlet with a pipe connection to an existing 18-inch irrigation line, reconstruction of a portion of an existing concrete spillway ditch, realignment of an existing 8-inch waterline and related work as required by the contract document.

Due to the nature of work contemplated, bidders must possess a valid State Contractor's license, classification "A".

A voluntary pre-bid conference will be held on Friday, April 5, 2024 at 10:00 am at the Department of Agriculture Waimea Irrigation System Conference Room at 66-1220B Lalamilo Farm Road, Kamuela, Hawaii. The meeting will be followed by a site visit. If you are interested in joining the meeting and/or site visit, contact Bryce Yoshimori at bryce.e.yoshimori@hawaii.gov, or by phone at 808-973-9473, by 12:00 pm on Wednesday, April 3, 2024. Attendance will be limited to one representative per company.

The estimated cost of construction is $475,000.

The award of the contract, if it be awarded, will be subject to the availability of funds.

This project is subject to preference to Hawaii Products established by Section 103D, Hawaii Revised Statutes. The Hawaii Product List may be examined at the State Procurement Office website.

Since the estimated cost of construction is $250,000 or more, the apprenticeship agreement preference pursuant to Hawaii Revised Statutes §103-55.6 (ACT 17, SLH 2009) shall apply.

Should there be any questions, please refer to the HIePRO solicitation.

The Hawai‘i Department of Agriculture does not discriminate on the basis of race, color, sex, national origin, age, or disability, or any other class as protected under applicable federal or state law, in administration of its programs, or activities, and, the Department of Agriculture does not intimidate or retaliate against any individual or group because they have exercised their rights to participate in actions protected, or oppose action prohibited, by 40 C.F.R. Parts 5 and 7, or for the purpose of interfering with such rights.

If you have any questions about this notice or any of the Department's non-discrimination programs, policies, or procedures, you may contact:

Rae Gee, Acting Non-Discrimination Coordinator
Hawai‘i Department of Agriculture
1428 S. King Street, Honolulu, HI 96814,
(808) 973-9560
hdoa.titlevi@hawaii.gov

If you believe that you have been discriminated against with respect to a Department of Agriculture program or activity, you may contact the Non-Discrimination Coordinator identified above.

To request translation, interpretation, modifications, accommodations, or other auxiliary aids or services for this RFP, contact the HDOA at (808)973-9473 or email janice.fujimoto@hawaii.gov. Please allow sufficient time for HDOA to meet accommodation requests.

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‘A‘ole nō ho‘okae ka ‘Oihana Mahi ‘Ai o ka Moku‘āina o Hawai‘i i kō ke kanaka lāhui, ‘ili, keka, ‘āina, kūlana makahiki, kīnānā a mea ‘oko‘a a‘e i ka‘a ma lalo o nā kānāwai pekelala a moku‘āina, ma ka ho‘okele ‘ana i kona mau papahana, pāhana, a ‘a‘ole ho‘i ho‘omaka‘u, ‘imi mākaia, a ‘āke‘ake‘a ka ‘Oihana Mahi ‘Ai i kekahi kanaka a hui paha ma muli o kō lākou pono, hihia ‘ana i kekahi mau hana ho‘opale ‘ia a i ‘ole kū‘ē kekahi mau hana ho‘okapu ‘ia ma lalo o nā Mahele 5 a me ka 7 o ka 40 Papa Kānāwai Pekelala (C.F.R.).

Inā he mau nīnau kāu no kēia ho‘olaha, a i ‘ole no kekahi o kō ka ‘Oihana Mahi ‘Ai mau polokalamu, kulekele, a ka‘ina hana i pili i ka ho‘okae, e ho‘ohui ‘oe me:

Hawai‘i Department of Agriculture
1428 S. King Street, Honolulu, HI 96814,
(808) 973-9560
hdoa.titlevi@hawaii.gov

Inā he mana‘o no kou ho‘okae ‘ia i loko kekahi pō‘aiapili no kekahi pāhana a hanana o ka ‘Oihana Mahi ‘Ai, e ho‘ohui nō ‘oe me ka Ho‘olauka‘i Hihia Ho‘okae i ‘ōlelo ‘ia i luna a‘e nei.

No ke noi ‘ana i kōkua māhele a unuhi ‘ōlelo, a me nā lawelawe a kōkua keu o kēlā ‘ano kēia ‘ano no kēia RFP, e kelepona aku i ke ke‘ena o ka Luna Ho‘okele o ka HDOA ma (808)973-9473 a i ‘ole e leka uila aku iā janice.fujimoto@hawaii.gov. E ‘ae mai i wā e ho‘olako aku ai ka HDOA i ia mau lawelawe ‘ana.

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Ti Departamento ti Agrikultura ti Hawai‘i ket saan a mangidumduma maibasar iti puli, kolor, seks, nasion a nagtaudan, edad, wenno disabilidad, wenno aniaman a dadduma a klase a protektado iti masakupan ti maipakat a linteg ti pederal wenno estado, iti panangimaton kadagiti programa, wenno aktibidadna, ken, ti Departamento ti Agrikultura ket saan a mamutbuteng wenno bumales maibusor iti siasinoman nga indibidual wenno grupo gapu ta inusarda dagiti karbenganda a makipaset kadagiti tignay a maprotektaran, wenno sinumra ti aramid a maiparit, babaen ti 40 C.F.R. Paset 5 ken 7, wenno para iti panggep a panangsinga kadagita a karbengan.

Nu addaanka iti aniaman a saludsod maipapan iti daytoy nga abiso wenno aniaman a programa, pagalagadan, wenno wagas ti saan a panangidumduma ti Departamento, mabalinmo a kontaken ti:

Hawai‘i Department of Agriculture
1428 S. King Street, Honolulu, HI 96814,
(808) 973-9560
hdoa.titlevi@hawaii.gov

Nu patiem a naidumdumaka mainaig iti programa wenno aktibidad ti Departamento ti Agrikultura, mabalinmo a kontaken ti Tagakoordina iti Saan
a Panangidumduma a nadakamat iti ngato.

Tapno agkiddaw iti panagipatarus, interpretasion, modipikasion, akomodasion, wenno dadduma pay a pangtulong a tulong wenno serbisio para iti daytoy nga RFP, kontaken ti Opisina ti Mangidadaulo iti HDOA iti (808)973-9473 wenno ag-email iti janice.fujimoto@hawaii.gov. Maidawat a palubusam ti umdas a tiempo para iti HDOA tapno matun-oyna dagiti kiddaw nga akomodasion.

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ພະແນກກະສິກຳຂອງລັດຮາວາຍບໍ່ເລືອກຈຳແນກບົນພື້ນຖານດ້ານເຊື້ອຊາດ, ສີຜິວ, ເພດ, ຊາດກຳເນີດ, ອາຍຸ ຫຼື ຄວາມພິການ ຫຼື ກຸ່ມຄົນອື່ນໆ ທີ່ຖືກປົກປ້ອງພາຍໃຕ້ກົດໝາຍລັດຖະບານ ຫຼື ລັດທີ່ກ່ຽວຂ້ອງ, ໃນການບໍລິຫານໂຄງການ ຫຼື ກິດຈະກຳຕ່າງໆ ແລະ, ພະແນກກະສິກຳບໍ່ໄດ້ຂົ່ມຂູ່ ຫຼື ຕອບໂຕ້ຕໍ່ບຸກຄົນ ຫຼື ກຸ່ມຄົນໃດໜຶ່ງ ເພາະວ່າພວກເຂົາໄດ້ໃຊ້ສິດທິຂອງເຂົາເຈົ້າໃນການມີສ່ວນຮ່ວມໃນການກະທຳທີ່ໄດ້ຮັບການຄຸ້ມຄອງ ຫຼື ຄັດຄ້ານການກະທຳທີ່ຖືກຫ້າມ, ໂດຍ 40 CFR ພາກ 5 ແລະ 7 ຫຼື ເພື່ອຈຸດປະສົງໃນການແຊກແຊງສິດທິດັ່ງກ່າວ.

ຖ້າຫາກທ່ານມີຄຳຖາມໃດໆກ່ຽວກັບແຈ້ງການສະບັບນີ້ ຫຼື ໂຄງການ, ນະໂຍບາຍ ຫຼື ຂັ້ນຕອນທີ່ບໍ່ມີການຈຳແນກຂອງພະແນກ, ທ່ານສາມາດຕິດຕໍ່ຫາ:

Hawai‘i Department of Agriculture
1428 S. King Street, Honolulu, HI 96814,
(808) 973-9560
hdoa.titlevi@hawaii.gov

ຖ້າທ່ານເຊື່ອວ່າທ່ານໄດ້ຖືກຈຳແນກກ່ຽວກັບໂຄງການ ຫຼື ກິດຈະກຳຂອງກະຊວງກະສິກຳ, ທ່ານສາມາດຕິດຕໍ່ຫາ ຜູ້ປະສານງານການບໍ່ຈຳແນກ ທີ່ລະບຸຢູ່ຂ້າງເທິງ.

ເພື່ອຂໍການແປ, ການຕີຄວາມ, ການດັດແປງ, ການ ອຳ ນວຍຄວາມສະດວກ ຫຼື ເຄື່ອງຊ່ວຍ ຫຼື ການຊ່ວຍເຫຼືອບໍລິການເສີມອື່ນໆ ສຳລັບ RFP ນີ້, ຕິດຕໍ່ຫ້ອງການ HDOA ຂອງປະທານ ທີ່ (808)973-9473 ຫຼື ສົ່ງອີເມວຫາ janice.fujimoto@hawaii.gov. ກະລຸນາອະນຸຍາດໃຫ້ມີເວລາພຽງພໍ ສຳລັບ HDOA ເພື່ອຕອບສະໜອງຄຳຮ້ອງຂໍທີ່ພໍ.

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Hawai‘i農業部在其管理的計劃或活動中，不會基於種族、膚色、性別、國籍、年齡或殘障，或任何其他受適用聯邦或州法律保護的類別而进行歧視行
或任何其他受適用聯邦或州法律保護的類別而进行歧視行為，並且農業部不因任何個人或團體依據40 C.F.R.第5部份和第7部份行使其權利進行受保護活動或反對禁止的行為，或以干擾其權利為目的而恐嚇或報復他們。

如果您對本通告或本部門的任何無歧視計劃、政策或程序有任何疑問，您可以聯絡：

Hawai‘i Department of Agriculture
1428 S. King Street, Honolulu, HI 96814,
(808) 973-9560
hdoa.titlevi@hawaii.gov

如果您認為您在參與農業部計劃或活動中受到歧視，請聯絡上述指明的無歧視協調員。

如需與本RFP相關的翻譯、口譯、修改、住宿或其他輔助設施與服務，請致電(808) (808)973-9473 或發送電子郵件至 janice.fujimoto@hawaii.gov聯絡HDOA主席辦公室。請允許HDOA足夠的時間來滿足住宿要求。

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Ang Kagawaran ng Agrikultura ng Hawai'i ay hindi nagtatangi batay sa lahi, kulay, kasarian, bansang pinagmulan, edad, o kapansanan, o anumang iba pang klase na protektado sa ilalim ng naaangkop na batas ng pederal o estado, sa pangangasiwa ng mga programa, o aktibidad nito, at, ang Kagawaran ng Agrikultura ay hindi nananakot o gumaganti laban sa sinumang indibidwal
o grupo dahil ginamit nila ang kanilang mga karapatan na lumahok sa mga pagkilos na protektado, o tutulan ang ipinagbabawal na pagkilos, ng 40 C.F.R. Bahagi 5 at 7, o para sa hangarin na makagambala sa naturang mga karapatan.

Kung mayroon kang anumang mga katanungan tungkol sa abisong ito o alinman sa mga programa, patakaran, o pamamaraan sa hindi pandidiskrimina ng Kagawaran, maaari kang makipag-ugnayan sa:

Hawai‘i Department of Agriculture
1428 S. King Street, Honolulu, HI 96814,
(808) 973-9560
hdoa.titlevi@hawaii.gov

Kung naniniwala kang nakaranas ka ng pandidiskrimina patungkol sa isang programa o aktibidad ng Kagawaran ng Agrikultura, maaari kang makipag-ugnayan sa Tagakoordina ng Hindi Pandidiskrimina na tinukoy sa itaas.

Upang humiling ng pagsasalin, interpretasyon, pagbabago, akomodasyon, o iba pang mga pantulong na tulong o serbisyo para sa RFP na ito, makipag-ugnayan sa Opisina ng Tagapangulo ng HDOA sa (808)973-9473 o mag-email sa janice.fujimoto@hawaii.gov. Mangyaring maglaan ng sapat na oras para matugunan ng HDOA ang mga kahilingan sa akomodasyon.

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กรมวิชาการเกษตรแห่งฮาวายไม่เลือกปฏิบัติบนพื้นฐานของเชื้อชาติ สีผิว เพศ ชาติกำเนิด อายุ หรือความทุพพลภาพ หรือกลุ่มอื่นใดที่ได้รับการคุ้มครองภายใต้กฎหมายของรัฐบาลกลางหรือรัฐที่เกี่ยวข้อง
ในการบริหารโครงการหรือกิจกรรมต่าง ๆ และกรมวิชาการเกษตรไม่ได้ข่มขู่หรือตอบโต้บุคคลหรือกลุ่มใด ๆ เนื่องจากได้ใช้สิทธิในการมีส่วนร่วมในการกระทำที่ได้รับการคุ้มครองหรือคัดค้านการกระทำที่ต้องห้ามโดย 40 C.F.R. ตอนที่ 5 และ 7, หรือเพื่อวัตถุประสงค์ในการแทรกแซงสิทธิดังกล่าว

หากคุณมีคำถามใดๆ เกี่ยวกับประกาศนี้หรือของโครงการการไม่เลือกปฏิบัติของกรม นโยบาย หรือขั้นตอนต่าง ๆ สามารถติดต่อได้ที่:

Hawai‘i Department of Agriculture
1428 S. King Street, Honolulu, HI 96814,
(808) 973-9560
hdoa.titlevi@hawaii.gov

หากเชื่อว่า คุณถูกเลือกปฏิบัติในส่วนที่เกี่ยวกับโครงการหรือกิจกรรมของกรมวิชาการเกษตร คุณอาจติดต่อผู้ประสานงานการไม่เลือกปฏิบัติที่ระบุไว้ข้างต้น

หากต้องการขอการแปล ล่ามภาษา การปรับเปลี่ยน ที่พัก หรือความช่วยเหลือหรือบริการสำหรับ RFP นี้ โปรดติดต่อสำนักงาน HDOA ของประธานที่ (808)973-9473 หรืออีเมล janice.fujimoto@hawaii.gov. โปรดให้เวลาสำหรับ HDOA ในการดำเนินการตามคำขอที่พัก

# INFORMATION AND INSTRUCTIONS TO BIDDERS

CONTENTS


| | | Page |
|---|---|---|
| A | Project Location and Scope of Work | I-2 |
| B | Proposals | I-2 |
| C | General Conditions | I-2 |
| D | Proposal Form | I-2 |
| E | Omissions or Erasures | I-2 |
| F | Notice of Intent to Bid and Questionnaire | I-2 |
| G | Bid Security | I-2 |
| H | Contractor's License Required | I-2 |
| I | Irregular Bids | I-3 |
| J | Withdrawal of Bids | I-3 |
| K | Successful Bidder to File Performance and Payment Bonds | I-3 |
| L | Number of Executed Original Counterparts of Contract Documents | I-3 |
| M | Change Orders | I-3 |
| N | Wages and Hours | I-3 |
| O | Permits | I-3 |
| P | Property Damage | I-4 |
| Q | Time | I-4 |
| R | Bidder's Responsibility to Provide Proper Superintendence | I-4 |
| S | Liquidated Damages | I-4 |
| T | Hiring of Hawaii Residents | I-4 |
| U | Water and Electricity | I-5 |
| V | Public Convenience and Safety | I-5 |
| W | Work to be Done Without Direct Payment | I-5 |
| X | As-Built Drawings | I-5 |
| Y | Asbestos Containing Materials | I-5 |
| Z | Worker Safety | I-5 |
| AA | Toilet Facilities | I-6 |
| BB | Signs | I-6 |
| CC | Field Office for Department | I-6 |
| DD | Quantities | I-6 |
| EE | Other Health Measures | I-6 |
| FF | Hawaii Business Requirement | I-6 |
| GG | Compliance With §3-122-112 HAR | I-7 |

## INFORMATION AND INSTRUCTIONS TO BIDDERS

A. PROJECT LOCATION AND SCOPE OF WORK: The project location and scope of work shall be as generally described in the Notice to Bidders.

B. PROPOSALS**:** Bidders shall submit their bid, including the completed proposal form, bid bond, and any other documents required by the solicitation, as part of their bid through the State of Hawaii e-Procurement System (HIePRO). See Item D, PROPOSAL FORM.

C. GENERAL CONDITIONS: The Department of Land and Natural Resources Interim General Conditions dated October 1994, as amended, shall be made a part of these contract specifications and are referred to hereafter as the General Conditions.

D. PROPOSAL FORM: **The Bidders shall fill out and upload the electronic copy of the proposal form to the HIePRO website when submitting the bid. Bid Proposals shall not be mailed, faxed or delivered to the State, unless requested to do so after the designated closing date. The successful Bidder shall fill out and print a hard copy of the proposal form, sign and submit the form with the contract award package.**

E. OMISSIONS OR ERASURES: Any proposal which contains any omission or erasure or alteration not properly initialed, or conditional bid, or other irregularity may be rejected by the Board of Agriculture (Board).

F. NOTICE OF INTENT TO BID AND QUESTIONNAIRE:
A Notice of Intent to Bid is not required for this project. In compliance with HRS Section 103D-310, the lowest responsive and responsible bidder may be required to complete a questionnaire. When requested by the State, the completed questionnaire shall be submitted to the Chief Engineer for evaluation. Failure to furnish the requested information within the time allowed may be grounds for a determination of non-responsibility, in accordance with HRS Section 103D-310 and HAR Section 3-122-108.

G. BID SECURITY: A bid security will be furnished by each bidder as provided in sub-section 2.7 of the General Conditions. The successful bidder's bid security will be retained until Contract execution and furnished a performance and payment bond in an amount equal to one hundred percent (100%) of the total Contract price, including an amount estimated to be required for extra work, is furnished.

The Department reserves the right to hold the bid securities of the four lowest bidders until the successful bidder has entered into a contract and has furnished the required performance bond. All bid securities will be returned in accordance with sub-section 3.5 of the General Conditions.

Should the successful bidder fail to enter into a contract and furnish a satisfactory performance bond within the time stated in the proposal, the bid security shall be forfeited as required by law.

H. CONTRACTOR'S LICENSE REQUIRED: The Department will reject all bids received from contractors who have not been licensed by the State Contractors License Board in

accordance with Chapter 444, HRS; Title 16, Chapter 77, Hawaii Administrative Rules; and statutes amendatory thereto.

I. IRREGULAR BIDS: No irregular bids or propositions for doing the work will be considered by the Department.

J. WITHDRAWAL OF BIDS: No bidder may withdraw his bid between the time of the opening thereof and the award of contract.

K. SUCCESSFUL BIDDER TO FILE PERFORMANCE AND PAYMENT BONDS: The successful bidder will be required to file performance and payment bonds each; in the amount equal to the total contract price, including amounts estimated to be required for extra work, as provided in sub-section 3.6 of the General Conditions.

L. NUMBER OF EXECUTED ORIGINAL COUNTERPARTS OF CONTRACT DOCUMENTS: If requested by the Department, six copies of the Contract, performance and payment bonds shall be executed.

M. CHANGE ORDERS: No work of any kind in connection with the work covered by the plans and specifications shall be considered as change order work, or entitle the Contractor to extra compensation, except when the work has been ordered in writing by the Chief Engineer (Engineer) and in accordance with sub-section 4.2 of the General Conditions.

The Contractor shall clearly identify and inform the Engineer in writing of any deviations from the contract documents at the time of submission and shall obtain the Engineer's written approval to the specified deviation prior to proceeding with any work.

N. WAGES AND HOURS: In accordance with sub-sections 7.3 to 7.9 of the General Conditions relative to hours of labor, minimum wages and overtime pay, the current minimum wage rates promulgated by the Department of Labor and Industrial Relations (DLIR) shall be paid to the various classes of laborers and mechanics engaged in the performance of this contract on the job site. The minimum wages shall be increased during the performance of the contract in an amount equal to the increase in the prevailing wages for those kinds of work as periodically determined by the DLIR.

The Department will not recognize any claim for additional compensation because of the payment by the Contractor of any wage rate in excess of the said minimum wage rates. The possibility of wage increase is one of the elements to be considered by the Contractor in determining his bid, and will not, under any circumstances, be considered as the basis of a claim against the Department under this Contract.

No work shall be done on Saturdays, Sundays, legal State holidays, and/or in excess of eight (8) hours each day without the written consent of the Engineer. Should permission be granted to work at such times, the Contractor shall pay for all inspection administrative costs thereof. No work shall be done at night unless authorized by the Engineer.

O. PERMITS: The State will process permit applications whenever possible, and the Contractor shall procure the pre-processed permits and pay the required fees. If permit applications are not processed by the State, the Contractor shall process the permit applications, permits and

licenses, and pay all charges and fees. In all cases, the Contractor shall give all notices necessary and incident to the due and lawful prosecution of the work.

P. PROPERTY DAMAGE: It shall be the responsibility of the contractor to respect State property and to prevent damage to existing improvements. The Contractor will be responsible for damages resulting from construction operations. Immediately upon discovery, the Contractor shall repair such damage to the satisfaction of the Engineer.

All trees and shrubbery outside the excavation, embankment or construction limits shall be fully protected from injury.

Q. TIME: The time of completion is specified in the Proposal. It is the Department's intention to insist the Contractor diligently prosecute the work to completion within the specified time.

Prospective bidders are reminded that the State has the option to proceed with or abandon a project depending on whether the project can be completed for occupancy in the specified time.

It is the bidder's responsibility to check the availability of all materials before bidding. The bidder shall select sub-contractors and suppliers who can warrant availability and delivery of all specified or qualified materials to assure project completion within the specified time.

The successful bidder must assume all risks for completing the project by the specified date. There shall be no extension of time for any reason except for delays caused by acts of God, labor disputes involving unions, or actions of the State. If for any reason the project falls behind schedule, the Contractor shall at its own cost, take necessary remedial measures to get the project back on schedule, i.e., working overtime, air freighting all materials, etc. In addition, if the Contractor fails to fully complete the project by the completion date, Contractor will be required to make the facility usable at its own cost.

R. BIDDER'S RESPONSIBILITY TO PROVIDE PROPER SUPERINTENDENCE: The successful low bidder shall designate in writing to the Engineer the name of its authorized superintendent (Superintendent), who will be present at the job site whenever any work is in progress. The Superintendent shall be responsible for all work, receiving and implementing instructions from the Engineer in a timely manner. The cost for superintendence shall be considered incidental to the project.

If the Superintendent is not present at the site of work, the Engineer shall have the right to suspend the work as described under sub-section 5.5 c. and 7.20 - Suspension of Work of the General Conditions.

S. LIQUIDATED DAMAGES: Liquidated damages in the amount specified in the Proposal will be assessed for each and every calendar day from and after the expiration of the time period stated in the Contract for the completion of the project.

T. HIRING OF HAWAII RESIDENTS: The Contractor shall comply with Act 68, SLH 2010, in the performance and for the duration of this contract. The Contractor shall ensure that Hawaii residents compose not less than eighty percent of the workforce employed to perform the contract work on the project. The eighty percent requirement shall be determined by

dividing the total number of hours worked on the contract by Hawaii residents, by the total number of hours worked on the contract by all employees of the Contractor in the performance of the contract. The hours worked by any Subcontractor of the Contractor shall count towards the calculation for this section. The hours worked by employees with shortage trades, as determined by the Department of Labor and Industrial Relations (DLIR), shall not be included in the calculation for this section.

The requirements shall apply to any subcontract of $50,000 or more in connection with the Contractor, that is, such Subcontractors must also ensure that Hawaii residents compose not less than eighty percent of the Subcontractor's workforce used to perform the subcontract.

U. WATER AND ELECTRICITY: The Contractor shall make all necessary arrangements and pay all expenses for water and electricity used in the construction of this project.

V. PUBLIC CONVENIENCE AND SAFETY: The Contractor shall conduct construction operations with due regard to the convenience and safety of the public at all times. No materials or equipment shall be stored where it will interfere with the safe passage of public traffic. The Contractor shall provide, install, and maintain in satisfactory condition, all necessary signs, flares and other protective facilities and shall take all necessary precautions for the protection of the work and the convenience and safety of the public. The Engineer shall have the right to suspend the performance of the work in accordance with sub-section 7.20 - Suspension of Work of the General Conditions.

W. WORK TO BE DONE WITHOUT DIRECT PAYMENT: Whenever the contract that the Contractor is to perform work or furnish materials of any kind for which no price is fixed in the contract, it shall be understood that the Contractor shall perform such work or furnish said materials without extra charge or allowance or direct payment of any sort. The cost of performing such work or furnishing said material is to be included by the Contractor in a unit price for the appropriate item unless it is expressly specified that such work or material is to be paid for as extra work.

X. AS-BUILT DRAWINGS: As-built drawings, the intent of which is to record the actual in-place construction so that any future renovations or tie-ins can be anticipated accurately, shall be required. All authorizations given by the Engineer to deviate from the plans shall be drawn on the job site plans. All deviations from alignments, elevations and dimensions which are stipulated on the plans shall be recorded on the as-built drawings. Final as-built drawings shall be submitted to the Engineer for review and approval. After the Engineer approves the as-built drawings, the contractor shall submit an electronic copy in Adobe PDF format on CD ROM.

Y. ASBESTOS CONTAINING MATERIALS: The use of asbestos containing materials or equipment is prohibited. The Contractor shall insure that all materials and equipment incorporated in the project are asbestos-free.

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Z WORKER SAFETY: The Contractor shall provide, install and maintain in satisfactory condition all necessary protective facilities and shall take all necessary precautions for the protection and safety of its workers in accordance with the Occupational Safety and Health Standards for the State of Hawaii. The Engineer shall have the right to suspend the performance of the work in accordance with sub-section 7.20 - Suspension of Work of the

General Conditions.

AA. TOILET FACILITIES: All toilet facilities constructed at the project site shall be in accordance with the Public Health Regulations of the State Department of Health (DOH). All necessary precautions shall be observed at the project site. The use of sanitary facilities shall be strictly enforced and workers violating these provisions shall be promptly discharged.

BB. SIGNS: Whenever the project involves closing or obstructing any public thoroughfare, the Contractor shall provide traffic signs conforming to the applicable provisions of the current edition of the "Manual on Uniform Traffic Control Devices for Streets and Highways", published by the Federal Highway Administration as directed by the Engineer for the purpose of diverting or warning traffic prior to the construction area. All traffic signs shall bear proper wording stating thereon the necessary information as to diverting or warning traffic.

When indicated in the Proposal, the Contractor shall provide a project sign, size 4'-0" x 7'-0" to be placed as directed by the Engineer. The sign shall be constructed in accordance with Section 01581 - Project Sign of these specifications and approved by the Engineer. All wording, type and size of lettering and color selection shall be as specified in these specifications or as approved by the Engineer.

All signs shall be kept neat and clean, and properly erected at all times.

CC. FIELD OFFICE AREA FOR DEPARTMENT: When indicated in the Proposal, the Contractor shall provide a housed working area of at least 100 square feet adjacent to the Contractor's office for the Department's use. This area will be used by the Engineer to perform tests and to store equipment. As a minimum, the field office shall include the following: standard sized office desk and chair, lighting, ventilation, window-type air conditioning rated at 5,000 BTU, door and window with locking hardware, electrical outlets, and working communications facilities (a cellular telephone is acceptable). The Department will pay for all long distance toll charges made by the Engineer.

DD. QUANTITIES: All bids will be compared on the basis of quantities of work to be done as shown in the Proposal; the quantities shown in the Unit Price items are estimated, being given as a basis for comparison of bids. The Department reserves the right to increase or decrease the quantities given under the items or delete items entirely as may be required during the progress of the work.

EE. OTHER HEALTH MEASURES: Forms of work site exposure or conditions which may be detrimental to the health or welfare of workers or of the general public shall be eliminated or reduced to safe levels as required by the DOH codes, standards, and regulations. Suitable first aid kits and a person qualified to render first aid, as specified in the DOH regulations, shall be provided at all times when work is scheduled.

FF. HAWAII BUSINESS OR COMPLIANT NON-HAWAII BUSINESS REQUIREMENT: Bidders (Contractors) shall be incorporated or organized under the laws of the State or be registered to do business in the State as a separate branch or division that is capable of fully performing under the contract, as stipulated in §3-122-112 HAR.

GG. COMPLIANCE WITH §3-122-112 HAR:

As a condition for award of the contract and as proof of compliance with the requirements of 103D-310(c) HRS, the apparent low bidder shall furnish the required documents to the Department. If the valid required certificates are not submitted on a timely basis for award of a contract, a bidder otherwise responsive and responsible may not receive the award. Bidder is responsible to apply for and submit the following documents to the Department.

A. TAX CLEARANCE REQUIREMENTS (HRS Chapter 237): Bidder shall obtain a tax clearance certificate from the Hawaii State Department of Taxation (DOTAX) and the Internal Revenue Service (IRS). The certificate is valid for six months from the most recently approved stamp date on the certificate; the certificate must be valid on the date received by the Department.

B. Department of Labor (DLIR) "**Certificate of Compliance**". (HRS Chapter 383 - Unemployment Insurance, Chapter 386 - Workers' Compensation, Chapter 392 - Temporary Disability Insurance, and 393 – Prepaid Health Care): Bidder shall obtain a certificate of compliance from the Hawaii State Department of Labor and Industrial relations (DLIR). The certificate is valid for six months from the date of issue; certificates must be valid on the date received by the Department.

C. Department of Commerce and Consumer Affairs (DCCA), Business Registration Division (BREG) "**Certificate of Good Standing**". Bidder shall obtain a certificate of good standing issued by the Department of Commerce and Consumer Affairs (DCCA), Business Registration Division (BREG). The certificate of good standing is valid for six months from the date of issue; certificates must be valid on the date received by the Department.

Alternately, instead of separately applying for these certificates at the various state agencies, bidder may choose to use the Hawaii Compliance Express (HCE), which allows businesses to register online through a simple wizard interface at http://vendors.ehawaii.gov to acquire a "Certificate of Vendor Compliance" indicating the bidder's status is compliant with the requirements of §103D-310(c), HRS, and shall be accepted for contracting and final payment purposes. Bidders that elect to use the new HCE services will be required to pay an annual fee of $12.00 to the Hawaii Information Consortium, LLC (HIC). Bidders choosing not to participate in the HCE program will be required to provide the paper certificates as instructed in the previous paragraphs.

# P R O P O S A L

FOR

DEPARTMENT OF AGRICULTURE
AGRICULTURAL RESOURCE MANAGEMENT DIVISION
State of Hawaii

Job No. DOAH-23
Waimea Irrigation System
Drainage Improvements
Kamuela, Hawaii, Hawaii

_____, 2024

Chief Engineer
Agricultural Resource Management Division
Department of Agriculture
State of Hawaii
Honolulu, Hawaii

Dear Sir:

The undersigned, having carefully examined the local conditions and all available records and information covering conditions which may affect the cost of the work to be performed, and having carefully examined the Plans and Specifications, and other contract documents, hereby proposes to furnish and pay for all materials, tools, equipment, labor and other incidental work necessary for drainage improvements including installation of a concrete drain inlet with pipe connection to the existing 18-inch irrigation line, reconstruction of a portion of the existing concrete spillway ditch, permanent realignment of existing 8-inch waterline, and related work as required or called for in this Proposal, all according to the true intent and meaning of the Notice to Bidders, Information and Instructions to Bidders, Proposal, Special Provisions, Detailed Specifications, Interim General Conditions, Plans, and any and all addenda for:

Job No. DOAH-23
Waimea Irrigation System
Drainage Improvements
Kamuela, Hawaii, Hawaii

on file in the office of the Agricultural Resource Management Division for the TOTAL BASE BID (Items 1 to 28) of:

_____

_____Dollars ($_____)

and will fully complete all work under this contract within 180 consecutive calendar days from the date of written notice to proceed, including date of said order, said total sum being itemized on the following pages.

**PROPOSAL**

Waimea Irrigation System Drainage Improvements

**BASE BID**

| Item No. | Estimated Quantity | Unit | Description | Unit Price | Total |
|---|---|---|---|---|---|
| ***SITE 1 - NANI WAIMEA*** | | | | | |
| 1. | L.S. | L.S. | Mobilization and Demobilization | | |
| 2. | L.S. | L.S. | Project Sign, including installation and all incidentals, in place complete | | |
| 3. | L.S. | L.S. | Temporary Sediment and Erosion Control measures including installation, maintenance, and removal of temporary BMPs | | |
| 4. | L.S. | L.S. | Clearing and Grubbing | | |
| 5. | L.S. | L.S. | Concrete drain inlet box with 24" domed beehive grate including excavation, installation, backfill, concrete collar, surface restoration, and one (1) additional beehive grate, in place complete. | | |
| 6. | L.S. | L.S. | Drain Inlet Filter Basket, including one (1) additional inlet filter basket, in place complete. | | |
| 7. | L.S. | L.S. | 12-inch drain pipe connection to existing 18-inch irrigation line including trenching, backfilling, cleanout, manhole frame and cover, concrete pad, and surface restoration, in place complete. | | |
| 8. | L.S. | L.S. | Hogwire fence replacement, in place complete. | | |
| 9. | L.S. | L.S. | Fine Grading | | |
| 10. | L.S. | L.S. | Traffic Control | | |

| | | | | | |
|---|---|---|---|---|---|
| 11. | L.S. | L.S. | Landscaping including hydromulch, soil amendments, topsoil, fertilizer, and all incidentals, including 60-day maintenance period, in place complete. | | |
| 12. | Allow | AL | Over-excavation of soils and placement of structural fill material if soft subgrade materials are encountered. | $3,000 | $3,000 |
| | | | Subtotal – SITE 1<br>(Items 1-12) | | |
| ***SITE 2 – MUD LANE*** | | | | | |
| 13. | L.S. | L.S. | Mobilization and Demobilization | | |
| 14. | L.S. | L.S. | Project Sign, including installation and all incidentals, in place complete | | |
| 15. | L.S. | L.S. | Temporary Sediment and Erosion Control measures including installation, maintenance, and removal of temporary BMPs | | |
| 16. | L.S. | L.S. | Clearing and Grubbing | | |
| 17. | L.S. | L.S. | Removal and disposal of existing trees. | | |
| 18. | L.S. | L.S. | Removal and disposal of debris within spillway ditch. | | |
| 19. | L.S. | L.S. | Demolish and remove existing concrete ditch. | | |
| 20. | L.S. | L.S. | Reconstruct concrete ditch including excavation, installation, backfill, and surface restoration, in place complete. | | |
| 21. | L.S. | L.S. | Reinstallation of 8-inch water line within concrete ditch including installation, connections, testing, and disinfection. | | |
| 22. | L.S. | L.S. | Installation of 1" Air Relief Valves on new 8” water line including installation, fittings, and connections. | | |

| | | | | | |
|---|---|---|---|---|---|
| 23. | L.S. | L.S. | Fine Grading | | |
| 24. | L.S. | L.S. | Traffic Delineators with Reflective Band, including installation. | | |
| 25. | L.S. | L.S. | Sign Relocation | | |
| 26. | L.S. | L.S. | Traffic Control | | |
| 27. | L.S. | L.S. | Landscaping including hydromulch, soil amendments, topsoil, fertilizer, and all incidentals, including 60-day maintenance period, in place complete. | | |
| 28. | Allow | AL | Over-excavation of soils and placement of structural fill material if soft subgrade materials are encountered. | $25,000 | $25,000 |
| | | | Subtotal – SITE 2<br>(Items 13-28) | | |
| | | | Total – BASE BID<br>(Items 1-28) | | $_____ |

**ADDITIVE ALTERNATE 1**

| Item No. | Estimated Quantity | Unit | Description | Unit Price | Total |
|---|---|---|---|---|---|
| ***SITE 1 - NANI WAIMEA*** | | | | | |
| 29. | L.S. | L.S. | Mobilization and Demobilization | | |
| 30. | L.S. | L.S. | Concrete drain inlet box with 24" domed beehive grate including excavation, installation, backfill, concrete collar, surface restoration, and one (1) additional beehive grate, in place complete. | | |
| 31. | L.S. | L.S. | Drain Inlet Filter Basket, including one (1) additional inlet filter basket, in place complete. | | |
| 32. | L.S. | L.S. | 12-inch drain pipe connection to existing 18-inch irrigation line including trenching, backfilling, cleanout, manhole frame and cover, concrete pad, and surface restoration, in place complete. | | |
| 33. | Allow | AL | Over-excavation of soils and placement of structural fill material if soft subgrade materials are encountered. | $3,000 | $3,000 |
| | | | Total – ADDITIVE ALTERNATE 1 (Items 29-33) | | |

RECAPITULATION

| | |
|---|---|
| Total Base Bid (Items 1 to 28) | $_____ |
| Additive Alternate No. 1 (Items 29 to 33) | $_____ |
| TOTAL SUM BID (Items 1 to 33) | $_____ |

RECYCLED PRODUCTS PREFERENCE

This project allows a 10% price preference for recycled products in accordance with HRS 103D-1005. Please indicate your recycled or non-recycled product by indicating its cost FOB jobsite unloaded in the schedule below, including applicable General Excise & Use Taxes.

| DESCRIPTION | RECYCLED PRODUCT COST | NONRECYCLED PRODUCT COST |
|---|---|---|
| _____ | $_____ | $_____ |
| _____ | $_____ | $_____ |
| _____ | $_____ | $_____ |
| _____ | $_____ | $_____ |

The bidder requesting a recycled product preference shall also complete and submit the form "CERTIFICATION OF RECYCLED CONTENT" as shown in the Interim General Conditions and provide all supporting information with this proposal. Additional information may be requested to qualify a product.

The following definitions are applicable to the CERTIFICATION OF RECYCLED CONTENT form:

"Post-consumer recovered material" means any product used by a consumer, including a business that purchases the material, that has served its intended end use, and that has been separated or diverted from the solid waste stream for the purpose of use, reuse, or recycling.

"Product" includes materials, manufactures, supplies, merchandise, goods, wares, and foodstuffs.

"Recovered material" means waste material and by-products that have been separated, diverted, or removed from the solid waste stream after a manufacturing process for the purpose of use, reuse, or recycling. Recovered material does not include those materials and by-products that are generated and normally reused on-site or within original manufacturing processes (such as mill broke, in the case of paper products).

"Recycled content" means the percentage of a product composed of recovered material, or post-consumer recovered material, or both.

"Recycled product" means a product containing recovered material, or post-consumer recovered material, or both.

The bidder agrees that preference for recycled products shall be taken into consideration to determine the low bidder in accordance with said Section and the rules promulgated, however, the award of contract will be in the amount of the bid offered exclusive any preference.

APPRENTICESHIP AGREEMENT PREFERENCE

1. If applicable to this project, any bidder seeking the preference must be a party to an apprenticeship agreement registered with the State Department of Labor and Industrial Relations (DLIR) at the time the bid is submitted for each apprenticeable trade the bidder will employ to construct the project. "Employ" means the employment of a person in an employer-employee relationship.

    a. The apprenticeship agreement shall be registered with the DLIR and conform to the requirements of Hawaii Revised Statutes Chapter 372.

    b. Subcontractors do not have to be a party to an apprenticeship agreement for the bidder to obtain preference.

    c. The bidder is not required to have apprentices in its employ at the time the bid is submitted to qualify for the preference.

2. A bidder seeking the preference must state the apprenticeable trade the bidder will employ for each trade to be employed to perform the work by submitting a completed signed original Certification Form 1 verifying participation in an apprenticeship program registered with DLIR. "Apprenticeable trade" shall have the same meaning as "apprenticeable occupation" pursuant to Hawaii Administrative Rules (HAR) §12-30-5.

    a. The Certification Form 1 shall be authorized by an apprenticeship sponsor listed on the DLIR list of registered apprenticeship programs. "Sponsor" means an operator of an apprenticeship program and in whose name the program is approved and registered with the DLIR pursuant to HAR §12-30-1.

    b. The authorization shall be an original signature by an authorized official of the apprenticeship sponsor.

    c. The completed signed original Certification Form 1 for each trade must be submitted with the bid. Previous certifications shall not apply.

    d. When filling out the Certification Form 1, the name of Apprenticeable Trade and Apprenticeship Sponsor must be the same as recorded in the List of Construction Trades in Registered Apprenticeship Programs that is posted on the DLIR website. "Registered apprenticeship program" means a construction trade program approved by the DLIR pursuant to HAR §12-301 and §12-30-4.

    e. The Certificate Form 1 and the List of Construction Trades in Registered Apprenticeship Programs is available on the DLIR website at: http://hawaii.gov/labor/wdd.

3. Upon receiving the Certification Form 1, the Procurement Officer will verify that the apprenticeship program is on the List of Construction Trades in Registered Apprenticeship Programs and that the form is signed by an authorized official of the Apprenticeship Program Sponsor. If the programs and signature are not confirmed by the DLIR, the bidder will not qualify for the preference.

4. If the bidder is certified to participate in an apprenticeship program for each trade which will be employed by the bidder for the project, a preference will be applied to decrease the

bidder's bid P-6 amount by five percent (5%) for evaluation purposes.

5. Should the bidder qualify for other preferences (e.g. Hawaii Products), all applicable preferences shall be applied to the bid price. CONTRIBUTIONS BY STATE AND COUNTY CONTRACTORS PROHIBITED 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.

CONDITION OF AWARD

It is understood that the award of the contract will be made on the basis of the lowest responsible Total Base Bid (Items 1 to 28) with Additive Alternate 1 (Items 29 to 33) as an evaluation factor, selected by the Department of Agriculture. Write the total of bid items 1 to 28 on page P-1.

It is understood and agreed that the Department of Agriculture reserves the right to reject any and/or all bids and waive any defects when, in the Department's opinion, such rejection or waiver will be for the best interest of the State of Hawaii.

In the event all bids exceed available funds certified by the appropriate fiscal officer, the head of the purchasing agency responsible for the procurement in question is authorized in situations where time or economic considerations preclude resolicitation of work of a reduced scope to negotiate an adjustment of the bid price, including changes in the bid requirements, with the low responsible and responsive bidder, in order to bring the bid within the amount of available funds. It is understood and agreed upon that the head of the purchasing agency may delete a portion or all of any item(s) in the proposal at the stated unit or lump sum price as necessary to stay within the available funding. The bidder is responsible to make an earnest effort to represent the actual cost of each item, including all materials, labor, equipment, overhead and profit in their bid proposal to preclude claims of anticipated profit or loss of profit because of an unbalanced bid proposal.

It is also understood that if a mutually agreeable cost for the reduced scope of work necessitated by a lack of available funds cannot be agreed upon between the bidder and the head of the purchasing agency within 14 calendar days after the bid opening, then the bid may be rejected in the best interest of the purchasing agency, and the head of the purchasing agency may negotiate in progressive order (lowest to highest) with the next lowest responsible and responsive bidder.

It is also understood and agreed that the award of the contract shall be conditioned upon funds being made available for this project and further upon the right of the Department of Agriculture to hold all bids received for a period of sixty (60) days from the date of the opening thereof, unless otherwise required by law, during which time no bid may be withdrawn.

It is also understood that Notice to Proceed may be delayed up to one (1) year after the bid opening date, and that no additional compensation will be provided for any claim for escalation or delay for issuance of Notice to Proceed on or before that date.

It is also understood and agreed that the quantities given herewith are approximate only and are subject to increase or decrease, and that the undersigned will perform all quantities of work as either increased or decreased, in accordance with the provisions of the Contract Specifications.

It is also understood and agreed that the estimated quantities shown for the items for which a UNIT PRICE is asked in this Proposal are only for the purpose of comparing on a uniform basis, bids offered for the work under this contract, and the undersigned agrees that he is satisfied with and will at no time, dispute said estimated quantities as a means of claims for anticipated profit or loss of profit, because of a difference between the quantities of the various classes of work done or the materials and equipment installed, and the said estimated quantities. On UNIT PRICE bids, payment will be made only for the actual number of units incorporated into the finished project at the contract UNIT PRICE.

After the proposals are opened and read, the figures will be extended and/or totaled in accordance with the bid prices of the acceptable proposals and the totals will be compared. In the comparison of bids, words written in the proposal shall govern over figures and unit prices will govern over totals.

Until the award of the contract, however, the right will be reserved to reject any and all proposals and to waive any defects or technicalities as may be deemed best for the interest of the State.

It is also understood and agreed that liquidated damages in the amount of FIVE HUNDRED AND NO/100 ($500.00) for each and every calendar day in excess thereof prior to completion of the contract shall be withheld from payments due to the Contractor.

It is also understood and agreed that if this bid is accepted, the successful bidder must enter into and execute a contract with the Department of Agriculture and furnish a Performance and Payment Bond, as required by law. These bonds shall conform to provisions of Section 103D-324 and 325, Hawaii Revised Statutes and any law applicable hereto.

It is also understood and agreed that the successful bidder will provide all necessary labor, materials, tools, equipment, and other incidentals necessary to do all the work and furnish all the materials specified in the contract in the manner and time herein prescribed, and according to the requirements of the Engineer as therein set forth.

It is understood that by submitting this proposal, the undersigned is declaring that his firm has not been assisted or represented on this matter by an individual who has, in a State capacity, been involved in the subject matter of this contract in the past two years.

It is understood that by submitting this proposal in accordance with HAR 3-122-192, the undersigned is declaring that the price submitted is independently arrived without collusion.

It is also understood that by submitting this proposal, a Certification for Safety and Health Programs for bids in excess of $100,000 (in accordance with HRS 396-18), the undersigned certifies that his organization will have a written safety and health plan for this project that will be available and implemented by the Notice to Proceed date of this project. Details of the requirements of this plan may be obtained from the Department of Labor and Industrial Relations, Occupational, Safety and Health Division (HIOSH).

It is further understood and agreed that the successful bidder shall comply with paragraph 3.1.a "SUBCONTRACTING" of the General Provisions which requires that the contractor shall perform with his own organization and with the assistance of workmen under his immediate superintendence, work of a value not less than twenty percent (20%) of the value of all work embraced in the Contract, except that certain contract items of work, if specifically referred to in the special provisions, will be exempted from said twenty percent requirement.

Compliance with §103-310 HRS. As a condition of award all bidders shall comply with all laws governing entities doing business in the State, including Chapter 237 HRS (general excise tax); Chapter 383 HRS (employment security – unemployment insurance); Chapter 386 HRS (workers compensation); Chapter 392 HRS (temporary disability insurance); and Chapter 393 HRS (pre-paid health care), and shall produce all documents to the State (Department of Agriculture) required to demonstrate compliance with these subsections. Any bidder making a false affirmation or certification under this subsection shall be suspended and may be debarred from further offerings or awards pursuant to §103D-702 HRS.

RECEIPT OF ADDENDA

The bidder also acknowledges receipt of any and all addenda issued by the Agricultural Resource Management Division, by recording the date of receipt of the respective addenda in the space provided below:

| Addendum | Date Received | Addendum | Date Received |
|---|---|---|---|
| No. 1 | _____ | No. 5 | _____ |
| No. 2 | _____ | No. 6 | _____ |
| No. 3 | _____ | No. 7 | _____ |
| No. 4 | _____ | No. 8 | _____ |

It is understood that failure to receive any such addendum shall not relieve the Contractor from any obligation under this Proposal as submitted.

It is also understood and agreed that if this Proposal is accepted and the undersigned should fail or neglect to contract as aforesaid, the State may determine that the bidder has abandoned the Contract, and thereupon, forfeiture of the security accompanying his proposal shall operate and the same shall become the property of the State.

JOINT CONTRACTORS OR SUBCONTRACTORS TO BE ENGAGED ON THIS PROJECT

The Bidder agrees that the following is a complete listing of all joint contractors or subcontractors covered under Chapter 444, Hawaii Revised Statutes (HRS), who will be engaged by the Bidder on this project to perform the required work indicated pursuant to Section 103D-302, HRS. It is the sole responsibility of the contractor to review the requirements of this Project and determine the appropriate licenses that are required to complete the Project. The Bidder certifies that the completed listing of joint contractors or subcontractors fulfills the requirements for the project and the Bidder, together with the listed subcontractors or joint contractors have all the specialty contractor's licenses to complete the work, except as provided for in HRS §103D-302(b). Failure of the Bidder to comply with this requirement may be just cause for rejection of the bid.

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

General Engineering "A" Contractors automatically have these "C" specialty contractor's licenses: C-3, C-9, C-10, C-17, C-24, C-31a, C-32, C-35, C-37a, C-37b, C-38, C-43, C-49, C-56, C-57a, C-57b and C-61.

General Building "B" Contractors automatically have these "C" specialty contractor's licenses: C-5, C-6, C-10, C-12, C-24, C-25, C-31a, C-32a, C-42a and C-42b.

In completing the Joint Contractors or Subcontractors List, describe the specialty contractor's nature and scope of work to be performed for this project and provide the complete firm name of the joint

contractor or subcontractor in the respective columns. If the Bidder is a general contractor providing the work of a required specialty contractor, whose license is not automatically held pursuant to HAR 16-77-32, fill in the Bidder's (general contractor's) name and nature and scope of work to be performed on this project.

List only one joint contractor or subcontractor per required specialty contractor's classification, unless within the same specialty, the work of each joint contractor or subcontractor can be described so that there is no overlap in work descriptions.

If a contractor's license is required by law for the performance of the work which is called for in this bid, the bidder and all subcontractors must have the required license before the submission of the bidder's proposal in the case of a non-federal aid project, and for federal-aid projects, the bidder must have the required license prior to the award of the project and all subcontractors prior to the start of the subcontracted work.

| COMPLETE FIRM NAME OF JOINT CONTRACTOR OR SUBCONTRACTOR | NATURE AND SCOPE OF WORK TO BE PERFORMED |
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Enclosed herewith is a:

| | | | |
|---|---|---|---|
| 1. | Surety Bond (*1) | ) | |
| 2. | Legal Tender (*2) | ) | |
| 3. | Cashier's Check (*3) | ) | |
| 4. | Certificate of Deposit (*3) | ) | in the |
| 5. | Certified Check (*3) | ) | amount |
| 6. | Official Check (*3) | ) | of |
| 7. | Share Certificate (*3) | ) | |
| 8. | Teller's Check (*3) | ) | |
| 9. | Treasurer's Check (*3) | ) | |

(Cross Out Those Not Applicable)

_____

_____Dollars ($_____)

as required by law.

Respectfully submitted,

_____
Name of Company, Joint Venture
or Partnership

_____
Contractor's License No.

By _____
Signature (*4)

Title _____
Print Name _____
Date _____
Address _____
_____
Telephone No. _____

E-Mail Address _____

NOTES:

1. Surety bond underwritten by a company licensed to issue bonds in this State;

2. Legal tender; or

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

   A. These instruments may be utilized only to a maximum of $100,000.

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

4. Please attach to this page evidence of the authority of this officer to submit bids on behalf of the Company and also the names and residence addresses of all officers of the Company.

5. Fill in all blank spaces with information asked for or bid may be invalidated. PROPOSAL MUST BE INTACT, MISSING PAGES MAY INVALIDATE YOUR BID.

**End of Proposal**

# SPECIAL PROVISIONS

Amend INTERIM GENERAL CONDITIONS, dated October 1994, as follows:

## Section 2 – Proposal Requirements and Conditions

1. **AMEND** Section 2.1 Qualification of Bidder with the following:

Written Notice of Intent to Bid or Offer: A written Notice of Intent to Bid is not required for the Solicitation.

Standard Qualification Questionnaire: Bidders may be required to complete a standard qualifications questionnaire. When requested, the information shall be furnished within two working days or longer at the discretion of the Engineer. Failure to furnish the requested information within the time allowed may be grounds for a determination of non-responsibility, in accordance with HRS Section 103D-310 and HAR Section 3-122-108.

Hawaii Business or Compliant Non-Hawaii Business Requirement: Bidders shall be incorporated or organized under the laws of the State or be registered to do business in the State as a separate branch or division that is capable of fully performing under the contract, as stipulated in §3-122-112 HAR. A certified letter is not required prior to bid opening.

Compliance with §3-122-112 HAR: As a condition for award of the contract and as proof of compliance with the requirements of 103D-310(c) HRS, the apparent low bidder shall furnish the required documents to the Department. If the valid required certificates are not submitted on a timely basis for award of a contract, a bidder otherwise responsive and responsible may not receive the award. Bidder is responsible to apply for and submit the following documents to the Department.

A. Tax Clearance (HRS Chapter 237): Bidder shall obtain a tax clearance certificate from the Hawaii State Department of Taxation (DOTAX) and the Internal Revenue Service (IRS). The certificate is valid for six months from the most recently approved stamp date on the certificate; the certificate must be valid on the date received by the Department.

B. Department of Labor (DLIR) "Certificate of Compliance". (HRS Chapter 383 - Unemployment Insurance, Chapter 386 - Workers' Compensation, Chapter 392 - Temporary Disability Insurance, and 393 – Prepaid Health Care): Bidder shall obtain a certificate of compliance from the Hawaii State Department of Labor and Industrial relations (DLIR). The certificate is valid for six months from the date of issue; certificates must be valid on the date received by the Department.

C. Department of Commerce and Consumer Affairs (DCCA), Business Registration Division (BREG) "Certificate of Good Standing". Bidder shall obtain a certificate of good standing issued by the Department of Commerce and Consumer Affairs (DCCA), Business Registration Division (BREG). The certificate of good standing is valid for six months from the date of issue; certificates must be valid on the date received by the Department.

**Hawaii Compliance Express.** Alternately, instead of separately applying for these certificates at the various state agencies, bidder may choose to use the Hawaii Compliance Express (HCE), which allows businesses to register online through a simple wizard interface at http://vendors.ehawaii.gov to acquire a "Certificate of Vendor compliance" indicating that bidder's status is compliant with requirements of §103D-310(c), HRS, shall be accepted for contracting and final payment purposes.
Bidders that elect to use the new HCE services will be required to pay an annual fee of $15.00 to the

Hawaii Information Consortium, LLC (HIC). Bidders choosing not to participate in the HCE program will be required to provide the paper certificates as instructed in the previous paragraphs.

2. **ADD** Section 2.4a, Pre-Bid Conferences

Required Pre-bid Conferences: For construction and design-build projects with an estimated value of $500,000 or more and solicited under the competitive sealed bid method (103D-302 HRS); and for construction and design-build projects with an estimated value of $100,000 or more and solicited under the competitive sealed proposal method (103D-303 HRS); a pre-bid conference is required.

Other Pre-Bid Conferences: The Department may require a pre-bid conference for construction or design-build projects that are below the dollar threshold listed in above or when projects have special or unusual requirements.

Other Conditions: The Department may require the prospective Bidders to make a physical inspection of the project site and make attendance at the pre-bid conference a condition for submitting an offer.

Nothing stated at the pre-bid conference shall change the solicitation unless a change is made by written addendum.

3. **DELETE** Section 2.5, Addenda and Interpretations, in its entirety and replace with the following:

"Discrepancies, omissions, or doubts as to the meaning of drawings and specifications should be communicated using the question and answer section on the HIePRO solicitation for interpretation and must be received in the time frame set in the HIePRO solicitation. Any interpretation, if made and any supplemental instructions will be in the form of written addenda to the plans and specifications and made available prior to the offer due date. It shall be the prospective bidder's sole responsibility to verify and obtain any said addenda. Failure of any bidder to receive any such addendum or interpretation shall not relieve such bidder from any obligation under his bid as submitted. All addenda so issued shall become part of the contract documents."

**Section 3 – Award and Execution of Contract**

1. **AMEND** Section 3.3, Award of Contract, by deleting "sixty (60)" and replacing with "ninety (90)" in the first paragraph.

2. **AMEND** Section 3.3, Award of Contract, by adding the following after the first paragraph:

"If the contract is not awarded within the ninety (90) days, the Department may request the successful Bidder to extend the time for the acceptance of its bid. The Bidder may reject such a request without penalty; and in such case, the Department may at its sole discretion make a similar offer to the next lowest responsive and responsible bidder and so on until a bid is duly accepted or until the Department elects to stop making such requests."

3. **AMEND** Section 3.9, Notice to Proceed, by deleting "180 days" and replacing with "one (1) year" in the last paragraph.

4. **ADD** Section 3.10, Protests:

"**3.10 PROTESTS**—Pursuant to Section 103D-701, Hawaii Revised Statutes, an actual or prospective offeror who is aggrieved in connection with the solicitation or award may submit a protest. Any protest

shall be submitting in writing to the Chairperson, Department of Agriculture, 1428 South King Street, Honolulu, Hawaii 96814, or designee as specified in the solicitation.

A protest shall be submitted in writing within five (5) working days after the aggrieved person knows or should have known the facts giving rise thereto; provided that a protest based upon the content of the solicitation shall be submitted in writing prior to the date set for receipt of offers. Further provided that a protest of an award or proposed award shall be submitted within five (5) working days after the posting of the award of the contract.

**Section 5 – Control of Work**

**AMEND** Section 5.8 Value Engineering Incentive by deleting "$100,000" and replacing with "$250,000" in the first paragraph.

**Section 6 – Substitution of Materials and Equipment**

**ADD** the following to Section 6.3 Sub-paragraph b:

4. If the substitution meets all the requirements of the specifications and plans.

**Section 7 – Prosecution and Progress**

1. **DELETE** Section 7.2d in its entirety and replace with the following:

"d. Insurance Requirements

1. Obligation of Contractor

The Contractor shall not commence any work until it obtains, at its own expense, all required insurance. Such insurance must have the approval of the Department as to limit, form and amount and must be maintained with a company authorized by law to issue such insurance in the State of Hawaii.

All insurance described herein will be maintained by the Contractor for the full period of the contract and in no event will be terminated or otherwise allowed to lapse prior to written certification of final acceptance of the work by the Department.

Certificate(s) of Insurance acceptable to the Department shall be filed with the Engineer prior to commencement of the work. These certificates shall contain a provision that coverages afforded under the policies will not be canceled or changed until at least thirty days written notice has been given to the Engineer by registered mail. The insurance policies shall name the State of Hawaii, its officers and employees as an additional insured and such coverage shall be noted on the Certificate. Should any policy be canceled before final acceptance of the work by the Department, and the Contractor fails to immediately procure replacement insurance as specified, the Department, in addition to all other remedies it may have for such breach, reserves the right to procure such insurance and deduct the cost thereof from any money due to the Contractor.

Nothing contained in these insurance requirements is to be construed as limiting the extent of Contractor's responsibility for payment of damages resulting from its operations under this contract, including the Contractor's obligation to pay liquidated damages, nor shall it affect the

Contractor's separate and independent duty to defend, indemnify and hold the Department harmless pursuant to other provisions of this contract. In no instance will the Department's exercise of an option to occupy and use completed portions of the work relieve the Contractor of its obligation to maintain the required insurance until the date of final acceptance of the work.

All insurance described herein shall cover the insured for all work to be performed under the contract, all work performed incidental thereto or directly or indirectly connected therewith, including traffic detour work or other work performed outside the work area, and all change order work.

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

2. Types of Insurance

The Contractor shall purchase and maintain insurance described below which shall provide coverage against claims arising out of the Contractor's operations under the contract, whether such operations be by the Contractor itself or by the subcontractor or by anyone directly or indirectly employed by any of them or by anyone for whose acts any of them may be liable.

(a) Worker's Compensation. The Contractor and all subcontractors shall obtain full worker's compensation insurance coverage for all persons whom they employ or may employ in carrying out the work under this contact. 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.

(b) Commercial General Liability Insurance and Automobile Insurance. Contractor's commercial general liability insurance and automobile liability insurance shall both be obtained in a combined, single limit of not less than $1,000,000 per occurrence that shall include coverage for bodily injury, sickness, disease or death of any person, arising directly or indirectly out of, or in connection with, the performance of work under this contract.

The Contractor's property damage liability insurance shall provide for a single combined limit of not less than $1,000,000 for all damages arising out of injury to or destruction of property of others including the Department's, arising directly or indirectly out of or in connection with the performance of the work under this contract including explosion or collapse.

The Contractor shall either:

i. Require each of its subcontractors to procure and to maintain during the life of its subcontract, subcontractors' comprehensive general liability, automobile liability and property damage liability insurance of the type and in the same amounts specified herein; or

ii. Insure the activities of its subcontractors in its own policy.

The Contractor will be permitted, in cooperation with insurers, to maintain a self insured retention for up to 25% of the per occurrence combined single limits of the commercial general liability and the automobile liability policies. The existence of the self insured retention must be noted on the certificate of insurance coverage submitted to the Department or else it will be understood that the insurer is providing first dollar coverage for all claims. For all claims within the self-insured retention amount, the rights, duties and obligations between the Contractor and the Department shall be identical to that between a liability insurer and the Department, as an additional insured, as if there was no self-insured retention.

(c) Builder's Risk Insurance. Unless included in the Specifications of this project, the Contractor shall not be required to provide builder's risk insurance. If required as noted in the Specifications, builder's risk insurance shall be provided during the progress of work and until final acceptance by the Department upon completion of the contract. It shall be "All Risk" (including but not limited to earthquake, windstorm and flood damage) completed value insurance coverage on all completed work and work in progress to the full replacement value thereof. Such insurance shall include the Department as additional name insured. The Contractor shall submit to the Engineer for its approval all items deemed to be uninsurable. The policy may provide for a deductible in an amount of up to 25% of the amount insured by the policy. With respect to all losses up to any deductible amount, the relationship between the Contractor and the Department shall be that of insurer and additional insured as if no deductible existed".

2. **DELETE** Section 7.16 in its entirety and replace with the following:

"RESPONSIBILITY FOR DAMAGE CLAIMS; INDEMNITY – The Contractor shall indemnify the State and the Department against all loss of or damage to the State's or the Department's existing property and facilities arising out of any act or omission committed in the performance of the work by the Contractor, any subcontractor or their employees and agents. Contractor shall defend, hold harmless and indemnify the Department and the State, their employees, officers and agents against all losses, claims, suits, liability and expense, including but not limited to attorneys' fees, arising out of injury to or death of persons (including employees of the State and the Department, the Contractor or any subcontractor) or damage to property resulting from or in connection with performance of the work and not caused solely by the negligence of the State or the Department, their agents, officers and employees. The State or the Department may participate in the defense of any claim or suit without relieving the Contractor of any obligation hereunder. The purchase of liability insurance shall not relieve the Contractor of the obligations described herein.

The Contractor agrees that it will not attempt to hold the State and its Departments and Agencies and their officers, representatives, employees or agents, liable or responsible for any losses or damages to third parties from the action of the elements, the nature of the work to be done under these specifications or from any unforeseen obstructions, acts of God, vandalism, fires or encumbrances which may be encountered in the prosecution of the work.

The Contractor shall pay all just claims for materials, supplies, tools, labor and other just claims against the Contractor or any subcontractor in connection with this contract and the surety bond will not be released by final acceptance and payment by the Department unless all such claims are paid or released. The Department may, but is not obligated to, withhold or retain as much of the monies due or to become due the Contractor under this contract considered necessary by the Engineer to cover such just claims

until satisfactory proof of payment or the establishment of a payment plan is presented.

The Contractor shall defend, indemnify and hold harmless the State and its Departments and Agencies and their officers, representatives, employees or agents from all suits, actions or claims of any character brought on account of any claims or amounts arising or recovered under the Worker's Compensation Laws or any other law, by-law, ordinance, order or decree.

**Section 8 – Measurement and Payment**

1. **DELETE** Section 8.7a in its entirety and replace with the following:

a. Tax Clearances from the State of Hawaii Department of Taxation and Internal Revenue Service, subject to section 103D-328, HRS, current within two months of issuance date indicating that all delinquent taxes levied or accrued under State Statutes against the contractor have been paid.

2. **ADD** Section 8.7d, Certificate of Compliance:

d. A Certification from the Contractor affirming that the Contractor has, as applicable, remained in compliance with all laws as required by Section 103D-310, HRS, and Section 3-122-112, HAR. A contractor making a false affirmation shall be suspended and may be debarred pursuant to section 103D-702, HRS.

    1. Certification of Compliance for Final Payment, State Procurement Office Form-22. Must be Signed Original.

3. **ADD** Section 8.7e, Hawaii Compliance Express:

e. In lieu of submitting the tax clearances from Taxation and IRS, and SPO Form -22, the Contractor may choose to use the Hawaii Compliance Express as described on page SP-1 of this Special Provisions.

# TECHNICAL SPECIFICATIONS

## TABLE OF CONTENTS


| TECHNICAL SPECIFICATIONS | SECTION NO. |
|---|---|
| ***DIVISION 1 – GENERAL REQUIREMENTS*** | |
| **SECTION** | |
| General Specifications | 01019 |
| Standard References | 01090 |
| Contractor Use of Premises | 01115 |
| Submittals | 01300 |
| Mobilization and Demobilization | 01505 |
| Barricades | 01530 |
| Pollution Control | 01567 |
| Project Sign | 01581 |
| ***DIVISION 2 – SITEWORK*** | |
| **SECTION** | |
| Demolition | 02050 |
| Site Preparation | 02100 |
| Clearing and Grubbing | 02110 |
| Earthwork | 02200 |
| Trenching, Backfilling, and Compacting | 02225 |
| Sediment and Erosion Control | 02370 |
| Water System | 02510 |
| Storm Drainage System | 02600 |
| Drain Inlet Filter Baskets | 02625 |
| Lawns and Grass | 02920 |
| Traffic Control | 02940 |
| ***DIVISION 3 – CONCRETE*** | |
| **SECTION** | |
| Cast-in-Place Concrete | 03300 |

SECTION 01019

GENERAL SPECIFICATIONS

PART 1 - GENERAL

1.1 GENERAL REQUIREMENTS

Work shall consist of furnishing all labor, tools, materials and equipment necessary and required to construct in place complete all work as indicated on the drawings and as specified herein.

1.2 GENERAL

A. Examination of Premises: The Contractor shall contact the Engineer and obtain permission before visiting the site.

B. All lines and grades shall be established by a licensed surveyor, or licensed Civil Engineer, registered in the State of Hawaii. The Contractor shall submit evidence of current and valid registration.

C. Notices: The Contractor shall notify the Engineer at least two (2) weeks prior to starting any work.

D. Maintaining Existing Services: The existing irrigation system, water system, and facilities shall be maintained in full operation unless otherwise noted on the Plans and in these Specifications. Contractor shall allow provisions for access by the user agency and personnel to maintain the existing irrigation and facilities.

E. Contractor's Operations: The Contractor shall employ, insofar as possible, such methods and means of carrying out the work so as not to cause any interruption or interference to the general public.

F. Parking Policy for Contractor: Areas to be used by the Contractor shall be as designated by the Engineer. Any lawn damaged by the Contractor shall be restored as instructed by the Engineer at no cost to the State.

G. Temporary Utility Installation

1. Sanitary Facilities: The Contractor shall provide portable sanitary facilities for the duration of the project.

2. Electric Power Service: Provide weatherproof, grounded electric power service and distribution system of sufficient size, capacity, and power characteristics during construction period. Include meters, overload protected disconnecting means and automatic ground fault interrupters.

3. Electric Distribution: Provide receptacle outlets adequate for connection of power tools and equipment. Protect wiring, in conduits or other, measures when exposed to possible damage or traffic areas.

4. Lighting: Provide temporary lighting with local switching that provides adequate illumination for construction operations, as required.

5. Water: Temporarily relocate existing waterline as indicated in the Plans and Specifications.

H. Protection of Property: The Contractor shall continually maintain adequate protection of all its work from damage and shall protect all property, including but not limited to buildings, equipment, grounds, vegetation, trees, material, and utility systems located at the project, storage, and staging areas. The Contractor shall repair, replace or pay the expense of repair of damages resulting from its operations.

I. Use of Power Driven Equipment: The Contractor is cautioned to take all necessary safety precautions to protect the facility personnel, and the public whenever power driven equipment is used.

J. Safety: The Contractor shall carefully read and strictly comply with the requirements of the Hawaii Occupational Safety and Health Law, Chapter 396, Hawaii Revised Statutes, as amended, is applicable and made a part of the Contract.

K. Clean Up Premises: The Contractor shall clean up and remove from premises all debris accumulated from operations as necessary or as directed. See also Section 7.25 of the General Conditions.

L. Responsibility

1. The State will hold the Contractor liable for all the acts of Subcontractors and shall deal only with the prime Contractor in matters pertaining to other trades employed on the job. The Contractor shall be responsible for coordinating the work of all trades on the job.

2. Should the Contractor discover any discrepancy in the plans or specifications, the Contractor shall immediately notify the Engineer before proceeding any further with the work, otherwise, the Contractor will be held responsible for any cost involved in correction of work placed due to such discrepancy.

M. Cooperation with Other Contractors: The State reserves the right at any time to contract for or otherwise perform other or additional work within the contract zone limits of this Contract. The Contractor of this project shall, to the extent ordered by the State, conduct its work so as not to interfere with or hinder the progress or completion of the work performed by other contractors.

N. Division of the Work: The Divisions and Sections into which these Specifications are divided shall not be considered an accurate or complete segregation of work by trades. This also applies to all work specified within each Section.

O. Drawings and Specifications

1. The Contractor shall not make alterations in the drawings and specifications. In the event the Contractor discovers any errors or discrepancies, the Contractor shall immediately notify the Engineer in accordance with the General Conditions.

2. Where devices, or items, or parts thereof are referred to in the singular, it is intended that such reference shall apply to as many such devices, items or parts as are required to properly complete the work.

3. Specifications and drawings are prepared in abbreviated form and include incomplete sentences. Omission of words or phrases such as "the Contractor shall", "as shown on the drawings", "a", "an", and "the" are intentional. Omitted words and phrases shall be provided by inference to form complete sentences.

P. Required Submittals

1. Required submittals as specified in the Technical Sections of these specifications include one or more of the following: Shop drawings; color samples; material samples; technical data; schedules of materials; schedules of operations; guarantees; operating and maintenance manuals; and as-built drawings.

2. The Contractor shall make a comprehensive list of the required submittals, by Specification Section, and submit this list to the Engineer within 15 days after notice to proceed.

3. As-Built Drawings: When as-built drawings are required for submittal, the following shall apply:

a. As-built drawings, the intent of which is to record the actual in-place construction so that any future renovations or tie-ins can be anticipated accurately, shall be required.

b. All deviations from alignments, elevations and dimensions which are stipulated on the plans shall be recorded in red on the as-built drawings.

c. The following procedure shall be followed:

1) Immediately after these changes are constructed in place, the Contractor shall record them on the field office plans.

2) Within two weeks after final inspection of the project, the Contractor shall transfer the changes marked on the field office plans onto a clean copy of plans using a red pencil. Any deletions shall be so noted and redrawn as necessary. The Contractor shall stamp or mark the tracings "AS-BUILT", and also sign and date each drawing so marked.

3) The Contractor shall submit the as-built drawings together with the marked-up field office plans to the Engineer.

4) Any as-built drawing which the Engineer determines does not accurately record the deviation shall be corrected by the State, and the Contractor shall be charged for the services.

END OF SECTION

SECTION 01090

STANDARD REFERENCES

PART 1 - GENERAL

Wherever used in the project, the following abbreviations will have the meanings listed:

| Abbreviation | Company |
|---|---|
| AA | Aluminum Association Incorporated<br>818 Connecticut Avenue, N.W.<br>Washington, D.C. 20006 |
| AASHTO | American Association of State Highway and Transportation Officials<br>444 North Capitol Street, N.W., Suite 225<br>Washington, D.C. 20001 |
| ACI | American Concrete Institute<br>P.O. Box 19150<br>Detroit, MI |
| AEIC | Association of Edison Illuminating Companies<br>51 East 42nd Street<br>New York, NY 10017 |
| AFBMA | Anti-Friction Bearing Manufacturer's Association<br>60 East 42nd Street<br>New York, NY 10017 |
| AGA | American Gas Association<br>8501 East Pleasant Valley Road<br>Cleveland, OH 44131 |
| AGMA | American Gear Manufacturer's Association<br>1330 Massachusetts Avenue, N.W.<br>Washington, D.C. |
| AISC | American Institute of Steel Construction<br>101 Park Avenue<br>New York, NY 10017 |
| AISI | American Iron and Steel Institute<br>1000 16th Street, N.W.<br>Washington, D.C. 20036 |

| Abbreviation | Company |
|---|---|
| AITC | American Institute of Timber Construction<br>333 West Hampden Avenue<br>Englewood, CO 80110 |
| AMCA | Air Moving and Conditioning Association, Inc.<br>30 West University Drive<br>Arlington Heights, IL 60004 |
| ANSI | American National Standards Institute, Inc.<br>1430 Broadway<br>New York, NY 10018 |
| APA | American Plywood Association<br>1119 A Street<br>Tacoma, WA 98401 |
| API | American Petroleum Institute<br>1801 K Street N.W.<br>Washington, DC 20006 |
| ARI | Air-Conditioning and Refrigeration Institute<br>1814 North Fort Myer Drive<br>Arlington, VA 22209 |
| ASCE | American Society of Civil Engineers<br>345 East 47th Street<br>New York, NY 10017 |
| ASCII | American Standard Code for Information Interchange<br>United States of America Standards Institute<br>1430 Broadway<br>New York, NY 10018 |
| ASE Code | American Standard Safety Code for Elevators, Dumbwaiter and Escalators<br>American National Standards Institute<br>1430 Broadway<br>New York, NY 10018 |
| ASHRAE | American Society of Heating, Refrigeration and Air Conditioning Engineers<br>United Engineering Center<br>345 East 47th Street<br>New York, NY 10017 |

| Abbreviation | Company |
|---|---|
| ASME | American Society of Mechanical Engineers<br>345 East 47th Street<br>New York, NY 10017 |
| ASTM | American Society for Testing and Materials<br>1916 Race Street<br>Philadelphia, PA 19103 |
| AWPA | American Wood Preservers Association<br>1625 Eye Street<br>Washington, DC 20006 |
| AWS | American Welding Society<br>2501 N.W. 7th Street<br>Miami, FL 33125 |
| AWWA | American Water Works Association<br>6666 West Quincy Avenue<br>Denver, CO 80235 |
| CBM | Certified Ballast Manufacturers<br>2120 Keith Building<br>Cleveland, OH 44115 |
| CMAA | Crane Manufacturers Association of America, Inc.<br>(Formerly called: Overhead Electrical Crane Institute - OECI)<br>1326 Freeport Road<br>Pittsburgh, PA 15238 |
| CRSI | Concrete Reinforcing Steel Institute<br>180 North La Salle Street<br>Chicago, IL 60601 |
| CSA | Canadian Standards Association<br>178 Rexdale Boulevard<br>Rexdale, Ontario, M9W IR3, Canada |
| DEMA | Diesel Engine Manufacturer's Association<br>122 East 42nd Street<br>New York, NY 10017 |

| Abbreviation | Company |
|---|---|
| DIS | Division of Industrial Safety<br>California Department of Industrial Relations<br>2422 Arden Way<br>Sacramento, CA 95825 |
| EEI | Edison Electric Institute<br>90 Park Avenue<br>New York, NY 10016 |
| EIA | Electronic Industries Association<br>2001 Eye Street N.W.<br>Washington, DC 20006 |
| EJMA | Expansion Joint Manufacturer's Association<br>331 Madison Avenue<br>New York, NY 10017 |
| ESO | Electrical Safety Orders,<br>California Administrative Code, Title 8, Chap. 4, Subarticle 5<br>Office of Procurement, Publications Section<br>P.O. Box 20191<br>8141 Elder Creek Road<br>Sacramento, CA 95820 |
| FEDSPEC | Federal Specifications<br>General Services Administration<br>Specification and Consumer Information<br>Distribution Branch<br>Washington Navy Yard, Bldg. 197<br>Washington, DC 20407 |
| FEDSTDS | Federal Standards<br>(see FEDSPECS) |
| FM | Factory Mutual Research<br>1151 Boston-Providence Turnpike<br>Norwood, MA 02062 |
| HEI | Heat Exchange Institute<br>122 East 42nd Street<br>New York, NY 10017 |
| HI | Hydraulic Institute<br>1230 Keith Building<br>Cleveland, OH 44115 |

| Abbreviation | Company |
|---|---|
| IAPMO | International Association of Plumbing and Mechanical Officials<br>5032 Alhambra Avenue<br>Los Angeles, CA 90032 |
| ICBO | International Conference of Building Officials<br>5360 South Workman Mill Road<br>Whittier, CA 90601 |
| ICEA | Insulated Cable Engineers Association<br>P.O. Box P<br>South Yarmouth, MA 02664 |
| IEEE | Institute of Electrical and Electronics Engineers, Inc.<br>345 East 47th Street<br>New York, NY 10017 |
| IES | Illuminating Engineering Society<br>C/O United Engineering Center<br>345 East 47th Street<br>New York, NY 10017 |
| ISA | Instrument Society of America<br>400 Stanwix Street<br>Pittsburgh, PA 15222 |
| JIC | Joint Industrial Council<br>7901 Westpark Drive<br>McLean, VA 22101 |
| MILSPEC | Military Specifications<br>Naval Publications and Forms Center<br>5801 Tabor Avenue<br>Philadelphia, PA 19120 |
| MSS | Manufacturers Standardization Society of the Valve and Fittings Industry, Inc.<br>127 Park Street, N.E.<br>Vienna, VA 22180 |
| NAAMM | National Association of Architectural Metal Manufacturers<br>100 South Marion Street<br>Oak Park, IL 60302 |

| Abbreviation | Company |
|---|---|
| NACE | National Association of Corrosion Engineers<br>P.O. Box 986<br>Katy, TX 77450 |
| NEC | National Electric Code<br>National Fire Protection Association<br>470 Atlantic Avenue<br>Boston, MA 02210 |
| NEMA | National Electrical Manufacturer's Association<br>155 East 44th Street<br>New York, NY 10017 |
| NESC | National Electric Safety Code<br>American National Standards Institute<br>1430 Broadway<br>New York, NY 10018 |
| NFPA | National Forest Products Association<br>(Formerly called: National Lumber Manufacturer's Association)<br>1619 Massachusetts Avenue, N.W.<br>Washington, DC 20036 |
| OSHA | Occupational Safety and Health Act<br>U.S. Department of Labor<br>San Francisco Regional Office<br>450 Golden Gate Avenue, Box 36017<br>San Francisco, CA 94102 |
| PPIC | The Plumbing & Piping Industry Council, Inc.<br>Suite 402<br>510 Shatto Place<br>Los Angeles, CA 90020 |
| SAE | Society of Automotive Engineers<br>2 Pennsylvania Street<br>New York, NY 10001 |

| Abbreviation | Company |
|---|---|
| SAMA | Scientific Apparatus Makers Association<br>One Thomas Circle<br>Washington, DC 20005 |
| SBCC | Southern Building Code Congress<br>1116 Brown-Marx Building<br>Birmingham, AL 35203 |
| SMACNA | Sheet Metal and Air Conditioning Contractors National Association, Inc.<br>8224 Old Courthouse Road<br>Tysons Corner Vienna, VA 22180 |
| SSPWC | Standard Specifications for Public Works Construction<br>Building News, Inc.<br>3055 Overland Avenue<br>Los Angeles, CA 90034 |
| TEMA | Tubular Exchanger Manufacturer's Association<br>331 Madison Avenue<br>New York, NY 10017 |
| UBC | Uniform Building Code<br>Published by ICBO |
| UL | Underwriters Laboratories Inc.<br>207 East Ohio Street<br>Chicago, IL 60611 |
| UMC | Uniform Mechanical Code<br>Published by ICBO |
| UPC | Uniform Plumbing Code<br>Published by IAPMO |
| USBR | Bureau of Reclamation<br>U.S. Department of Interior<br>Engineering and Research Center<br>Denver Federal Center, Building 67<br>Denver, CO 80225 |
| WWPA | Western Wood Products Association<br>(Formerly called: West Coast Lumberman's Association - WCLA)<br>Yeon Building<br>Portland, CA 97204 |

PART 2 - PRODUCTS (NOT USED)

PART 3 - EXECUTION (NOT USED)

END OF SECTION

SECTION 01115

CONTRACTOR USE OF PREMISES

PART 1 – GENERAL

1.1 GENERAL REQUIREMENTS

A. The Contractor, and its subcontractor, shall be familiar with the project site and familiarize themselves with existing conditions and the amount and kind of work to be performed relating to methods of construction and labor under which the work will be performed.

B. The Contractor shall continually maintain adequate protection of all his work from damage and shall protect all property at the project site, including structures, equipment, grounds, vegetation, materials, utility systems located at the job site, etc. The Contractor shall repair, replace or pay the expense of repair or damages resulting from his fault or negligence.

C. The Contractor shall maintain irrigation flows in the existing system at all times and shall be responsible for coordination of his work with the Engineer. Work requiring disruption of the irrigation flows shall be scheduled during the irrigation system maintenance and the Contractor shall be responsible to coordinate his work with the Engineer.

1.2 COMMENCEMENT OF WORK

A. The Contractor will submit a request to the Engineer, when he determines that sufficient materials are available at the job site for this work to begin without any break in the construction period to wait for delivery of additional items. No onsite work will begin until the Engineer concurs and approves this request from the Contractor. Once on site work commences, the Contractor, if need be, shall air freight at his own cost, all materials and equipment needed at the jobsite in order to complete the work within the project completion time.

B. Within seven (7) days of the Award of Contract or within such further time as the Engineer may allow, the Contractor shall submit for approval, a performance schedule to include all construction and phasing activities related to this project, to the Engineer. This schedule shall clearly identify when major activities will occur, when adjacent landowners may be impacted, and/or when State operations shall be affected.

1.3 FACILITY OPERATIONS AND ACCESS TO PROPERTIES

A. Contractor shall allow provisions for safe access for State personnel to maintain operations of the existing irrigation system while it is fully operational unless otherwise authorized by the Engineer.

B. The Contractor must employ whatever reasonable methods and means necessary to carry out his work so as not to cause any objectionable interruption or interference to the normal operations of the system. Objectionable operation may include work requiring shutdown of the irrigation system.

C. Where construction may impact adjacent landowners, the Contractor shall notify the landowners at least two (2) weeks prior to the work and minimize disruption where possible. The Contractor shall also maintain access to their property or provide temporary access during construction.

1.4 RESTRICTIONS

A. No work of any kind shall be undertaken until all necessary materials are available at the job site for this project.

B. Contractor's use of premises is restricted as follows:

1. Construction Times and Schedule:

a. No night, weekend, or overtime work is allowed unless approved by the Engineer.

b. Schedule: No on-site work shall be performed during holidays unless approved by the Engineer.

2. Parking for the Contractor's employees (or Subcontractors) shall be as directed by the Engineer.

3. Noise and Dust Control: Contractor shall address noise and dust control in accordance with Section 01567 – Pollution Control.

4. Tree Protection and Preservation: Install temporary orange construction fencing outside the drip line of trees to remain to protect vegetation from construction damage. Protect existing landscaping and tree root systems from damage, flooding, and erosion due to construction activity.

5. Other Conditions:

a. Arrange for construction debris and trash to be removed from the Project site weekly.

b. Contractor shall provide for their own temporary facilities and utilities.

c. Contractor shall at all times conduct his operations to ensure the least inconvenience to the public. Operate machinery and equipment with discretion and with minimum interference to driveways and

walkways. Do not leave machinery and equipment unattended on roads and driveways.

d. Locate construction equipment, machinery, equipment, materials, and supplies within Project Contract Limits.

e. Keep access roads to the project site free of dirt and debris. Provide, erect and maintain lights, barriers, signs, etc. when working on driveways and walkways to protect pedestrians and moped/bicycle riders. Obey facility traffic and safety regulations.

f. Contractor shall comply with all legal load restrictions in the hauling of materials.

1.5 NOTIFICATION

A. Contractor shall notify the Engineer a minimum of two (2) weeks before starting any work.

B. Contractor shall notify the Engineer a minimum of two (2) weeks prior to start of any critical activities including, but not limited to, connection to the existing irrigation line at Nani Waimea Street; realignment of the existing waterline at Mud Lane; removal of trees; and activities impacting noise, access, and air quality; .

PART 2 – PRODUCTS (Not Used)

PART 3 – EXECUTION (Not Used)

END OF SECTION

SECTION 01300

SUBMITTALS

PART 1 – GENERAL

1.1 SUBMITTALS

A. Shop drawings shall be required as called for in the plans, specifications or by the Engineer.

B. Other required submittals shall include:

1. Manufacturer's Data.

2. Certificates of Warranty.

3. Any others as called for in the plans, specifications, or by the Engineer.

1.2 BIDDER'S SPECIAL RESPONSIBILITY FOR COORDINATING CONTRACTUAL WORK AND SUBMITTALS

A. The Contractor is responsible for the coordination of all contractual work and submittals.

B. The Contractor shall have a rubber stamp made up in the following format:

CONTRACTOR NAME

PROJECT: **Waimea Irrigation System**
**Drainage Improvements**

JOB NO: **DOAH-23**

THIS SUBMITTAL HAS BEEN CHECKED BY THIS GENERAL CONTRACTOR. IT IS CERTIFIED CORRECT, COMPLETE, AND IN COMPLIANCE WITH CONTRACT DRAWINGS AND SPECIFICATIONS. ALL AFFECTED CONTRACTORS AND SUPPLIERS ARE AWARE OF, AND WILL INTEGRATE THIS SUBMITTAL INTO THEIR OWN WORK.

DATE RECEIVED _____
SPECIFICATION SECTION _____
SPECIFICATION PARAGRAPH _____
DRAWING NUMBER _____
SUBCONTRACTOR NAME _____
SUPPLIER NAME _____
MANUFACTURER NAME _____

CERTIFIED BY: _____

C. This stamp, "filled in", should appear on the title sheet of each shop drawing, on a cover sheet of submittals in an 8-1/2" x 11" format, or on one face of a cardstock tag (min. 3" x 6") tied to each sample. The tag on the samples should state what the sample is so that, if the tag is accidentally separated from the sample, it can be matched up again. The back of this tag will be used by the Engineer for his receipt, review, and log stamp and for any comments that relate to the sample.

D. All submittals for material, equipment, and shop drawings listed in the contract documents, including dimensioned plumbing shop drawings, shall be required and shall be reviewed by the Engineer, prior to any ordering of materials and equipment.

E. Unless otherwise noted, the Contractor shall submit to the Engineer for his review eight (8) copies of all shop drawings required for the construction. Drawings shall be submitted in sufficient time to allow the Engineer not less than twenty regular working days for examining the drawings.

F. The drawing shall be accurate, distinct, and complete and shall contain all required information, including satisfactory identification of items, units and assemblies in relation to the contract drawings and specifications.

G. Unless otherwise approved by the Engineer, shop drawings shall be submitted only by the Contractor, who shall indicate by a signed stamp on the drawings or other approved means that the Contractor has checked the shop drawings and that the work or equipment shown is in accordance with contract requirements and has been checked for dimensions and relationship with work of all other trades involved. All

deviations from the plans and specifications shall be listed. The practice of submitting incomplete or unchecked shop drawings for the Engineer to correct or finish will not be acceptable, and shop drawings which, in the opinion of the Engineer, clearly indicate that they have not been checked by the Contractor will be considered as not complying with the intent of the contract documents and will be returned to the Contractor for resubmission in the proper form.

H. When the shop drawings have been reviewed by the Engineer, two (2) sets of submittals will be returned to the Contractor appropriately stamped. If major changes or corrections are necessary, the drawing may be rejected and one (1) set will be returned to the Contractor with such changes or corrections indicated, and the Contractor shall correct and resubmit eight copies of the drawings, unless otherwise directed by the Engineer. No changes shall be made by the Contractor to the resubmitted shop drawings other than those changes indicated by the Engineer. The resubmittal shall be so indicated on the shop drawing.

I. The review of such drawings and catalog cuts by the Engineer shall not relieve the Contractor from responsibility for correctness of the dimensions, fabrication details, and space requirements or for deviations from the contract drawings and specifications, unless the Contractor has called attention to such deviations, in writing, by a letter accompanying the drawings and the Engineer approved the change or deviations, in writing, at the time of submission; nor shall review by the Engineer relieve the Contractor from the responsibility for errors in the shop drawings. When the Contractor does call such deviations to the attention of the Engineer, he shall state in his letter whether or not such deviations involve any deduction or extra cost adjustment.

J. The approval of the above drawings, lists, prints, specifications, or other data shall in no way release the Contractor from his responsibility for the proper fulfillment of the requirements of this contract nor for fulfilling the purpose of the installation nor from his liability to replace the same should it prove defective or fail to meet the specified requirements.

PART 2 – PRODUCTS (NOT USED)

PART 3 – EXECUTION (NOT USED)

END OF SECTION

SECTION 01505

# MOBILIZATION AND DEMOBILIZATION

## PART 1 - GENERAL

### 1.1 GENERAL REQUIREMENTS

A. Description: This section covers the requirements for mobilization and demobilization.

B. Mobilization: Mobilization shall consist of the transporting, assembling, constructing, installing, and making ready for use at the job site, all the equipment, machinery, structures, materials, labor, and incidentals necessary to do the work covered by this contract.

C. Demobilization: Demobilization shall consist of the dismantling and removal of the above-mentioned equipment, machinery, structures, utilities, materials, and incidentals, and the cleaning up of the site.

## PART 2 - PRODUCTS (NOT USED)

## PART 3 - EXECUTION

### 3.1 GUIDELINES

A. The Contractor shall coordinate staging and stockpiling areas for equipment or materials with the Engineer prior to mobilization.

B. If the Contractor utilizes private lands other than the sites provided by the Department for mobilization purposes, the provisions of this section shall apply, and the mobilization and demobilization work on said private lands shall be in accordance with the agreement between the Contractor and the land owner.

C. Any and all additional mobilization or demobilization costs in excess of the maximum amounts specified in the Proposal shall be included in the appropriate unit prices bid in the Proposal. The Contractor shall not receive any compensation for mobilization and demobilization in addition to those specified in the Proposal.

D. All equipment, machinery, utilities and incidentals mobilized and demobilized under this section shall remain the property of the Contractor.

END OF SECTION

SECTION 01530

BARRICADES

PART 1 – GENERAL

1.1 GENERAL REQUIREMENTS

A. Description. This work shall consist of furnishing, installing and maintaining barricades in accordance with the requirements of the contract.

Barricade application shall be provided for in the latest edition of the FHWA publication, Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD), and as amended.

1.2 REFERENCES

A. The "HAWAII STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION", dated 2005, as revised, of the State of Hawaii Department of Transportation, hereafter referred to as the "State DOT Standard Specification", or as herein specified. (Paragraphs concerning Measurement and Payment are not applicable to this project)

PART 2 – PRODUCTS

2.1 MATERIALS

A. Plastic Enclosure Fence: Industry standard 4-feet high plastic fencing with metal (or wood) post supports at 10-feet on center connected with a top and bottom 12-gauge soft annealed galvanized tie wires securely connected to posts. Posts shall be capable of resisting a lateral load of 100 pounds measured at the top of the post.

B. Requirements for Warning Sign; see also figure below.

1. General Requirements: Furnish all labor, materials and equipment necessary to construct and install warning signs as specified hereinafter.

2. Materials

a. Backing: Backing shall be 6061-T6 aluminum 0.032-inch minimum thickness.

b. Paint: Paint shall be satin finish, exterior grade or factory baked enamel or a combination thereof.

3. Colors: Signs shall have white background. Remaining items shall be similar to Rust-Oleum Federal Safety Red.

4. Requirements for Warning Sign: Message configuration and dimensions shall be in accordance with the following illustration.

5. Installation

   a. Signs shall be located at all entrances to the project site.

   b. Signs shall be attached to the rope barrier, rope barrier supports, individual sign supports or buildings. Do not use nails to attach signs to building(s).

6. Clean-up: Remove all signs upon completion of project. Repair any damages caused by sign mounting and removal.

## PART 3 - EXECUTION

### 3.1 CONSTRUCTION REQUIREMENTS

A. General: Barricades shall be constructed in a first class, workmanlike manner in accordance with details shown on the plans and as specified herein.

Barricades shall be in good condition and approved by the Engineer for use within the project limits. Barricade application and installation shall be as shown on the plans and as directed by the Engineer in accordance with the guidelines provided in the latest edition of the FHWA publication, Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD), and any amendments or revisions thereof as

may be made from time to time.

Sand bags or other approved weights shall be provided where required or as directed by the Engineer. Sand bags or other approved weights shall not be placed on any striped barricade rail.

Steady burn and/or flashing lamps shall be required on selected barricades used during hours of darkness. Locations shall be as shown on the plans and as directed by the Engineer. Lamps shall be attached on the barricade ends closest to the traveled way and shall be visible to the motorist.

Barricades furnished and paid for as provided herein may be used for temporary detours, construction phasing, or other temporary traffic control work.

Barricades furnished and paid for use in temporary detours or construction phasing may be used for permanent location called for on the plans.

Upon completion of the construction work, barricades shall be left in place, relocated, or removed and disposed of as shown on the plans or as directed by the Engineer. Barricades left in place, or relocated to new permanent locations shall become the property of the State. Barricades directed to be removed and disposed of shall become the property of the Contractor.

B. Painting: Wooden rails, frames and braces shall be given a prime coat and 2 finish coats of new white exterior enamel paint. Rail faces to be reflectorized may be left unpainted unless otherwise specified or directed.

C. Reflectorization: Reflectorization of barricade rails shall be done in a first class, workmanlike manner and the attachment of reflective sheeting shall be as shown on the plans, specified herein, or as directed and approved by the Engineer.

Both vertical faces of each barricade rail shall be reflectorized with one of the following:

1. Reflective sheeting specified in Subsection 750.01(C)(4) of the "State DOT Standard Specification " and backed with a 26-gage galvanized steel sheet, or

2. Hardened aluminum backed reflective sheeting as specified in Subsection 750.01(C)(5) of the "State DOT Standard Specification."

D. Color: Rails, frames and braces shall be white.

The front and back faces of barricade rails shall have 6-inch wide alternative colored and white striped sloping downward toward the traveled way at an angle of 45 degrees with the vertical. The colored stripes shall be either orange or red in accordance with the following requirements:

1. Orange and white stripes shall be used in the following conditions:

a. Construction work.

b. Detours.

c. Maintenance work.

2. Red and white stripes shall be used in the following conditions:

a. On roadways with no outlet (i.e. dead-ends, cul-de-sacs).

b. Ramps or lanes closed for operational purposes.

c. Permanent or semi-permanent closure or termination of a roadway.

E. Maintenance: Barricades shall be kept in good condition throughout their usage during construction until the end of the contract.

F. The Contractor shall repair, repaint, clean or replace the barricades as required and as directed by the Engineer to maintain their effectiveness and appearance.

The Constructor shall immediately replace all lost, stolen or damaged barricades, lamps, sand bags and other approved weights.

No extra payment will be made for any repair work, repainting, or cleaning of barricades. The Engineer shall determine the suitable condition of each barricade and shall determine when each barricade shall be repaired, repainted or cleaned.

END OF SECTION

SECTION 01567

POLLUTION CONTROL

PART 1 - GENERAL

1.1 GENERAL REQUIREMENTS

A. Comply with all applicable Federal and State laws, including the latest Department of Health regulations, local laws and regulations concerning pollution control and abatement.

B. Notification: The Engineer will notify the Contractor in writing of any non-compliance with the foregoing provisions and the action to be taken. Such notice, when delivered to the Contractor or his authorized representative at the site of the work, shall be deemed sufficient for the purpose of notification. After receipt of such notice, the Contractor shall immediately take corrective action. If the Contractor fails or refuses to comply promptly, the Engineer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. No part of the time lost due to any such stop orders shall be made the subject of a claim for extension of time or for excess costs or damages by the Contractor unless it was later determined that the Contractor was in compliance.

C. Sub-Contractor: Compliance with the provisions of this Section by subcontractors will be the responsibility of the Contractor.

1.2 RUBBISH DISPOSAL

A. No burning of debris and/or waste materials shall be permitted on the project site.

B. No burying of debris and/or waste material except for materials which are specifically indicated elsewhere in these specifications as suitable for backfill shall be permitted on the project site.

C. All unusable debris and waste material shall be hauled away to area permitted Solid Waste Management facility allowed and willing to accept such waste. Disposal receipts shall be submitted weekly. During loading operations, debris and waste materials shall be watered down to allay dust.

D. No dry sweeping shall be permitted in cleaning rubbish and fines which can become airborne from paved areas. Vacuuming, wet mopping or wet or damp sweeping is permissible.

E. Clean-up shall include the collection of all waste paper and wrapping materials, cans, bottles, construction waste materials and other objectionable materials, and removal as required. Frequency of clean-up shall coincide with rubbish producing events.

1.3 DUST CONTROL

A. The Contractor shall prevent dust from becoming airborne at all times including non-working hours, weekends and holidays in conformance with the State Department of Health, Administrative Rules, Title 11, Chapter 60 - Air Pollution Control.

B. The method of dust control and costs shall be the responsibility of the Contractor. Methods of dust control shall include the use of water, chemicals or asphalt over surfaces which may create airborne dust.

C. The Contractor shall be responsible for all damage claims in accordance with Section 7.16 - "Responsibility for Damage Claims" of the GENERAL CONDITIONS.

1.4 NOISE CONTROL

A. Noise shall be kept within acceptable levels at all times in conformance with the State Department of Health, Administrative Rules, Title 11, Chapter 46 - Community Noise Control for Oahu. The Contractor shall obtain and pay for the Community Noise Permit from the State Department of Health when the construction equipment or other devices emit noise at levels exceeding the allowable limits.

B. All internal combustion engine-powered equipment shall have mufflers to minimize noise and shall be properly maintained to reduce noise to acceptable levels.

C. Starting-up of construction equipment meeting allowable noise limits shall not be done prior to 8:30 a.m. without prior approval of the Engineer. Equipment exceeding allowable noise levels shall not be started-up prior to 8:30 a.m.

1.5 EROSION CONTROL

A. Best Management Practices (BMPs) to control erosion and sediment shall also comply with Section 02370 – SEDIMENT AND EROSION CONTROL.

B. During interim grading operations, the grade shall be maintained so as to preclude any damage to adjoining property from water and eroding soil.

C. Temporary berms, cut-off ditches and other provisions which may be required because of the Contractor's method of operations shall be installed at no cost to the State.

1.6 OTHERS

A. Wherever trucks and/or vehicles leave the site or staging area and enter surrounding paved streets, the Contractor shall prevent any material from being carried onto the pavement.

B. Trucks hauling debris shall be covered as required by Public Utilities Commission Regulation. Trucks hauling fine materials shall be covered.

C. No dumping of waste concrete will be permitted at the job-site.

D. Except for rinsing of the hopper and delivery chute, and for wheel washing where required, concrete trucks shall not be cleaned on the job site.

E. Except in an emergency, such as a mechanical breakdown, all vehicle fueling and maintenance shall be done in a designated area. A temporary berm shall be constructed around the area when runoff can cause a problem.

F. Compliance with the provisions of this section by the subcontractors will be the responsibility of the Contractor.

1.7 SUSPENSION OF WORK

A. Violations of any of the above requirements or any other pollution control requirements which may be specified in the Technical Specifications herein shall be cause for suspension of the work creating such violation. No additional compensation shall be due the Contractor for remedial measures to correct the offense. Also, no extension of time will be granted for delays caused by such suspensions.

B. If no corrective action is taken by the Contractor within 72 hours after a suspension is ordered by the Engineer, the State reserves the right to take whatever action is necessary to correct the situation and to deduct all costs incurred by the State in taking such action from monies due the Contractor.

C. The Engineer may also suspend any operations which he feels are creating pollution problems although they may not be in violation of the above-mentioned requirements. In this instance, the work shall be done by force account as described in Subsection 4.2b -"Additional Work" of the GENERAL CONDITIONS and paid for in accordance with Subsection 8.4b - "Force - Account Work" therein. The count of elapsed working days to be charged against the contract in this situation shall be computed in accordance with Subsection 7.18 - "Contract Time" of the GENERAL CONDITIONS.

1.8 MAINTENANCE

During the life of this Contract, maintain all environmental protection and pollution controls specified herein as long as the operations creating the particular pollutant are being carried out or until the material concerned has become stabilized to the extent that pollution is no longer being created

PART 2 - PRODUCTS (NOT USED)

PART 3 - EXECUTION (NOT USED)

END OF SECTION

SECTION 01581

PROJECT SIGN

PART 1 – GENERAL

1.1 GENERAL REQUIREMENTS

Furnish all labor, materials and equipment necessary to construct and install all project signs as specified hereinafter.

1.2 SUBMITTAL

The contractor shall provide the Engineer with six (6) shop drawings of the project sign for review and approval by the Engineer in accordance with Section 01300 – SUBMITTALS prior to ordering the sign.

1.3 LETTER STYLE

Copy is centered and set in Adobe Type Futura Heavy. If this specific type is not available, Futura Demi Bold may be substituted. Copy should be set and spaced by a professional typesetter and enlarged photographically for photo stencil screen process.

1.4 ART WORK

Constant elements of the sign layout - frame, outline, stripe, and official state information - may be duplicated following drawing measurements, or be reproduced and enlarged photographically using a layout template if provided. The "STATE OF HAWAII" masthead should be reproduced and enlarged as specified, using the artwork provided.

1.5 TITLES

The specific major work of the project under construction is emphasized by using 3-3/4" type, all capitals. Secondary information such as location or buildings uses 2-1/4" type, all capitals. Other related information of lesser importance uses letter heights as indicated on 01581-3, upper / lower case letters.

Design should follow the example on page 01581-3.

PART 2 – PRODUCTS

2.1 MATERIALS

A. LUMBER

1. Panel is 3/4" exterior grade high density overlaid plywood, with resin-bonded surfaces on both sides.

2. 4"x4" sign posts shall be Douglas Fir No. 1 or better.

B. PAINTS & INKS

Screen print inks are matte finish. Paints are satin finish, exterior grade. References to Ameritone Color Key Paint are for color match only.

| | | | |
|---|---|---|---|
| COLOR: | 1. | 1BL10A | Bohemian Blue |
| | 2. | 2H16P | Softly (White) |
| | 3. | 2VR2A | Hot Tango (Red) |
| | 4. | 1M52E | Tokay (Gray) |

C. CONCRETE

Concrete shall be class B with a 2,500 psi 28-day compressive strength.

PART 3 - EXECUTION

3.1 GENERAL

A. The Project Sign shall be constructed with new materials as specified above.

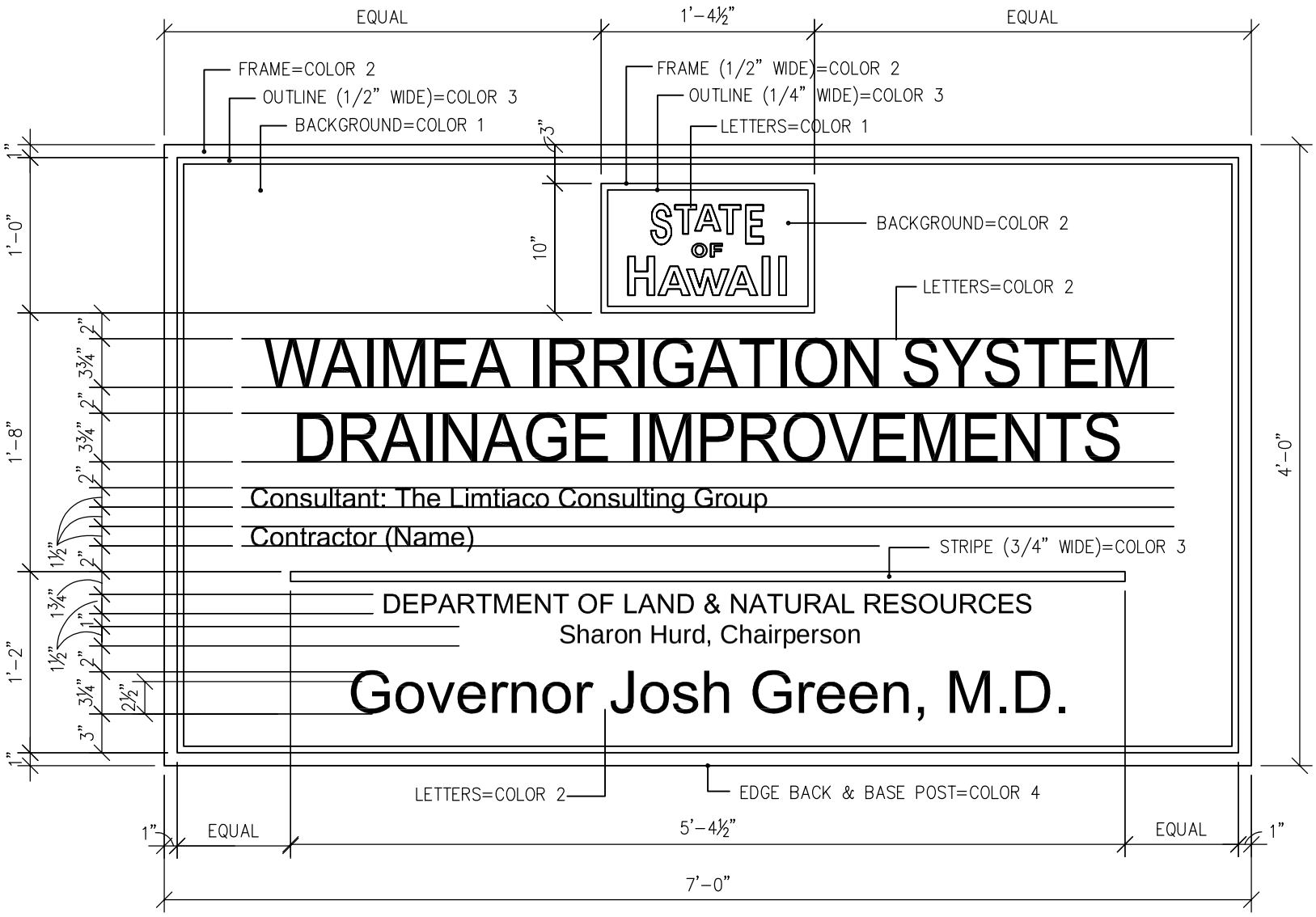
B. The Project sign shall be installed at the location indicated on the drawings or as designated by the Engineer. The project sign shall be erected upon commencement of work.

3.2 MEASUREMENT AND PAYMENT

The construction of the project sign, including all equipment, labor and material necessary to furnish and install the project sign will be paid for under the "Project Sign" proposal item.

END OF SECTION

Project Sign
01581-3




NOTE: Number of signs required 1.

SECTION 02050

DEMOLITION

## PART 1 – GENERAL

### 1.1 GENERAL REQUIREMENTS

The work includes demolition and removal of items indicated in the plans or specified herein. All materials resulting from demolition work, except as indicated or specified otherwise, shall become the property of the Contractor and shall be removed from the limits of Project property. The Contractor shall pay for all necessary permits and certificates that may be required in connection with this work.

### 1.2 SUBMITTALS

A. Submit in accordance with Section 01300 – SUBMITTALS.

B. Submit proposed demolition and removal procedures to the Engineer for approval before work is started. Procedures shall provide for coordination with other work in progress and a detailed description of methods and equipment to be used for each operation, and sequence of operations. Include disposal location for various waste streams.

### 1.3 DUST CONTROL

A. Take appropriate action to check the spread of dust to the surrounding area and to avoid the creation of a nuisance in the surrounding area. Do not use water if it results in hazardous or objectionable conditions such as flooding or pollution. Comply with all dust regulations imposed by local air pollution agencies.

### 1.4 PROTECTION

A. Existing Improvements: Protect existing improvements that are to remain in place, that are to be reused, or that is to remain the property of the Engineer by temporary covers, shoring, bracing, and supports. Repair items damaged during performance of the work or replace with new to the satisfaction of the Engineer. Do not overload structural elements. Provide new supports or reinforcement for existing construction weakened by demolition, removal, and relocation work. Construction equipment and vehicles shall neither be permitted on, nor shall be stored on the existing work that is to remain in place.

B. Trees: Protect trees to remain within the project site which might be damaged during construction.

C. Existing Utility Lines: The underground utility lines known to exist are shown on the plans. The Contractor shall verify the locations and depths of all utilities within the project area and immediately notify the Engineer if underground utilities not identified on the plans are encountered.

D. Public Safety: Where pedestrian and driver safety is endangered in the work or storage areas, use traffic barricades with flashing lights. Notify the Engineer prior to beginning any such work. The Contractor shall conduct operations with minimum interference to streets, driveways, sidewalks, and passageways, etc.

E. Explosives: Use of explosives will not be permitted.

## PART 2 – PRODUCTS (NOT USED)

## PART 3 – EXECUTION

### 3.1 PREPARATION

A. Examine all areas prior to the start of demolition operations to assure that selected procedures are the most appropriate for accomplishing the work.

B. Utility Toning: Above and below ground utilities shown on drawings are based on available as-built drawings. Contractor shall tone for existing underground utilities along the alignment of underground utilities shown on drawings. This requirement extends to all sewer, water, drainage, communications, and electrical systems. Notify the Engineer immediately for directions if uncharted or incorrectly charted utilities are found.

C. Prior to demolition of the existing concrete ditch, the Contractor shall temporarily relocate the existing 8-inch waterline to the satisfaction of the Department of Water Supply in accordance with Section 02510 – WATER SYSTEM.

### 3.2 EXISTING FACILITIES

A. Demolish and remove portions of existing utilities and structures as indicated on the plans. Demolish and remove existing features as necessary to complete the work required for this project. Existing features that are required to be demolished and removed but not indicated on the plans shall be considered incidental to the work unless otherwise indicated by the Engineer.

B. Where demolition occurs adjacent to utilities and structures to remain, the Contractor shall provide adequate protection in accordance with Section 01019 – GENERAL SPECIFICATIONS.

C. Sawcut concrete items prior to demolition to provide a clean edge.

D. The existence of active utility lines traversing the construction area is not definitely known. Should any be encountered, the Contractor shall not disconnect same without authorization of the Engineer, but shall inform the latter immediately of each discovery, and shall follow his instructions.

E. Where demolition results in the creation of voids or depressions at the ground surface, fill with structural fill and compact as indicated in Section 02200 – EARTHWORK.

F. For demolition and removal of existing utilities, the pipes may be removed to the nearest joint or fitting as directed by the Engineer.

3.3 TREE REMOVAL

Trees to be removed as indicated on the Plans shall be done in accordance with Section 02110 – CLEARING AND GRUBBING.

3.4 SAFETY

Work shall be done in accordance with safety provisions of the Manual of Accident Prevention in Construction, published by the Associated General Contractors of America and the Department of Labor and Industrial Relations, Occupational, Safety and Health Division (HIOSH).

3.5 DISPOSITION OF MATERIALS

A. Title to Materials: Title to all materials and equipment to be removed, except as specified otherwise, is vested in the Contractor upon receipt of Notice to Proceed. The Engineer will not be responsible for the condition or loss of, or damage to, such property after notice to proceed. Materials and equipment shall not be viewed by prospective purchasers or sold on the site. Burning or burying of materials on the site will not be permitted.

B. When removing the materials from the property, truck loads shall be trimmed, covered, and loaded as to prevent spillage.

C. All waste material shall be hauled to an appropriate off-site disposal area. Green waste material shall be disposed of at a permitted facility able to accept such waste. The Contractor shall provide to the Engineer disposal receipts for all disposed materials.

## 3.6 CLEANUP

A. Debris and Rubbish: Remove and transport debris and rubbish in a manner that will prevent spillage into adjacent areas. Cleanup spillage from adjacent areas. The Contractor shall leave the premises clean, neat, and orderly.

B. Remove rubbish and debris from the job site daily, unless otherwise directed. Store materials which cannot be removed daily in areas specified by the Engineer.

C. Regulations: Comply with Federal, State, and Local hauling and disposal regulations.

END OF SECTION

SECTION 02100

SITE PREPARATION

PART 1 – GENERAL

1.1 GENERAL REQUIREMENTS

A. The work to be performed under this section shall include clearing the premises of all obstacles and obstructions, the removal of which will be necessary for the proper reception, construction, execution and completion of the other work included in this contract.

1.2 RELATED SECTIONS

A. Section 02050 - DEMOLITION.

PART 2 – PRODUCTS (NOT USED)

PART 3 – EXECUTION

3.1 GENERAL

A. The Contractor shall maintain irrigation flows in the existing system at all times and shall be responsible for coordination of his work with the Engineer. Work requiring disruption of the irrigation flows shall be coordinated with the Engineer.

B. Maintenance of Traffic: The Contractor shall conduct operations with minimum interference to streets, driveways, passageways, etc.

When necessary, the Contractor shall provide and erect barriers, etc., with special attention to protection of personnel.

C. Protection: Throughout the progress of the work protection shall be provided for all property and equipment, and temporary barricades shall be provided as necessary. Work shall be done in accordance with the safety provisions of the Manual of Accident Prevention in Construction, published by the Associated General Contractors of America, and the State of Hawaii's Occupational Safety and Health Standards, Rules and Regulations.

D. Fires: No burning of fires of any kind will be allowed.

E. Reference Points: Bench marks, etc., shall be carefully maintained, but if disturbed or destroyed, shall be replaced as directed, at the Contractor's expense.

F. Disposal: All materials resultant from operations under this Section, except as indicated or specified otherwise, shall become the property of the Contractor and shall be removed from the site. Loads of materials shall be trimmed to prevent droppings.

3.2 EXISTING UTILITY LINES

A. The existence of active underground utility lines within the construction area is not definitely known other than those indicated in their approximate locations on the Drawings. Should any unknown line be encountered during excavation, the Contractor shall immediately notify the Engineer of such discovery. The Engineer shall then investigate and issue instructions for the preservation or disposition of the unknown line. Authorization for extra work shall be issued by the Engineer only as he deems necessary.

3.3 CLEARING AND GRUBBING

A. The Contractor shall clear and grub the work area in accordance with Section 02110 – CLEARING AND GRUBBING.

3.4 CLEAN UP OF PREMISES

A. Clean up and remove all debris accumulated from building operations from time-to-time as directed. Upon completion of the construction work and before final acceptance of the contract work, remove all surplus materials, equipment, scaffoldings, etc., and leave entire job site raked clean and neat to the satisfaction of the Engineer.

END OF SECTION

SECTION 02110

CLEARING AND GRUBBING

PART 1 - GENERAL

1.1 GENERAL REQUIREMENTS

A. This section covers the requirements for clearing and grubbing within the project limits shown on the plan or as directed by the Engineer. The work shall include the removal and disposal of designated trees and vegetation. Also included is the protection from injury or defacement of trees and other objects designated to remain and treatment or removal of damaged trees.

B. The Contractor shall pay for and retain a qualified arborist who has been certified for at least 5 years by the International Society of Arboriculture to conduct, consult, and supervise the work to be performed on the existing trees. The qualified arborist shall coordinate with the Engineer on all tree protection matters.

PART 2 – PRODUCTS (NOT USED)

PART 3 - EXECUTION

3.1 CLEARING AND GRUBBING WORK

A. Prior to clearing and grubbing, install temporary erosion and sediment control measures downstream of all work activities in accordance with Section 02370 – SEDIMENT AND EROSION CONTROL.

B. Demolish and remove existing trees as indicated on the plans. Use controlled falling to prevent injury or damage to structures, other trees, property, or the general public.

C. Tree removal shall include topping and other operations necessary to safely remove the assigned trees.

D. For trees to be demolished and removed, the Contractor shall remove surface roots and stump grind tree trunks and remaining roots a minimum of three (3) feet below the existing or finish grade. Remove all large roots in excess of one (1) inch in diameter.

E. Backfill voids resulting from tree removal with acceptable fill material in accordance with Section 02200 – EARTHWORK and restore ground surface to match existing grassed conditions. Tamp the topsoil to prevent settling and level to match surrounding ground elevation.

F. Clear to the project limits as shown on the Plans.

G. All debris, trees, logs, limbs, branches, brush, plants, and other protruding obstructions within the clearing limits shall be removed and disposed of when indicated on the Plans, except the following:

1. Live, sound, and firmly rooted trees with diameter of 4 inches or larger.

2. Live brush, herbaceous plants, and trees that are less than 12 inches in height.

3. Objects as directed by the Engineer.

H. Except as provided above, all limbs and branches more than 1/2 inch in diameter that extend into the cleared area shall be cut flush with the tree trunks or stems or cut at the ground surface.

I. After clearing has been completed, grub cleared areas of roots, organic matter, and debris to a minimum depth of six (6) inches. All cleared, stripped, and grubbed materials shall be hauled to a suitable off-site disposal site in accordance with Section 02050 – DEMOLITION.

J. The Contractor shall protect from injury and damage all surrounding trees, plants, etc., and shall leave all in as good as condition as at present. Any damage to existing improvements shall be repaired or replaced by the Contractor to the satisfaction of the Engineer at no additional cost to the State.

END OF SECTION

SECTION 02200

EARTHWORK

PART 1 - GENERAL

1.1 GENERAL REQUIREMENTS

A. The subsurface information and data furnished are for the Contractor's convenience only. They represent the subsurface conditions at the specific boring locations and at the time of exploration only. There is no guarantee, either expressed or implied, that the subsurface conditions indicated are representative of those existing throughout the work. No assurance if given that these conditions are representative of the conditions at other locations of the project site or at other times. The Contractor is solely responsible for any and all assumptions, deductions, or conclusions which he may make or derive from his examination of the subsurface information and data provided herein. The State and its Consultants shall not be responsible for any interpretation of or conclusion drawn from the data or information by the Contractor.

B. Licensed Geotechnical Engineer: The Contractor shall retain and pay for the services of a Geotechnical Engineer to monitor earthwork and perform testing during the earthwork operations. The Geotechnical Engineer shall be a licensed Civil Engineer licensed in the state of Hawaii and specializing in geotechnical engineering with at least ten (10) years of licensed experience.

C. It shall be the responsibility of the Contractor to examine the project site and determine for himself the existing conditions. Obvious conditions of the site existing on the date of the bid opening shall be accepted as part of the work, even though they may not be clearly indicated on the drawings and/or described herein.

D. Related Work:

1. Section 02110 – CLEARING AND GRUBBING

2. Section 02225 – TRENCHING, BACKFILLING, AND COMPACTING

3. Section 02370 – SEDIMENT AND EROSION CONTROL

1.2 REFERENCES

A. The "Standard Specifications for Public Works Construction", September 1986, of the Department of Public Works, as applicable to the County of Hawaii, hereafter referred to as the DPW "Standard Specifications", or as herein specified. (Paragraphs concerning Measurement and Payment are not applicable to this project.)

B. "Geotechnical Engineering Exploration, Waimea Irrigation System Drainage Improvements, Waimea, Island of Hawaii", dated October 15, 2020, prepared by

Kokua Geotech, LLC.

1.3 QUALITY ASSURANCE

A. Codes and Standards: Comply with the codes, specifications, and standards, referred to in this specification, except where provisions in this specification or drawings exceed such requirements.

B. Source Quality Control: Test imported materials proposed for use to demonstrate that the materials conform to the specified requirements. Tests shall be performed by an independent testing laboratory and paid for by the Contractor.

C. Field Dry Density and Moisture Content Tests: Submit field test data sufficiently in advance of construction so as not to delay work. Furnish a drawing showing test locations, test numbers, and elevations. Submit test results within three (3) days of test date. Field density tests shall be performed for subgrade of excavation for pavements and backfill and fill lifts.

D. Test for Moisture-Density Relations: Submit test results for each material at least seven (7) days prior to compacting of each material

E. The Contractor shall verify testing and reporting requirements with the Engineer prior to the start of earthwork operations.

1.4 SUBMITTALS

A. Submit in accordance with Section 01300 – SUBMITTALS.

1. Test Reports: Submit test reports as directed by the Engineer. Contractor shall verify all requirements prior to the start of earthwork operations.

2. Certification of Compaction: An independent geotechnical testing laboratory working under the supervision of a licensed civil engineer licensed in Hawaii shall test and certify all compaction work. Certifications and test results shall be submitted to the Engineer within three (3) days of the test.

3. Field Dry Density and Moisture Content Tests: Submit field test data not listed above sufficiently in advance of construction so as not to delay work. Furnish a drawing showing test locations, test numbers, test elevations, and test results. Submit test results within three (3) days of test date.

4. Manufacturer’s product literature: Submit manufacturer’s product literature including description of material and physical properties and laboratory test data for bedding material, general fill, and structural fill to the Engineer for approval at least 15 calendar days prior to construction.

1.5 PERMITS

A. Obtain necessary permits required from applicable agencies. All permit fees will be considered incidental to the work and a separate payment shall not be made.

1.6 CONTRACTOR'S AND GEOTECHNICAL ENGINEER'S RESPONSIBILITIES

A. All clearing, site preparation or earthwork performed on the project up to the approximate finish grade or subgrades shall be conducted by the Contractor under the inspection of the Licensed Geotechnical Engineer.

B. It is the responsibility of the Contractor to assess the soil conditions presented in the plans and specifications and to employ suitable measures to permit construction to proceed.

C. Excavations are the responsibility of the Contractor. When excavating near or under existing structures or facilities, the Contractor shall be responsible not only for properly protecting the excavation but also for stabilizing the existing ground to render it safe and secure from possible slides, cave-ins, ground movements, settlements, instability, and undermining, and for properly supporting existing structures and facilities with beams, struts, or underpinning to fully protect them from damage.

D. The Contractor's excavation support system shall protect against excavation instability, boiling, and/or blow out of the excavation and trench bottoms, damage to existing utilities, and settlement and/or ground movements, instability, and distress to structures and pavements. The need and requirements for underpinning of structures near the proposed new lines shall be determined by the Contractor. All phases of trenching, excavations, and shoring shall be performed in accordance with applicable Federal, State, and local safety regulations, including current OSHA trench excavation safety standards.

E. Remove the excavation support system in a manner to avoid undermining of existing structures, walls, utilities, and pavements. The support system removed shall remain the property of the Contractor and shall be removed from the site.

F. The Contractor shall notify the Engineer at least two (2) weeks prior to conducting any excavation, backfill or compaction activity to allow for the State and its Geotechnical Engineer to observe the construction activity.

G. The Geotechnical Engineer shall be present to monitor earthwork operations to observe whether undesirable materials are encountered during the excavation and subgrade preparation process.

H. If the actual soil conditions encountered during construction are different from those assumed or considered in the Soils Report, the Contractor shall notify the Engineer immediately.

I. It is the Contractor’s responsibility to perform all quality control testing at no additional cost to the State.

J. If suitable on-site materials for backfill or bedding are not available at the site, import materials as necessary at no additional cost to the State. Imported material shall be subject to approval by the Engineer and shall meet the requirements specified for the use intended.

K. It is also the Contractor's responsibility to have suitable and sufficient compaction equipment on the job site to handle the amount of fill being placed. If necessary, excavation equipment shall be shut down to allow completion of compaction. Sufficient watering apparatus will also be provided by the Contractor with due consideration for the fill material, rate of placement, and the time of year.

L. Blasting as a means for removal of material is not allowed.

M. The Licensed Geotechnical Engineer shall promptly notify both the Contractor and the Engineer verbally of any failing compaction tests and the results of such tests to the extent the tests show a lack of compliance with specifications. These items shall also be documented by the Licensed Geotechnical Engineer.

N. If field density tests indicate inadequate compaction or moisture content, the Contractor shall moisture condition and recompact and retest until adequate compaction and adequate moisture content is achieved.

O. During construction, drainage shall be provided to minimize ponding of water within excavated or trenched areas. Ponded areas shall be drained immediately. The Contractor shall do all pumping and draining that may be necessary to remove water to the extent required in carrying on the work. Any subgrade soil that has become soft due to ponding shall be removed to firm material and replaced with properly compacted structural fill as directed by the Engineer at no additional cost to the State.

## 1.7 CONSTRUCTION LINES, LEVELS AND GRADES

A. The Contractor shall verify all lines, levels and elevations indicated on the drawings or as directed by the Engineer before any clearing, excavation or construction begins. Any discrepancy shall be immediately brought to the attention of the Engineer and any changes shall be made in accordance with his instructions. The Contractor shall not be entitled to extra payment if he fails to report the discrepancies before proceeding with any work whether within the area affected or not.

B. The establishment of grades and staking out the entire work shall be done by a licensed Surveyor or a licensed Civil Engineer, registered in the State of Hawaii. He shall be solely responsible for their accuracy. Erect and maintain substantial batter boards showing construction lines and levels.

## PART 2 – PRODUCTS

### 2.1 MATERIALS

A. Unsuitable Soils: Unsuitable soils are materials classified as SP, MH, ML, CH, CL, PT, OL, and OH according to Unified Soil Classification System (USCS) and ASTM D2487. These materials shall not be used as structural fill or structural backfill.

B. Fill Material: Fill material shall consist of structural fill and shall be imported, non-expansive granular material such as crushed coral or basalt. The structural fill shall be well-graded with particles ranging from coarse to fine and shall be free of vegetation, organics, debris, trash, concrete, old pavements, and particles larger than three (3) inches in maximum dimension. The material shall have a CBR value of 20 or higher and a swell potential of 1 percent or less when tested in accordance with ASTM D1883. The material shall also contain between 10 and 30 percent particles passing the No. 200 sieve.

C. Bedding Material: Crushed rock bedding material shall consist of open-graded gravel such as No. 3 Fine gravel (ASTM C33, No. 67 gradation) aggregate.

D. Topsoil shall be a fertile, friable soil of loamy character, and shall contain organic matter. It shall be obtained from well-drained arable land; be free from weeds, stone and debris; and shall pass a maximum ½" screen. Screened soil shall be capable of sustaining healthy plant life.

E. Excavated on-site volcanic ash soils may be used as a source of general fill materials in landscape areas only.

F. Filter Fabric: The filter fabric shall be Mirafi 180N or an acceptable non-woven equivalent. Shipping, storage, and handling of the filter fabric shall be in accordance with the manufacturer's recommendations.

## PART 3 - EXECUTION

### 3.1 SITE PREPARATION

A. All areas within the project limits as indicated on the plans shall be cleared and grubbed thoroughly. Trees, vegetation, debris, deleterious materials, and other unsuitable materials shall be removed and disposed of off-site in accordance with Section 02110 – CLEARING AND GRUBBING.

### 3.2 EXCAVATION

A. Excavate to the sizes and depths required to construct the improvements as indicated on the Plans. The Contractor shall be responsible for any shoring design and installation.

B. Any abandoned underground structures such as cesspools, cisterns, tunnels, septic tanks, wells, pipelines, or other structures shown or not shown on the drawings that are discovered shall be reported to the Engineer and abandoned or removed. Resulting depressions or voids shall be backfilled and compacted in accordance with this section.

C. Unauthorized excavations carried below specified levels shall be filled with structural fill to the proper level as directed by the Engineer at the Contractor's expense.

3.3 SUBGRADE PREPARATION

A. For areas beneath the new drain inlet and concrete channel structure, soft and/or loose materials encountered at the subgrade level shall be over-excavated to a minimum depth of 2.5 feet. The exposed subgrade shall be compacted to a firm and unyielding condition.

B. The Geotechnical Engineer shall evaluate the need for over-excavation due to soft subgrade soil conditions.

3.4 FILL PLACEMENT

A. Beneath the new drain inlet and concrete channel structure, place a stabilization layer consisting of 24 inches thick (min.) structural fill material compacted to a minimum of 90 percent relative compaction and wrapped in a non-woven filter fabric (Mirafi 180N or approved equal) with a minimum overlap of 24 inches.

B. Moisten or aerate material as necessary to provide the moisture content that will readily facilitate obtaining the specified compaction with the equipment used. Do not place fill on surfaces that are saturated or muddy.

3.5 COMPACTION

A. Compact with equipment well suited to the soil being compacted. Compact each lift as specified before placing the overlaying lift. Compaction shall be accomplished continuously over the entire area.

B. Each layer of backfill shall be thoroughly compacted from edge to edge using conventional compaction equipment.

C. The upper 2 feet below the finished grade in areas subjected to vehicular traffic shall be compacted to a minimum of 95 percent relative compaction.

D. Relative compaction refers to the in-place dry density of soil expressed as a percentage of the maximum dry density of the same soil established in accordance with ASTM D 1557 test procedures. Optimum moisture is the water content (percentage by dry weight) corresponding to the maximum dry density.

## 3.6 STORAGE AND DISPOSAL OF EXCAVATED MATERIALS

A. Stockpile satisfactory excavated materials as directed by the Engineer, until required for backfill.

B. Surplus excavated material not acceptable for reuse for the project shall become the Contractor's property and shall be removed from the work site and disposed of at approved locations and at no cost to the State.

## 3.7 FIELD QUALITY CONTROL

A. Subgrade areas shall not receive fill material until approved by the Engineer.

B. Perform field density tests in randomly selected locations using ASTM D1556 or ASTM D6938 as follows:

1. One test at each site (Site #1 and Site #2) for subgrade and in each lift of fill.

2. Where ASTM D6938 is used to test field compaction densities, verify the results of the tests by performing at least one test per day using ASTM D1556 at a location already tested by ASTM D6938 and at least one additional test using ASTM D1556 for every 10 tests performed with a nuclear device, also at locations already checked by ASTM D6938.

C. Where compaction and minimum relative compaction are indicated, test backfill and fill material for moisture-density relations in accordance with ASTM D 1557. Perform at least one moisture-density relations test for each material used and provide additional tests for each change of source. Furnish a plan showing test location, test number, elevation, and test results to the Engineer within 3 days of the test date. If field density tests indicate inadequate compaction, the Contractor shall re-compact and retest until adequate compaction is achieved. Verify that test results conform to the specified requirements, and that sufficient tests are performed.

D. Any work determined to be not in compliance shall be removed and properly replaced at no additional cost to the State.

## 3.8 SURFACE RESTORATION

A. All disturbed areas shall be restored to match existing conditions prior to construction.

B. Disturbed areas in which soft and yielding soils are encountered at the surface shall be restored by over-excavating to a maximum of two (2) feet and backfilling with general fill or structural fill material compacted to a minimum of 90 percent relative compaction.

C. Areas to receive grassing shall be graded such that finish ground elevations account for topsoil and soil conditioner layers.

D. Restore grassing in accordance with SECTION 02920 – LAWNS AND GRASS.

3.9 CLEAN UP

A. Clean up and remove all debris accumulated from construction operations from time to time and when directed by the Engineer. Upon completion of the construction work and before final acceptance of work, remove all surplus materials, equipment, etc. and leave entire jobsite clean and neat.

END OF SECTION

SECTION 02225

TRENCHING, BACKFILLING, AND COMPACTING

PART 1 – GENERAL

1.1 GENERAL REQUIREMENTS

A. Furnish all labor, materials and equipment necessary for the trenching, backfilling, and compaction for installation of utilities as shown on the Plans and specified herein.

B. Related Work:

1. Section 02200 – EARTHWORK

1.2 REFERENCES

A. The "Standard Specifications for Public Works Construction", September 1986, of the Department of Public Works, including all revisions, as applicable to the County of Hawaii, hereafter referred to as STANDARD SPECIFICATIONS, or as herein specified. (Paragraphs concerning Measurement and Payment are not applicable to this project.)

B. The "Standard Details for Public Works Construction", September 1984, of the Department of Public Works, including all revisions, as applicable to the County of Hawaii, hereafter referred to as STANDARD DETAILS, or as herein specified.

C. "Geotechnical Engineering Exploration, Waimea Irrigation System Drainage Improvements, Waimea, Island of Hawaii", dated October 15, 2020, prepared by Kokua Geotech, LLC.

1.3 SUBMITTALS

A. Submit in accordance with Section 01300 – SUBMITTALS.

1. Test Reports: Submit test reports as directed by the Engineer. Contractor shall verify all requirements prior to the start of earthwork operations.

2. Certification of Compaction: Geotechnical testing laboratory shall test and certify all compaction work. Certifications and test results shall be submitted to the Engineer within three (3) days of the test.

3. Field Dry Density and Moisture Content Tests: Submit field test data not listed above sufficiently in advance of construction so as not to delay work. Furnish a drawing showing test locations, test numbers, and elevations. Submit test results to the Engineer within three (3) days of test date.

4. Manufacturer's product literature: Submit manufacturer's product literature including description of material and physical properties and laboratory test data for bedding material, satisfactory fill, and structural fill to the Engineer for approval at least 15 calendar days prior to construction.

1.4 CONTRACTOR'S RESPONSIBILITIES

A. The Contractor shall retain and pay for the services of a Geotechnical Engineer to monitor and perform testing during the utility trench excavation and backfilling operations. The Geotechnical Engineer shall meet the qualifications listed in Section 02200 - EARTHWORK.

B. The Contractor shall comply with other responsibilities with respect to earthwork, clearing, and site preparation activities in accordance with Section 02200 – EARTHWORK.

PART 2 – PRODUCTS

2.1 BEDDING AND BACKFILL

A. Materials shall be as specified in Section 02200 – EARTHWORK of these Specifications.

B. All trench bedding, backfill, and imported materials shall be checked and tested by a qualified Geotechnical Engineer and approved by the Engineer prior to use. If in the opinion of the Engineer that the Contractor's proposed materials do not meet the material requirements specified herein, the Contractor shall resubmit and provide material test results that meet the material requirements of this project.

2.2 FILTER FABRIC

A. Filter fabric shall be as specified in Section 02200 – EARTHWORK of these Specifications.

PART 3 – EXECUTION

3.1 GENERAL

A. The work associated with trenching, backfilling, and compaction shall also comply with Section 02200 – EARTHWORK of these Specifications.

3.2 SITE PREPARATION

B. Prior to trenching and excavating for installation of new utility lines and underground structures, the as-built conditions of the surrounding area should be field-verified to confirm their locations and depths.

C. The location of the existing utilities shown on the Plans is approximate. The Contractor shall physically verify the location and elevation of the existing utilities indicated prior to starting construction. The Contractor shall scan the project site with electromagnetic and sonic equipment and mark the surface of the ground where existing underground utilities are discovered.

D. Any existing underground utilities and structures that may interfere with the new utility lines shall be removed and/or relocated, if still in use. The remaining portions of any lines to be abandoned and left in-place shall be properly cut and plugged.

## 3.3 TRENCH EXCAVATION

A. Excavate to the sizes and depths required to construct the improvements as indicated on the Plans. The Contractor shall be responsible for any shoring design and installation.

B. The trench width shall be kept to a minimum to reduce the potential for ground settlements. The trench payment width shall be as specified on the Plans.

C. Surplus excavated material not acceptable for reuse for the project shall become the Contractor's property and shall be removed from the work site and disposed of at approved locations and at no cost to the State.

## 3.4 PIPE SUBGRADE TREATMENT

A. Prior to the placement of any bedding, the bottom of the trenches shall be compacted to provide a firm bottom and to check for yielding and soft areas.

B. Where soft and/or loose soils are encountered at or near the invert of pipes, a stabilization layer consisting of additional 18 inches of open-graded gravel, wrapped in a non-woven filter fabric, such as Mirafi 180N or equivalent, shall be installed below the bedding layer for uniform support.

## 3.5 TRENCH BACKFILL, PLACEMENT AND COMPACTION

A. Place 6 inches of open-graded bedding material upon the prepared subgrade or stabilization layer and extend open-graded gravel for the initial trench backfill up to about 12 inches above the pipe.

B. The bedding material shall be placed and tamped, supplemented by hand shoveling, to provide full contact with the entire periphery of the pipes. Jetting of the trench bedding and backfill shall not be allowed.

C. Care shall be taken to protect the pipes from damage during the backfilling operations.

D. Trench backfill material above the open-graded gravel shall consist of structural fill. Placement and compaction of structural fill shall be in accordance with Section 02200 – EARTHWORK.

E. The trench backfill above the pipe bedding and beneath the topsoil shall be placed in not more than 8-inch thick horizontal loose lifts, moisture conditioned to about 2 percent above optimum moisture content, and compacted to a relative compaction of at least 90 percent.

F. The upper 2 feet below the finished grade in areas subjected to vehicular traffic shall be compacted to a minimum of 95 percent relative compaction.

G. Relative compaction refers to the in-place dry density of soil expressed as a percentage of the maximum dry density of the same soil established in accordance with ASTM D 1557 test procedures. Optimum moisture is the water content (percentage by dry weight) corresponding to the maximum dry density.

3.6 FIELD QUALITY CONTROL

A. Subgrade areas shall not receive fill material until approved by the Engineer.

B. Assure that trenches are not backfilled until all tests have been completed and approved by the Engineer.

C. Any work determined to be not in compliance shall be removed and properly replaced at no additional cost to the State.

3.1 CLEAN UP

A. Clean up and remove all debris accumulated from construction operations from time to time and when directed by the Engineer. Upon completion of the construction work and before final acceptance of work, remove all surplus materials, equipment, etc. and leave entire jobsite clean and neat.

END OF SECTION

SECTION 02370

SEDIMENT AND EROSION CONTROL

## PART 1 - GENERAL

### 1.1 GENERAL REQUIREMENTS

A. The work to be performed under this section shall include furnishing all labor, materials, and equipment necessary for the installation and maintenance of the construction sediment and erosion control measures.

B. All erosion and sediment control measures are to be placed prior to any disturbance caused by mobilization, staging, clearing, grading, or excavation. The Contractor shall ensure that erosion and sediment control measures are implemented and maintained as necessary.

C. An approved Erosion and Sediment Control Plan (ESCP) is included with the Plans. Additional or revised erosion and sediment control features, not shown on the approved ESCP, may be required depending on the Contractor's methods of operation and schedule.

D. Related Work:

1. Section 02110 – CLEARING AND GRUBBING

2. Section 02200 – EARTHWORK

3. Section 02320 – TRENCHING, BACKFILLING AND COMPACTING

### 1.2 REFERENCES

1. "Construction Best Management Practices Field Manual", State of Hawaii, Department of Transportation, Highways Division, dated October 2021, as amended (hereafter referred to as the "DOT BMP Field Manual").

### 1.3 SUBMITTALS

A. Submit in accordance with Section 01300 – SUBMITTALS.

1. Product Data: The Contractor shall furnish to the Engineer manufacturer's printed product data, clearly marked, indicating proposed materials.

2. Erosion and Sediment Control Plan Revisions: Any proposed changes to the Erosion and Sediment Control Plans by the Contractor shall be submitted to the Engineer for approval prior to resuming work.

## PART 2 – PRODUCTS

### 2.1 MATERIALS

The materials for temporary erosion and sediment control measures shall be as indicated on the Plans or in accordance with the "DOT BMP Field Manual."

## PART 3 - EXECUTION

### 3.1 CONSTRUCTION

A. Prior to starting any construction, the Contractor shall install the temporary BMPs as indicated on the Plans in accordance with the "DOT BMP Field Manual" and per manufacturer's specifications to prevent silt and debris from leaving the project site. The most stringent requirements shall apply.

B. If necessary, based on their assessment of the actual site conditions, additional BMP measures shall be implemented to prevent silt and debris from leaving the project site as determined by the Engineer. The cost to install, maintain, and remove additional BMP measures shall be borne by the Contractor at no additional cost to the State.

### 3.2 MAINTENANCE

A. The Contractor shall inspect all BMPs weekly, at a minimum, and make any necessary repairs and adjustments to any BMPs for the duration of the project. During storm events, the Contractor shall inspect the BMPs more frequently as required to ensure they are in proper working condition.

B. Sediment control measures shall remain in place until the upstream area is permanently stabilized.

### 3.3 CONFORMANCE

A. Failure to conform to the above requirements and regulations will be cause for temporary or permanent suspension of operations. If operations are suspended due to the Contractor's failure to conform, the Contractor shall maintain the project during the period of suspension at no cost to the State.

B. Any fines, penalties, or violations assessed to the project by the County or State as a result of the Contractor's actions, negligence, or inactivity shall be paid for by the Contractor at no additional cost to the State.

END OF SECTION

SECTION 02510

WATER SYSTEM

PART 1 - GENERAL

1.1 GENERAL REQUIREMENTS

A. Furnish all labor, materials, and equipment necessary to relocate the water line as indicated on the Plans and specified herein.

B. Work included: Installation, disinfection, and testing of potable waterlines and appurtenances.

C. Related Work:

1. Section 02320 – TRENCHING, BACKFILLING, AND COMPACTING

1.2 REFERENCES

A. The "Water System Standards," dated 2002, as applicable to the Department of Water Supply, County of Hawaii, including all revisions and addendums (hereafter referred to as the "DWS WATER SYSTEM STANDARDS") unless otherwise indicated in the Plans or Specifications.

1. Paragraphs concerning Measurement and Payment are not applicable to this project.

2. Where an installation detail is not indicated on the drawings, the standard detail in the "DWS WATER SYSTEM STANDARDS" shall be followed.

1.3 SUBMITTALS

A. Submit in accordance with Section 01300 – SUBMITTALS.

1. Shop Drawings: The Contractor shall submit six (6) copies of shop drawings and brochures or catalog cuts for review and reply prior to start of work. Drawings shall show complete dimensioned installation, including all piping, fittings, and valves. Contractor shall check project drawings to avoid interferences with structural features and with work of other trades. No piping work shall commence until plans have been reviewed by the Engineer. Any deviations from the shop drawings shall require prior approval by the Engineer.

2. Certificates: The Contractor shall furnish to the Engineer affidavits from the manufacturers of pipe, fittings, valves, etc., furnished and installed under this section certifying that such materials delivered to the project conform to the requirements of this section. Certificate of disinfection shall also be submitted

to the Engineer.

3. Warranty: The Contractor shall furnish to the Contracting Officer warranties from the manufacturers of pipe, fittings, valves, etc., furnished and installed under this section.

4. Test Results: The Contractor shall submit test reports for all tests conducted.

## PART 2 – PRODUCTS

### 2.1 MATERIALS

A. Unless otherwise indicated, materials for potable waterlines and appurtenances shall be in accordance with the below listed sections of the "DWS WATER SYSTEM STANDARDS".

1. General

a. All materials shall be new and free from defects and shall be of the make and type specified or approved equal.

b. Pipe and fittings shall conform to NSF International Standard 61 or the health effects portion of NSF Standard 14.

2. Pipes

a. Pipe shall be ductile iron Class 52 in conformance with ANSI A-21.51 and AWWA C151.

b. Ductile iron pipe shall have push-on joints.

c. All pipe shall be new and existing pipe shall be disposed of off-site by the Contractor.

3. Fittings

a. Fittings shall be ductile iron in compliance with ANSI A-21.10 and AWWA C110 with mechanical joints.

b. Fittings shall be Class 350.

4. Piping Appurtenances

a. Piping appurtenances shall be in accordance with the "DWS WATER SYSTEM STANDARDS".

b. Where indicated on the Plans, the Contractor shall include restrained

glands and stainless steel threaded rods fastened to pipe bends.

5. Valves and Appurtenances

   a. Valves shall be in accordance with Section 205.

   b. Air Relief Valves shall be in accordance with Section 205.

6. Wax Tape

   a. Wax tape shall be in accordance with AWWA C217.

## PART 3 - EXECUTION

### 3.1 GENERAL

A. Installation, disinfection, and testing of waterlines and appurtenances shall be in accordance with the applicable sections of the "DWS WATER SYSTEM STANDARDS" unless otherwise indicated in the Plans and/or Specifications herewith.

B. The Contractor shall notify the Engineer a minimum of two (2) weeks prior to any work for the realignment of the existing waterline at Mud Lane

### 3.2 HAULING, UNLOADING AND DISTRIBUTION OF MATERIALS

A. During loading, transportation and unloading, every precaution shall be taken to prevent damage to the materials. Any pipe or fitting damaged shall be replaced at no additional cost to the State.

B. The Contractor shall visually inspect all pipes and appurtenances prior to their installation to ensure that they are clean and free of dirt, foreign objects, or defects. The Contractor shall assume full responsibility for the soundness of the pipes and appurtenances installed.

### 3.3 INSTALLATION

A. The Contractor shall realign the waterline at the location shown on the Plans.

B. The Contractor shall be responsible for laying out the waterlines and appurtenances and making connections as necessary to the existing system. The Contractor shall also make any modifications or field changes as directed by the Engineer or DWS.

C. The Contractor shall exercise due care and caution necessary to avoid any damage to existing utilities or the concrete ditch. Any damage caused by the Contractor's operations shall be repaired immediately as directed by the Engineer or DWS and at no expense to the State.

D. Any pipe or appurtenance that has been installed and proven defective shall be removed and replaced by the Contractor at no additional cost to the State.

E. The Contractor shall notify and coordinate any connection or temporary service disruption to the County water system or private water lateral with the DWS or private landowner.

F. Exposed bolts, nuts, and connection fittings shall be wrapped with wax tape to provide additional corrosion protection in accordance with the manufacturer's recommendations.

3.4 CONNECTING, TESTING, FLUSHING, AND DISINFECTING

A. The new waterline shall not be connected until pressure testing and disinfecting has been completed and approved by the Engineer. Connecting shall be done at the discretion of the Engineer.

B. Pressure testing of water lines shall be performed in accordance with the "DWS WATER SYSTEM STANDARDS".

C. Flushing of valves and mains and disinfection of the system shall be carried out in accordance with the "DWS WATER SYSTEM STANDARDS". The Contractor shall submit the results of such test to the Engineer for approval.

D. The Contractor shall furnish all equipment for tests and any required retests and pay for all cost of repairing any damage resulting from such tests. Contractor shall adjust systems until they are approved. Tests shall be performed in the presence of, and to the satisfaction of, the Engineer and inspector of the official agency involved.

1. Any re-testing required as directed by the Engineer shall be performed by the Contractor at no additional cost to the State.

2. All charges for services by the DWS during this period shall be paid for by the Contractor.

3.5 INSPECTION

At the time of final inspection of the work performed under the contract, the water system shall be complete in every respect and operating as designed. All defects discovered in the water system subsequent to this inspection shall be corrected prior to final acceptance.

3.6 CLEAN UP

Upon completion of this work, remove all debris and excess materials, tools, etc., and leave the project site cleaned in an acceptable manner as approved by the Engineer.

END OF SECTION

SECTION 02600

STORM DRAINAGE SYSTEM

## PART 1 - GENERAL

### 1.1 GENERAL REQUIREMENTS

A. Furnish all labor, materials, tools, equipment and related necessary to complete, in place, and ready for use, drainage improvements in accordance with the Plans and these Specifications.

B. RELATED SECTIONS

1. Section 02225 – TRENCHING, BACKFILLING, AND COMPACTING

2. Section 02270 – SEDIMENT AND EROSION CONTROL

3. Section 02625 – DRAIN INLET FILTER BASKETS

4. Section 03300 – CAST-IN-PLACE CONCRETE

### 1.2 SUBMITTALS

A. Submit in accordance with Section 01300 – SUBMITTALS.

B. Certificates: The Contractor shall furnish to the Engineer affidavits from the manufacturers of pipe, fittings, catalog cuts, etc. for items furnished and installed under this section verifying that such materials conform to the requirements of this specification.

C. Product data for various storm drainage system components including shop drawings, brochures, and installation instructions.

### 1.3 WARRANTY

A. The items covered by these specifications shall be guaranteed against defective parts due to faulty material or workmanship for one (1) year after date of acceptance of project. The Contractor shall guarantee to replace all defective parts within the period of time specified. All costs for the replacement of defective parts shall be paid for by the Contractor at no cost to the State. The guarantee shall be in writing and shall be submitted to the Engineer prior to the completion of the project.

PART 2 - PRODUCTS

2.1 MATERIALS

A. POLYVINYL CHLORIDE (PVC) PIPE

1. PVC pipe shall be Schedule 40 DWV plastic drain, waste and vent pipe in accordance with ASTM F-891.

B. FITTINGS

1. Fittings shall be socket-type solvent weld DWV PVC conforming to the requirement of ASTM D2665.

2. Acceptable fittings shall be of the same material composition as the pipe.

3. All piping system components shall be compatible.

C. PIPE CONNECTION

1. Connection to the existing irrigation line shall be made with an Inserta Tee® service connection piece or approved equal.

2. The service connection piece shall include all components necessary to make the connection including PVC hub, rubber sleeve (ASTM F477), and adjustable stainless steel band.

3. The Contractor shall ensure that service connection piece is compatible with the new and existing pipes.

D. Cleanouts: Cleanouts shall be provided as shown on the drawings

E. Concrete Drain Inlet: Concrete drain inlet shall be traffic-rated and be provided as shown on the drawings.

F. Drain Inlet Filter Basket: Drain inlet filter basket shall be in accordance with Section 02625 – DRAIN INLET FILTER BASKETS.

G. Drain Inlet Frame and Grate: Frame (catalog number R-6060) and grate (catalog number R-2561) shall both be cast gray iron ASTM A-48, Class 35B manufactured by Neenah Foundry Company or approved equal. The Contractor shall ensure that frame and grate are compatible with regards to size prior to ordering.

H. Concrete: Concrete shall be in accordance with Section 03300 – CAST-IN-PLACE CONCRETE.

PART 3 - EXECUTION

3.1 GENERAL

A. Installation of the storm drainage system shall be in accordance with the applicable sections of the references listed above, except as amended in the Plans and/or Specifications herewith and as directed by the Engineer.

B. Trenching, excavation, and backfill shall be as specified in Section 02200 – EARTHWORK and Section 02225 – TRENCHING, BACKFILLING, AND COMPACTING of these Specifications.

C. The proposed improvements shall be constructed to the lines and grades as shown on the Plans.

D. The Contractor shall protect the existing utilities from damage during construction.

E. The Contractor shall ensure that the existing irrigation system remains in service for the duration of construction. If any disruption in service is required, the Contractor shall first obtain approval from the Engineer prior to the start of construction.

F. NANI WAIMEA STREET IMPROVEMENTS

1. Contractor shall notify the Engineer a minimum of two (2) weeks prior to starting work on the existing irrigation line.

2. The Contractor shall expose the proposed connection point to the existing irrigation line at the Nani Waimea Street site to verify its location and elevation. Both irrigation lines shall be exposed to confirm connection is made to the intended pipe. Any discrepancies identified shall be brought to the attention of the Engineer immediately.

3. Install horizontal and vertical pipe sections, concrete pad, and manhole frame and cover as indicated on the Plans.

4. When making the connection to the existing irrigation pipe, prevent any dirt, mud, rubbish, debris, or foreign materials from entering the irrigation pipe. Use proper equipment to make a clean circular cut into the existing pipe and install connection fittings and appurtenances required such that a watertight connection is provided.

5. The Contractor shall install the drain inlet structure at the location indicated on the plans. Excavate to the required depth and prepare subgrade and base course in accordance with these contract documents.

6. Placement and compaction of base course and backfill shall be in accordance with Section 02200 – EARTHWORK.

7. Construct concrete collar around drain inlet to the dimensions indicated on the

Plans.

8. Install drain inlet filter basket per manufacturer's recommendations and in accordance with Section 02625 – DRAIN INLET FILTER BASKETS.

9. The Contractor shall provide one (1) additional beehive grate to the State for stocking purposes.

G. MUD LANE IMPROVEMENTS

1. Contractor shall notify the Engineer a minimum of two (2) weeks prior to removing any trees.

2. Demolish and remove trees as indicated on the Plans and in accordance with Section 02110 – CLEARING AND GRUBBING.

3. Sawcut existing concrete ditch and demolish to the extents as indicated on the Plans and in accordance with Section 02050 – DEMOLITION.

4. Realign the existing waterline in accordance with Section 02510 – WATER SYSTEM.

5. Construct new concrete ditch to the dimensions as indicated on the Plans. Provide flush connections to the existing ditch and ensure that the ditch will result in positive drainage with no ponding or low spots.

H. FINAL INSPECTION

1. Before final inspection, ensure storm drainage system is clean and free from mud, debris, silt or other obstructions.

2. The drainage improvements covered by this section shall be complete in every respect and operating as designed. Any portion of the drainage system that has been installed and proved defective shall be removed and replaced by the Contractor at no additional cost to the State.

END OF SECTION

SECTION 02625

# DRAIN INLET FILTER BASKETS

## PART 1 – GENERAL

### 1.1 DESCRIPTION

A. This section describes furnishing, installing, and maintaining drain inlet filter baskets in accordance with the contract documents.

### 1.2 SUBMITTALS

A. Submit the following in accordance with Section 01300 – SUBMITTALS. Provide sufficient detail to allow the Engineer to judge whether or not the proposed supplier, materials, products, fusion equipment, procedures, certifications, quality assurance, and qualifications will meet the Contract requirements.

1. Product Data

2. Manufacturer's literature including physical characteristics, installation instructions, warranty, and shop drawings.

3. Operation and Maintenance Data

### 1.3 WARRANTY

A. The manufacturer shall guarantee the drain inlet filter basket against all manufacturing defects in materials and workmanship for a period of five (5) years from the date of acceptance. The manufacturer shall be notified of repair or replacement issues in writing within the warranty period.

### 1.4 DELIVERY, STORAGE, AND HANDLING

A. The Contractor shall exercise care in the storage and handling of the drain inlet filter baskets prior to and during installation. Any repair or replacement costs associated with events occurring after delivery is accepted and unloading has commenced shall be borne by the Contractor.

B. The drain inlet filter baskets shall be stored indoors and transported inside the original shipping container until the unit(s) are ready to be installed.

## PART 2 – PRODUCTS

### 2.1 DRAIN INLET FILTER BASKET

A. The drain inlet filter basket is used to capture rubbish and debris from storm water by means of screening.

B. The filter basket shall be Bio Clean® Catch Basin Inlet Filters manufactured by Contech or approved equal.

C. All components of the inlet basket system including mounting hardware, fasteners, support brackets, mesh screen, lifting handle, and support frame shall be constructed of non-corrosive materials (316 stainless steel and UV protected fiberglass, marine grade or better). Fasteners shall be 316 stainless steel. Filter screens shall be 316 stainless steel welded screens. No polypropylene, monofilament netting or fabrics shall be used in the products. Materials shall be compatible to prevent galvanic corrosion due to dissimilar materials.

D. The inlet basket shall be capable of bypassing high flows without restriction and without scouring of previously captured debris.

E. The filter basket shall be readily removable from the mountings/support frame for maintenance or replacement. Removal and replacement of filter baskets shall be accomplished without the necessity of removing mounting bolts, support frames, etc. Filter baskets shall be removable through the drain inlet opening intact.

F. The Contractor shall provide one (1) additional drain inlet filter basket to the State for stocking purposes.

## PART 3 - EXECUTION

### 3.1 INSTALLATION

A. The drain inlet filter basket shall be installed directly beneath the grate opening for direct service/access from the inlet.

B. The Contractor shall furnish all labor, equipment, materials, and incidentals required to install the drain inlet filter basket and appurtenances in accordance with the contract documents and manufacturer’s installation recommendations.

### 3.2 CLEANING

A. Clean, remove, and dispose of any trash and debris resulting from construction operations from the drain inlet to the level of satisfaction of the Engineer.

## 3.3 INSPECTION

A. After installation, the Contractor shall demonstrate that the drain inlet filter basket has been properly installed at the correct location, elevation, and with appropriate supports and fasteners. All components associated with the drain inlet filter basket and its installation shall be subject to inspection by the Engineer.

## 3.4 MAINTENANCE

A. The Contractor shall be responsible for cleaning and debris removal of the drain inlet filter basket at the interval recommended by the manufacturer or as directed by the Engineer.

B. The maintenance period shall begin immediately after the installation and extend until the project has been accepted by the Engineer. In addition, the Contractor shall inspect and maintain the drain inlet filter basket once a month (at a minimum) until a relief of maintenance is granted.

C. The Contractor shall furnish all equipment and expendable supplies to service and maintain the filter basket.

D. Accumulated debris, trash, or wash water shall be the property of the Contractor and shall be disposed of according to local, State, and Federal regulations.

END OF SECTION

SECTION 02920

LAWNS AND GRASS

## PART 1 - GENERAL

### 1.1 DESCRIPTION OF WORK

A. Furnish all labor, materials, equipment, and tools for grass planting as specified herein. Grass shall be planted in all areas disturbed as listed below:

1. All existing grassed areas that are damaged by construction operations;

2. Areas within project limits that are graded or disturbed.

## PART 2 – PRODUCTS

### 2.1 MATERIALS

A. Grass shall be “Manienie” (Bermuda grass) or as selected by the Engineer installed by hydroseeding.

1. Grass seeds shall be fresh, hulled, and meet the following requirements:

| | |
|---|---|
| Pure Seed | 95.0% minimum |
| Crop Seed | 1.0% maximum |
| Weed | 0.5% maximum |
| Inert Material | 5.0% maximum |
| Germination | 85.0% minimum |

2. Grass seeds shall be delivered to the site in unopened, sealed containers, labeled with the brand name and per cent purity. Labeling shall indicate that the seeds passed a certified germination test no more than 12 months prior to use.

B. Topsoil shall be a fertile, friable soil of loamy character, and shall contain organic matter. It shall be obtained from well-drained arable land; be free from weeds, stone and debris; and shall pass a maximum ½" screen. Screened soil shall be capable of sustaining healthy plant life.

## PART 3 - EXECUTION

### 3.1 INSTALLATION AND WORKMANSHIP

A. Site Preparation

1. Before tilling and adding any soil amendments, weeds and other obnoxious vegetation shall be removed by manual or chemical methods.

2. Soil Amendments and Tilling: The Contractor shall notify the Engineer at least two (2) weeks before this work is to be done.

3. A 1-inch layer of organic soil conditioner shall be placed over all disturbed areas to be grassed. The material shall then be roto-tilled a minimum of two (2) inches into the existing soil until the latter is loose and fine textured. All rocks larger than one (1) inch in diameter and all debris such as stumps, roots, wire, grade stakes and other rubbish that are turned up by tilling shall be removed. Tilling shall be omitted on slopes where watering is likely to wash the soil away.

4. Any undulations or irregularities in the surface resulting from tilling or other operations shall be leveled out before planting operations are begun.

B. Planting

1. The Contractor shall notify the Engineer at least two (2) weeks before planting of grass.

2. Immediately prior to planting operations, all planting areas shall be cleared of weeds, debris, rocks over ½" in diameter and clumps of earth that will not break up.

3. Hydro-Mulching of Grass Seed: This work shall consist of furnishing and applying hulled proposed grass seed, fertilizer, mulch and stabilizing and water retaining agent by hydro-mulching.

   a. The seeds shall be applied at the rate of 100 lbs./acre minimum. Mulch shall be applied at a rate of 500 lbs./acre minimum (31 lbs. per 900 sq. ft.). In every application, complete and uniform coverage of the soil shall be attained.

   b. First application of fertilizer shall be included with mulch and seed.

   c. The hydro-mulch equipment shall be capable of mixing all the necessary ingredients to a uniform mixture and to apply the slurry to provide uniform coverage. Seed, fertilizer, mulch mix and stabilizing water retaining agent shall be applied in one operation by hydraulic equipment made specifically for this use. The equipment shall have a built-in agitation system with an operating capacity sufficient to keep the mix in uniform distribution until pumped from the tank. Distribution and discharge lines shall be large enough to prevent stoppage and shall be equipped with hydraulic discharge spray nozzles which provide a uniform distribution of the slurry.

   d. Water shall be applied immediately following mulching and the planted area shall then be kept moist until roots are established.

C. Application of Fertilizer: The Contractor shall notify the Engineer one (1) day before application of fertilizer.

1. Fertilizer shall be distributed uniformly over the planted area.

2. The first application of fertilizer shall be applied at the rate of 300 pounds per acre about two (2) weeks after grassing and shall be followed by watering. (First application of fertilizer if using hydro-mulching option shall be mixed with the seeded mulch.)

3. The second application of fertilizer shall be applied at the rate of 300 pounds per acre about one (1) week before the end of the maintenance period and shall be followed by watering.

D. Maintenance:

1. General: The Contractor shall be responsible for the proper care of the grassed areas. Maintenance shall include watering, weeding, moving, repairing, regrassing and protection, and shall be required until the entire project is accepted, but not less than a maintenance period of not less than 60 days after planting of grass.

2. Watering: After planting of seeds or grass sprigs or mulching, the ground shall be watered as deemed necessary by the Contractor to establish a healthy growth. Watering shall be done in a manner that will prevent erosion due to the application of excessive quantities of water, and the watering equipment shall be of a type that will prevent damage to the finished surface.

3. Weeding: Weeds shall be uprooted and removed completely and in no case shall they be allowed to grow and propagate more seeds. Large holes caused by weeding shall be filled with screened soil and raked level.

4. Mowing: Grass shall be mowed to a height of 1" whenever the height of grass becomes 1-1/2".

5. Repairing and Regrassing: When any portion of the surface becomes gullied or otherwise damaged and grass has failed to grow, such areas shall be repaired with screened soil and replanted with grass. Any area of one foot square or more in which grass has failed to grow after 30 days of maintenance shall be regrassed.

6. Protection: The grassed areas shall be protected against traffic so that the grass establishes a healthy growth. Grassed areas damaged by traffic shall be replanted.

## 3.2 ACCEPTANCE

A. At the time of acceptance, the grass shall have been well-established and shall be given a final weeding and a final mowing to a height of one inch. If the maintenance period has expired before acceptance of the entire project, the Contractor shall continue to maintain the grass until acceptance of the entire project. If the maintenance period should extend beyond acceptance of the entire project, the Contractor shall continue to maintain the grass until the end of the specified period of time required for maintenance.

B. At the end of the maintenance period, should there appear areas where grass has failed to grow, such areas shall be replanted with grass, refertilized and maintained beyond the maintenance period until a healthy growth is established.

END OF SECTION

SECTION 02940

TRAFFIC CONTROL

## PART 1 - GENERAL

### 1.1 GENERAL REQUIREMENTS

A. This section shall govern furnishing, installing, maintaining and subsequently removing traffic control devices to control traffic during construction as indicated on the Traffic Control Plans and as specified herein. The work shall conform to applicable provisions of the "Manual on Uniform Traffic Control Devices for Streets and Highways" (MUTCD), as amended, published by the Federal Highway Administration, and the Traffic Control Plans.

### 1.2 REFERENCES

A. “Manual on Uniform Traffic Control Devices, 2009 Edition”, including all revisions, of the U.S. Department of Transportation Federal Highway Administration.

### 1.3 SUBMITTALS

Submit in accordance with Section 01300 – SUBMITTALS.

1. Revised Traffic Control Plans: If the Contractor chooses to make changes to the Traffic Control Plans for work within the State Highways or County right-of-way, the Contractor shall submit the revised drawings to the State Department of Transportation (DOT) and/or Hawaii County Department of Public Works (DPW) for review and approval. The proposed changes shall be approved by the DOT and/or DPW before the Contractor begins work within the road right-of-way.

2. Schedules: The Contractor shall submit schedules in writing to the Engineer for lane closures in accordance with the approved Traffic Control Plan. The submittal shall contain a brief description of the work and the time when the work is to be done and shall conform to the Traffic Control Plans. The schedules shall be submitted 10 working days before the work is scheduled to begin.

## PART 2 – PRODUCTS

### 2.1 MATERIALS

A. Materials shall meet the requirements specified on the Plans and these Specifications and shall conform to applicable provisions of the MUTCD, as amended, published by the Federal Highway Administration.

PART 3 - EXECUTION

3.2 GENERAL

A. All signs, cones, barriers, and other traffic control devices shall be furnished, installed and maintained as shown on the Traffic Control Plans and in accordance with the requirements of the contract. In the event of a conflict between provisions cited therein, the more restrictive laws, rules, regulations or requirements shall apply. The Traffic Control Plans and the provisions set forth in this section specify the minimum requirements.

B. Construction shall be limited to the hours designated on the Traffic Control Plans, unless otherwise approved by the Engineer.

C. No material or equipment shall be stored where it will interfere with the free and safe passage of public traffic. At the end of each day's work or when construction operations are suspended for any reason, the Contractor shall remove all equipment and other obstructions to permit free and safe passage of public traffic.

D. All barricades, construction and warning signs, and other traffic control devices shall be kept in good condition throughout their usage. The Contractor shall repair, repaint, clean or replace the barricades, signs or other devices as directed by the Engineer and as required to maintain the effectiveness and appearance. The Engineer will be the sole judge in determining the suitable condition of each barricade, sign, or other traffic control device.

E. All traffic lanes shall have a minimum width as indicated on the Plans.

F. Public traffic shall be allowed to pass through the work area with as little inconvenience and delay as possible.

G. No lane closures are allowed. If the Contractor requires lane closures to conduct the work, the Contractor shall apply for and obtain all necessary permits and approvals from the applicable agencies.

END OF SECTION

SECTION 03300

CAST-IN-PLACE CONCRETE

PART 1 – GENERAL

1.1 SUMMARY

A. Section includes cast-in-place concrete, including formwork, reinforcement, concrete materials, mix design, placement procedures, and finishes.

B. Related Sections include the following:

1. Section 02200 - EARTHWORK for fill and compaction beneath drainage structures.

1.2 DEFINITIONS

A. Cementitious Materials: Portland cement alone or in combination with one or more of blended hydraulic cement, fly ash and other pozzolans, ground granulated blast-furnace slag, and silica fume.

1.3 SUBMITTALS

A. Submit in accordance with Section 01330 - SUBMITTAL PROCEDURES.

B. Product Data

1. Reinforcing steel - Certified mill test results or laboratory test results. Indicate bar size, yield strength, ultimate tensile strength, elongation and bend test. Provide chemical composition for rebars that are to be welded.

C. Design Mixes: For each concrete mix. Include alternate mix designs when characteristics of materials, project conditions, weather, test results, or other circumstances warrant adjustments.

1. Indicate amounts of mix water to be withheld for later addition at Project site.

D. Steel Reinforcement Shop Drawings: Details of fabrication, bending, and placement, prepared according to ACI 315, “Details and Detailing of Concrete Reinforcement.” Include material, grade, bar schedules, bent bar diagrams, arrangement, and supports of concrete reinforcement. Include special reinforcement required for openings through concrete structures.

E. Material Certificates: Signed by manufacturers certifying that each of the following items complies with requirements:

1. Form materials and form-release agents.

2. Steel reinforcement and reinforcement accessories.

3. Curing materials.

4. Adhesives.

5. Vapor retarders.

6. Repair materials.

1.4 QUALITY ASSURANCE

A. Professional Engineer Qualifications: A professional engineer who is legally qualified to practice in jurisdiction where Project is located and who is experienced in providing engineering services of the kind indicated. Engineering services are defined as those performed for formwork and shoring and reshoring installations that are similar to those indicated for this Project in material, design, and extent.

B. Manufacturer Qualifications: A firm experienced in manufacturing ready-mixed concrete products complying with ASTM C 94 requirements for production facilities and equipment.

C. Testing Agency Qualifications: An independent testing agency, acceptable to authorities having jurisdiction, qualified according to ASTM C 1077 and ASTM E 329 to conduct the testing indicated, as documented according to ASTM E 548.

1. Personnel conducting field tests shall be qualified as ACI Concrete Field Testing Technician, Grade 1, according to ACI CP-1 or an equivalent certification program.

D. Source Limitations: Obtain each type or class of cementitious material of the same brand from the same manufacturer's plant, each aggregate from one source, and each admixture from the same manufacturer.

E. ACI Publications: Comply with the following, unless more stringent provisions are indicated and maintain a copy at the field office.

1. ACI 301, “Specification for Structural Concrete.”

2. ACI 117, “Specifications for Tolerances for Concrete Construction and Materials.”

3. ACI 347R “Guide to Formwork for Concrete”

1.5 DELIVERY, STORAGE, AND HANDLING

A. Deliver, store, and handle steel reinforcement to prevent bending and damage.

1. Avoid damaging coatings on steel reinforcement.

PART 2 – PRODUCTS

2.1 FORM-FACING MATERIALS

A. Smooth-Formed Finished Concrete: Comply with ACI 347R. Provide new or good finish form-facing panels that will provide continuous, true, and smooth concrete surfaces. Furnish in largest practicable sizes to minimize number of joints.

1. Plywood, metal, or other ACI 347R approved panel materials.

2. Exterior-grade plywood panels, suitable for concrete forms, complying with DOC PS 1, and as follows:

a. High-density overlay, Class 1, or better.

b. Medium-density overlay, Class 1, or better, mill-release agent treated and edge sealed.

c. Structural 1, B-B, or better, mill oiled and edge sealed.

d. B-B (Concrete Form), Class 1, or better, mill oiled and edge sealed.

B. Rough-Formed Finished Concrete: Plywood, lumber, metal, or another approved material. Provide lumber dressed on at least two edges and one side for tight fit.

C. Chamfer Strips: Wood, metal, PVC, or rubber strips, 3/4 inch by 3/4 inch, minimum.

D. Form-Release Agent: Commercially formulated form-release agent that will not bond with, stain, or adversely affect concrete surfaces and will not impair subsequent treatments of concrete surfaces. Form oils or waxes shall not be used for concrete surfaces intended to be painted.

1. Formulate form-release agent with rust inhibitor for steel form-facing materials.

E. Form Ties: Factory-fabricated, removable or snap-off metal or glass-fiber-reinforced plastic form ties designed to resist lateral pressure of fresh concrete on forms and to prevent spalling of concrete on removal.

1. Furnish units that will leave no corrodible metal closer than 1 inch to the plane of the exposed concrete surface.

2. Furnish ties that, when removed, will leave holes not larger than 1 ½ inches in diameter in concrete surface.

2.2 STEEL REINFORCEMENT

A. Reinforcing Bars: ASTM A 615/A 615M, Grade 60, deformed, unless otherwise noted on the drawings.

B. Plain-Steel Wire: ASTM A 82, as drawn.

C. Plain-Steel Welded Wire Fabric: ASTM A 185, fabricated from as-drawn steel wire into flat sheets.

D. Steel Bar Mats: ASTM A 184/A 184M, assembled with clips.

1. Steel Reinforcement: ASTM A 615/A 615M, Grade 60, deformed.

2.3 REINFORCEMENT ACCESSORIES

A. Bar Supports: Bolsters, chairs, spacers, and other devices for spacing, supporting, and fastening reinforcing bars and welded wire fabric in place that will not puncture the vapor retarder. Use plastic straps or brightly colored tie wires to secure reinforcing. Manufacture bar supports according to CRSI's "Manual of Standard Practice" from steel wire, plastic, or precast concrete or fiber-reinforced concrete of greater compressive strength than concrete, and as follows:

1. For concrete surfaces exposed to view where legs of wire bar supports contact forms, use CRSI Class 1 plastic-protected or CRSI Class 2 stainless-steel bar supports. Refer to paragraph 3.06 for chair support spacing.

B. Joint Dowel Bars: Plain-steel bars, ASTM A 615/A 615M, Grade 60. Cut bars true to length with ends square and free of burrs.

2.4 CONCRETE MATERIALS

A. Portland Cement: ASTM C 150, Type II.

B. Pozzolans

1. Fly Ash: ASTM C 618, Class C or F.

2. Blended Hydraulic Cement: ASTM C595M.

3. Ground Granulated Blast-Furnace Slag: ASTM C 989, Grade 100 or 120.

C. Normal-Weight Aggregate: ASTM C 33, uniformly graded, and as follows:

1. Class: Moderate weathering region, but not less than 3M.

2. Aggregate Size: 3/4 inch.

D. Size of Coarse Aggregate: Except when otherwise specified or permitted, maximum size of coarse aggregate shall not exceed three-fourths of the minimum clear spacing between reinforcing bars (or bundled bars), one-fifth of the narrowest dimension between the sides of forms, or one-third of the thickness of slabs or toppings.

E. Water: Potable and complying with ASTM C 94 or non potable meeting ASTM C-94 Acceptance Criteria for Questionable Water Supply. Use only potable water for job site mixing.

2.5 ADMIXTURES

A. General: Admixtures certified by manufacturer to contain not more than 0.1 percent water-soluble chloride ions by mass of cementitious material and to be compatible with other admixtures and cementitious materials. Do not use admixtures containing calcium chloride.

B. Water-Reducing Admixture: ASTM C 494, Type A.

C. High-Range, Water-Reducing Admixture: ASTM C 494, Type F.

D. Water-Reducing and Accelerating Admixture: ASTM C 494, Type E.

E. Water-Reducing and Retarding Admixture: ASTM C 494, Type D.

2.6 CURING MATERIALS AND EVAPORATION RETARDERS

A. Evaporation Retarder: Waterborne, monomolecular film forming, manufactured for application to fresh concrete.

B. Absorptive Cover: AASHTO M 182, Class 2, burlap cloth made from jute or kenaf, weighing approximately 9 oz./sq. yd. dry.

C. Moisture-Retaining Cover: ASTM C 171, polyethylene film or white burlap-polyethylene sheet.

D. Water: Potable.

E. Clear, Solvent-Borne, Membrane-Forming Curing Compound: ASTM C 309, Type 1, Class B.

F. Clear, Waterborne, Membrane-Forming Curing Compound: ASTM C 309, Type 1, Class B, 18 to 22 percent solids.

G. Clear, Solvent-Borne, Membrane-Forming Curing and Sealing Compound: ASTM C 1315, Type 1, Class A.

H. Clear, Waterborne, Membrane-Forming Curing and Sealing Compound: ASTM C 1315, Type 1, Class A.

2.7 RELATED MATERIALS

A. Epoxy-Bonding Adhesive: ASTM C 881, two-component epoxy resin, capable of humid curing and bonding to damp surfaces, of class and grade to suit requirements, and as follows:

1. Type II, non-load bearing, for bonding freshly mixed concrete to hardened concrete.

2. Types I and II, non-load bearing, for bonding hardened or freshly mixed concrete to hardened concrete.

3. Types IV and V, load bearing, for bonding hardened or freshly mixed concrete to hardened concrete.

B. Cementitious Coatings: Cement based polymer modified concrete finishing materials.

C. Sleeves:

1. Schedule 40 pipe, galvanized per ASTM A53.

2. Schedule 40 PVC Pipe.

2.8 REPAIR MATERIALS

A. Repair Underlayment: Cement-based, polymer-modified, self-leveling product that can be applied in thicknesses from 1/8 inch and that can be feathered at edges to match adjacent floor elevations. Products shall contain no added gypsum.

1. Cement Binder: ASTM C 150, Portland cement or hydraulic or blended hydraulic cement as defined in ASTM C 219.

2. Primer: Product of underlayment manufacturer recommended for substrate, conditions, and application.

3. Aggregate: Well-graded, washed gravel, 1/8 to 1/4 inch or coarse sand as recommended by underlayment manufacturer.

4. Compressive Strength: Not less than 4000 psi (27.6 MPa) at 28 days when tested according to ASTM C 109/C 109M.

B. Repair Topping: Traffic-bearing, cement-based, polymer-modified, self-leveling product that can be applied in thicknesses from 1/4 inch. Products shall contain no added gypsum.

1. Cement Binder: ASTM C 150, Portland cement or hydraulic or blended hydraulic cement as defined in ASTM C 219.

2. Primer: Product of topping manufacturer recommended for substrate, conditions, and application.

3. Aggregate: Well-graded, washed gravel, 1/8 to 1/4 inch or coarse sand as recommended by topping manufacturer.

4. Compressive Strength: Not less than 5500 psi (39 MPa) at 28 days when tested according to ASTM C 109/C 109M.

2.9 CONCRETE MIXES

A. Prepare design mixes for each type and strength of concrete determined by either laboratory trial mix or field test data bases, as follows:

1. Proportion normal-weight concrete according to ACI 211.1 and ACI 301.

B. Miscellaneous: Proportion normal-weight concrete mix as follows:

1. Compressive Strength (28 Days): 3,000 psi.

C. Walls and Mat Foundations: Proportion normal-weight concrete mix as follows:

1. Compressive Strength (28 Days): 4000.

D. Cementitious Materials: Limit percentage, by weight, of cementitious materials other than Portland cement in concrete as follows:

1. Fly Ash: 25 percent.

2. Combined Fly Ash and Pozzolan: 25 percent.

3. Ground Granulated Blast-Furnace Slag: 50 percent.

4. Combined Fly Ash or Pozzolan and Ground Granulated Blast-Furnace Slag: 50 percent Portland cement minimum, with fly ash or pozzolan not exceeding 25 percent.

5. Silica Fume: 10 percent.

6. Combined Fly Ash, Pozzolans, and Silica Fume: 35 percent with fly ash or pozzolans not exceeding 25 percent and silica fume not exceeding 10 percent.

7. Combined Fly Ash or Pozzolans, Ground Granulated Blast-Furnace Slag, and Silica Fume: 50 percent Portland cement minimum, with fly ash or pozzolans not exceeding 25 percent and silica fume not exceeding 10 percent.

E. Maximum Water-Cementitious Materials Ratio: 0.45 for concrete.

F. Do not add air entrainment to concrete. Do not allow entrapped air content to exceed 3 percent.

G. Limit water-soluble, chloride-ion content in hardened concrete per ACI 318 Chapter 4 for corrosion protection of reinforcing steel.

H. Admixtures: Use admixtures according to manufacturer's written instructions.

1. Use water-reducing admixture or high-range water-reducing admixture (superplasticizer) in concrete, as required, for placement and workability.

2. Use water-reducing and retarding admixture when required by high temperatures, low humidity, or other adverse placement conditions.

## 2.10 FABRICATING REINFORCEMENT

A. Fabricate steel reinforcement according to CRSI's "Manual of Standard Practice."

## 2.11 CONCRETE MIXING

A. Ready-Mixed Concrete: Measure, batch, mix, and deliver concrete according to ASTM C 94, and ASTM C 1116 and furnish batch ticket information. Batch ticket information shall include design mix reference, water that can be added at the jobsite, and admixtures. For transit mixing, complete not less than 70 revolutions of the drum at the manufacturer's rated mixing speed. Discharge concrete into its final position within 90 minutes after introduction of batch water to the cement. If a retarder admixture is used, the discharge time limit of 90 minutes may be increased by the time specified for retardation by the admixture manufacturer or the concrete supplier. Mix concrete a minimum of one minute at mixing speed immediately prior to discharge.

B. Project-Site Mixing: Measure, batch, and mix concrete materials according to ASTM C 94. Mix concrete materials in appropriate drum-type batch machine mixer.

1. For mixer capacity of 1 cu. yd.0.76 cu. m or less, continue mixing at least one and one-half minutes, but not more than five minutes after all ingredients are in mixer, before any part of batch is released.

2. For mixer capacity larger than 1 cu. yd.0.76 cu. m, increase mixing time by 15 seconds for each additional 1 cu. yd.0.76 cu. m.

3. Provide batch ticket for each batch discharged and used in the Work, indicating Project identification name and number, date, mix type, mix time, quantity, and amount of water added. Record approximate location of concrete placement in structure.

4. Hand mixed concrete will not be allowed, except to make up shortages for curbs and gutters, and utility trench encasements.

## PART 3 - EXECUTION

### 3.1 FORMWORK

A. Design, erect, shore, brace, and maintain formwork, according to ACI 301, to support vertical, lateral, static, and dynamic loads, and construction loads that might be applied, until concrete structure can support such loads.

B. Construct formwork so concrete members and structures are of size, shape, alignment, elevation, and position indicated, within tolerance limits of ACI 117.

C. Limit concrete surface irregularities, designated by ACI 347R as abrupt or gradual, as follows:

1. Class C, 1/2 inch.

D. Construct forms to prevent loss of concrete mortar.

E. Fabricate forms for easy removal without hammering or prying against concrete surfaces. Provide crush or wrecking plates where stripping may damage cast concrete surfaces. Provide top forms for inclined surfaces steeper than 1.5 horizontal to 1 vertical. Kerf wood inserts for forming keyways, reglets, recesses, and the like, for easy removal.

1. Do not use rust-stained steel form-facing material.

F. Set edge forms, bulkheads, and intermediate screed strips for slabs to achieve required elevations and slopes in finished concrete surfaces. Provide and secure units to support screed strips; use strike-off templates or compacting-type screeds.

G. Provide temporary openings for cleanouts and inspection ports where interior area of formwork is inaccessible. Close openings with panels tightly fitted to forms and securely braced to prevent loss of concrete mortar. Locate temporary openings in forms at inconspicuous locations.

H. Chamfer exterior corners and edges of permanently exposed concrete.

I. Form openings, chases, offsets, sinkages, keyways, reglets, blocking, screeds, and bulkheads required in the Work. Determine sizes and locations from trades providing such items.

J. Clean forms and adjacent surfaces to receive concrete. Remove chips, wood, sawdust, dirt, and other debris just before placing concrete.

K. Retighten forms and bracing before placing concrete, as required, to prevent mortar leaks and maintain proper alignment.

L. Coat contact surfaces of forms with form-release agent, according to manufacturer's written instructions, before placing reinforcement.

3.2 REMOVING AND REUSING FORMS

A. General: Formwork, for sides of beams, walls, columns, and similar parts of the Work, that does not support weight of concrete may be removed after cumulatively curing at not less than 50 deg F (10 deg C) for 24 hours after placing concrete provided concrete is hard enough to not be damaged by form-removal operations and provided curing and protection operations are maintained. The 24-hour period may be reduced to 12 hours in compliance with ACI 347R with prior approval from the Engineer.

B. Leave formwork, for beam soffits, joists, slabs, and other structural elements, that supports weight of concrete in place until concrete has achieved the following:

1. 28-day design compressive strength.

C. Clean and repair surfaces of forms to be reused in the Work. Split, frayed, delaminated, or otherwise damaged form-facing material will not be acceptable for exposed surfaces. Apply new form-release agent.

D. When forms are reused, clean surfaces, remove fins and laitance, and tighten to close joints. Align and secure joints to avoid offsets. Do not use patched forms for exposed concrete surfaces unless approved by Engineer.

3.3 SHORES AND RESHORES

A. Comply with ACI 318, ACI 318M, ACI 301, and recommendations in ACI 347R for design, installation, and removal of shoring and reshoring.

B. Plan sequence of removal of shores and reshore to avoid damage to concrete. Locate and provide adequate reshoring to support construction without excessive stress or deflection.

3.4 STEEL REINFORCEMENT

A. General: Comply with CRSI's "Manual of Standard Practice" for placing reinforcement.

B. Clean reinforcement of loose rust and mill scale, earth, ice, and other foreign materials.

C. Accurately position, support, and secure reinforcement against displacement. Locate and support reinforcement with bar supports to maintain minimum concrete cover. Do not tack weld crossing reinforcing bars.

1. Support slab reinforcing bars and welded wire fabric (WWF) as follows:

| BAR SIZE | MAXIMUM DISTANCE BETWEEN SUPPORTS |
|---|---|
| #3 | 2 feet |
| #4 | 3 feet |
| #5 | 4 feet |
| #3 at 15" E.W. | 4'-6" o.c. each way |
| | |
| WIRE FABRIC SHEETS | MAXIMUM DISTANCE BETWEEN SUPPORTS |
| 6 x 6 - W2.9/w2.9 | 2'-0" o.c. each way |
| 6 x 6 - W6/W6 | 3'-0" o.c. each way |

D. Set wire ties with ends directed into concrete, not toward exposed concrete surfaces.

E. Install welded wire fabric in longest practicable lengths on bar supports spaced to minimize sagging. Lap edges and ends of adjoining sheets at least one mesh spacing. Offset laps of adjoining sheet widths to prevent continuous laps in either direction. Lace overlaps with wire.

3.5 JOINTS

A. General: Construct joints true to line with faces perpendicular to surface plane of concrete.

B. Construction Joints: Install so strength and appearance of concrete are not impaired, at locations indicated or as approved by Engineer.

1. Place joints perpendicular to main reinforcement. Continue reinforcement across construction joints, unless otherwise indicated. Do not continue reinforcement through sides of strip placements of floors and slabs.

2. Locate horizontal joints in walls and columns at underside of floors, slabs, beams, and girders and at the top of footings or floor slabs.

3. Space vertical joints in walls as indicated. Locate joints beside piers integral with walls, near corners, and in concealed locations where possible.

4. Use a bonding agent at locations where fresh concrete is placed against hardened or partially hardened concrete surfaces.

5. Use epoxy-bonding adhesive at locations where fresh concrete is placed against hardened or partially hardened concrete surfaces.

3.6 CONCRETE PLACEMENT

A. Before placing concrete, verify that installation of formwork, reinforcement, and embedded items is complete and that required inspections have been performed. Provide one day notification to the Engineer for each scheduled pour.

B. Do not add water to concrete during delivery, at Project site, or during placement, unless approved by the Engineer.

C. Convey concrete from mixer to the place of final deposit rapidly by methods that prevent segregation or loss of ingredients and will ensure the required quality of concrete. Use conveying equipment, conveyors, hoppers, baffles, chutes, pumps that are sized and designed to prevent cold joints from occurring and prevent segregation in discharged concrete. Clean conveying equipment before each placement.

D. Deposit concrete continuously or in layers of such thickness that no new concrete will be placed on concrete that has hardened enough to cause seams or planes of weakness. If a section cannot be placed continuously, provide construction joints as specified. Deposit concrete to avoid segregation.

E. Deposit concrete in forms in horizontal layers with proper consolidation into previous layers and in a manner to avoid inclined construction joints. Place each layer while preceding layer is still plastic, to avoid cold joints.

1. Consolidate placed concrete with mechanical vibrating equipment. Use equipment and procedures for consolidating concrete recommended by ACI 309R.

2. Do not use vibrators to transport concrete inside forms. Insert and withdraw vibrators vertically at uniformly spaced locations no farther than the visible effectiveness of the vibrator. Place vibrators to rapidly penetrate placed layer and at least 6 inches into preceding layer. Do not insert vibrators into lower layers of concrete that have begun to lose plasticity. At each insertion, limit duration of vibration to time necessary to consolidate concrete and complete embedment of reinforcement and other embedded items without causing mix constituents to segregate.

3. Make construction joints only where located on Drawings unless otherwise approved by the Engineer. Plan pours to continuously place concrete from one construction joint to another.

F. Deposit and consolidate concrete for slabs in a continuous operation, within limits of construction joints, until placement of a panel or section is complete.

1. Consolidate concrete during placement operations so concrete is thoroughly worked around reinforcement and other embedded items and into corners.

2. Maintain reinforcement in position on chairs during concrete placement.

3. Screed slab surfaces with a straightedge and strike off to correct elevations.

4. Slope surfaces uniformly to drains where required.

5. Begin initial floating using bull floats or darbies to form a uniform and open-textured surface plane, free of humps or hollows, before excess moisture or bleed-water appears on the surface. Do not further disturb slab surfaces before starting finishing operations.

G. Hot-Weather Placement: Place concrete according to recommendations in ACI 305R and as follows, when hot-weather conditions exist:

1. Cool ingredients before mixing to maintain concrete temperature below 90 deg F at time of placement. Chilled mixing water or chopped ice may be used to control temperature, provided water equivalent of ice is calculated to total amount of mixing water. Using liquid nitrogen to cool concrete is Contractor's option.

2. Cover steel reinforcement with water-soaked burlap so steel temperature will not exceed ambient air temperature immediately before embedding in concrete.

3. Fog-spray forms, steel reinforcement, and subgrade just before placing concrete. Keep subgrade moisture uniform without standing water, soft spots, or dry areas.

## 3.7 FINISHING FORMED SURFACES

A. Rough-Formed Finish: As-cast concrete texture imparted by form-facing material with tie holes and defective areas repaired and patched. Remove fins and other projections exceeding ACI 347R limits for class of surface specified.

B. Related Unformed Surfaces: At tops of walls, horizontal offsets, and similar unformed surfaces adjacent to formed surfaces, strike off smooth and finish with a texture matching adjacent formed surfaces. Continue final surface treatment of

formed surfaces uniformly across adjacent unformed surfaces, unless otherwise indicated.

3.8 FINISHING MAT FOUNDATION

A. General: Comply with recommendations in ACI 302.1R for screeding, restraightening, and finishing operations for concrete surfaces. Do not wet concrete surfaces.

3.9 MISCELLANEOUS CONCRETE ITEMS

A. Filling In: Fill in holes and openings left in concrete structures, unless otherwise indicated, after work of other trades is in place. Mix, place, and cure concrete, as specified, to blend with in-place construction. Provide other miscellaneous concrete filling indicated or required to complete Work.

3.10 CONCRETE PROTECTION AND CURING

A. General: Protect freshly placed concrete from premature drying and excessive cold or hot temperatures. Comply with ACI 306.1 for cold-weather protection and with recommendations in ACI 305R for hot-weather protection during curing.

B. Evaporation Retarder: Apply evaporation retarder to unformed concrete surfaces before and during finishing operations. Apply according to manufacturer's written instructions after placing, screeding, and bull floating or darbying concrete, but before float finishing.

C. Formed Surfaces: Cure formed concrete surfaces, including underside of beams, supported slabs, and other similar surfaces. If forms remain during curing period, moist cure after loosening forms. If removing forms before end of curing period, continue curing by one or a combination of the curing methods listed in paragraph 3.14.D.

D. Unformed Surfaces: Begin curing immediately after finishing concrete. Cure unformed surfaces, including slabs, by one or a combination of the following methods:

1. Moisture Curing: Keep surfaces continuously moist for not less than seven days with the following materials:

a. Water.

b. Continuous water-fog spray.

c. Absorptive cover, water saturated, and kept continuously wet. Cover concrete surfaces and edges with 12-inch lap over adjacent absorptive covers.

2. Moisture-Retaining-Cover Curing: Cover concrete surfaces with moisture-retaining cover for curing concrete, placed in widest practicable width, with sides and ends lapped at least 12 inches, and sealed by waterproof tape or adhesive. Cure for not less than seven days. Immediately repair any holes or tears during curing period using cover material and waterproof tape.

   a. Moist cure or use moisture-retaining covers to cure concrete surfaces to receive floor coverings.

   b. Moist cure or use moisture-retaining covers to cure concrete surfaces to receive penetrating liquid floor treatments.

3. Curing Compound: Apply uniformly in continuous operation by spray or roller according to manufacturer's written instructions. Recoat areas subjected to heavy rainfall within three hours after initial application. Maintain continuity of coating and repair damage during curing period.

4. Curing and Sealing Compound: Apply uniformly to floors and slabs indicated in a continuous operation by spray or roller according to manufacturer's written instructions. Recoat areas subjected to heavy rainfall within three hours after initial application where recommended by the manufacturer. Repeat process 24 hours later and apply a second coat. Maintain continuity of coating and repair damage during curing period.

## 3.11 CONCRETE SURFACE REPAIRS

A. Defective Concrete: Repair and patch defective areas. Remove and replace concrete that cannot be repaired and patched to the Engineer's approval.

B. Patching Mortar: Mix dry-pack patching mortar, consisting of one part Portland cement to two and one-half parts fine aggregate passing a No. 16(1.2-mm) sieve, using only enough water for handling and placing.

C. Repairing Formed Surfaces: Surface defects include color and texture irregularities, cracks, spalls, air bubbles, honeycombs, rock pockets, fins and other projections on the surface, and stains and other discolorations that cannot be removed by cleaning.

1. Immediately after form removal, cut out honeycombs, rock pockets, and voids more than 1/2 inch in any dimension in solid concrete but not less than 1 inch in depth. Make edges of cuts perpendicular to concrete surface. Clean, dampen with water, and brush-coat holes and voids with bonding agent. Fill and compact with patching mortar before bonding agent has dried. Fill form-tie voids with patching mortar or cone plugs secured in place with bonding agent.

2. Repair defects on surfaces exposed to view by blending white Portland cement and standard Portland cement so that, when dry, patching mortar will match surrounding color. Patch a test area at inconspicuous locations to

verify mixture and color match before proceeding with patching. Compact mortar in place and strike off slightly higher than surrounding surface.

3. Repair defects on concealed formed surfaces that affect concrete's durability and structural performance as determined by the Engineer.

D. Repairing Unformed Surfaces: Test unformed surfaces, such as slabs, for finish and verify surface tolerances specified for each surface. Correct low and high areas. Test surfaces sloped to drain for trueness of slope and smoothness; use a sloped template.

1. Repair finished surfaces containing defects. Surface defects include spalls, popouts, honeycombs, rock pockets, crazing and cracks in excess of 0.01 inch wide or that penetrate to reinforcement or completely through unreinforced sections regardless of width, and other objectionable conditions.

2. After concrete has cured at least 14 days, correct high areas by grinding.

3. Correct localized low areas during or immediately after completing surface finishing operations by cutting out low areas and replacing with patching mortar. Finish repaired areas to blend into adjacent concrete.

4. Correct other low areas scheduled to remain exposed with a repair topping. Cut out low areas to ensure a minimum repair topping depth of 1/4-inch to match adjacent floor elevations. Prepare, mix, and apply repair topping and primer according to manufacturer's written instructions to produce a smooth, uniform, plane, and level surface.

5. Repair defective areas, except random cracks and single holes 1-inch or less in diameter, by cutting out and replacing with fresh concrete. Remove defective areas with clean, square cuts and expose steel reinforcement with at least 3/4-inch clearance all around. Dampen concrete surfaces in contact with patching concrete and apply bonding agent. Mix patching concrete of same materials and mix as original concrete except without coarse aggregate. Place, compact, and finish to blend with adjacent finished concrete. Cure in same manner as adjacent concrete.

6. Repair random cracks and single holes 1-inch or less in diameter with patching mortar. Groove top of cracks and cut out holes to sound concrete and clean off dust, dirt, and loose particles. Dampen cleaned concrete surfaces and apply bonding agent. Place patching mortar before bonding agent has dried. Compact patching mortar and finish to match adjacent concrete. Keep patched area continuously moist for at least 72 hours.

E. Perform structural repairs of concrete, subject to the Engineer's approval, using epoxy adhesive and patching mortar.

F. Repair materials and installation not specified above may be used, subject to the Engineer's approval.

3.12 FIELD QUALITY CONTROL

A. Special Inspections: Contractor will engage and pay for a special inspector to perform field tests and inspections and prepare testing and inspection reports. Special inspections shall be as indicated in the 2018 IBC table 1705.3.

B. Testing Agency: Contractor shall retain and pay for a qualified independent testing and inspecting agency to sample materials, perform tests, and submit test reports during concrete placement. Sampling and testing for quality control may include those specified in this Article.

1. The independent firm will perform tests and other services required by the Specifications, Contract Drawings, and as required by the Engineer.

2. Cost: Cost of engaging a testing firm, execution of inspection and tests; and reporting results shall be included in the Contractor's costs.

3. Re-testing: Retesting required because of non-conformance to specified requirements shall be performed by the same independent firm on instructions by the Contractor at no extra cost to the State.

C. Testing Services: Testing of composite samples of fresh concrete obtained according to ASTM C 172 shall be performed according to the following requirements:

1. Testing Frequency: Obtain at least one composite sample for each 100 cu. yd. (76 cu. m) or fraction thereof of each concrete mix placed each day.

a. When frequency of testing will provide fewer than five compressive strength tests for each concrete mix, testing shall be conducted from at least five randomly selected batches or from each batch if fewer than five are used.

2. Slump: ASTM C 143; one test at point of placement for each composite sample, but not less than one test for each day's pour of each concrete mix. Perform additional tests when concrete consistency appears to change.

3. Air Content: ASTM C 231, pressure method, for normal-weight concrete; ASTM C 173, volumetric method, for structural lightweight concrete; one test for each composite sample, but not less than one test for each day's pour of each concrete mix.

4. Concrete Temperature: ASTM C 1064; one test hourly when air temperature is 40 deg F4.4 deg C and below and when 80 deg F (27 deg C) and above, and one test for each composite sample.

5. Unit Weight: ASTM C 567, fresh unit weight of structural lightweight concrete; one test for each composite sample, but not less than one test for each day's pour of each concrete mix.

6. Compression Test Specimens: ASTM C 31/C 31M; cast and laboratory cure one set of four standard cylinder specimens for each composite sample.

    a. Cast and field cure one set of four standard cylinder specimens for each composite sample.

7. Compressive-Strength Tests: ASTM C 39; test two laboratory-cured specimens at 7 days and two at 28 days.

    a. Test two field-cured specimens at 7 days and two at 28 days.

    b. A compressive-strength test shall be the average compressive strength from two specimens obtained from same composite sample and tested at age indicated.

D. Strength of each concrete mix will be satisfactory if every average of any three consecutive compressive-strength tests equals or exceeds specified compressive strength and no compressive-strength test value falls below specified compressive strength by more than 500 psi (3.4 MPa).

E. Test results shall be reported in writing to the Engineer, concrete manufacturer, and Contractor within 48 hours of testing. Reports of compressive-strength tests shall contain Project identification name and number, date of concrete placement, name of concrete testing and inspecting agency, location of concrete batch in Work, design compressive strength at 28 days, concrete mix proportions and materials, compressive breaking strength, and type of break for both 7-and 28-day tests.

F. Nondestructive Testing: Impact hammer, sonoscope, or other nondestructive device may be permitted by the Engineer but will not be used as sole basis for approval or rejection of concrete.

G. Additional Tests: Testing agency shall make additional tests of concrete when test results indicate that slump, air entrainment, compressive strengths, or other requirements have not been met, as directed by the Engineer. Testing and inspecting agency may conduct tests to determine adequacy of concrete by cored cylinders complying with ASTM C 42 or by other methods as directed by the Engineer.

END OF SECTION

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
**DIVISION OF WATER AND LAND DEVELOPMENT**

# INTERIM

# GENERAL CONDITIONS

**OCTOBER 1994**

JOHN WAIHEE
Governor

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DIVISION OF WATER AND LAND DEVELOPMENT

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# INTERIM GENERAL CONDITIONS
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## TABLE OF CONTENTS


| | PAGE |
|---|---|
| **TABLE OF CONTENTS** | 1 |
| **SECTION 1--DEFINITIONS** | 4 |
| **SECTION 2--PROPOSAL REQUIREMENTS AND CONDITIONS** | 9 |
| 2.1 Qualification of Bidders | 9 |
| 2.2 Interpretation of Quantities in Bid Schedule | 11 |
| 2.3 Contents of Proposal Form | 12 |
| 2.4 Bidders Responsibility for Examination of Plans, Specifications, Site of Work, Etc. | 12 |
| 2.5 Addenda and Interpretations | 15 |
| 2.6 Preparation of Proposal | 15 |
| 2.7 Bid Security | 16 |
| 2.8 Delivery of Proposals | 17 |
| 2.9 Withdrawal or Revision of Proposals | 18 |
| 2.10 Public Opening of Proposals | 18 |
| 2.11 Disqualification of Bidders | 18 |
| **SECTION 3--AWARD AND EXECUTION OF CONTRACT** | 20 |
| 3.1 Consideration of Proposals | 20 |
| 3.2 Irregular Proposal | 20 |
| 3.3 Award of Contract | 21 |
| 3.4 Cancellation of Award | 21 |
| 3.5 Return of Bid Security | 22 |
| 3.6 Requirement of Performance and Payment Bonds | 22 |
| 3.7 Execution of the Contract | 22 |
| 3.8 Failure to Execute the Contract | 23 |
| 3.9 Notice to Proceed | 23 |
| **SECTION 4--SCOPE OF WORK** | 24 |
| 4.1 Intent of Contract | 24 |
| 4.2 Changes and Claims for Adjustment | 24 |
| **SECTION 5--CONTROL OF WORK** | 30 |
| 5.1 Authority of the Engineer | 30 |
| 5.2 Shop Drawings and Other Submittals | 30 |
| 5.3 Coordination of Contract Documents | 32 |
| 5.4 Interpretation or Plans and Specifications | 33 |
| 5.5 Cooperation Between the Contractor and the Department | 34 |
| 5.6 Inspection | 36 |
| 5.7 Removal of Defective and Unauthorized Work | 36 |

5.8 Value Engineering Incentive ..... 37

**SECTION 6--CONTROL OF MATERIALS AND EQUIPMENT** ..... 40

6.1 Materials and Equipment ..... 40
6.2 Source of Supply & Quality of Materials ..... 40
6.3 Substitution of Materials and Equipment ..... 40
6.4 Asbestos Containing Materials ..... 41
6.5 Test Samples ..... 41
6.6 Material Samples ..... 42
6.7 Non-Conforming Materials ..... 43
6.8 Handling Materials ..... 43
6.9 Storage of Materials ..... 43
6.10 Property Rights in Materials ..... 44
***6.11 Assignment of Antitrust Claims for Overcharges for Goods and Materials Purchased*** ..... 44

**SECTION 7--PROSECUTION AND PROGRESS** ..... 45

7.1 Prosecution of the Work ..... 45
7.2 Commencement Requirements ..... 46
7.3 Normal Working Hours ..... 49
7.4 Hours of Labor ..... 49
7.5 Prevailing Wages ..... 49
7.6 Failure to Pay Required Wages ..... 50
7.7 Payrolls and Payroll Records ..... 50
7.8 Overtime and Night Work ..... 51
7.9 Overtime and Night Time Payment for State Inspection Service ..... 51
7.10 Limitations of Operations ..... 52
7.11 Assignment or Change of Name ..... 53
7.12 Laws to be Observed ..... 54
7.13 Patented Devices, Materials and Processes ..... 54
7.14 Sanitary, Health and Safety Provisions ..... 55
7.15 Preservation and Restoration Or Property, Trees, Monuments, Etc. ..... 56
7.16 Responsibility for Damage Claims ..... 56
7.17 Character of Workers or Equipment ..... 57
7.18 Contract Time ..... 58
7.19 Statement of Working Days ..... 63
7.20 Suspension of Work ..... 63
7.21 Disputes and Claims ..... 65
7.22 Failure to Complete the Work on Time ..... 67
7.23 Termination of Contract ..... 67
7.24 Correcting Defects ..... 73
7.25 Final Cleaning Up ..... 73
7.26 Final Inspection ..... 73
7.27 Project Acceptance Date ..... 75
7.28 Final Settlement Of Contract ..... 76
7.29 Contractor's Responsibility for Work ..... 76
7.30 Personal Liability of Public Officials ..... 77
7.31 Guarantee Of Work ..... 77
7.32 Closing Contracts ..... 78

***7.33 Termination for Convenience of the State*** ..... 78
***7.34 Service Charge for Permanent Utility Connection*** ..... 78
***7.35 Right to Audit Records*** ..... 78

**SECTION 8--MEASUREMENT AND PAYMENT** ..... 80

8.1 Measurement of Quantities ..... 80
8.2 No Waiver of Legal Rights ..... 80
8.3 Payment and Compensation for Altered Quantities ..... 81
8.4 Payment for Additional Work ..... 81
8.5 Progress and/or Partial Payments ..... 88
8.6 Deduction from Payment ..... 89
8.7 Final Payment ..... 90
***8.8 Prompt Payment*** ..... 91

**APPENDIX**

Estimate for Change Order ..... 93
Name of Corporation Form ..... 95
Contract Form ..... 96
***Surety Bid Bond Form*** ..... 98
***Surety Performance Bond Form*** ..... 99
***Performance Bond Form*** ..... 101
***Surety Labor and Material Payment Bond Form*** ..... 106
***Labor and Material Payment Form*** ..... 103
***Contractor Acknowledgement Form*** ..... 105
***Surety Acknowledgement Form*** ..... 107
***Certification of Recycled Content*** ..... 109

# SECTION 1--DEFINITIONS

Whenever the following terms or 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:

**Addendum** A written document which may be issued by the Engineer during the bidding period involving changes to the plans and specifications which shall be considered and made a part of the contract.

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

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

**Bid or Proposal** The offer of a bidder submitted in the prescribed manner, to perform at the prices quoted the work specified under the contract within the time prescribed for performance.

***Bid Security*** The security furnished by the bidder as a warranty of good faith that he will enter into a contract with the State and to execute the required bonds covering the work contemplated, if his proposal is accepted.

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

**Board of Land and Natural Resources** The Board of Land and Natural Resources of the State of Hawaii as created by law, also sometimes referred to as the "Board", and acting either directly of through the Department of Land and Natural Resources or the Engineer.

**By or To the Engineer** To avoid cumbersome and confusing repetition of expressions in these specifications, it is provided that whenever the following words or words of like import are used, they shall be understood as if they were followed by the words "by the Engineer" or "to the Engineer", unless the context clearly indicates another meaning: contemplated, required, determined, directed, specified, authorized, ordered, given, designated, indicated, considered necessary, deemed necessary, permitted, reserved, suspended, established, approval, approved, disapproved, acceptable, unacceptable, suitable, accepted, satisfactory, unsatisfactory, sufficient, insufficient, rejected or condemned.

**Calendar day** Any day shown on the calendar beginning at midnight and ending at midnight the following day. If no designation of calendar or working day is made, "day" shall mean calendar day.

**Change Order** A written order issued by the Engineer 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 completion of the contract. A change order signed by all the parties to the contract constitutes a supplemental agreement.

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

**Contract** The written agreement between the Contractor and the State of Hawaii, by which the Contractor is bound to furnish all labor, equipment, and materials and to perform the specified work within the contract time stipulated, and by which the State of Hawaii is obligated to compensate the Contractor therefor at the prices set forth therein. The contract shall include the Notice to Contractors, Addenda, Proposal, Wage Schedule, List Of Subcontractors, General Conditions, Special Provisions, Plans, Technical Specifications, Contract Bonds and also any and all amendments and change orders which are required to complete the construction in an acceptable manner.

**Contract Time** The number of working or calendar days provided in the contract for completion of the contract, exclusive of authorized time extensions. The number of days shall begin running on the effective date in the Notice to Proceed. If in lieu or providing a number of working or calendar days, the contract requires completion by a certain date, the work shall be completed by that date.

**Contractor** Any individual, partnership, firm, corporation or joint venture, or other legal entity undertaking the execution of the work under the terms of the contract with the State of Hawaii, and acting directly or through his, their or its agents, or employees.

**Department** The Department of Land and Natural Resources, a body corporate of the State of Hawaii acting under the administrative direction of the Board of Land and Natural Resources.

**Division of Water and Land Development** An operating division of the Department of Land and Natural Resources.

**Engineer** The Manager-Chief Engineer of the Division of Water and Land Development, acting either directly or through authorized assistants.

**Equal or Approved Equal** Whenever this term is used in the plans and/or specifications this shall be interpreted to mean a brand or article in accordance with Subsection 6.3 "SUBSTITUTION OF MATERIALS AND EQUIPMENT" which may be used in place of the one specified.

**Holidays** The days of each year which are set apart and established as State holidays pursuant to Chapter 8, H.R.S.

**Inspector** Authorized assistant or representative of the Engineer assigned to make detailed inspections of contract performance and materials supplied.

**Laws** All Federal, State, City and County Laws, ordinances rules and regulations, and standard specifications, including any amendments thereto effective as of the date of the call for sealed tenders.

**Liquidated Damages** The amount prescribed in the General Conditions, Subsection 7.22 "FAILURE TO COMPLETE THE WORK ON TIME" to be paid to the State or to be deducted from any payments due or to become due the Contractor for each working day or calendar day (as applicable) delay in completing the whole or any specified portion of the work beyond the contract time allowed in the contract.

**Letter of Award** A written notice from the Board to the successful bidder(s) stating that his proposal has been accepted by the State.

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

**Notice to Proceed** A written notice from the Board to the Contractor advising him of the date on which he is to begin the prosecution of the work, which date shall also be the beginning of contract time.

**Notice of Final Settlement** A written notice published in a newspaper of general circulation, when the Board has determined and certified to the amount deemed by him to be due to or from the Contractor after the work called for by the contract is fully completed although full payment is not then made and the amount may be subject to change.

**Plans** The contract drawings, which show the location, character, dimensions and details of the work to be done and which shall be a part of the contract.

**Post Contract Drawings** Drawings issued after the award of the contract for the purpose of clarification and/or change to the work indicated in the original plans and which shall be made a part of the contract.

**Project Contract Limits** The portion of the site as delineated on the plans which define the Contractor's primary area of operation for the prosecution of the work. It does not define the exact limits of all construction that may be required under the contract.

**Project Guarantee** A guarantee issued by the Contractor to the State warranting against defects resulting from the use of defective materials or equipment and poor workmanship.

**Proposal Form** The form prepared by the Department on which the written offer or formal bid for the work to be done is submitted by the bidder.

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

**Special Provisions** The specific clauses setting forth conditions or requirements peculiar to the individual project under consideration, which are not thoroughly or satisfactorily stipulated in these specifications.

**Specifications** The directions, provisions and requirements, as contained in these General Conditions, addenda, special provisions, technical specifications, and change orders, pertaining to the method and manner of performing the work and the quantities and quantities of materials to be furnished under the contract.

**State** The State of Hawaii acting through its authorized representative.

*Subcontractor An individual, partnership, firm, corporation, joint venture or other legal entity, as covered in Chapter 444, Hawaii Revised Statutes, which enters into an agreement with the Contractor to perform a portion of the work for the Contractor.*

**Superintendent** The *employee* of the Contractor, authorized to receive and fulfill instructions from the Engineer, who is charged with the responsibility of all work.

**Surety** The individual, firm or corporation other than the Contractor, which executes a bond with and for the contractor to insure his acceptable performances of the contract.

**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.

**Working day** A calendar day, exclusive of Saturdays, Sundays and State-recognized legal holidays, on which weather and conditionsnot under the control of the Contractor will permit construction operations to proceed for at least six (6) hours or the day with the normal working force engaged in performing the controlling item(s) of work in progress at the time, as determined by the Engineer.

## SECTION 2--PROPOSAL REQUIREMENTS AND CONDITIONS

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

In accordance with Section *103D-310*, Hawaii Revised Statutes, each prospective bidder must file a written notice of his intention to bid. This written notice must be addressed to the Manager-Chief Engineer, Division of Water and Land Development, who is the officer charged with letting the contract. The words, "intention to bid" must be clearly written or typed on the face of the envelope containing the written notice of intention to bid. The notice may be handcarried, mailed or sent by telephone facsimile to the office or telephone facsimile number indicated in the Notice to Contractors.

In either case, the written notice must be received in the above office no later than 2:00 p.m. on the *10*th calendar day prior to the day designated for opening bids. If the *10*th calendar day prior to the day designated for opening bids is a Saturday, Sunday, or legal State holiday, then the written notice must be received by the State no later than 2:00 p.m. on the last working day immediately prior to said Saturday, Sunday, or legal State holiday. The written notice will be time stamped when received by said office. The time designated by the time stamping device in said office shall be official. If the written notice is handcarried, then the bearer is responsible to ensure that the notice is time stamped by said office.

It is the responsibility of the prospective bidder to ensure that the written notice of intention to bid is received in time and the State assumes no responsibility for failure of timely delivery caused by the prospective bidder or by any method of conveyance chosen by the prospective bidder.

If two (2) or more prospective bidders desire to bid jointly as a joint venture on a single project, they must file an affidavit of joint venture with their notice of intention to bid. Such affidavit of joint venture will be valid only for the specific project for which it is filed. No further license is required when all parties to the joint venture possess current and appropriate contractor's licenses. Joint ventures are

required to be licensed in accordance with Chapter 444 of the Hawaii Revised Statutes, as amended, and the rules and regulations of the Contractor's License Board when any party to the joint venture agreement does not hold a current or appropriate to the contractor's license. *The joint venture must register with the office of the Director of Commerce and Consumer Affairs in accordance with Chapter 425 of the Hawaii Revised Statutes, as amended.*

A written notice of intention to bid must be filed for all construction of buildings, roads, other field construction work or other public works and in conjunction therewith, the furnishing and installing of furniture, equipment, appliances, material and any combination of these items where to do such work requires a contractor's license under Chapter 444 of the Hawaii Revised Statutes, as amended, and the rules and regulations of the Contractor's License Board. A written notice of intention to bid need not be filed for the mere furnishing and installing of furniture, equipment, appliances, material and any combination of these items when a contractor's license is not required under Chapter 444 of the Hawaii Revised Statutes, as amended, and the rules and regulations of the Contractor's License Board.

*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 any payment owned to the State of Hawaii or any of its political subdivisions or is in default of any obligations to the State of Hawaii or to any of its political subdivisions, including default as a surety or failure to perform faithfully and diligently any previous contract with the State.*

*Any person, firm or corporation that submits a Notice of Intention to Bid must submit along with said Notice of Intention to Bid a current statement or certificate from the Director of Taxation to the effect that all delinquent taxes levied or accrued under State statutes against said person, firm or corporation have been paid, and any other evidence requested by and acceptable to the contracting officer to demonstrate that the prospective bidder is not in default of any obligations due to the State or any of its political subdivisions.*

**Any person, firm or corporation that is not presently doing business in the State of Hawaii and submits a Notice of Intention to bid must submit along with said Notice of Intention to Bid a certified letter stating that said person, firm or corporation is not doing business in the State of Hawaii and is not in default of any obligations due to the State or any of its political subdivisions.**

*The required tax certificate or certified letter must be filed along with the bidder's Notice of Intention to Bid.*

*Failure to submit the required tax certificate or certified letter will be sufficient grounds for the State to refuse to receive or consider the prospective bidder's proposal.*

The Engineer may, in accordance with Section *103D-310* Hawaii Revised Statutes, require the prospective bidder to submit answers to question contained in the "Standard Qualification Questionnaire for Prospective Bidders on Public Works Contracts", on the form provided by the Department, properly executed and notarized, setting forth a complete statement of the experience of such prospective bidder and his 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, at least forty-eight (48) hours prior to the time advertised for the opening of bids. If the information in the questionnaire proves satisfactory, the bidder's proposal will be received. All information contained in the answers to the questionnaire shall be kept confidential. The questionnaire will be returned to the bidder after it has served its purpose.

If upon review of the Questionnaire, or otherwise, the bidder appears not fully qualified or able to perform the intended work, the Engineer shall, after affording the 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 to consider any bid offered by the prospective bidder.

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

**2.2 INTERPRETATION OF QUANTITIES IN BID SCHEDULE**--When quantities for individual items of work are listed in the proposal form for which respective unit prices are asked, said quantities are to be considered as approximate and are to be used by the Department only for the purpose of comparing on a uniform basis bids offered for the work. The Department does not, expressly or by implication, agree that the actual quantity of work will correspond therewith. The undersigned agrees that he is satisfied with and will at no time dispute said estimated quantities as a means of comparing the bids.

After determining the low bidder by comparison of bids submitted in accordance with the proposal form and Subsection 3.1--"CONSIDERATION OF PROPOSALS" in these specifications, the State reserves the right to increase or decrease the scope of the improvement, subject to the provisions of Subsection 4.2--"CHANGES AND CLAIMS FOR ADJUSTMENT".

On unit price bids, payment will be made only for the actual number of units incorporated into the finished project at the unit price bid.

It is understood and agreed that the contractor will make no claim for anticipated profit or loss of profit due to the Department's right to eliminate entirely portions of the work or to increase or decrease any or all of the quantities shown in the proposal form.

**2.3 CONTENTS OF PROPOSAL FORMS**--Prospective bidders will be furnished with proposal forms giving the location, description, and the contract time of the work contemplated for which a lump sum bid price is asked or containing a schedule of items, together with estimated quantities of work to be performed and materials to be furnished, for which unit bid prices and/or lump sum bid prices are asked.

*Proposal forms will also include a listing of joint contractors and/or subcontractors indicating the name of each person or firm to be engaged on the project as a joint contractor or subcontractor along with their contractor's license number. The prime contractor is responsible for verifying that their joint contractors or subcontractors have the proper license at the time of submittal of the bid.*

All papers bound with or attached to the proposal form shall be considered a part thereof and shall not be detached or altered when the proposal is submitted.

The plans, specifications and other documents designated in the proposal form, will also be considered a part thereof whether attached or not.

**2.4 BIDDERS RESPONSIBILITY FOR EXAMINATION OF PLANS, SPECIFICATIONS, SITE OF WORK, ETC.**-- The bidder shall examine carefully the site of work contemplated and the proposal, plans, specifications, supplemental specifications, special provisions and contract and bond forms therefore. The submission of a bid shall be considered as a warranty that the bidder has made such examination and is satisfied with the conditions to be encountered in performing the work and with the requirements of the plans, specifications, supplemental specifications, special provisions, contract and bonds.

No extra compensation will be given by reason of the Contractor's misunderstanding or lack of knowledge of the requirements of the work to be accomplished in performing the project.

Where an investigation of subsurface conditions has been made by the Department in respect to foundation or other design, the bidders may inspect the records of the Department as to such investigation, including examination of samples, if any, at the office of the Manager-Chief Engineer, Division of Water and Land Development, Honolulu, Hawaii. It is understood, however, that any such information furnished is for the bidders' convenience only and no assurance is given that conditions found at the time of the subsurface investigation, such as the presence or absence of water, will be conditions that prevail at the time of construction.

When the contract plan includes a log of test borings showing a record of the data obtained by the Department's investigation of subsurface conditions, said log represents only the opinion of the Department as to the character of material encountered by it in its test borings and there is no warranty, either expressed or implied, that the conditions indicated are representative of those existing throughout the work or any part of it, or that unforeseen developments may not occur.

Information regarding the site of the work given on the drawings or specifications has been obtained by the Department and is believed to be reasonably correct. However, it is the responsibility of the bidder to verify all such information. *During the progress of the work, if the Contractor encounters conditions at the site differing from those shown in the plans and specifications, he shall promptly, and before any such conditions are disturbed or damaged, notify the Engineer of:*

*a. Subsurface or latent physical conditions at the site differing materially from those indicated in the contract; or*

*b. Unknown physical conditions at the site, of an unusual nature differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this contract.*

*After receipt of such notice, the Engineer shall promptly investigate the site, and if it is found that such conditions do materially so differ and cause an increase in the contractor's cost of, or the time required for, performance of any part of the work under this contract, whether or not changed as a result of such conditions, 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 Subsection 4.2a "PRICE ADJUSTMENT".*

*Nothing contained in this clause shall be grounds for an adjustment in compensation if the contractor had actual knowledge*

*of the existence of such conditions prior to the submission of bids.*

At the time of opening of bids, each bidder will be presumed to have conducted a detailed inspection of the project site, to have read and to be familiar with the Plans, Specifications and other contract documents, including all Addenda. The failure or omission of any bidder to thoroughly inspect the site or to receive or examine any form, instrument or document shall in no way relieve him from any obligation regarding his bid.

The bidder acknowledges that he has investigated and satisfied himself as to the conditions affecting the project site. These conditions include but are not limited to, those bearing on transportation, access, roads, uncertainties of weather, river stages, tides, underwater topography and similar physical conditions at the site. The bidder further acknowledges that he has satisfied himself as to the character, quality and quantity of surface and subsurface materials or obstacles to be encountered insofar as is reasonably ascertained from an inspection of the site and information presented in the Plans, Specifications and other contract documents, including all Addenda.

The failure of the bidder to acquaint himself with the available information will not relieve him from responsibility for estimating the difficulty or cost of successfully performing the work, nor will the bidder be relieved of his obligations to furnish all materials, labor, equipment and incidentals necessary to perform the work set forth in his bid and to perform his contract, if awarded to him.

Any utilities that the Contractor encounters during the progress of the work, such as telephone ducts, electric ducts, water lines, sewer lines, electric lines and drainage pipes, whether shown or not on the contract plans, shall not be disturbed or damaged unless otherwise instructed in the plans and specifications.

In the event the utilities are damaged or disturbed by the Contractor, the Contractor shall be held liable for the damaged or disturbed utilities which were:

a. Shown on the plan.

b. Located and exposed on the job as it progressed.

c. Pointed out to the Contractor in the field.

The contractor shall repair the damaged or disturbed utilities to the existing condition at no cost to the State or the project. Any damage claims due to the disruption of service

caused by the utilities being damaged shall be paid by the Contractor who shall save harmless the State from all suits, actions or claims of any character brought on account of such damages.

In the event utilities which were not shown on the plans and specifications are damaged or disturbed by the Contractor, the Contractor shall not be held liable but shall notify the Engineer. Upon instruction from the Engineer, the Contractor shall repair all damages which shall be considered to be additional work as covered by Subsection 4.2b "ADDITIONAL WORK".

Utilities which must be relocated due to construction and not so indicated in the plans and specifications shall also be considered to be additional work as covered by Subsection 4.2b "ADDITIONAL WORK". The Contractor shall not in any case, if he encounters underground utilities, proceed with any work until he has notified the Engineer.

**2.5 ADDENDA AND INTERPRETATIONS**--Discrepancies, omissions, or doubts as to the meaning of drawings and specifications should be communicated in writing to MANAGER-CHIEF ENGINEER, DIVISION OF WATER AND LAND DEVELOPMENT, P.O. BOX 373, HONOLULU, HAWAII, 96809 for interpretation and must be received by the Division of Water and Land Development no later than fourteen (14) calendar days prior to the date fixed for bid opening. Any interpretation, if made, and any supplemental instructions will be in the form of written addenda to the plans and specifications, which will be mailed to all prospective bidders at the respective addresses furnished for such purposes, eight (8) calendar days prior to the date fixed for the opening bids. Failure of any bidder to receive any such addendum or interpretation shall not relieve such bidder from any obligation under his bid as submitted. All addenda so issued shall become part of the contract documents.

**2.6 PREPARATION OF PROPOSAL**--The bidder's proposal must be submitted on the proposal form furnished by the Department. The proposal must be prepared in full accordance with the instructions thereon. The bidder must state, both in words and numerals, the lump sum price at which the work contemplated is proposed to be done. These prices must be written in ink or typed. Prices written in pencil are not acceptable. In case of a discrepancy between the prices written in words and those written in figures, the words shall govern over the figures. The bidder shall sign the proposal in the spaces provided with ink.

If the proposal is made by an individual, his name and post office address must be shown in the space provided. If made by a partnership the name and post office address of each member of

the partnership must be shown and the proposal signed by all partners or evidence in the form of a partnership agreement must be submitted showing the authority of the partner to enter, on behalf of said partnership, into contract with the State. If made by a corporation the proposal must show the name, titles, and business address of the president, secretary and treasurer and also evidence in the form of a corporate resolution must be submitted showing the authority of the particular corporate representative to enter on behalf of said corporation into contract with the State. (See sample in Appendix.) If made by a joint venture the name and post office address of each member of the individual firm, partnership or corporation comprising the joint-venture must be shown with other pertinent information required of individuals, partnerships or corporations as the case may be. The proposal must be signed by all parties to the Joint-Venture or evidence in the form of a Joint-Venture Agreement must be submitted showing the authority of the Joint Venture's representative to enter on behalf of said Joint Venture into contract with the State.

Pursuant to the requirements of Section *103D-302*, Hawaii Revised Statutes, each bidder shall include in his bid the name of each person or firm to be engaged by the bidder on the project as joint contractor or subcontractor indicating also the nature and scope of work to be performed by such joint contractor and/or subcontractor.

**2.7** ***BID SECURITY***--No proposal ***estimated by the State to total more than $25,000*** will be considered unless accompanied by one of the following:

a. ***Surety bid bond underwritten by a company licensed to issue bonds in this State (See Standard Form in Appendix); or***

b. ***Legal Tender; or***

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

   *1) These instruments may be utilized only to a maximum of $100,000.*

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

*CAUTION--Bidders are cautioned that certificates of deposit or share certificates with an early withdrawal penalty must have a face value sufficient to cover the maximum penalty amount in addition to the proposal guaranty requirement. Also if the certificate is made out to two names, the certificate must be assigned unconditionally to the Comptroller, State of Hawaii.*

*Unless otherwise stated, the bid security shall be at least five (5) percent of the bid amount.*

If the bidder is a corporation, evidence in the form of a corporate resolution, authorizing the corporate representative to execute the bond must be submitted with the proposal. (See sample in Appendix.) If the bidder is a partnership, all partners must sign the bond or evidence in the form of a partnership agreement must be submitted showing the authority of the partner.

If the bidder is a joint venture, all parties to the joint venture must sign the bond or evidence in the form of a joint-venture agreement must be submitted showing the authority of the bidder to sign the bond on behalf of the joint-venture.

In the case where the award will be made on a group or item basis, the amount of *bid security* shall be based on the total bid for all groups or items submitted.

*Bidders are cautioned that surety bid bonds which place a limit in value to the difference between the bid amount and the next acceptable bid, such value not to exceed the purported amount of the bond, are not acceptable. Also, surety bid bonds which place a time limit on the right of the State to make claim other than allowed by statutes or these GENERAL CONDITIONS are not acceptable. Bidders are hereby notified that a surety bid bond containing such limitation(s) is not acceptable and a bidder's bid accompanied by such surety bid bond will be automatically rejected.*

**2.8 DELIVERY OF PROPOSALS**--The entire proposal shall be placed together with the **bid security**, in a sealed envelope no smaller than 9-1/2" x 12", so marked as to indicate the identity of the project, the project number, the date of bid opening and the name and address of the bidder and then delivered as indicated in the Notice to Contractors. Bids which do not comply with this requirement may not be considered. Proposals will be received up to the time fixed in the public notice for opening of bids and must be in the hands of the official **by the time indicated.** The words "SEALED BID" must be clearly written or typed on the face of the sealed envelope containing the proposal and bid security.

**2.9 WITHDRAWAL OR REVISION OF PROPOSALS**--*Offers may be modified or withdrawn prior to the deadline for submittal of offers by the following documents:*

a. *Withdrawal of offers:*

1. *A written notice received in the office designated in the solicitation; or*

2. *A written notice faxed to the office designated in the solicitation; or*

3. *A telegraphic message received by telephone by the office designated in the solicitation from the receiving telegraph company office, provided the telegraph company confirms the telephone message by sending a written copy of the telegram showing that the message was received at such office prior to the time and date set for the opening.*

b. *Modification of offers:*

1. *A written notice received in the office designated in the solicitation, stating that a modification to the offer is submitted; and*

2. *The actual modifications securely sealed in a separate envelope or container, accompanying the written notice.*

**2.10 PUBLIC OPENING OF PROPOSALS**--Proposals will be opened and read publicly at the time and place indicated in the Notice to Contractors. Bidders, their authorized agents and other interested parties are invited to be present.

**2.11 DISQUALIFICATION OF BIDDERS**--Any one or more of the following causes will be considered as sufficient for the disqualification of a bidder and the rejection of his proposal or proposals:

a. Non-compliance with Subsection 2.1 "QUALIFICATION OF BIDDERS".

b. Evidence of collusion among bidders.

c. Debarment or suspension in accordance with Section 103D-702, Hawaii Revised Statutes.

d. Being in arrears on existing contracts with the State of Hawaii, or having defaulted on a previous contract.

e. Lack of proper equipment and/or sufficient experience to perform the work contemplated, as revealed by the Standard Questionnaire and Financial Statement for Bidders.

f. No contractor's license or a contractor's license which does not cover type of work contemplated.

g. More than one proposal for the same work from an individual, firm, partnership, corporation or joint venture under the same or different name.

h. Delivery of bids after the 2:00 p.m. deadline specified in the advertisement calling for bids.

i. Failure to pay, or satisfactorily settle, all bills overdue for labor and materials of former contracts in force at the time of issuance of proposal forms.

**3.1 CONSIDERATION OF PROPOSALS**--After the proposals are opened and read, the figures will be extended and/or totaled in accordance with the bid prices of the acceptable proposals and the totals will be compared and the results of such comparison shall be made public. *In the event of a tie bid, the low bidder shall be determined by lot*. In the comparison of bids, words written in the proposals will govern over figures and unit prices will govern over totals. Until the award of the contract, however, the right will be reserved to reject any and all proposals and to waive any defects or technicalities as may be deemed best for the interest of the State.

**a. Subcontracting--The Contractor shall perform with his own organization, work amounting to not less than twenty percent (20%) of the total contract cost, except that any items designated by the State in the contract as "specialty items" may be performed by subcontract and the cost of any such specialty items so performed by subcontract may be deducted from the total contract cost before computing the amount of work required to be performed by the Contractor with his own organization.**

**3.2 IRREGULAR PROPOSALS**--Proposals will be considered irregular and may be rejected for the following reasons:

a. If the proposal is unsigned.

b. If *Bid security* is not in accordance with Subsection 2.7 **"BID SECURITY"**.

c. If proposal is on a form other than that furnished by the Department; or if the form is altered or any part thereof detached.

*d. If the proposal shows any non-compliance with applicable law, alteration of form, additions not called, conditional bids, incomplete bids, uninitialed erasures, other defects, or if the prices are obviously unbalanced.*

e. If the bidder adds any provisions reserving the right to accept or reject an award, or to enter into a contract pursuant to an award. This does not exclude a proposal limiting the maximum gross amount of awards acceptable to any one bidder at any one bid letting, provided that any selection of awards will be made by the Department.

f. When a proposal is signed by an officer or officers of a corporation and a currently certified corporate resolution authorizing such signer(s) to submit such proposal is not submitted with the proposal or when the proposal is signed by an agent other than the officer or officers of a corporation or a member of a partnership and a power of Attorney is not submitted with the proposal.

g. Where there is an incomplete or ambiguous listing of joint contractors and/or subcontractors the proposal may be rejected. All work which is not listed as being performed by joint contractors and/or subcontractors must be performed by the bidder with his own employees. Additions to the list of joint contractors or subcontractors will not be allowed. Whenever there is a doubt as to the completeness of the list, the bidder will be required to submit within five (5) working days, a written confirmation that the work in question will be performed with his own work force. Whenever there is more than one joint contractor and/or subcontractor listed for the same item of work, the bidder will be required to either confirm in writing within five (5) working days that all joint contractors or subcontractors listed will actually be engaged on the project or obtain within five (5) working days written releases from those joint contractors and/or subcontractors who will not be engaged.

**3.3 AWARD OF CONTRACT**--The award of contract, if it be awarded, will be made within sixty (60) consecutive calendar days after the opening of the proposals to the lowest responsible *and responsive* bidder (including the alternate or alternates which may be selected by the Engineer in the case of alternate bids) whose proposal complies with all the requirements prescribed, but in no case will an award be made until all necessary investigations are made. The successful bidder will be notified, by letter mailed to the address shown on the proposal, that his bid has been accepted and that he has been awarded the contract.

No contract will be awarded to any person or firm suspended under the provisions of Chapter 103D-702, Chapter 104 and Chapter 444, Hawaii Revised Statutes as amended.

The contract will be drawn on the forms shown in the Appendix, which will be furnished by the Engineer.

**3.4 CANCELLATION OF AWARD**--The Department reserves the right to cancel the award of any contract at any time before the execution of said contract by all parties without any liability to the awardee and to any other bidder.

**3.5 RETURN OF BID SECURITY**--All **bid securities**, except those of the four (4) lowest bidders, will be returned following the opening and checking of the proposals. The retained **bid securities** of the remaining two (2) lowest bidders will be returned within five (5) working days following the execution of contract. The successful bidder's **bid security** will be returned after a satisfactory contract bond has been furnished and the contract has been executed.

**3.6** ***REQUIREMENT OF PERFORMANCE AND PAYMENT BONDS**--Performance and Payment Bonds shall be required for contracts exceeding $25,000.* At the time of the execution of the contract, the successful bidder shall file good and sufficient ***performance and payment bonds*** on the form furnished by the Department (see Appendix), ***each in an amount equal to one hundred percent (100%) of the amount of the contract price unless otherwise stated in the solicitation of bids. Acceptable performance and payment bonds shall be limited to the following:***

*a. Surety bond underwritten by a company licensed to issue bonds in this State; or*

*b. Legal Tender; or*

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

*1) These instruments may be utilized only to a maximum of $100,000.*

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

*If the contractor fails to deliver the required performance and payment bonds, the contractor's award shall be cancelled, its bid security enforced and award of the contract shall be made to the next lowest bidder.*

**3.7 EXECUTION OF THE CONTRACT**--*The contract shall be signed by the successful bidder and returned, together with satisfactory performance and payment bonds, within ten (10) calendar days after the bidder is awarded the contract for execution or within such further time as the Manager-Chief Engineer may allow.* No proposal or contract shall be considered binding upon the State until the contract has been fully and properly executed by all parties thereto and the Comptroller of the State has endorsed thereon his certificate, as required by Section *103D-309*, Hawaii Revised Statutes, that there is an available unexpended appropriation or balance of an appropriation over and above all outstanding contracts sufficient to cover the State's amount required by such contract.

On any individual award totalling less than *$25,000.00*, the State reserves the right to execute the contract by the issuance of a State Purchase Order. Acceptance shall result in a binding contract between the parties without further action by the State. Executing the contract Purchase Order shall not be deemed a waiver of these specification requirements.

**3.8 FAILURE TO EXECUTE THE CONTRACT**--If the Bidder to whom a contract is awarded shall fail or neglect to enter into the contract and to furnish satisfactory security within ten (10) calendar days after such award or within such further time as the Manager-Chief Engineer may allow, the award shall be cancelled

and the *bid security* shall be declared forfeited. The *bid security* shall thereupon become a realization of the State, not as a penalty, but in liquidation of the damages sustained. The Board may thereupon award the contract to the next lowest responsible bidder or may call for new bids, whichever method he may deem is to the best interest of the State.

**3.9 NOTICE TO PROCEED**--After the contract is fully executed and signed by the Engineer, the Contractor will be sent a formal "Notice to Proceed" advising the Contractor of the date on which he may proceed with the work. The Contractor shall be allowed ten (10) consecutive working days from said date to begin his work. In the event that the Contractor refuses or neglects to start the work, the Engineer may terminate the contract in accordance with Subsection 7.23. **"TERMINATION OF CONTRACT".**

The Contractor may commence his operations prior to receipt of a formal notice to proceed, **provided he makes a written request and receives approval from the Engineer in writing.** All work performed shall be conducted in accordance with Subsection 7.1 "PROSECUTION OF THE WORK".

**In certain cases, the State, with agreement of the Contractor, may issue a "Notice to Proceed" before full execution of the contract and concurrently with the notice of "Award".**

**In the event the Notice to Proceed is not issued within 180 days after the opening date of the proposals, the Contractor may submit a claim for increased labor, material and overhead costs which are directly attributable to the project. Such claims shall be accompanied with the necessary documentation to justify the claim.**

## SECTION 4--SCOPE OF WORK

**4.1 INTENT OF CONTRACT**--The intent of the contract is to provide for the construction, complete in every detail, of the work described. The Contractor shall furnish all labor, materials, equipment, tools, transportation and supplies required to complete the work in accordance with the plans, specifications and terms of the contract.

**4.2 CHANGES AND CLAIMS FOR ADJUSTMENT**--The Engineer may at any time, during the progress of the work, by written order, and without notice to the sureties, make changes in the drawings and/or specifications of the contract as may be found to be necessary or desirable. Such changes shall not invalidate the contract or release the surety, and the Contractor agrees to accept the work as changed, as though it had been a part of the original contract.

Unless changes in drawings and/or specifications substantially change the type of the work to be performed or the cost thereof, the altered work shall be performed as a part of the contract and will be paid for at the same contract prices as for other parts of the work.

Any changes will be set forth in a change order. Upon receipt of a change order, the Contractor shall proceed with the changes as ordered. If the Contractor does not agree with any of the terms or conditions or with the amount of the reduction in cost or extra cost to the State provided for in the order, he shall file with the Engineer a written protest setting forth his reasons in detail within *thirty (30) calendar* days after receipt of the change order. The protest shall be determined as provided in Subsection 7.21 **"DISPUTES AND CLAIMS"**; but nothing provided in this clause shall excuse the Contractor from proceeding with the prosecution of the work as changed. Failure to file such protest within the time specified shall constitute agreement on the part of the Contractor with the terms, conditions and amount in the change order.

No claim shall be made by the Contractor for any loss of anticipated profits because of any such changes.

a. *Price Adjustment - Any adjustment in the contract price pursuant to a change or claim in this contract shall be made in one or more of the following ways:*

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

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

3. *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;*

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

5. *In the absence of agreement between the parties, by a unilateral determination by the Engineer of the costs attributable to the event or situation covered by the clause, plus appropriate profit or fee, all as computed by the generally accepted accounting principles and applicable sections of chapters 3-123 and 3-126 of the Procurement Code - Interim Rules and Regulations.*

b. Additional Work--New and unforeseen work will be classed as additional work when determined by the contract. In the event portions of such work are determined by the Engineer to be covered by the contract, the remaining portion of such work will be classed as additional work. Additional work also includes work specifically designated as additional or extra work in the plans or specifications. The Contractor shall do such additional work and furnish labor, material and equipment therefor upon receipt of an approved change order or other approved written order of the Engineer; and in the absence of such approved change order or other approved written order of the Engineer, he shall not be entitled to payment for such additional work. Where such additional work is ordered by a written order other than a change order, the Engineer will as soon as practicable issue a change order therefor, compensation for this change order shall be determined as follows:

1. The Contractor shall carefully examine the additional work requested and submit detailed cost breakdowns for material, equipment and labor for the Engineer's approval within **ten (10) consecutive working days** in such written requests or as allowed by the Engineer in a format similar to the one shown in the Appendix. If the project is delayed because of failure on the part of the contractor to submit the cost breakdown within **ten (10) consecutive working days** or as allowed by the Engineer, liquidated damages will be assessed in accordance with Subsection 7.22 **"FAILURE TO COMPLETE THE WORK ON TIME"**.

2. When the total increase in costs does not exceed *fifteen* percent *(15%)* of the original contract price, the adjustment in lump sum price may, at the discretion of the Engineer, be based on the breakdown cost submitted in conformance with Subsection 7.2. "COMMENCEMENT REQUIREMENTS". If the breakdown cost is not used, the adjustment in payment shall be mutually agreed by the Contractor and Engineer *as provided in Subsection 4.2a. "PRICE ADJUSTMENT"*.

3. When the total increases in costs exceed *fifteen* percent *(15%)* of the original contract price, the adjustment in payment for the cost in excess of *fifteen* percent *(15%)* shall be mutually agreed to by the Contractor and Engineer.

4. Should the contractor fail to submit his estimated cost breakdown as requested in Subsection *4.2b.1* **within ten (10) consecutive working days** or if the Engineer finds the estimate or time required to perform the work unreasonable and is unable to reach a mutual agreement, he shall have the right to perform the work on a cost plus basis or by force account as outlined in Subsection 8.4.b. or proceed with the work under a change order based on the Engineer's estimates.

   If the Contractor does not agree with any of the terms or conditions or with the amount of the extra cost to the State provided for in the order, he shall file with the Engineer a written protest setting forth his reasons in detail within *thirty (30) calendar* days after receipt of the change order. The protest shall be determined as provided in Subsection 7.21 **"DISPUTES AND CLAIMS"**; but nothing provided in this clause shall excuse the Contractor from proceeding with the prosecution of the work as changed and refusal to proceed

diligently with the work shall be sufficient reason for termination of the contract in accordance with Subsection 7.23 **"TERMINATION OF CONTRACT"**. *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. Decreased or Deleted Work--Should it become necessary for the best interest of the State to decrease or delete a portion of the work called for in the contract, a change order shall be issued and a rebate for this change order shall be as outlined as follows:

1. The Contractor shall carefully examine the decreased or deleted work and submit detailed cost breakdowns for applicable reductions in material, equipment and labor, **and for reduction in time, to** the Engineer **for** approval **within ten (10) consecutive working days,** in such written requests or **as** allowed by the Engineer in a format similar to the one shown in the Appendix. **Equitable price adjustments shall also include credits for overhead and profit.** If the project is delayed because of failure on the part of the contractor to submit the cost breakdown **within ten (10) consecutive working days,** liquidated damages will be assessed in accordance with Subsection 7.22 **"FAILURE TO COMPLETE THE WORK ON TIME"**.

2. When the total decrease in costs does not exceed *fifteen* percent *(15%)* of the original contract price, the reduction in lump sum price may, at the discretion of the Engineer, be based on the breakdown cost submitted in conformance with Subsection 7.2 **"COMMENCEMENT REQUIREMENTS"**. If the breakdown cost is not used, the adjustment in payment shall be mutually agreed by the Contractor and Engineer.

3. When the total decreases in costs exceed *fifteen* percent *(15%)* of the original contract price, the reduction in payment for the cost over *fifteen* percent *(15%)* shall be mutually agreed to by the Contractor and Engineer.

4. Should the contractor fail to submit his estimated cost breakdown requested in Subsection *4.2c. 1.* within **ten (10) consecutive working days** or if the Engineer finds the estimate or reduction in time required to perform the work unreasonable and is unable to reach a mutual agreement, he shall have the right to compute the reduction as if the work

involved was performed on a force account basis as outlined in Subsection 8.4 b. or proceed in decreasing or deleting the work under a change order based on the Engineer's estimates.

If the contractor does not agree with any of the terms or conditions or with the amount of the reduction in costs to the State provided for in the order; he shall file with the Engineer a written protest setting forth his reasons in detail within ***thirty (30) calendar*** days after receipt of the change order. The protest shall be determined as provided in Subsection 7.21 **"DISPUTES AND CLAIMS"**; but nothing provided in this clause shall excuse the Contractor from proceeding with the prosecution of the work as changed and refusal to proceed diligently with the work shall be sufficient reason for termination of the contract in accordance with Subsection 7.23. Failure to file such protest within ***thirty (30) calendar days*** shall constitute agreement on the part of the contractor with the terms, conditions and amount in the change order. Should any contract item of the work be deleted by the Engineer in its entirety, in the absence of the contract change order covering such deletion, payment will be made to the contract for actual and direct costs, including a reasonable overhead incurred in connection prior to the date of notification in writing by the Engineer of such deletion, except as hereinafter provided for costs of handling materials.

If acceptable material is ordered by the contractor for the deleted item prior to the date of notification of such deletion by the Engineer and if orders for such material cannot be cancelled, it will be paid for at the actual cost to the contractor, including a reasonable overhead. In such case, the material paid for shall become the property of the State and the cost of any further handling will be paid for as additional work provided in Subsection 4.2b. If the material is returnable to the vendor and the Engineer so directs, the material shall be returned and the contractor will be paid for charges made by the vendor for returning the material, excluding any markup for overhead and profit to the Contractor. The cost of handling returned material will be paid for as additional work as provided in Subsection 4.2b.

d. *Variations in Estimated Costs - Where the quantity of a pay item in this contract is an estimated quantity and where the actual quantity of such pay item varies more than fifteen percent (15%) above or below the estimated quantity stated in this contract, an adjustment in the contract price shall be made upon demand of either party. The adjustment shall be based upon any increase or decrease in costs due solely to the variation above one hundred fifteen percent (115%) or below eighty five percent (85%) of the estimated quantity as provided in 4.2b and 4.2c. If the quantity variation is such as to cause an increase in the time necessary for completion, the Engineer shall, upon receipt of a timely written request for an extension of time, prior to the date of final settlement of the contract, ascertain the facts and make such adjustment for extending the completion date as in the judgement of the Engineer the findings justify.*

e. *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.*

## SECTION 5--CONTROL OF WORK

**5.1 AUTHORITY OF THE ENGINEER**--The Engineer shall decide all questions which may arise relating to the quality and acceptability of the materials furnished and work performed, the manner of performance and rate of progress of the work, the interpretation of the plans and specifications, the acceptable fulfillment of the contract on the part of the Contractor, the compensation under the contract and the mutual rights of the parties to the contract. His decisions upon all questions shall be final and conclusive.

The Engineer shall have the authority to enforce and make effective such decisions and orders which the Contractor fails to carry out promptly and diligently.

The Engineer shall have the authority to suspend the work wholly or in part due to the failure of the Contractor to correct conditions unsafe for the workers or the general public; for failure to carry out provisions of the contract; for failure to carry out orders; for such periods as he may deem necessary due to unsuitable weather; for conditions considered unsuitable for the prosecution of the work or for any other condition or reason deemed to be in the public interest.

**5.2 SHOP DRAWINGS AND OTHER SUBMITTALS**

a. Shop Drawings--The Contractor shall prepare, thoroughly check, and submit to the Engineer such shop drawings as required by the contract. Shop drawings for structural steel and millwork shall consist of fabrication details, erection drawings and other working plans necessary to show the details, dimensions, sizes of members, anchor bolt plans and other information necessary for the complete fabrication and erection of the structure to be constructed. The Contractor shall also furnish, where necessary or required or as requested by the Engineer, shop drawings showing information on the details and dimensions for all miscellaneous installations of material or equipment to be furnished and installed by the Contractor.

*At the determination of the Engineer,* the Contractor shall submit *either* one (1) set of reproducible transparency and three (3) sets of ozalid prints *or six (6) sets of ozalid prints* of all shop drawings for approval. Full compensation for furnishing the above sets of shop drawings shall be considered as included in the prices paid for the various contract items of work, and no additional allowances will be made therefor. It is the responsibility of the Contractor to submit shop drawings for approval to the Engineer as required at the earliest possible date after the date of *award* in order to meet the construction schedule. Delays caused by the failure of the Contractor to submit shop drawings on a timely basis so as to allow adequate time for review, will not be considered as justifiable reasons for contract time extension.

It shall be expressly understood that approval by the Engineer of the Contractor's shop drawings does not relieve the Contractor of any responsibility for accuracy of dimensions and details and for agreement and conformity of shop drawings with the contract plans and specifications. It is further understood that the approval by the Engineer of the Contractor's shop drawings, whether general or detailed, is a general approval relating only to their sufficiency and compliance with the intention of the contract. **The Contractor shall clearly identify and inform the Engineer in writing of any deviations from the contract documents at the time of submission and shall obtain the Engineer's written approval to the specified deviation prior to proceeding with any work.** The Contractor, at his own risk and expense, may elect to proceed with the work affected by the shop drawings until such time as approval has been formally granted.

b. Descriptive Sheets--The Contractor shall submit to the Engineer eight (8) complete sets of descriptive sheets such as brochures, catalogs, illustrations, etc., which will completely describe the material, product, equipment, furniture or appliances to be used in the project as shown in the plans and specifications. It is the responsibility of the Contractor to submit descriptive sheets for approval of the Engineer as required at the earliest possible date after the date of *award* in order to meet the construction schedule. Delays caused by the failure of the Contractor to submit descriptive sheets as required will not be considered as justifiable reasons for contract time extension.

c. Material Samples and Color Samples--The Contractor shall submit to the Engineer samples of the materials to be used in the project and color selection samples. It is the responsibility of the Contractor to submit material and color samples for approval as required at the earliest possible date after the date of award in order to meet the construction schedule. Delays caused by the failure of the Contractor to submit material and color samples will not be considered as justifiable reasons for contract time extension.

d. The State will review and return shop drawings and other submittals to the Contractor with appropriate comments within a reasonable time.

**5.3 COORDINATION OF CONTRACT DOCUMENTS**--These General Conditions, drawings, proposals, special provisions, technical specifications, change orders, addenda, and amendments are essential parts of the contract and they are intended to be correlative and to describe and provide for a complete work. Any requirement occurring in one document is as binding as though occurring in all. In the event of conflict or discrepancy the priorities stated in the following subparagraphs shall govern:

a. Addenda shall govern over all other contract documents. Subsequent addenda issued shall govern over prior addenda only to the extent specified.

b. Special Provisions and Proposal shall govern over the General Conditions.

c. Technical Specifications shall govern over drawings.

d. Should an error or conflict appear within the specification, the Contractor shall immediately notify the Engineer. The Engineer shall promptly issue instructions as to procedure. Any requirement occurring in one or more parts of the specifications is as binding as though occurring in all applicable parts.

e. Drawings:

1. General notes shall govern over all other portions of the drawings except as follows:

Bottom elevations of footings shown on plans shall govern over a general note such as: "All footings shall rest on firm, undisturbed soil and extend a minimum of a certain number of feet into natural or finish grade, whichever is lower." In the event the footing must be lowered below the bottom

elevation shown, the Contractor shall be entitled to additional compensation. In the event the footing is raised above the bottom elevation shown, the State shall be entitled to a credit.

2. Schedules shall govern over all other notes and drawings.

3. Larger scale drawings shall govern over smaller scale drawings.

4. Figured or numerical dimensions shall govern over dimensions obtained by scaling. The drawings when scaled shall be subject to the approval of the Engineer.

5. In cases of discrepancies in the figures or drawings, the discrepancies shall be immediately referred to the Engineer without whose decision said discrepancy shall not be corrected by the Contractor save at his own risk and in the settlement of any complications arising from such adjustment without the consent of the Engineer, the Contractor shall bear all extra expense involved.

6. Where there is a conflict between the architectural sheets and the mechanical or electrical or structural sheets, etc., the conflict shall be considered a discrepancy and the Contractor shall immediately refer same to the Engineer for a decision.

7. Any requirement occurring in one or more of the sheets is as binding as though occurring in all applicable sheets. Items shown on the drawings but not described in the specifications are considered to be included in the total scope of work bid and additional compensation will not be provided. The Contractor is to immediately notify the Engineer of any items shown on the drawings for which a specification is required prior to incorporation of such item into the project.

**5.4 INTERPRETATION OF PLANS AND SPECIFICATIONS**--Should it appear that the work to be done or any of the matters relative thereto are not sufficiently detailed or explained in the plans and specifications, the Contractor shall apply to the Engineer for such further explanations as may be necessary and shall conform to same as part of the contract, so far as may be consistent with

the original plans and specifications; and in the event of any doubt or question arising respecting the true meaning of the plans and specifications, reference shall be made to the Engineer whose decision thereon shall be final.

## 5.5 COOPERATION BETWEEN THE CONTRACTOR AND THE DEPARTMENT

a. Plans and Specifications--The Contractor shall have available on the work site, at all times, one copy each of said plans and specifications; he shall give the work the constant attention necessary to facilitate the progress thereof and shall cooperate with the Engineer, his inspectors, and other Contractors in every possible way.

b. Order by the Engineer--Any order given by the Engineer, not otherwise required by the specifications to be in writing, will on request of the Contractor be given or confirmed by the Engineer in writing.

c. Superintendent--*The Superintendent* shall be present at the site of the work at all times, while work is being performed under the contract. **If the Superintendent is not present at the site of work, the Engineer shall have the right to suspend the work as described under Subsection 7.20 "SUSPENSION OF WORK".**

d. Engineering Work--The Contractor shall, subject to approval of the Engineer, properly and accurately lay out the work, perform all engineering work, and furnish all engineering materials and equipment required to establish and maintain all lines and grades called for in the plan or required in the progress of construction, unless otherwise noted in the specifications. The Contractor will be held definitely and absolutely responsible for any errors in lines, grades or elevations and shall at once, on instruction from the Engineer, correct and make good such errors or any errors, or faults in the work resulting from errors in engineering performed under the requirements of his contract to the entire satisfaction of the Engineer. Full compensation for the work shall be included in the prices paid for contract items of work. No additional allowance will be made for the correction of incorrect engineering work.

The Engineer shall furnish the requisite bench elevations and shall indicate to the Contractor the

lines and dimensions required by the plans. He will also check and pass upon all engineering work as described above, and his decision as to what work is required, the methods to be employed and the satisfactory performance of the same shall be final.

The Contractor shall verify all lines, levels, and elevations indicated on the drawings before any excavation, or construction begins. Any discrepancy shall be immediately brought to the attention of the Engineer, and any change shall be made in accordance with his instruction.

All lines and grades shall be verified and established by a licensed surveyor or civil engineer.

e. Use of Structure--The Department shall have the right, at any time during construction of the structure or structures, to enter same for the purpose of installing by government labor or by any other Contractor any necessary work in connection with the installation of facilities, it being mutually understood and agreed, however, that the Contractor and the Department will, so far as possible work to the mutual advantage of both, where their several works in the above mentioned or in unforeseen instances touch upon or interfere with each other. The Engineer shall allocate the work and designate the sequence of construction in case of controversy between Contractors on separate projects under State jurisdiction.

The Department shall also have the right to use the structure, equipment or any part thereof, at any time after it is considered by the Engineer as available. In the event that the structure, equipment or any part thereof is so used, the State shall be responsible for all expenses incidental to such use and any damages resulting therefrom.

Equipment warranty will be assumed by the State upon beneficial occupancy.

If the Department enters the structure for construction and/or occupancy and the Contractor is delayed because of interference by the Department or by extra work resulting from damage which the Contractor is not responsible for, the Contractor shall be granted an extension of time in accordance with Subsection 7.18 "CONTRACT TIME". However, if such use increases the cost or delays the completion of the remaining portions of work, the Contractor shall be entitled to such extra compensation or extension of time or both, as the State may determine to be proper. Any additional work

necessary will be paid in accordance with Subsection 8.4 "PAYMENT FOR ADDITIONAL WORK".

**5.6 INSPECTION**--The Engineer and Inspectors employed by the Department shall at all times have access to the work during its construction and shall be furnished with every reasonable facility for ascertaining at any time that the materials and the workmanship are in accordance with the requirements and intentions of the contract. All work done and all materials furnished shall be subject to inspection and approval.

Such inspection and approval may extend to all or part of the work, and to the preparation, fabrication or manufacture of the materials to be used.

The Inspector shall have the authority to suspend operations of any work being improperly performed by issuing a written order giving the reason for shutting down the work. Should the Contractor disregard such written order after placing it in the hands of the Superintendent, the Inspector shall have the right to leave the job immediately. Work done during the absence of the Inspector will not be accepted nor paid for.

The inspection of the work shall not relieve the Contractor of any of his obligations to fulfill his contract as prescribed; and defective work shall be made good and unsuitable materials may be rejected, notwithstanding that such defective work and materials have been previously overlooked by the Engineer and accepted or estimated for payment.

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

**5.7 REMOVAL OF DEFECTIVE AND UNAUTHORIZED WORK**--All work which has been rejected as not conforming to the requirements of the contract shall be remedied or removed and replaced by the Contractor in an acceptable manner and no compensation will be allowed him for such removal or replacement. Any work done beyond the work limits shown on the plans and specifications or established by the Engineer or any additional work done without written authority will be considered as unauthorized and will not be paid for. Work so done may be ordered removed at the Contractor's expense. Upon failure on the part of the Contractor to comply promptly with any order of the Engineer made under the provisions of this subsection, the Engineer shall have authority to cause defective work to be remedied or removed and replaced and unauthorized work to be removed and to deduct the costs from any monies due or to become due the Contractor.

**5.8 VALUE ENGINEERING INCENTIVE**--On projects with contract amounts in excess of $100,000, the following Value Engineering Incentive Clause shall apply to allow the Contractor to share in cost savings that ensue from cost reduction proposals submitted by him.

a. The Value Engineering Incentive Clause applies to all Value Engineering Change Proposals (cost reduction proposals, hereinafter referred to as VECP) initiated and developed by the Contractor for changing the drawings, designs, specifications or other requirements of this contract. This clause does not, however, apply to any VECP unless it is identified as such by the Contractor at the time of its submission to the Engineer.

b. All VECP must:

1. Result in a savings to the State by providing less costly items than those specified herein without impairing any of their essential functions and characteristics such as service life, reliability, economy of operations, ease of maintenance, and desired appearance; and

2. Require, in order to be applied to this contract, a change order to this contract.

c. The VECP will be processed expeditiously and in the same manner as prescribed for any other proposal which would likewise necessitate issuance of a contract change order. As a minimum, the following information will be submitted by the Contractor with each proposal:

1. A description of the difference between the existing contract requirements and the VECP, and the comparative advantages and disadvantages of each;

2. An itemization of the requirements of the contract which must be changed if the VECP is adopted and a recommendation as to how to make each such change;

3. An estimate of the reduction in performance costs that will result from adoption of the VECP taking into account the costs of implementation by the Contractor. including any amounts attributable to subcontracts, and the basis for the estimate;

4. A prediction of any effects the VECP would have on other costs to the State, such as State furnished

property costs, costs of related items, and costs of maintenance and operation;

5. A statement of the time by which a change order adopting the VECP must be issued so as to obtain the maximum cost reduction during the remainder of this contract noting any effect on the contract time; and

6. The dates of any previous submissions of the VECP, the numbers of any Government contracts under which submitted and the previous actions by the Government, if known.

d. The State shall not be liable for any delays in acting upon, or failure to act upon any proposal submitted pursuant to this clause. The decisions of the Engineer as to the acceptance of any VECP under this contract shall be final. Unless and until a change order applies a VECP to this contract, the Contractor shall remain obligated to perform in accordance with the terms of the existing contract. The Engineer may accept in whole or in part any VECP submitted pursuant to this clause by issuing a change order which will identify the VECP on which it is based.

e. If a VECP submitted pursuant to this clause is accepted under this contract, an equitable adjustment in the contract price and in any other affected provisions of this contract shall be made in accordance with this clause and the "Changes" clause of this contract. The equitable adjustment shall first be established by determining the effect on the Contractor's cost of performance, taking into account the Contractor's cost of implementing the change (including any amount attributable to subcontracts). The contract price shall then be reduced by the total estimated decrease in the cost of performance minus fifty percent (50%) of the difference between the amount of such total estimated decrease and any ascertainable costs to the State which must be incurred to apply to VECP to this contract.

f. Cost reduction proposals submitted under the provisions of any other contract also may be submitted under this contract for consideration pursuant to the terms of this clause.

g. The Contractor may restrict the Government's right to use any sheet of a VECP or of the supporting data, submitted pursuant to this clause in accordance with the following terms, marked on such sheet:

"This data furnished pursuant to a value engineering incentive clause shall not be disclosed outside the Government, or be duplicated, used, or disclosed, in whole or in part, for any purpose other than to evaluate a value engineering change proposal submitted under said clause. This restriction does not limit the Government's right to use information contained in this data if it is or has been obtained from another source, or is otherwise available, without limitations. If such a proposal is accepted by the State by issuance of a change order under the 'Changes' clause of said contract after the use of this data in such an evaluation, the Government shall have the right to duplicate, use and disclose any data pertinent to the proposal as accepted, in any manner and for any purpose whatsoever, and have others so do."

h. In the event of acceptance of a value engineering proposal the Contractor hereby grants to the Government all rights to use, duplicate or disclose in whole or in part, in any manner and for any purpose whatsoever, and to have or permit others to do so, any data reasonably necessary to fully utilize such proposals. Contract modifications made as a result of this clause will state that they are made pursuant to it.

i. VECP shall conform to rules and regulations promulgated in accordance with the law.

## SECTION 6 -- CONTROL OF MATERIALS AND EQUIPMENT

**6.1 MATERIALS AND EQUIPMENT** -- The contractor shall be required to install material and equipment as called for in the plans and specifications or as qualified in subsequent addenda which change the plans and specifications.

**6.2 SOURCE OF SUPPLY AND QUALITY OF MATERIALS** -- Only materials conforming to the requirements of the specifications and having the approval of the Engineer shall be used on the work. In order to expedite the inspection and testing of materials, the Contractor shall notify the Engineer of his proposed sources of materials within 10 days from the date of award of the contract.

At the option of the Engineer, the materials may be approved by the Engineer at the source of supply before delivery is started. Representative preliminary samples of the character and quantity prescribed shall be submitted by the Contractor or producer for examination and tested in accordance with the methods referred to under samples and tests.

All materials proposed to be used may be inspected and tested at any time, and if it is found that material that was once approved is unacceptable at any time, the Contractor shall furnish approved material from other sources. No material which after approval, has in any way become unfit for use shall be used in the work.

**6.3 SUBSTITUTION OF MATERIALS AND EQUIPMENT**

a. Before Bid Opening--In any section of the specifications and/or plans where one of more brand names of materials or equipment are specified to indicate a quality, style, appearance or performance, the bidder shall base his bid on one of the specified brand names.

b. After Bid Opening--Substitution of material or equipment may be allowed after the bid opening date only:

1. If the specified 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; or

2. If all specified items are found to be unusable or unavailable due to change or other circumstances; or

3. If the Contractor is willing to provide a more recently developed or manufactured model of material or equipment which the Engineer determines upon his sole discretion to be equal or better than the one specified or prequalified.

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

The above shall not be construed to mean that substitutions for brand name specified materials and equipment will be allowed; the Engineer reserves the right to reject and deny any request he deems irregular or not in the best interest of the State and a request for substitution shall not in any way constitute a justification for an extension of contract time.

**6.4** ***ASBESTOS CONTAINING MATERIALS*** *-- The use of asbestos containing materials or equipment is prohibited under this contract. The Contractor shall insure that all materials and equipment incorporated in the project are asbestos-free.*

**6.5 TEST SAMPLES**--The Engineer may require any or all materials to be subject to tests by means of samples or otherwise as he may determine. The Contractor shall afford such facilities as the Engineer may require for collecting and forwarding samples and shall not make use of or incorporate in the work any material represented by the samples until all required tests have been made and the material accepted. The Contractor in all cases shall furnish the required samples without charge. Where samples are required from the completed work, the Contractor shall cut and furnish for tests, samples cut from the completed work. The

areas of samples so removed shall be replaced with identical material and refinished. No additional compensation will be allowed for furnishing test samples and replacing the areas with new material.

Tests of materials will be made by the Engineer in accordance with the latest standard methods of the American Society for Testing and Materials, as amended prior to date of the contract unless otherwise provided. In cases where definite identification of a particular test method is necessary or specifications and serial numbers are stipulated, the test shall be construed to mean the method given in the above-mentioned publication for sampling and testing the particular material or product involved. When the abbreviated reference "ASTM" is used, it shall be considered to refer to the appropriate section of the above-mentioned publication. Where "AASHTO" specifications and serial numbers are stipulated, the reference shall be construed to mean the specifications and serial numbers of the latest American Association of State Highway and Transportation Officials as amended prior to date of the contract.

It is understood that the Department reserves the right to retest all materials which have been tested and accepted at the source of supply after the same has been delivered to the work site and to reject all materials which, when retested, do not meet the requirements of the contract.

**6.6 MATERIAL SAMPLES**--The Contractor shall furnish for the approval of the Engineer, any samples required by the specifications or that may be requested by the Engineer of any and all materials or equipment he proposes to use. Unless specifically required, samples are not to be submitted with the bid.

No materials or equipment of which samples are required to be submitted for approval shall be used on the work until such approval has been given by the Engineer, except at the Contractor's risk and expense.

Each sample submitted shall have a label indicating the material represented, its place of origin, and the names of the producer, the Contractor and the building or work for which the material is intended. Samples of finished materials shall be so marked as to indicate where the materials represented are required by the drawings or specifications.

A letter in duplicate by the Contractor shall accompany each shipment of samples submitted and shall contain a list of the samples, the name of the building or work for which the materials

are intended and the brands of the materials and names of the manufacturers.

The approval of any sample shall be only for the characteristics or for the uses named in such approval and for no other purpose. Approval of a sample shall not be construed as to change or modify any contract requirement.

All samples will be provided by the Contractor at no extra cost to the project or to the State.

**6.7 NON-CONFORMING MATERIALS**--*All materials not conforming to the requirements of these specifications, whether in place or not, shall be rejected and removed immediately from the site of work unless otherwise permitted by the Engineer in writing. No rejected material which has subsequently been made to conform shall be used unless and until written approval has been given by the Engineer. Upon failure on the part of the Contractor to comply forthwith with any order of the Engineer made under the provisions of this subsection, the Engineer shall have the authority to remove and replace non-conforming materials and to deduct the cost of removal and replacement from any money due or about to become due the Contractor.*

**6.8 HANDLING MATERIALS**--All materials shall be handled in such a manner as to preserve their quality and fitness for work. Aggregates shall be transported from the storage site to the work in tight vehicles so constructed as to prevent loss or segregation of materials after loading and measuring in order that there may be no inconsistencies in the quantities of materials intended for incorporation in the work as loaded, and the quantities as actually received at the place of operations.

**6.9 STORAGE OF MATERIALS** -- Materials shall be stored so as to insure the preservation of their quality and fitness for the work. Unless otherwise provided, the portion of the project site not required for public travel may be used for storage purposes and for the placing of the Contractor's plant and equipment, and any additional space required shall be provided by the Contractor at his expense. The Contractor shall be responsible for security and maintaining the storage areas and shall restore these areas to their original undamaged condition, in the event any damage results from the contraction operations. The Contractor is also responsible to provide security and protection for all stored items and shall replace at his own expense any items damaged,

destroyed or removed from the storage area, due to; extreme weather, theft, vandalism, acts of God or any other reason.

When considered necessary by the Engineer, material shall be placed on wooden platforms or other hard, clean surfaces. They shall be placed under cover when so directed. Stored materials shall be so located as to facilitate their prompt inspection.

**6.10 PROPERTY RIGHTS IN MATERIALS** -- Nothing in these specifications or contract shall be construed as vesting in the Contractor any right to the materials used after they have been attached or affixed to the work.

***6.11 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 his first tier suppliers and subcontractors shall assign any and all such claims to owner, subject to the aforementioned exception.*

## SECTION 7--PROSECUTION AND PROGRESS

(Including Legal Relations And Responsibility)

**7.1 PROSECUTION OF THE WORK**--Upon approval of the contract by the Engineer, a Notice to Proceed will be given to the Contractor. The Notice to Proceed will indicate the date the Contractor is expected to begin the construction and from which date contract time will be charged.

The Contractor shall begin work within ten (10) consecutive working days from the specified date, and he shall diligently prosecute the same to completion within the contract time allowed. The Contractor shall notify the Engineer at least three (3) consecutive working days before beginning work.

At any subsequent suspension and resumption of work, the Contractor shall notify the Engineer at least twenty-four (24) hours before beginning actual operations.

The Contractor shall not begin work before the date specified in the Notice to Proceed without written approval. Should the Contractor begin work before receiving the Notice to Proceed, any work performed by him in advance of the specified date will be considered as having been done by him at his own risk and as a volunteer and subject to the following conditions:

a. Under no circumstances shall the Contractor commence construction operations until he has notified the Engineer of his intentions and has been advised by the Engineer in writing that the project site is available to the Contractor. The project site will not be made available until the Contractor has complied with commencement requirements under Subsection 7.2 **"COMMENCEMENT REQUIREMENTS"**.

b. On commencing operations, the Contractor shall take all precautions required for public safety and shall observe all provisions in these specifications and the special provisions relating thereto.

c. In the event the contract is not approved, the Contractor shall, at his own expense, do such work as is necessary to leave the site in a neat condition to the satisfaction of the Engineer. The Contractor shall not be reimbursed for any expenses incurred for such work.

d. All work done prior to the approval of the contract shall be performed in accordance with the contract documents and will, if the contract is approved, be considered authorized work and will be paid for as provided in the contract.

For repairs and/or renovations of existing buildings which are occupied by the user agency, the Contractor shall not commence with the physical construction unless all or sufficient amount of materials are available for either continuous construction or completion of a portion of the work. When construction is started, the Contractor shall work expeditiously and pursue the work diligently. If only a portion of the work is to be completed, the Contractor shall leave the area safe and usable for the user agency until he is ready to start construction again. No provision of this article shall be construed as entitling the contractor to additional working days beyond that specified by the contract.

**7.2 COMMENCEMENT REQUIREMENTS**--Prior to beginning operations, the Contractor shall submit the following to the Engineer:

a. Superintendent or authorized representative on the job site (See Subsection 5.5 "COOPERATION BETWEEN THE CONTRACTOR AND THE DEPARTMENT").

b. Working hours on the job (See Subsection 7.3 "NORMAL WORKING HOURS").

c. Breakdown cost for monthly estimates.
Unless the proposal requires unit price bids on all items in this project, the successful bidder will be required, after the award of contract, to submit a schedule of prices for the various items of construction which make up portions of the project included in the contract. For projects involving more than a single building and/or facility, the breakdown cost shall reflect a separate schedule of prices for the various items of construction for each building and/or facility. The sum of the prices submitted for the various items must equal the lump sum bid in the bidder's proposal. This schedule will be subject to the approval of the Engineer and he reserves the right to reject same and require the bidder to submit another or

several other schedules if in his opinion the prices are unbalanced. This schedule of prices shall be used (1) for the purpose of determining the value of monthly payments due the contractor for work installed complete in place; and (2) may be used as the basis for determining cost and credit of added or deleted items of work, respectively.

The **Contractor** shall estimate at the close of each month the percentage of work completed under each of the various construction items during such month and submit the estimate to the **Engineer for review and approval.** The Contractor shall be paid such percentage of the price established for each item less the percentages of retention as provided in Subsection 8.5 **"PROGRESS AND/OR PARTIAL PAYMENTS".**

d. Proof of insurance coverage for the following:

1. **Builder's Risk**

(a) *Building Renovation Contract--The Contractor shall take out a policy of builder's risk insurance in the amount equivalent to the contract amount or as otherwise specified in the bid proposal, with the State named as additional insured under each policy, covering all work, labor and materials furnished by such Contractor and all his Subcontractors against loss by fire, windstorm, lightning, explosion and other perils covered by the Extended Coverage Endorsement, and vandalism and malicious mischief.*

(b) Site Development--The Contractor is not required to obtain Builder's risk insurance for site development contracts. However, if any building or structure is renovated on site development contracts, item (a) Building Renovation Contract, above, shall apply.

2. Workers' Compensation--The Contractor shall, in accordance with Sections 386-121 to 386-129 Hawaii Revised Statutes, inclusive, take out adequate workers' compensation insurance for all of his employees who will be engaged in work at the site of the project, and in case any part of such Contractor's contract is sublet, the Contractor

will require his subcontractor to maintain such insurance for all the subcontractor's employees who will be so engaged, unless the latter's employees are protected by the principal Contractor's insurance.

3. Public Liability and Property Damage--The Contractor shall take out and maintain during the life of this contract **broad form** public liability (Bodily Injury) and **broad form** property damage **liability** insurance **in a combined single limit not less than $1,000,000** to protect such Contractor and all of his subcontractors from claims for damages for personal injury, accidental death and property damage which may arise from operations under this contract, whether such operations be by himself or by any subcontractor or anyone directly or indirectly employed by either of them.

4. Whenever there is a conflict between the State General Conditions and the Federal General Conditions with respect to amount of insurance coverage, the higher amount of such insurance coverage shall prevail.

5. The Contractor shall obtain from **admitted** insurance companies or in the case of worker's compensation coverage, a qualified self insurer as provided for under the worker's compensation statutory law insurance as required herein, and the Contractor shall maintain this insurance in full force and effect until the work to be performed has been substantially complete in accordance with subsection 7.26 or otherwise required.

e. **Permits and Licenses--The State or its representative will process Building Permit applications. The Contractor shall pick up the pre-processed Building Permit at the appropriate County agency and pay the required fee for it. If the Building Permit application is not processed by the State, the Contractor shall process the Building Permit application and pay all application and permit fees. Other permits as may be necessary for the proper execution of the work such as grading permits, utility connection permits and elevator installation permits, etc. shall be obtained and paid for by the Contractor.**

Until such time as the above items are approved, the Contractor shall not be allowed to commence on any operations.

**7.3 NORMAL WORKING HOURS**--Prior to beginning operations, the Contractor shall notify the Engineer in writing of the time in hours and minutes, A.M.and P.M., respectively, at which he desires to begin and end the day's work unless otherwise established by the State.

If the Contractor desires to change his working hours, he shall request the Engineer's approval three (3) consecutive working days prior to the date of effecting the change.

**7.4 HOURS OF LABOR**--*(Section 104-2 Hawaii Revised Statutes) - No laborer or mechanic employed on the job site of any public work of the State or any political sub-division thereof shall be permitted or required to work on Saturday, Sunday or a legal holiday of the State or in excess of eight hours on any other day unless the laborer or mechanic receives overtime compensation for all hours worked on Saturday, Sunday and a legal holiday of the State or in excess of eight hours on any other day. For the purposes of determining overtime compensation under this subsection, the basic hourly rate of any laborer or mechanic shall not be less than the basic hourly rate determined by the Department of Labor and Industrial Relations to be the prevailing basic hourly rate for corresponding classes of laborers and mechanics on projects of similar character in the State.*

**7.5 PREVAILING WAGES**--(Section 104-2 Hawaii Revised Statutes)--The Contractor or his subcontractor shall pay all mechanics and laborers employed on the job site, unconditionally and not less often than once a week, and without deduction or rebate on any account except as allowed by law, the full amounts of their wages including overtime, accrued to not more than five (5) working days prior to the time of payment, at wage rates not less than those stated in the contract, regardless of any contractual relationship which may be alleged to exist between the Contractor and subcontractor and such laborers and mechanics. The wages stated in the contract shall not be less than the wages which the Director of Labor and Industrial Relations has determined to be the prevailing wages for corresponding classes of laborers and mechanics on projects of similar character in the State.

The rates of wages to be paid shall be posted by the Contractor in a prominent and easily accessible place at the job site and a copy of such wages required to be posted shall be given to each laborer and mechanic employed under the contract by the Contractor at the time he is employed thereunder, provided that where there is a collective bargaining agreement, the

Contractor does not have to provide his employees the wage rate schedules.

The Engineer may withhold from the Contractor so much of the accrued payments as the Engineer may consider necessary to pay to laborers and mechanics employed by the Contractor or any subcontractor on the job site. The accrued payments withheld shall be the difference between the wages required by this contract or specifications and the wages actually received by such laborers or mechanics.

**7.6 FAILURE TO PAY REQUIRED WAGES**--(Section 104-4, Hawaii Revised Statutes)--If the Department finds that any laborer or mechanic employed on the job site by the contractor or any subcontractor has been or is being paid wages at a rate less than the required rate by the contract or specifications, or has not received his full overtime compensation, the Department may, by written notice to the Contractor, terminate his right, or the right of any subcontractor, to proceed with the work or with the part of the work in which the required wages or overtime compensation have not been paid and may complete such work or part by contract or otherwise, and the Contractor and his sureties shall be liable to the Department for any excess costs occasioned thereby.

**7.7 PAYROLLS AND PAYROLL RECORDS**--(Section 104-3 Hawaii Revised Statutes)--A certified copy of each weekly payroll shall be submitted to the Engineer within seven (7) calendar days after the end of each weekly payroll period. **Failure to do so on a timely basis shall be cause for disqualification from bidding in accordance with Section 2.11.** The Contractor shall be responsible for the submission of certified copies of payrolls of all subcontractors. The certification shall affirm that payrolls are correct and complete, that the wage rates contained therein are not less than the applicable rates contained in the wage determination decision contained herein and also that the classifications set forth for each laborer and mechanic conform with the work he performed.

Payroll records for all laborers and mechanics working at the site of the work shall be maintained by the General Contractor and his subcontractors, if any, during the course of the work and preserved for a period of three (3) years thereafter. Such records shall contain the name of each employee, his correct classification, rate of pay, daily and weekly number of hours worked, itemized deductions made and actual wages paid. Such records shall be made available for inspection at a place designated by the Engineer, the Director of Labor and any

authorized persons who may also interview employees during working hours on the job site.

**7.8 OVERTIME AND NIGHT WORK**--Overtime work shall be considered as work performed in excess of eight (8) hours in any one day or work performed on Saturday, Sunday or legal holiday of the State. Overtime and night work are permissible when approved by the Engineer in writing, or as called for elsewhere within the specifications.

The Contractor shall inform the Engineer in writing at least two (2) working days in advance as to exactly what specific work is to be done during any overtime and night period to insure that proper inspectional personnel will be available.

In the event that work other than that contained in the above notification is performed and for which the Engineer determines State inspectional services were necessary but not available because of the lack of notification, the Contractor may be required to remove all such work and perform the work in the presence of State inspectional personnel.

Any hours worked in excess of the normal eight (8) working hours per day or on Saturdays, Sundays or legal State holidays will not be considered a working day.

The State hereby reserves the right to cancel the overtime, night, Saturday, Sunday or legal State holiday work when it is found that work during these periods are detrimental to the public welfare or the user agency.

**7.9 OVERTIME AND NIGHT TIME PAYMENT FOR STATE INSPECTION SERVICE**--Whenever the contractor's operations require the State's inspectional and engineering personnel to work overtime or at night, the Contractor shall reimburse the State for the cost of such services unless otherwise instructed in the Contract. The Engineer will notify the Contractor of the minimum number of required Department employees and other personnel engaged by the State prior to the start of any such work. The costs chargeable to the Contractor shall include but not be limited to the following:

a. The cost of salaries including overtime and night time differential for the engineering and inspectional personnel as determined by the State. In addition to the cost of the salaries as determined above, the Contractor shall reimburse the State's share of contributions to the employee's retirement, medical

plan, social security, vacation, sick leave, worker's compensation funds, per diem, and other applicable fringe benefits and overhead expenses.

b. The transportation cost incurred by the engineering and inspectional personnel based on established rental rates or mileage allowance in use by the Department for the particular equipment or vehicle.

c. Fees and other costs billed the State by Consultants engaged on the project for overtime and/or night time work.

The monies due the Department for engineering and inspectional work and use of vehicles and equipment as determined hereinabove shall be deducted from the monies due or to become due the Contractor. In any event, the Contractor shall not pay the Department employees directly.

**7.10 LIMITATIONS OF OPERATIONS**--The Contractor shall at all times conduct the work in such manner and in such sequence as will insure the least practicable interference with traffic and passageways and he shall have due regard for furnishing convenient detours and providing for the handling of traffic.

In the event that other contractors are also employed on the job site, the Contractor shall arrange his work and dispose of his materials so as not to interfere with the operations of the other contractors engaged upon adjacent work and to join his work to that of others and existing buildings in a proper manner, and in accordance with the spirit of the plans and specifications, and to perform his work in the proper sequence in relation to that of others, all as may be directed by the Engineer.

Each Contractor shall be held responsible for any damage done by him or his agents to the work performed by another contractor. Each Contractor shall so conduct his operations and maintain the work in such condition that adequate drainage shall be in effect at all times.

In the event that the Contractor fails to prosecute his work as provided above or disregards the directions of the Engineer, the Engineer will suspend the work until such time as the Contractor provides for the prosecution of the work with minimum interference to traffic or other contractors.

## 7.11 ASSIGNMENT *OR CHANGE OF NAME*

a. *Assignment*--The Contractor shall not sublet, sell, transfer, assign or otherwise dispose of this contract or any part hereof or any right, title or interest herein or any monies due or to become due hereunder without the prior written consent of the Comptroller.

The Contractor may assign money due or to become due him under the contract and such assignment will be recognized by the Department, if given proper notice thereof, to the extent permitted by law; but any assignment of monies shall be subject to all proper set-offs in favor of the State and to all deductions provided for in the contract and particularly all monies withheld whether assigned or not, shall be subject to being used by the Department for the completion of the work in the event that the Contractors should be in default therein.

b. *Recognition of a Successor in Interest; Assignment - When in the best interest of the State, a successor in interest may be recognized in an assignment agreement in which the transfer and the transferee and the State shall agree that:*

1. *The transferee assumes all of the transferor's obligations;*

2. *The transferor remains liable for all obligations under the contract but waives all rights under the contract as against the State; and*

3. *The transferor shall continue to furnish, and the transferee shall also furnish, all required bonds.*

c. *Change of Name--When a contractor requests to change the name in which it holds a contract with the State, the Comptroller shall, upon receipt of a document indicating such change of name (for example: an amendment to the articles of incorporation of the corporation), enter into an agreement with the requesting contractor to effect such a change of name. The agreement changing the name shall specifically indicate that no other terms and conditions of the contract are thereby changed.*

d. *All change of name or novation agreements effected hereunder other than by the Comptroller shall be reported to the Comptroller within thirty (30) days of the date that the agreement becomes effective.*

e. *Notwithstanding the provisions of paragraphs 1. through 3. above, when a contractor holds contracts with more than one purchasing agency of the State, the novation or change of name agreements herein authorized shall be processed only through the Comptroller.*

**7.12 LAWS TO BE OBSERVED**--The Contractor at all times shall observe and comply with all Federal, State and local laws or 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 protect and indemnify the State and its Departments and Agencies and all their officers, representatives, employees or agents 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 Engineer in writing.*

Attention is directed to the Hawaii Employment Relations Act, Chapter 377, H.R.S., Hawaii Employment Security Law, Chapter 383, H.R.S., Wage and Hour Law, Chapter 387, H.R.S., Payment of Wages, Chapter 388, H.R.S., Industrial Safety, Chapter 376, H.R.S. and Worker's Compensation Law, Chapter 386, H.R.S.

**7.13 PATENTED DEVICES, MATERIALS AND PROCESSES**--*If the Contractor is required or desires to use any design, device, material or process covered by letters of patent or copyright, the right for such use shall be procured by the Contractor from the patentee or owner. The Contractor and surety shall indemnify and save harmless the State and its Departments and Agencies, any affected third party, or political subdivision from any and all claims for infringement by reason of the use of any such patented design, device, material or process, or any trademark or copyright in connection with the work to be performed under the contract, shall indemnify the State and its Departments and Agencies for any costs, expenses and damages which it may be obliged to pay by reason of any such infringement at any time during the prosecution or after the completion of the work.*

**7.14 SANITARY, HEALTH AND SAFETY PROVISIONS**--The Contractor shall provide and maintain in a neat, sanitary condition such accommodations for the use of his employees as may be necessary to comply with the requirements of the State and local Boards of Health, or other bodies or tribunals having jurisdiction. Unless otherwise stated in the specifications, the Contractor shall install toilet facilities conveniently located at the job site and maintain same in a neat and sanitary condition for the use of the employees on the job site for the duration of the contract. The toilet facilities shall conform to the requirements of the State Department of Health. The cost of installing, maintaining and removing the toilet facilities shall be considered incidental to and paid for under various contract pay items for work or under the lump sum bids as the case may be, and no additional compensation will be made therefor. These requirements shall not modify or abrogate in any way the requirements or regulations of the State Department of Health.

The following requirements of the Department of Health must be strictly adhered to in the Forest Reserve area:

1. Portable covered receptacles for fecal matter and urine, of the design and number specified by the Department, shall be provided.

2. No employee will be allowed to deposit fecal matter or urine in any place except in these receptacles. Any infringement of this requirement shall result in immediate transfer or discharge of the offender or other disciplinary measures satisfactory to the Engineer.

3. All deposits in these receptacles shall be immediately covered with a chemical solution prescribed by the Department of Health. These receptacles, with their contents, shall be collected and removed for disposal at the close of each working day. The method of disposal must be satisfactory to the Department of Health to prevent contamination of any water supply, stream or other bodies of water.

4. The receptacles shall be thoroughly cleaned with water and the required chemical solution and then returned to their required places for service.

Attention is directed to Federal, State and local laws, rules and regulations concerning construction safety and health standards. The Contractor shall not require any worker to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his health or safety.

**7.15 PRESERVATION AND RESTORATION OF PROPERTY, TREES, MONUMENTS, ETC.**--The Contractor shall be responsible for the preservation of all public and private property, trees, monuments, etc., and shall use every precaution necessary to prevent damage or injury thereto. The Contractor shall use suitable precaution necessary to prevent damages to pipes, conduits and other underground structures; and shall protect carefully from disturbances or damage all land monuments and property marks until an authorized agent has witnessed or otherwise referenced their location and shall not remove them until directed. The Contractor shall not injure or destroy trees or shrubs nor remove or cut them without proper authority. 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 in the execution of the work, or in consequence of the non-execution thereof on the part of the Contractor, such property shall be restored by the Contractor and at the Contractor's expense, to a condition similar or equal to that existing before such damage or injury was done, by repairing, rebuilding or otherwise restoring same, or he shall make good such damage or injury in an acceptable manner. If the Contractor fails to carry out the provisions of this subsection, the Engineer shall have the right to have them carried out and deduct the same from any money due or to become due the Contractor.

**7.16 RESPONSIBILITY FOR DAMAGE CLAIMS**--*The Contractor and surety shall save harmless the State and its Departments and Agencies and all of their officers, representatives, employees or agents from all suits, actions or claims of any character brought on account of any injuries or damages sustained by any person or property on account of the operations of Contractor; or in consequence of any neglect in safeguarding the work, or through the use of unacceptable materials in the construction of the improvement, or on account of any act or omission by said Contractor or his agents. The Contractor shall indemnify and hold harmless the State and its Departments and Agencies and all of their officers, representatives, employees or agents for damages attributable, whether caused in whole or in part, by any negligence of the Contractor.*

*The Contractor agrees that he will not hold the State and its Departments and Agencies and all their officers, representatives, employees or agents, liable or responsible for any losses or damages to third parties from the action of the elements, the nature of the work to be done under these specifications or from any unforeseen obstructions, acts of God, vandalism, fires or encumbrances which may be encountered in the prosecution of the work.*

The Contractor guarantees the payment of all just claims for materials, supplies, tools, labor and other just claims against him or any subcontractor in connection with this contract and his bond will not be released by final acceptance and payment by the Department unless all such claims are paid or released, or so much of the monies due or to become due the Contractor, under this contract as shall be considered necessary by the Engineer may be retained by the Department.

*The Contractor shall save harmless the State and its Departments and Agencies and all of their officers, representatives, employees or agents from all suits, actions or claims of any character brought on account of any claims or amounts arising or recovered under the Workers Compensation Laws or any other law, by-law, ordinance, order or decree.*

Should any suit or claim be filed against the Contractor, the Engineer shall retain, from any monies due to the Contractor such amount or amounts as may be deemed necessary by the said Engineer to satisfy the suit or claim, until such suits or claims have been finally settled and determined, and upon satisfactory evidence of such settlement of such suits or claims, the money retained shall be paid to the Contractor.

**7.17 CHARACTER OF WORKERS OR EQUIPMENT**--The Contractor shall at all times provide adequate supervision and sufficient labor and equipment for prosecuting the several classes of work to full completion of the project in the manner and within the time required by the contract.

a. Character and Proficiency of Workers--All workers must have sufficient skill and experience to perform properly the work assigned to them. All workmen engaged in special work or skilled work such as bituminous courses of mixtures, concrete pavement or structures, electrical installation, plumbing installation, or in any trade shall have sufficient experience in such work and in the operation of the equipment required to properly and satisfactorily perform all work. All workers shall make due and proper effort to execute the work in the manner prescribed in these specifications; otherwise, the Engineer may take action as prescribed herein.

   Any worker employed on the project by the Contractor or by any subcontractor who, in the opinion of the Engineer or his authorized representative, is not careful and competent, does not perform his work in a proper and skillful manner or is disrespectful, intemperate, disorderly or neglects or refuses to

comply with directions given, or is otherwise objectional shall at the written request of the Engineer, be removed forthwith by the Contractor or subcontractor employing such worker and shall not be employed again in any portion of the work without the written consent of the Engineer. Should the Contractor or subcontractor continue to employ, or again employ such person or persons on the project, the Engineer will withhold all estimates which are or may become due, or the Engineer will suspend the work until such orders are complied with.

b. Insufficient Workers--In the event that the Engineer, in his judgment, finds the condition whereby insufficient workers are present to accomplish the work and no corrective action is taken by the Contractor after being informed, the Engineer reserves the right to terminate the contract as provided for under Subsection 7.23. "TERMINATION OF CONTRACT."

c. Equipment Requirements--All equipment furnished by the Contractor and used on the work shall be of such size and of such mechanical condition that the work can be prosecuted in an acceptable manner at a satisfactory rate of progress and the quality of work produced will be satisfactory.

Equipment used on any portion of the project shall be such that no injury to the work, adjacent property or other objects will result from its use.

If the Contractor fails to provide adequate equipment for the work, the contract may be terminated as provided under Subsection 7.23 "TERMINATION"

In the event that the Contractor is paid for furnishing and operating equipment on a force-account basis, it shall be operated as directed by the Engineer in order to obtain maximum production under the prevailing conditions.

**7.18 CONTRACT TIME**--When the contract time is on a working day basis, the total contract time allowed for the performance of the work shall be the number of working days shown in the contract as awarded, plus any additional working days authorized in writing as provided hereinafter. A working day shall be as defined in Section 1 "DEFINITIONS". The count of elapsed working days to be charged against contract time, shall begin from the date of "Notice to Proceed" and shall continue consecutively to include the date of project acceptance as determined by the Engineer.

When the contract completion time is a fixed calendar date, it shall be the date on which all work on the project shall be substantially completed. Maintenance periods shall not be included as part of the contract time unless specifically noted in the contract documents.

Extensions of contract time shall be made as follows:

a. For increases in the scope for work caused by alterations and additional work made under Subsection 4.2 "CHANGES AND CLAIMS FOR ADJUSTMENT", the Contractor will be granted working day extension only if the changes are on the "critical path" and affect the final completion date of the Contract. If the Contractor feels that an extension of time is justified, he must request it in writing when the detailed cost breakdown required by Subsection 4.2 "CHANGES AND CLAIMS FOR ADJUSTMENT", is submitted. The Contractor must show how the final completion date will be affected based on the progress of the project and must also support his claim with schedules and statements from his subcontractors, suppliers, and/or manufacturers as to the extent of the delay.

b. For delays in obtaining the necessary building and/or grading permits which are beyond the control of the Contractor, the Contractor shall be granted one working day extension for each working day delay provided the Contractor notifies the Engineer immediately.

c. For delays caused by acts of God, or the public enemy, fire, unusually severe weather or adverse conditions resulting therefrom, floods, epidemics, quarantine restrictions, labor disputes, freight embargoes and other reasons beyond the Contractor's control, the Contractor may be granted an extension in working days provided that:

    1. The Contractor notifies the Engineer in writing within five (5) consecutive working days after the date of the occurrence of the circumstances described above and the possible effects such circumstances may have on the completion date of the contract.

    2. The Contractor further notifies the Engineer in writing at least five (5) consecutive working days before the circumstances described above will affect the critical operation(s) in progress.

    3. The Contractor submits to the Engineer within ten (10) consecutive working days after such

occurrence written statement as to the extent of delay to the progress of the project. The extent of delay must be substantiated as follow

(a) State specifically the reason or reasons for the delay. Also, explain as necessary, the effect of this delay to other trades and/or to the specified completion date of the project.

(b) List the pertinent chronological events for the project such as the following dates of:

(1) Notice to proceed

(2) Samples or shop drawing submittal

(3) Sample or shop drawing return

(4) Purchase order

(5) Delivery to job site

(6) Material installation

(7) Specified completion of project

(8) Actual completion of project

(9) Pertinent correspondence, telegrams, meetings and telephone conversations

(c) Submit copies of purchase order, delivery tag and any other pertinent correspondence as evidence to support claim.

(d) Cite the period of delay and the number of days requested therefore.

(e) A statement either that the above circumstances have been cleared and normal working conditions restored as of a certain day or that the above circumstances will continue to prevent completion of the project.

d. For delays caused by delays in delivery of materials and equipment which occurs as a result of unforeseeable causes beyond the control and without fault or negligence of both the Contractor and subcontractors or suppliers, the Contractor may be granted an extension of time in working days provided that he complies with

the procedures spelled out hereinbelow. No extension of time will be considered unless the material and equipment were ordered at the earliest possible date.

1. The Contractor must notify the Engineer in writing within five (5) consecutive working days after the date he first has any knowledge of delays or anticipated delays and the possible effects such delays may have on the completion date of the contract.

2. The Contractor must further notify the Engineer in writing at least five (5) consecutive working days before the delay will affect the critical operation(s) in progress.

3. The Contractor must submit to the Engineer within ten (10) consecutive working days after a firm delivery date for the material and equipment is established written statement as to the extent of delay to the progress of the project. The extent of delay must be substantiated as follows:

   (a) State specifically the reason or reasons for the delay. Also, explain as necessary, the effect of this delay to the other trades and/or to the specified completion date of the project.

   (b) List the pertinent chronological events for the project such as the following dates of:

      (1) Notice to proceed

      (2) Sample or shop drawing submittal

      (3) Sample or shop drawing return

      (4) Purchase order

      (5) Factory shipment

      (6) Arrival of ship

      (7) Delivery to job site

      (8) Material Installation

      (9) Specified completion of project

      (10) Actual completion of project

(11) Pertinent correspondence, telegrams, meetings and telephone conversations.

(c) Submit copies of purchase order, factory invoice bill of lading, shipping manifest, delivery tag and any other pertinent correspondence as evidence to support your claim.

(d) Cite the period of delay and the number of days requested therefore. The period of delay shall not exceed the difference between the originally scheduled delivery date at the job site versus the actual delivery date.

e. Working days elapsing during periods of suspension of the work by the Engineer shall be computed as follows:

When the performance of the work is totally suspended for one or more working days by order of the Engineer in accordance with Subsections 7.20.a., 7.20.c., 7.20.d. or 7.20e. the number of days from the effective date of the Engineer's order to suspend operations to the effective date of the Engineer's order to resume operations shall not be counted as working days. Days elapsing during any period of suspension in accordance with Subsection 7.20.b. shall be counted as working days. During periods of partial suspensions of the work, the Contractor will be granted working day extension only if the partial suspension affects the final completion date of the contract. If the Contractor feels that an extension of time is justified, he must request it in writing at least five (5) consecutive working days before the partial suspension will affect the critical operation(s) in progress. The Contractor must show how the final completion date will be affected based on the progress of the project and must also support his claim with statement from his subcontractors.

For extensions granted in accordance with Subsection 7.18.a., 7.18.c. and 7.18.d., the Engineer shall have the option of extending the contract time for only that portion of the work affected by the delay. If the Engineer exercises this option, the Contractor shall defer work in the areas approved by the Engineer and complete the remaining work within the time specified in the contract.

The Engineer shall evaluate all time extension requests and shall ascertain the facts and extent of the time involved and his findings of the facts thereon shall be final and conclusive.

No time extension will be considered for the following:

a. Delays or suspension of work due to the fault of the Contractor.

b. Delay in arrival of materials and equipment due to the fault of the subcontractor and/or supplier in ordering, fabricating, delivery, etc.

c. Delays caused by changes which the Engineer determines unjustifiable due to the lack of supporting evidence or because the change is of such nature that the final completion date will not be affected.

d. Delays caused by the failure of the Contractor to submit, on a timely basis, for approval by the Engineer, shop drawings, descriptive sheets, material samples, color samples, etc. except as covered in Subsection 7.18.c. and 7.18.d.

e. Failure to submit requests for clarification on a timely basis to avoid impacting the project schedule.

***No extension of time exceeding 180 days will be granted unless specifically approved in writing by the Engineer.***

**7.19 STATEMENT OF WORKING DAYS**--The Contractor will prepare the statement of the number of working days for each month together with the monthly estimate and promptly submit it to the Engineer for approval.

**7.20 SUSPENSION OF WORK**--The Engineer may, by written order, suspend the performance of the work, either in whole or in part for such periods as he may deem necessary for any cause, including but not limited to:

a. Weather or soil conditions considered unsuitable for prosecution of the work, or

b. Failure on the part of the Contractor to:

1. Correct conditions unsafe for the general public or for the workers.

2. Carry out orders given by the Engineer, or

3. Perform the work in strict compliance with the provisions of the contract.

4. **Provide Superintendent on the jobsite as described under paragraph 5.5.c.**

c. Unforeseen soil conditions where a redesign of foundation is necessary or when any other redesign for any reason is deemed necessary by the Engineer.

d. Disturbance due to noise or dust arising from the construction even if such disturbance does not violate the section on Environmental Protection contained in the specifications.

e. *The convenience of the State.*

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

Any adjustment of contract time for suspension of work shall be made as provided in Subsection 7.18 **"CONTRACT TIME"**.

In the event that the Contractor is ordered by the Engineer in writing as provided herein to suspend all work under the contract in accordance with Subsection 7.20.c, 7.20.d or 7.20.e, the Contractor may be reimbursed for actual money expended towards the project during the period of suspension. No allowance will be made for anticipated profits.

*If the performance of all or part of the work is, for an unreasonable period of time, suspended, delayed, or interrupted by an act of the Engineer in the administration of this contract, or by the failure of the Engineer to act within the time specified in this contract (or if no time is specified, within reasonable time), an adjustment shall be made for any increase in the cost of performance of this contract necessarily caused by such unreasonable suspension, delay or interruption and the contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption:*

a. *To the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the contractor; or*

b. *For which an adjustment is provided for or excluded under any other provision of this contract.*

*No claim under this clause shall be allowed:*

a. *For any costs incurred more than twenty (20) days before the contractor shall have notified the Engineer in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order); and*

b. *Unless the claim is asserted in writing as soon as practicable after the termination of such suspension, delay, or interruption, but not later than the date of final payment under the contract.*

*Any adjustment in contract price made pursuant to this clause shall be determined in accordance with Subsection 4.2.*

Claims for such compensation shall be filed with the Engineer within *thirty (30) calendar* days after the date of the order to resume work or such claims will not be considered. Together with the claim, the Contractor shall submit substantiating documents covering the entire amount shown on the claim. The Engineer shall take the claim under consideration and may make such investigations as are deemed necessary and shall be the sole judge as to the equitability of such claim and his decision shall be final.

No provision of this article shall be construed as entitling the Contractor to compensation for delays due to failure of surety, for suspensions made at the request of the Contractor, for any delay required under the contract, for partial suspension of work or for suspensions made by the Engineer under the provisions of Subsection 7.20.b.

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

a. *Requirements not clearly covered in the contract, or not ordered by the Engineer as an extra;*

b. *Failure between the State and the Contractor to agree to an adjustment in price for a change order issued by the State; or*

c. *An action or omission on the part of the Engineer 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 Engineer, 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. Prior to 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 prior to the commencement of the work; or*

*3. Within thirty (30) calendar days after receipt of the written change order that was not agreed upon by both parties; or*

*4. Within such further time as may be allowed by the Engineer 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 he is entitled; and afford the Engineer 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 Engineer 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 Engineer shall not in any way be construed to prove the validity of the claim.*

The Engineer will review the *notice* and render his decision. His 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 Engineer. The decision of the Engineer 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 prior to final payment under this contract. Any adjustment in the contract price made pursuant to this clause*

*shall be determined in accordance with Subsection 4.2 "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 change orders which are clearly not within the scope of the contract.*

**7.22 FAILURE TO COMPLETE THE WORK ON TIME**--It is mutually agreed by and between the parties hereto that time shall be an essential part of this contract and that in case of the failure on the part of the Contractor to complete his contract within the time specified and agreed upon, the State of Hawaii will be damaged thereby; and the amount of said damages shall be the appropriate sum set forth in the Bid Proposal for each and every calendar day which the Contractor has delayed in completing the contract, and the Contractor hereby agrees that said sum shall be paid as liquidated damages and not by way of penalty, and in case the same are not paid they shall be deducted from monies due or that may become due to the Contractor under the contract.

The findings of the Engineer shall be accepted by the parties hereto as final, but any allowance of time and remission of charges shall in no other manner affect the rights or obligations of the parties under this contract, nor be construed to prevent action under Subsection 7.23 "TERMINATION OF CONTRACT" in case the Contractor shall fail in the judgment of the Engineer to make reasonable and satisfactory progress after such allowance of time has been granted.

a. *Liquidated damages upon termination: If the State so terminates the Contractor's right to proceed, the resulting damage will consist of such liquidated damages for such reasonable time as may be required for final completion of work.*

b. *Liquidated damages in the absence of termination: If the State does not terminate the Contractor's right to proceed, the resulting damage will consist of such liquidated damages until the work is completed or accepted.*

**7.23 TERMINATION OF CONTRACT**

a. *By Default*--The Engineer may declare the Contractor in breach and may terminate the contract for any of the following reasons:

1. There is substantial evidence that the progress being made by the Contractor is insufficient to

complete the work within the specified contract time;

2. The Contractor fails to observe any requirement of the contract;

3. The Contractor fails to start the work within ten (10) consecutive working days after the date specified in the notice to proceed;

4. After having been directed in writing by the Engineer, the Contractor fails to promptly correct any defects;

5. There is substantial evidence of collusion for the purpose of illegally procuring a contract or perpetuating fraud on the State in the construction or work under contract;

6. The Contractor discontinues the prosecution of the work;

7. The Contractor performs the work unsuitably or neglects or refuses to remove materials or to perform anew such work as may be rejected as unacceptable and unsuitable;

8. The Contractor becomes insolvent or is declared bankrupt, or commits any act of bankruptcy or insolvency;

9. The Contractor allows any final judgment to stand against him unsatisfied for a period of ten (10) days;

10. The Contractor makes an assignment for the benefit of creditors; or

11. When in the opinion of the Engineer, the Contractor makes changes in his list of subcontractors submitted in his proposal, which are unjustified and substantive. No subcontractor may be added or deleted and substitutions will be allowed only if the subcontractor listed in the Contractor's original bid:

    (a) Fails, refuses or is unable to enter into a subcontract;

    (b) Becomes insolvent;

(c) Cannot furnish a reasonable performance bond;

(d) Has his subcontractor's license suspended or revoked;

(e) Is unable to comply with other requirements of law applicable to contractors, subcontractors and public works projects.

12. The Contractor fails to complete punch list items and submit the required closing documents within the time specified.

Before the contract is terminated, the Engineer will give notice in writing to the Contractor and his surety of the conditions which make termination of the contract imminent. If the Contractor or surety, within a period of ***fourteen (14) calendar*** days after such notice, does not proceed in accordance therewith, then the Board will, upon the written notification from the Engineer of the Contractor's failure to comply with the prior notice, have full power and authority without violating the contract, to terminate the contract and take the prosecution of the work out of the hands of the Contractor.

Upon receipt of a notice from the Engineer that the contract has been terminated, the Contractor shall immediately discontinue all operations. The Department may appropriate or use any or all materials and equipment on the ground to be incorporated in the work as may be suitable and acceptable and may enter into an agreement for the completion of said contract according to the terms and provisions thereof, or use such other methods as in the opinion of the Engineer will be required for the completion of said Contract in an acceptable manner.

All costs and charges incurred by the Department, together with the cost of completing the work under contract, will be deducted from any monies due or which would or might have become due to the Contractor had he been allowed to complete the work under the contract. If such expense exceeds the sum which would have been payable under the contract, then the Contractor and the surety shall be liable and shall pay the Department the amount of the excess.

In case of termination, the Engineer shall limit payment to the Contractor to the part of the contract satisfactorily completed at the time of termination. Payment will not be made until the tax clearance required by Subsection 8.7 **"FINAL PAYMENT"** is submitted by the Contractor. Termination shall not relieve the Contractor or Surety from liability for liquidated damages theretofore incurred.

If the Engineer finds that any laborer or mechanic employed on the job site by the Contractor or any subcontractor has been or is being paid wages at a rate less than the required rate by the specifications, or has not received his full overtime compensation, the Engineer may by written notice to the Contractor terminate his right or the right of any subcontractor to proceed with the work or with the part of the work in which the required wages or overtime compensation have not been paid and may complete such work or part by contract or otherwise; and the Contractor and his sureties shall be liable to the State for any excess costs occasioned thereby.

b. *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 this clause, or that the delay was excusable under the provisions of this clause, the rights and obligations of the parties shall, if the contract contains a clause providing termination for convenience of the State, be the same as if the notice of termination had been issued pursuant to such clause. If in the foregoing circumstances, this contract does not contain a clause providing for termination for the convenience of the State, the contract shall be adjusted to compensate for such termination and the contract modified accordingly.*

c. *Additional Rights and Remedies--The rights and remedies of the State provided in this clause are in addition to any other rights and remedies provided by law or under this contract.*

d. *State's Convenience*

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

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

3. *Right to Construction and Goods--The Engineer may require the Contractor to transfer title and deliver to the State in the manner and to the extent directed by the Engineer:*

   *(a) Any completed constructions; and*

   *(b) The partially completed construction, goods, materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "construction material") as the Contractor has specifically produced or specially acquired for the performance of the terminated part of this contract.*

   *The Contractor shall protect and preserve property in the possession of the contractor in which the State has an interest. If the Engineer does not exercise this right, the Contractor shall use best efforts to sell such construction, goods, and construction materials in accordance with the standards of section 490:2-706, HRS. This in no way implies that the State has breached the contract by exercise of the termination for convenience clause.*

4. *Compensation*

   *(a) The Contractor shall submit a termination claim specifying the amounts due because of the termination for convenience together with cost or pricing data, submitted 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 year from the effective date of termination, the Engineer, may pay the Contractor, if at all, an amount set in accordance with paragraph 7.23.d.4 (c)(2).*

*(b) The Engineer and the Contractor may agree to a settlement provided the Contractor has filed a termination claim supported by cost or pricing data submitted as required 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 construction, supplies, and construction materials under paragraph 7.23.d.4 (c)(3) of this clause, and the contract price of the work not terminated.*

*(c) Absent complete agreement under paragraph 7.23.d.4(b) of this paragraph, the Comptroller shall pay the Contractor the following amounts, provided payments under paragraph 7.23.d.4(b) shall not duplicate payments under this paragraph the total (without duplication of any items) of:*

*(1) The cost of all contract work performed prior to the effective date of the notice of termination 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 completed portions of such work; provided, however, 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;*

*(2) Costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to paragraph 7.23 d.2. of this clause. These costs must not include costs paid in accordance with subparagraph 7.23.d.4(c)(1) of this paragraph;*

*(3) 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*

*and settlement 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; and*

*(4) The total sum to be paid the Contractor under this paragraph shall not exceed the total contract price plus the reasonable settlement costs of the Contractor reduced by the amount of any sales of construction supplies, and construction materials under paragraph 7.23.d.3 of this clause, and the contract price of work not terminated.*

*(d) Cost claimed, agreed to, or established under paragraph 7.23.d.4 (b) and (c) of this paragraph shall be in accordance with chapter 3-123, HAR.*

**7.24 CORRECTING DEFECTS**--If the Contractor fails to commence to make good any defects of any nature, within ten (10) working days after the correction thereof has been requested in writing by the State, and thereafter to expeditiously complete the correction of said defects, the Engineer may without further notice and without termination of contract, correct the defects and deduct the cost thereof from the contract price.

**7.25 FINAL CLEANING UP**--Before final inspection of the work, the Contractor shall clean all ground occupied by the Contractor in connection with the work of all rubbish, excess materials, temporary structures and equipment, and all parts of the work must be left in a neat and presentable condition to the satisfaction of the Engineer. However, the Contractor shall not remove any warning and directional signs prior to the formal acceptance by the Engineer. Full compensation for final cleaning up will be considered as included in the prices paid for the various items of work or lump sum bid, as the case may be, and no separate payment will be made therefor.

**7.26 FINAL INSPECTION**--Before notifying the Engineer that the project is substantially completed, the General Contractor shall

inspect the project and test all equipment with all of his subcontractors. The General Contractor shall also proceed to obtain the following documents:

a. All written guarantees required by the contract.

b. All required "As-Built" drawings.

c. Complete weekly payrolls for both the General and Subcontractors.

d. Certificate of Plumbing and Electrical Inspection.

e. Certificate of building occupancy as required.

f. Certificate of Soil and Wood Treatments.

g. Certificate of Water System Chlorination.

h. Certificate of Elevator Inspection, Boiler and Pressure Pipe Inspection.

i. Maintenance Service Contract and two (2) copies of a list of all equipment installed.

j. All Operating and Maintenance Manuals for installed equipment.

Substantially Complete means:

a. All utilities are connected and in working condition.

b. All air conditioning and other major equipment are in acceptable working condition.

c. No Punch List items (list of deficiencies which must be corrected before final acceptance of contract) exist which will disrupt the use of the facility or room.

d. The building, structure or improvement can be used for its intended purpose.

After finding everything in order, the General Contractor will notify the State in writing that the project is substantially completed and ready for final inspection. He shall also submit with his notification all operating and maintenance manuals for all installed equipment.

The State Inspector shall then make a preliminary determination as to whether or not the project is substantially complete and ready for final inspection.

If the project is not substantially complete, the State Inspector will inform the Contractor in writing as to specific deficiencies which must be corrected before the project will be considered substantially complete. The General Contractor shall take immediate action to correct the deficiencies and must repeat all steps described above including written notification for final inspection.

After the State Inspector determines that the project is substantially complete the final inspection shall be scheduled within ten (10) working days after receipt of the Contractor's latest letter of notification that the project is ready for final inspection.

**7.27 PROJECT ACCEPTANCE DATE**--If upon final inspection the Engineer finds that the project has been satisfactorily completed in compliance with the contract, he may declare the project as being completed and accepted and will notify the Contractor in writing of the acceptance.

After the Contractor receives notification that the Engineer has set the Project Acceptance Date, the Contractor shall be maintaining and protecting the work and he shall also be relieved of his responsibility for injury to persons/property or damages to work EXCEPT that this does not hold true while Contractor is completing deficiencies on the Punch List.

The date of Acceptance shall determine:

a. End of Contract time.

b. Commencement of all guarantee period except as noted in 7.31a.

c. Commencement of all maintenance services except as noted in 7.31b.

In addition to notifying the Contractor of the Project Acceptance Date, the Engineer will also notify him in writing of any deficiencies which must be corrected before final settlement is made.

The Contractor must start work on correcting the deficiencies noted at final inspection within five (5) consecutive working days after receipt of the letter and complete all work within the time indicated in the Letter of Acceptance.

If the Contractor does not respond within five (5) consecutive working days or fails to complete the work within the time specified the State shall have the right to correct the

deficiencies by whatever method it deems necessary and deduct the cost from the final payment due the Contractor.

If upon final inspection the Engineer does not find the project substantially complete, the Contractor shall immediately correct the faults found and he shall again repeat the steps described herein before including written notification for final inspection.

**7.28 FINAL SETTLEMENT OF CONTRACT**--The contract will be considered settled when all work has been fully completed including the "Punch List" items and the following submitted:

a. All written guarantees required by the contract.

b. All required "As-Built" drawings.

c. Complete weekly payrolls for both the General and Subcontractors.

d. Certificate of Plumbing and Electrical Inspection.

e. Certificate of building occupancy as required.

f. Certificate of Soil and Wood Treatments.

g. Certificate of Water System Chlorination.

h. Certificate of Elevator Inspection, Boiler and Pressure Pipe installation.

i. Maintenance Service Contract and two (2) copies of a list of all equipment installed.

j. All other contract documents required by the Contract.

**7.29 CONTRACTOR'S RESPONSIBILITY FOR WORK**--Until acceptance by the Engineer of any part or all of the construction as provided for in these specifications, it shall be under the charge and care of the Contractor, and he shall take every necessary precaution against injury or damage to any part of the work by the action of the elements or from any other cause whatsoever, whether arising from the execution or from the non-execution of the work. The Contractor shall rebuild, repair, restore and make good all injuries or damage to any portion of the work occasioned by any of the above causes before final acceptance and shall bear the expense thereof.

**7.30 PERSONAL LIABILITY OF PUBLIC OFFICIALS**--In carrying out any of the above provisions or in exercising any power or authority granted to him by this contract, there shall be no liability upon said Engineer or his authorized assistants either personally or as an official of the State, it being understood that in such matters, he acts as the agent and representative of the State.

**7.31 GUARANTEE OF WORK**

a. Except as otherwise specified, all work shall be guaranteed by the Contractor against defects resulting from the use of defective or inferior materials, equipment or workmanship for one year or as otherwise noted in the technical specifications from the date of beneficial occupancy or project acceptance of the contract whichever is earlier. All guarantee of work shall be transmitted in writing.

b. Should date of beneficial occupancy be earlier than project acceptance date, the maintenance service contracts and warranty date for equipment in use shall start from the date of beneficial occupancy.

c. If, within any guarantee period, repairs or changes are required in connection with the guaranteed work, which in the opinion of the Engineer is rendered necessary as a result of the use of materials, equipment or workmanship which are inferior, defective or not in accordance with the terms of the contract, the Contractor shall within five (5) consecutive working days and without expense to the State commence to:

    1. Place in satisfactory condition in every instance all of such guaranteed work and correct all defects therein; and

    2. Make good all damages to the building or work or equipment or contents thereof.

d. Whenever a manufacturer's guarantee on any product hereinafter specified exceeds one year, this guarantee shall become part of this contract thereof. The Contractor shall complete the warranty forms in the name of the State and submit such forms to the manufacturer within such time required to validate the warranty. The Contractor shall submit to the State a photocopy of the completed warranty form for the owner's record as evidence that such warranty form was filed with the manufacturer.

e. **If guarantee is specified for greater than two (2) years, two (2) years shall prevail except for manufacturer's warranties. Manufacturer's warranties shall remain as specified in their respective sections.**

**However, the number of years specified in the technical specifications shall prevail only if it is stated that the number of years for guarantee supersedes this provision.**

7.32 **CLOSING CONTRACTS**--In order to close a contract, the Contractor shall submit the final estimate and the applicable closing documents by the specified time. In the event that the Contractor should fail to comply with this request, the Engineer or his duly authorized representative may terminate the Contract. The pertinent provisions of Subsection 7.23 **"TERMINATION OF CONTRACT"** shall be applicable.

*7.33 TERMINATION FOR CONVENIENCE OF THE STATE--The State, through the Engineer, may terminate this contract, in whole or in part, for its convenience at any time by giving the Contractor ten (10) days written notice of its intent. In such event, the Contractor shall be reimbursed for the actual cost expended in the performance of this contract, prior to the date of termination, as determined by the Engineer; the intent being that an equitable settlement shall be made with the Contractor. No claim for loss of anticipated profits shall be permitted.*

*7.34 SERVICE CHARGE FOR PERMANENT UTILITY SERVICE--The Contractor shall be responsible for scheduling and coordinating the work with the utility companies and applicable governmental agencies for permanent service connection. The State will pay the utility companies and applicable governmental agencies directly for such connections upon receipt of the statement of charges. Additional charges for overhead, supervision, coordination, profit, insurance and any other incidental expenses shall not be considered as reimbursable but shall be included in his Lump Sum Bid.*

*7.35 RIGHT TO AUDIT RECORDS*

*Pursuant to Section 103D-317 HRS the State, at reasonable times and places, may audit the books and records relating to the contractor's cost or pricing data. The books and records shall be*

*maintained for a period of three years from the date of final payment under the contract, unless another period is otherwise authorized in writing.*

## SECTION 8--MEASUREMENT AND PAYMENT

**8.1 MEASUREMENT OF QUANTITIES**--All work completed under the contract shall be measured by the Engineer according to United States standard measures, unless otherwise agreed upon in writing. The method of measurement and computations to be used in determination of quantities of material furnished and of work performed under the contract will be those methods generally recognized as conforming to good engineering practice. These measurements shall be considered correct and final unless the Contractor has protested same to the Engineer and has demonstrated the existence of an error by actual measurement on the ground before the work has progressed in a manner which would prohibit a proper check.

All measurements of the area of the various surface, pavement and base courses will be made in the horizontal projection of the actual surface and no deductions will be made for fixtures having and area of nine (9) square feet or less. All measurements of headers, curbs, fences and any other type of construction which is to be paid for by its length, will be made in the horizontal projection of the actual length, except where slope exceeds **ten percent** 10% and for piles, which will be by actual length. All materials which are specified for measurement by the cubic yard "Loose Measurement" or "Measured in the Vehicle" shall be hauled in approved vehicles and measured therein at the point of delivery on the road. Approved vehicles for this purpose may be of any type or size satisfactory to the Engineer, provided that the body is of such type that the actual contents may be readily and accurately determined. Unless, all approved vehicles on a job are of a uniform capacity, each approved vehicle must bear a plainly legible identification mark indicating the specific approve capacity. The Inspector may reject all loads not hauled in such approved vehicles.

**8.2 NO WAIVER OF LEGAL RIGHTS**--The Engineer shall not be precluded or estopped by any measurements, estimate or certificate made either before or after the completion and acceptance of the work and payment therefor, from showing the true amount and character of the work performed and materials

furnished by the Contractor, or from showing that any such measurement, estimate or certificate is untrue or incorrectly made, or that the work or materials do not conform in fact to the contract. The Engineer shall not be precluded or estopped, notwithstanding any such measurement, estimate, or certificate and payment in accordance therewith, from recovering from the Contractor and his sureties such damages as the State may sustain by reason of the Contractor's failure to comply with the terms of the contract. Neither the acceptance by the Engineer or any representative of the Engineer, nor any payment for or acceptance of the whole or any part of the work, nor any extension of time, nor any possession taken by the Engineer, shall operate as a waiver of any portion of the contract, or of any power herein reserved, or any right to damage herein provided. A waiver of any breach of the contract shall not be held to be a waiver of any other or subsequent breach.

**8.3 PAYMENT AND COMPENSATION FOR ALTERED QUANTITIES**--When alternations in plans or quantities of work as hereinabove provided for are ordered and performed, and when such alternations result in an increase or decrease of the quantity or work to be performed, the Contractor shall accept as payment in full, so far as contract items are concerned, payment at the original contract unit prices for the actual quantities of work done. No allowance will be made for any increased expense, loss of expected reimbursement, or loss of anticipated profits, except as provided under Subsection 4.2 "CHANGES AND CLAIMS FOR ADJUSTMENT".

**8.4 PAYMENT FOR ADDITIONAL WORK**--Additional work as defined in Subsection 4.2a., when ordered, shall be paid for under an approved change order in accordance with the terms provided herein.

a. Negotiated Work--**In accordance with Subsection 4.2a "PRICE ADJUSTMENT":**

**1. Whenever it is deemed by the Engineer to be in the best interest of the State, all or any part of such negotiated work may be pursued on a cost-plus basis computed as provided under Subsection 8.4b "FORCE ACCOUNT" plus adjustment made under the following conditions:**

**(a) Prime Contractor may add an additional five percent (5%) when a subcontractor performs the work for a prime contractor or**

when equipment not owned by the prime contractor is used on a rental basis.

(b) Not more than thirty percent (30%) will be allowed regardless of the number of tiers of subcontractors for each item of work.

2. On proposals covering both increases and decreases, the application of overhead and profit shall be on the net change in direct costs for the performance of the work.

3. When payment is to be made for additional work directed by an approved change order, the total price for the work contained in the change order shall be considered full compensation for materials, labor, insurance, taxes, equipment rental and supervision.

b. Force Account Work--Where payment is to be made on force-account basis, all work performed or labor and materials and equipment furnished shall be paid for as follows:

1. Labor--For all labor of workers (including other personnel when authorized by the Engineer), the Contractor will receive the rate of wage including fringe benefits when such amounts are required by collective bargaining agreement or other employment contract generally applicable to the classes of labor employed on the work, which shall be agreed upon in writing before beginning work for each and every hour that said labor is actually engaged in said work.

An amount equal to fifteen percent (15%) of the actual labor cost to cover the Contractor's and subcontractor's operating expense, overhead and profit will be paid the Contractor.

No allowance for overtime compensation will be given without the written approval of the Engineer prior to performance of such work.

2. Insurance and Tax--The Contractor will also receive the actual costs paid for property damage, liability, workers compensation insurance premiums, State unemployment contributions, Federal unemployment taxes and social security taxes to which six percent (6%) shall be added.

3. Materials--For materials accepted by the Engineer and used, the Contractor shall receive the actual cost of such materials delivered and incorporated into work, including transportation charges paid by him, to which ten percent (10%) will be added.

4. Equipment

(a) For any machinery or special equipment (other than small tools as herein defined in paragraph f), the use of which has been authorized by the Engineer, the Contractor will be paid at the per-hour rental rates based on the monthly rate established for said machinery or equipment in the then-current edition of the Rental Rate Blue Book for Construction Equipment including the estimated operating cost per hour, and regional correction provided therein.

If no rate is listed for a particular kind, type or size of machinery or equipment, then the monthly, hourly rates shall be as agreed upon in writing by the Contractor and the Engineer prior to the use of said machinery or equipment.

(b) Rental rates which are higher than those specified in the aforesaid Rental Rate Blue Book publication may be allowed where such higher rates can be justified by job conditions such as work in water and work on lava, etc. Request for such higher rates shall be submitted in writing to the Engineer for approval prior to the use of the machinery or equipment in question.

(c) The rental rate for trucks not owned by the Contractor shall be those as established under the Hawaii State Public Utilities Commission, which will be paid for as a material item pursuant to Subsection 8.4b 3.

Rental rates for Contractor-owned trucks not listed in the Rental Rate Blue Book shall be agreed upon in writing by the Contractor and Engineer prior to the use of said trucks.

(d) All rental rates for machinery and equipment shall include the cost of fuel, oil, lubricants, supplies, small tools, necessary

attachments, repairs, maintenance, tire wear, depreciation, storage, and all other incidentals.

(e) All machinery and equipment shall be in good working condition and suitable for the purpose for which the machinery and equipment is to be used.

(f) Individual pieces of equipment or tools having a replacement value of $250.00 or less, whether or not consumed by use, shall be considered to be small tools and no payment will be made therefor.

(g) The following provisions shall govern in determining the compensation to be paid to the Contractor for use of equipment or machinery on a force account basis:

(1) Transportation and/or Mobilization

(a) The location from which the equipment is to be moved or transported shall be approved by the Engineer.

(b) Where the equipment must be transported to the site of the force account work, the Department will pay all cost of mobilizing and transporting the equipment, including its loading and unloading, from its original location to the site of force account work. Upon completion of the work the Department will pay the cost of mobilizing and transporting the equipment back to its original location or to another location, whichever cost is less.

The cost of transporting the equipment shall not exceed the rates established by the Hawaii State Public Utilities Commission. If such rates are nonexistent, then the rates will be determined by the Engineer based upon the prevailing rates charged by established haulers within the locale.

(c) Where the equipment is self-propelled, the Department will pay the cost of moving the equipment by its own power from its original location to the site of the force account work. Upon completion of the work the Department will pay the cost of moving of the Equipment back to its original location, whichever cost is less.

(d) Payment for mobilizing and transportation above provided, will not be made if the equipment is used on the work in any other way than upon extra work paid for on a force account basis.

(2) Rental

(a) The rental period shall begin at the time equipment reaches the site of work, shall include each day that the machinery or equipment is at the site of the work and shall terminate at the end of the day on which the Engineer directs the Contractor to discontinue the use of machinery or equipment. In the event the equipment must standby due to work being delayed or halted by reason of design, traffic, or other related problems uncontrollable by the Contractor, but excluding Saturdays, Sundays and Legal Holidays, unless the equipment is used to perform work on such days, the rental shall continue as set forth herein until the Engineer orders the equipment removed from the site.

(b) The rental time to be paid will be in accordance with the following schedule:

| Hours Equipment Is In Operation | Hours To Be Paid |
|---|---|
| 0 | 4 |
| 0.5 | 4.25 |
| 1 | 4.5 |
| 1.5 | 4.75 |
| 2 | 5 |
| 2.5 | 5.25 |
| 3 | 5.5 |
| 3.5 | 5.75 |
| 4 | 6 |
| 4.5 | 6.25 |
| 5 | 6.5 |
| 5.5 | 6.75 |
| 6 | 7 |
| 6.5 | 7.25 |
| 7 | 7.5 |
| 7.5 | 7.75 |
| *Over 8 | hours in operation |

*Any hours or operation in excess of 8 in any one day must be approved by the Engineer prior to the performance of such work.

(c) For purposes of determining the proper half-hour increment under the Hours Equipment Is In Operation column of the above schedule, less than 30 minutes of operation shall be considered to be half an hour of operation.

(d) Rental time will not be allowed or credited for any day on which machinery or equipment is inoperative due to its breakdown. On such days, the Contractor will be paid only for the actual hours, if any, that the machinery or equipment was in operation.

(e) In the event the force account work is completed in less than 8 hours, equipment rental shall never the less be paid for a minimum 8 hours.

(f) For the purpose of determining the rental period the continuous and consecutive days shall be the normal 8-hour shift work day, Monday through Friday excluding

legal holidays. Any work day to be paid less than 8 hours shall not be considered as continuous, except for equipment removed from rental for fuel and lubrication.

(g) Overtime shall be paid for each hour in excess of the normal 8-hour shift work day at the corresponding hourly rate for daily, weekly and monthly rates.

5. State Excise (Gross Income) Tax--A sum equal to the current percentage rate for the State excise (Gross Income) tax on the total sum determined in 1, 2, 3, and 4, above shall be added as compensation to the Contractor.

The compensation as determined in 1, 2, 3, 4, and 5 above shall be deemed to be payment in full for work done on a force account basis, including superintendence, overhead, use of tools and equipment for which no rental is allowed, profit, all taxes, subcontracting and other costs in connection therewith which are not provided for herein.

6. Records--The Contractor and the Engineer shall compare records of the cost of work done as ordered on a force account basis at the end of each day. These daily records shall thereafter be deemed to be the basis for payment of force account work.

7. Statements--No payment will be made for work performed on a force account basis until the Contractor has submitted to the Engineer duplicate, itemized statements of the cost of such force account work detailed as follows:

(a) Laborers--Name, classification, date, daily hours, total hours, rate, and extension for each laborer and foreman and also the amount of fringe benefits payable if any.

(b) Equipment--Designation, dates, daily hours, total hours, rental rate, and extension for each unit of machinery and equipment.

(c) Materials

(1) Quantities of materials, prices and extensions.

(2) Costs of transporting materials, if such cost is not reflected in the prices of the materials.

(3) Statements shall be accompanied and supported by receipted invoices for all materials used and transportation charges. However, if materials used on the force account work are not specifically purchased for such work but are taken from the Contractor's stock, then in lieu of the invoices the Contractors shall submit an affidavit certifying that such materials were taken from his stock and that the amount claimed represents the actual cost to the Contractor.

(d) Insurance--Cost of property damage, liability and workers' compensation insurance premiums, unemployment insurance contributions, and social security tax.

**8.5 PROGRESS AND/OR PARTIAL PAYMENTS**--*The Contractor will be allowed progress payments on a monthly basis upon preparing the Monthly Estimate forms and submitting them to the Engineer. The estimate shall be based on the items of work satisfactorily completed and the value thereof at unit prices and/or lump sum prices set forth in the contract and will be subject to compliance with Section 7.7 "PAYROLL AND PAYROLL RECORDS".*

*In the event the Contractor or any Subcontractor fails to submit certified copies of payrolls in accordance with the requirements of Section 7.7 "PAYROLL AND PAYROLL RECORDS", the Engineer may deduct the amount due for items of work for which payroll affidavits have not been submitted on a timely basis notwithstanding satisfactory completion of the work. The contractor shall not be due any interest payment for an amount thus withheld.*

*The Contractor will also be allowed partial payments to the extent of sixty percent (60%) of the invoice cost of approved materials to be incorporated in the work on the following conditions:*

*a. The materials are delivered and properly stored at the site of work, or*

*b. The materials are delivered to the Contractor or subcontractors and properly stored in acceptable storage places within reasonable distance of the site of work for special items of materials approved by the Engineer.*

*Partial payments shall be made only if the Engineer finds that:*

*a. The contractor has submitted bills of sale for the materials or otherwise demonstrates clear title to such materials.*

*b. The materials are adequately insured against theft, fire, damages incurred in transportation to the site, and other casualties.*

*c. The materials are not subject to deterioration.*

*d. In the case of materials stored off the project site, the materials are not commingled with other materials not to be incorporated into the project.*

*The State will retain five percent (5%) of the total amount of progress and/or partial payment until after completion of the entire contract in an acceptable manner and the balance, less previous payments, will be certified and paid to the Contractor, provided further, that after fifty percent (50%) of the contract is completed and progress is satisfactory, no additional sum shall be withheld; provided further, that if progress is not satisfactory, the State may continue to withhold as retainage sums not exceeding five percent (5%) of the amount due the Contractor. The State may enter into an agreement with the Contractor which will allow the Contractor to withdraw from time to time the whole or any portion of the sum retained upon depositing with the State any general obligation bond of the State or its political subdivisions with a market value not less than the sum to be withdrawn, provided that the State may require that the total market value of such bond be greater than the sum to be withdrawn.*

*The Contractor warrants and guarantees that all work and materials covered by progress or partial payments made thereon shall be free and clear of all liens, claims, security interests or encumbrances, and shall become the sole property of the State. This provision shall not, however, be construed as an acceptance of the work nor shall it be construed as relieving the Contractor from the sole responsibility for all materials and work upon which payments have been made or the restoration of any damaged work, or as waiving the right of the State to require the fulfillment of all the items of the contract.*

**8.6 DEDUCTION FROM PAYMENT**--The Department may at any time retain or deduct out of any sums due the Contractor, claims of the State to cover any unpaid claims of others supported by sworn statements filed in the Office of the Manager-Chief Engineer,

without any liability for damages, interest or otherwise to the Contractor for such retention or deduction.

**8.7 FINAL PAYMENT**--When the work provided for by the contract has been completely performed on the part of the Contractor, all parts of the work have been approved by the Engineer, and the final inspection and project acceptance as provided for have been made, the Contractor will prepare and submit to the Engineer the final payment request. The final payment amount, less all previous payments and less any sums that may have been deducted in accordance with the provisions of the contract, will be paid to the Contractor, provided the Contractor has submitted the following:

a. Tax Clearance from the Department of Taxation to the affect that all delinquent taxes levied or accrued under State Statutes against the contractor have been paid.

   1. Clearance Certificate (Income Assessment and Audit Division)

   2. Division of Taxation certificate

b. The Contractor shall execute and file with the Department of Land and Natural Resources the Contractor's Release Affidavit forms before final payment is made. The blank forms as shown herein may be copied or obtained at the Division of Water and Land Development, Department of Land and Natural Resources, Kalanimoku Building, Room 227, 1151 Punchbowl Street, Honolulu, Hawaii.

c. Satisfactory evidence by affidavit that all debts resulting from the contract have been fully paid.

Sums necessary to meet the claims of the State or any other person, partnership, corporation or other legal entity may be retained from the sums due the Contractor until said claims have been fully and completely discharged or otherwise satisfied.

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

***8.8 PROMPT PAYMENT:***

*a. In accordance with Section 103-10.5, HRS, any money, other than retainage, paid to a Contractor shall be dispersed to Subcontractors within ten (10) consecutive calendar days after receipt of the money in accordance with the terms of the Subcontract, provided that the Subcontractor has met all the terms and conditions of the subcontract and there are no bona fide disputes, and*

*b. Upon final payment to the Contractor, full payment to the Subcontractor, including retainage, shall be made within ten (10) consecutive calendar days after receipt of the money, provided there are no bona fide disputes over the Subcontractor's performance under the subcontract.*

*1. <u>Definition</u>*

*a. Subcontract--Any written agreement between the Contractor and his Subcontractors which contains the conditions under which the Subcontractor is to perform a portion of the work for the Contractor.*

*b. Bona Fide Disputes--The following are examples of 'bona fide disputes':*

*(1) When a Subcontractor delays the project to the extent that liquidated damages may be imposed on the Contractor and the Subcontractor fails to provide a Contractor with written justification for such delay;*

*(2) When work done by a Subcontractor is paid for and later found to be non-conforming or unacceptable and the amount previously paid by the State is deducted from subsequent payment request;*

*(3) When the Subcontractor fails to promptly correct any and all deficiencies and/or non-conforming work cited by the State; or*

*(4) When the Subcontractor fails to fulfill any term, condition or requirement of his subcontract.*

2. *Filing of Complaint and Verification of its Validity:*

*Complaints by Subcontractors of late or non-payment must be submitted in writing to the Engineer stating (1) the amount past due for work performed and already paid for by the State, (2) that all the terms, conditions or requirements of his subcontract have been met and (3) that no bona fide dispute over his performance exists. The Engineer will hear and receive evidence to determine the validity of the complaint and his decision on the matter shall be final.*

3. *Follow-Up Action:*

*If the Engineer or his representative determines that the Contractor failed to make payment required under the subcontract to a Subcontractor with whom he has no 'bona fide dispute' within the time period specified above, he shall inform the Contractor of his findings and request the Contractor make payment accordingly. If the Contractor does not act promptly, the Engineer or his representative shall take appropriate action as allowed under this contract and/or refer the matter to the Contractor Licensing Board for appropriate action under Section 444-17(15) Hawaii Revised Statutes regarding the Revocation, Suspension and Renewal of (Contractor) Licenses.*

## APPENDIX

## ESTIMATE FOR CHANGE ORDER

PROJECT:_____

JOB NO._____

SUBMITTED BY:_____

Reference Bulletin No._____ P.C.D. No._____ Field Change_____

MATERIALS

| Unit | Description | Unit Price | Subtotal |
|---|---|---|---|
| | | | $_____ |
| | | | $_____ |
| | | | $_____ |
| | | | $_____ |
| | | | $_____ |
| | | | $_____ |
| | | | $_____ |
| | | | $_____ |
| | | | $_____ |

TOTAL FOR MATERIALS . . . . . $_____(1)

LABOR

| Classification | Hours | Hour Rate | | |
|---|---|---|---|---|
| | | | | $_____ |
| *Fringe | | | $_____ | |
| | | | | $_____ |
| Fringe | | | $_____ | |
| | | | | $_____ |
| Fringe | | | $_____ | |
| | | | | $_____ |
| Fringe | | | $_____ | |
| | | | | $_____ |
| Fringe | | | $_____ | |
| SUBTOTALS . . . . . | | | $_____(2) | $_____(3) |

TOTAL FOR LABOR (Wages & Fringes) (2) + (3) $_____(4)

SUBTOTAL - Materials & Labor (1) + (4) $_____(5)
O.H. & PROFIT (____%) of (5) $_____(6)
Ins. & Taxes (____%) of (3) $_____(7)
O.H. for Ins. & Taxes (6%) of (7) $_____(8)
TOTAL - MATERIALS & LABOR (5) + (6) + (7) + (8) $_____(9)

EQUIPMENT

| Type or Class | Hours | Rate | |
|---|---|---|---|
| | | | $_____ |
| | | | $_____ |
| | | | $_____ |
| | | | $_____ |
| | | | $_____ |
| | | | $_____ |
| | | | $_____ |

TOTAL FOR EQUIPMENT ..... $_____(10)

TOTAL (MATERIAL, LABOR, EQUIPMENT) (9)+(10) ..... $_____(11)
Bond Fee 1% on (11) (If Applicable) $_____(12)
Gross Income Tax 4.16% on (11)+(12) $_____(13)
TOTAL FOR CHANGE ORDER (11)+(12)+(13) $_____

*Fringe Benefit shall be identified separately under each classification.

## APPENDIX

## (NAME OF CORPORATION)

I, _____, Secretary of _____ _____ Corporation, a corporation, do hereby certify that the following is a full, true and correct copy of a resolution duly adopted by the Board of Directors of said Corporation, at its meeting duly called and held at the office of the Corporation, _____, Street, _____, _____, on the day of _____ 19____, at which a quorum was present and acting throughout; and that said resolution has not been modified, amended or rescinded and continues in full force and effect:

"RESOLVED that any individual at the time holding the position of President or Vice President, be, and each of them hereby is, authorized to execute on behalf of the Corporation any bid, proposal or contract for the sale or rental of the products of the Corporation or for services to be performed by the Corporation, and to execute any bond required by any such bid, proposal or contract with the United States Government or the State of Hawaii or the City and County of Honolulu, or any County or Municipal Government of said State, or any department or subdivision of any of them."

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said _____ Corporation this _____ day of _____, 19____.

_____
Secretary

(Names and Addresses of:)
President
Vice President
Secretary

## APPENDIX

## CONTRACT

THIS AGREEMENT, made this _____ day of _____, 19___, by and between the State of Hawaii, by its Board of Land and Natural Resources, hereinafter called the "STATE" and _____ _____, hereinafter called the "CONTRACTOR";

## WITNESSETH

That for and in consideration of the payments hereinafter mentioned, the Contractor hereby covenants and agrees with the State to furnish, deliver, construct, and pay for everything necessary for the completion of the work for, and to perform complete, all the work of:

or such part thereof as shall be required by the State, all in accordance with the Contract Specifications and Plans, Standard Specifications for Construction Work, Special Provisions for Job No. _____ and the Notice to Contractors, Information and Instructions to Bidders, Proposal, Contractor's Proposal, and any and all additions, deductions and changes thereto or therein which are hereby made a part of this Contract, all on file in the Office of the Department of Land and Natural Resources (all of which, together with this Contract and the Contractor's bonds, are herein referred to as the Contractor Documents), and further covenants and agrees to complete such work on or before _____ consecutive calendar days after receiving notice from the State to proceed, subject to such extensions as may be provided for in the Contract Documents.

For and in consideration of the covenants, undertakings, and agreements of the Contractor, and upon the full and faithful performance thereof by the Contractor, the State hereby agrees to pay to the Contractor the sum of _____ Dollars ($_____) if the number of units actually incorporated in the work proves to be as set forth in the Proposal, or if such number of units varies therefrom, the sum determined by adding the products of the number of units incorporated in the work multiplied by the respective unit prices bid therefor in the Contractor's Proposal (and, where applicable under the Specifications, multiplied by the respective adjusted unit prices). All payments under this Contract shall be made from funds appropriated by _____ _____ and any other legislative act or source from which such payments may lawfully be made. Such payments shall be made in the manner and at the time provided in the Contract Documents and shall be subject to such additions or deductions as may be in accordance with the provisions of said Contract Documents.

In addition to such payment, compensation for extra work, if any, may be allowed but shall not exceed _____ _____ Dollars ($_____) in accordance with the provisions of said Contract Documents and shall be made from funds appropriated as provided hereinabove.

This contract is subject, however, to the release of funds by the Governor.

It is covenanted and agreed by and between the Contractor and the State hereto that in the event a portion of the funds for the project is provided by the Federal Government, the sums of Federal monies which are part of the contract price and/or extras shall be paid to the Contractor only out of the aforesaid Federal funds if and when such Federal funds shall be received from the Federal Government for the purpose of such payment, and that this Contract shall not be construed to bind the State to pay said portions, at all events, out of any funds other than those which may be so received from the Federal Government.

LIQUIDATED DAMAGES per working day for failure to complete the work on time shall be the sum stated in the Proposal submitted by the Contractor.

IN WITNESS WHEREOF, the STATE OF HAWAII, by its Board of Land and Natural Resources, has caused the seal of the Department of Land and Natural Resources to be hereunto affixed and these presents to be duly executed this _____ day of _____, 19___; and the Contractor has caused this Agreement to be executed and its corporate seal hereto affixed by its proper officer(s) thereunto duly authorized on the day and year first above written.

STATE OF HAWAII

By:_____
Chairperson and Member
Board of Land and Natural Resources

APPROVED AS TO FORM:

And By: _____
Member
Board of Land and Natural Resources

Deputy Attorney General

Dated:_____

_____
Contractor

By: _____
Its: _____

## APPENDIX

## SURETY BID BOND

Bond No. _____

KNOW ALL MEN BY THESE PRESENTS:

That we, [Full name or legal title of bidder] as Principal, hereinafter called the Principal, and [Bonding company], a corporation duly licensed for the purpose of making, guaranteeing, or becoming sole surety upon bonds or undertakings required or authorized by the laws of the State of Hawaii, as Surety, hereinafter called the Surety, are held and firmly bound unto [State/county entity], as Owner, in the penal sum of [Required amount of bid security] dollars ($_____), lawful money of the United States of America, for the payment of which sum well and truly to be made, the said Principal and the said Surety bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS:

The Principal has submitted an offer for [Project by number and brief description].

NOW, THEREFORE:

The condition of this obligation is such that if the [State/county entity] shall reject said offer, or in the alternate, accept the offer of the Principal and the Principal shall enter into a Contract with the [State/county entity] in accordance with the terms of such offer, and give such bond or bonds as may be specified in the solicitation or Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof as specified in the solicitation then this obligation shall be null and void, otherwise to remain in full force and effect.

Signed this _____ day of _____, 19____.

_____
(Principal)

By_____
Its

_____
(Surety)

By_____
Its Attorney-in-Fact

APPENDIX

SURETY PERFORMANCE BOND

PRELIMINARY
SUBJECT TO CHANGE

Bond No. _____

KNOW ALL MEN BY THESE PRESENTS:

That we, [Full name or legal title of Contractor and street address], as principal, hereinafter called Contractor, and [Bonding company], a corporation duly licensed for the purpose of making, guaranteeing, or becoming sole surety upon bonds or undertakings required or authorized by the laws of the State of Hawaii, as surety, hereinafter called the Surety, are held and firmly bound unto [State/county entity], its successors and assigns, as Obligee, hereinafter called Obligee, in the amount of [Required amount of the bond] dollars ($_____), lawful money of the United States of America, for the payment of which to the said Obligee, well and truly to be made, Contractor and Surety bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS:

The Contractor has by written agreement dated [Date of contract] entered into a contract with Obligee for [Project by number and brief description], and is hereinafter referred to as the Contract.

NOW, THEREFORE:

The condition of this obligation is such that, if Contractor shall promptly and faithfully perform said Contract then this obligation shall be null and void; otherwise it shall remain in full force and effect. The Surety hereby waives notice of any alteration or extension of time made by the Obligee and its obligation is not affected by any such alteration or extension provided the same is within the scope of the contract. Whenever Contractor shall be, and is declared by Obligee to be in default under the Contract, the Obligee having performed its obligations thereunder, the Surety may promptly remedy the default or shall promptly:

1) Complete the Contract in accordance with its terms and conditions; or

2) Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by the Obligee and the Surety jointly of the lowest responsive, responsible bidder, arrange for a contract between such bidder and the Obligee, and make available as work progresses (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the contract price; but not exceeding,

including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the contract price," as used in this paragraph, shall mean the total amount payable by Obligee to Contractor under the Contract and any amendments thereto, less the amount paid by State to Contractor. No right of action shall accrue on this bond to or for the use of any person or corporation other than the Obligee.

Signed and sealed this _____ day of _____, 19____.

PRELIMINARY
SUBJECT TO CHANGE

_____
(Principal) (SEAL)

*By_____
Its

*By_____
Its

_____
(Surety) (SEAL)

*By_____
Its Attorney-in-Fact

*ALL SIGNATURES MUST BE ACKNOWLEDGED BY A NOTARY PUBLIC

## APPENDIX

## PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

That [Full name or legal title of Contractor and street address], hereinafter called Obligor, is firmly bound unto the [State/county entity], its successors and assigns, hereinafter called Obligee, in the amount of [Required amount of the bond] dollars ($_____), lawful money of the United States of America, for the payment of which the Obligor does hereby bind himself/herself/itself and his/her/its heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

As security for the above obligation, Obligor attaches hereto [Legal tender; certificate of deposit; share certificate; and/or cashier's, treasurer's, teller's, official or certified check(s)] in the amount of [Required amount of bond] dollars ($_____).

WHEREAS:

The Obligor has by written agreement dated [Date of contract] entered into a contract with Obligee for [Project by number and brief description], and is hereinafter referred to as the Contract.

PRELIMINARY
SUBJECT TO CHANGE

NOW, THEREFORE:

The condition of this obligation is such that, if the Obligor shall promptly and faithfully perform said Contract then this obligation shall be null and void; otherwise it shall remain in full force and effect. The Obligor hereby waives notice of any alteration or extension of time made by the Obligee and its obligation is not affected by any such alteration or extension provided the same is within the scope of the contract. Whenever Obligor shall be, and is declared by Obligee to be in default under the Contract, the Obligee having performed its obligations thereunder:

1) The Obligor may promptly remedy the default or shall promptly complete the Contract in accordance with its terms and conditions; or

2) If the Obligor fails to promptly remedy the default or complete the contract in accordance with its terms and conditions, the Obligee shall arrange for a contract between another Contractor and the Obligee, and the Obligee will pay the cost of completing the contract, plus any administrative costs incurred by the Obligee in securing another contract or contracts, less the balance of the contract price from the security amount set forth in the first paragraph above (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph); but not exceeding

the amount set forth in the first paragraph hereof. The term "balance of the contract price," as used in this paragraph, shall mean the total amount payable by Obligee to Obligor under the Contract and any amendments thereto, less the amount properly paid by Obligee to Obligor. No right of action shall accrue on this bond to or for the use of any person or corporation other than the Obligee.

Signed and sealed this _____ day of _____, 19____.

PRELIMINARY
SUBJECT TO CHANGE

_____
(Principal) (SEAL)

*By_____
Its

*By_____
Its

*ALL SIGNATURES MUST BE ACKNOWLEDGED
BY A NOTARY PUBLIC

## APPENDIX

## SURETY LABOR AND MATERIAL PAYMENT BOND

Bond No._____

KNOW ALL MEN BY THESE PRESENTS:

That [Full name or legal title of Contractor and street address] as Principal, hereinafter called Contractor, and [Bonding Company], a corporation duly licensed for the purpose of making, guaranteeing, or becoming sole surety upon bonds or undertakings required or authorized by the laws of the State, as Surety, hereinafter called Surety, are held and firmly bound unto the State as Obligee, hereinafter called Obligee, for the use and benefit of claimants as hereinbelow defined, in the amount of [Required amount of bond] dollars ($_____) for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS:

The Contractor has by written agreement dated [Date of contract], entered into a contract with Obligee for [Project by number and brief description], and is hereinafter referred to as the Contract.

PRELIMINARY
SUBJECT TO CHANGE

NOW, THEREFORE:

The condition of this obligation is such that, if Contractor shall promptly make payment to all claimants as hereinafter defined, for all labor and material used or reasonably required for use in the performance of the Contract, then this obligation shall be void; otherwise it shall remain in full force and effect, subject, however, to the following conditions:

1) A claimant is defined as one having direct contract with the Contractor or with a Subcontractor for labor, material, or both , used or reasonably required for use in the performance of the Contract, labor and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service, or rental of equipment directly applicable to the Contract.

2) The above-named Contractor and Surety hereby jointly and severally agree with the Obligee that every claimant as herein defined, who has not been paid in full therefor after two months from the completion and final settlement of any contract, may institute an action against the contractor and its sureties, and have their rights and claims adjudicated in the action, and judgement rendered thereon. If the full amount of the liability of the sureties on the bond is insufficient to pay the full amount of the claims, then, after paying the full amount due the Obligee, the remainder shall be distributed pro rata to the

claimants. The Obligee shall not be liable for the payment of any costs or expenses of any such suit.

3) No suit or action shall be commenced hereunder by any claimant:

a) Unless all claimants shall have given written notice to the Obligee and to the Contractor or the Surety above named, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the work or labor was done or performed. Such notice shall be personally served or served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the Contractor at any place the Contractor maintains as office or conducts its business.

b) After the expiration of one year after the completion and final settlement of the contract.

c) Other than in the circuit court of the circuit in which the contract was to be performed.

PRELIMINARY
SUBJECT TO CHANGE

4) The obligee named in the bond shall not be joined as a party in any such suit.

5) The amount of this bond may be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payment by Surety or mechanics' liens which may be filed of record against said improvement, whether or not claim for the amount of such lien be presented under and against this bond.

Signed and sealed this _____ day of _____, 19____.

_____
(Principal) (SEAL)

*By_____
Its

*ALL SIGNATURES MUST BE ACKNOWLEDGED BY A NOTARY PUBLIC

*By_____
Its

_____
(Surety) (SEAL)

*By_____
Its Attorney-in-Fact

## APPENDIX

### LABOR AND MATERIAL PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS:

That [Full name or legal title of Contractor and street address] hereinafter called Obligor, is held and firmly bound unto [State/county entity] as Obligee, hereinafter call Obligee, for the use and benefit of claimants as hereinbelow defined, in the amount of [Required amount of bond] dollars ($_____) for the payment of which the Obligor does hereby bind himself/herself/itself and his/her/its heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

As security for the above obligation, Obligor attaches hereto [Legal tender; Certificate of deposit; share certificate; and/or cashier's, treasurer's, teller's, official or certified check(s)] in the amount of [Required amount of bond] dollars ($_____).

WHEREAS:

The Obligor has by written agreement dated [Date of contract], entered into a contract with Obligee for [Project by number and brief description], and is hereinafter referred to as the Contract.

PRELIMINARY
SUBJECT TO CHANGE

NOW, THEREFORE:

The condition of this obligation is such that, if Obligor shall promptly make payment to all claimants as hereinafter defined, for all labor and material used or reasonably required for use in the performance of the Contract, then this obligation shall be void; otherwise it shall remain in full force and effect, subject, however, to the following conditions:

1) A claimant is defined as one having a direct contract with the Obligor or with a Subcontractor for labor, material, or both, used or reasonably required for use in the performance of the Contract, labor and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service, or rental of equipment directly applicable to the Contract.

2) The above-named Obligor agrees with the Obligee that every claimant as herein defined, who has not been paid in full therefor after two months from the completion and final settlement of any contract, may institute an action against the contractor and its sureties, and have their rights and claims adjudicated in the action, and judgement rendered thereon. If the full amount of the liability of the sureties on the bond is insufficient to pay the full amount of the claims, then the remainder shall be distributed pro rata among the claimants. The Obligee shall not be liable for the payment of any costs or expenses of any such suit.

3) No suit or action shall be commenced hereunder by any claimant:

a) Unless all claimants shall have given written notice to the Obligor and the Obligee stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the work or labor was done or performed. Such notice shall be personally served or served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the Obligor at any place the Obligor maintains as office or conducts its business.

b) After the expiration of one year following the completion and final settlement of the contract.

c) Other than in the circuit court of the circuit in which the contract was to be performed.

4) The obligee named in the bond shall not be joined as a party in any such suit.

5) The amount of this bond may be reduced by and to the extent of any payment or payments made in good faith hereunder.

PRELIMINARY
SUBJECT TO CHANGE

Signed and sealed this _____ day of _____, 19____.

_____

(Obligor) (SEAL)

*By_____

Its

*By_____

Its

*ALL SIGNATURES MUST BE ACKNOWLEDGED
BY A NOTARY PUBLIC

## APPENDIX

## [FOR USE WITH PERFORMANCE AND PAYMENT BONDS]

CONTRACTOR ACKNOWLEDGEMENT:

STATE OF _____ )
) SS.
_____COUNTY OF _____ )

On this _____ day of _____, 19_____, before me appeared _____ and _____ to me personally known, who, being by me duly sworn, did say that he/she/they is/are _____ and _____ of _____ the Contractor named in the foregoing instrument, and that he/she/they is/are authorized to sign said instrument in behalf of the Contractor, and acknowledges that he/she/they executed said instrument as the free act and deed of the Contractor.

_____
Notary Public

(Notary Seal)

State of _____

My commission expires: _____

## APPENDIX

## [FOR USE WITH SURETY PERFORMANCE AND PAYMENT BONDS]

SURETY ACKNOWLEDGEMENT:

STATE OF _____ )
) SS.
_____COUNTY OF _____ )

On this _____ day of _____, 19_____, before me personally came _____ and _____ to me known, who, being by me duly sworn, did depose and say that _____ resides in _____; that _____ is the Attorney-in-Fact of _____ the corporation described in and which executed the attached instrument; that _____ knows corporate seal of the said corporation; that the seal affixed to the said instrument is such corporate seal; and that it was so affixed by order of the Board of Directors of the said corporation; and that _____ signed _____ name thereto by like order.

_____
Notary Public

(Notary Seal)

State of _____

My commission expires: _____

## APPENDIX

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

CERTIFICATION OF RECYCLED CONTENT

Solicitation No:
Title:
Issuance Date:
Operating Date:

| Item No. | Product Name | Product Description | Manufacturer | Post-Consumer Recovered Material content* | Recovered Material Content* |
|---|---|---|---|---|---|

* Post-consumer recovered material and recovered material content, as defined in §3-124-22, HAR, measured as percentage of total product weight. Attach manufacturer's specifications or certification, as required by §3-124-24(c), HAR. Recycled content measurements to be used for bid evaluation. If more space is required for product information, additional sheets may be attached.

CERTIFICATION

I declare that the above has been examined by me and to the best of my knowledge and belief is true and correct.

Company: _____
Name: _____
Address: _____
_____
Telephone No.: _____

Authorized Representative:
Name: _____
Title: _____

Signature: _____
Date: _____

# GENERAL CONDITIONS

## Table of Contents


Page(s)

1. Coordination of Services by the STATE ..... 2
2. Relationship of Parties: Independent Contractor Status and Responsibilities, Including Tax Responsibilities ..... 2
3. Personnel Requirements ..... 3
4. Nondiscrimination ..... 3
5. Conflicts of Interest ..... 3
6. Subcontracts and Assignments ..... 3
7. Indemnification and Defense ..... 4
8. Cost of Litigation ..... 4
9. Liquidated Damages ..... 4
10. STATE'S Right of Offset ..... 4
11. Disputes ..... 4
12. Suspension of Contract ..... 4
13. Termination for Default ..... 5
14. Termination for Convenience ..... 6
15. Claims Based on the Agency Procurement Officer's Actions or Omissions ..... 8
16. Costs and Expenses ..... 8
17. Payment Procedures; Final Payment; Tax Clearance ..... 9
18. Federal Funds ..... 9
19. Modifications of Contract ..... 9
20. Change Order ..... 10
21. Price Adjustment ..... 11
22. Variation in Quantity for Definite Quantity Contracts ..... 11
23. Changes in Cost-Reimbursement Contract ..... 11
24. Confidentiality of Material ..... 12
25. Publicity ..... 12
26. Ownership Rights and Copyright ..... 12
27. Liens and Warranties ..... 12
28. Audit of Books and Records of the CONTRACTOR ..... 13
29. Cost or Pricing Data ..... 13
30. Audit of Cost or Pricing Data ..... 13
31. Records Retention ..... 13
32. Antitrust Claims ..... 13
33. Patented Articles. ..... 13
34. Governing Law ..... 14
35. Compliance with Laws ..... 14
36. Conflict between General Conditions and Procurement Rules ..... 14
37. Entire Contract ..... 14
38. Severability ..... 14
39. Waiver ..... 14
40. Pollution Control ..... 14
41. Campaign Contributions ..... 14
42. Confidentiality of Personal Information ..... 14

1. Coordination of Services by the STATE. The head of the purchasing agency ("HOPA") (which term includes the designee of the HOPA) shall coordinate the services to be provided by the CONTRACTOR in order to complete the performance required in the Contract. The CONTRACTOR shall maintain communications with HOPA at all stages of the CONTRACTOR'S work, and submit to HOPA for resolution any questions which may arise as to the performance of this Contract. "Purchasing agency" as used in these General Conditions means and includes any governmental body which is authorized under chapter 103D, HRS, or its implementing rules and procedures, or by way of delegation, to enter into contracts for the procurement of goods or services or both.

2. Relationship of Parties: Independent Contractor Status and Responsibilities, Including Tax Responsibilities.

   a. In the performance of services required under this Contract, the CONTRACTOR is an "independent contractor," with the authority and responsibility to control and direct the performance and details of the work and services required under this Contract; however, the STATE shall have a general right to inspect work in progress to determine whether, in the STATE'S opinion, the services are being performed by the CONTRACTOR in compliance with this Contract. Unless otherwise provided by special condition, it is understood that the STATE does not agree to use the CONTRACTOR exclusively, and that the CONTRACTOR is free to contract to provide services to other individuals or entities while under contract with the STATE.

   b. The CONTRACTOR and the CONTRACTOR'S employees and agents are not by reason of this Contract, agents or employees of the State for any purpose, and the CONTRACTOR and the CONTRACTOR'S employees and agents shall not be entitled to claim or receive from the State any vacation, sick leave, retirement, workers' compensation, unemployment insurance, or other benefits provided to state employees.

   c. The CONTRACTOR shall be responsible for the accuracy, completeness, and adequacy of the CONTRACTOR'S performance under this Contract. Furthermore, the CONTRACTOR intentionally, voluntarily, and knowingly assumes the sole and entire liability to the CONTRACTOR'S employees and agents, and to any individual not a party to this Contract, for all loss, damage, or injury caused by the CONTRACTOR, or the CONTRACTOR'S employees or agents in the course of their employment.

   d. The CONTRACTOR shall be responsible for payment of all applicable federal, state, and county taxes and fees which may become due and owing by the CONTRACTOR by reason of this Contract, including but not limited to (i) income taxes, (ii) employment related fees, assessments, and taxes, and (iii) general excise taxes. The CONTRACTOR also is responsible for obtaining all licenses, permits, and certificates that may be required in order to perform this Contract.

   e. The CONTRACTOR shall obtain a general excise tax license from the Department of Taxation, State of Hawaii, in accordance with section 237-9, HRS, and shall comply with all requirements thereof. The CONTRACTOR shall obtain a tax clearance certificate from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of the Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR have been paid and submit the same to the STATE prior to commencing any performance under this Contract. The CONTRACTOR shall also be solely responsible for meeting all requirements necessary to obtain the tax clearance certificate required for final payment under sections 103-53 and 103D-328, HRS, and paragraph 17 of these General Conditions.

   f. The CONTRACTOR is responsible for securing all employee-related insurance coverage for the CONTRACTOR and the CONTRACTOR'S employees and agents that is or may be required by law, and for payment of all premiums, costs, and other liabilities associated with securing the insurance coverage.

g. The CONTRACTOR shall obtain a certificate of compliance issued by the Department of Labor and Industrial Relations, State of Hawaii, in accordance with section103D-310, HRS, and section 3-122-112, HAR, that is current within six months of the date of issuance.

h. The CONTRACTOR shall obtain a certificate of good standing issued by the Department of Commerce and Consumer Affairs, State of Hawaii, in accordance with section 103D-310, HRS, and section 3-122-112, HAR, that is current within six months of the date of issuance.

i. In lieu of the above certificates from the Department of Taxation, Labor and Industrial Relations, and Commerce and Consumer Affairs, the CONTRACTOR may submit proof of compliance through the State Procurement Office's designated certification process.

3. Personnel Requirements.

a. The CONTRACTOR shall secure, at the CONTRACTOR'S own expense, all personnel required to perform this Contract.

b. The CONTRACTOR shall ensure that the CONTRACTOR'S employees or agents are experienced and fully qualified to engage in the activities and perform the services required under this Contract, and that all applicable licensing and operating requirements imposed or required under federal, state, or county law, and all applicable accreditation and other standards of quality generally accepted in the field of the activities of such employees and agents are complied with and satisfied.

4. Nondiscrimination. No person performing work under this Contract, including any subcontractor, employee, or agent of the CONTRACTOR, shall engage in any discrimination that is prohibited by any applicable federal, state, or county law.

5. Conflicts of Interest. The CONTRACTOR represents that neither the CONTRACTOR, nor any employee or agent of the CONTRACTOR, presently has any interest, and promises that no such interest, direct or indirect, shall be acquired, that would or might conflict in any manner or degree with the CONTRACTOR'S performance under this Contract.

6. Subcontracts and Assignments. The CONTRACTOR shall not assign or subcontract any of the CONTRACTOR'S duties, obligations, or interests under this Contract and no such assignment or subcontract shall be effective unless (i) the CONTRACTOR obtains the prior written consent of the STATE, and (ii) the CONTRACTOR'S assignee or subcontractor submits to the STATE a tax clearance certificate from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR'S assignee or subcontractor have been paid. Additionally, no assignment by the CONTRACTOR of the CONTRACTOR'S right to compensation under this Contract shall be effective unless and until the assignment is approved by the Comptroller of the State of Hawaii, as provided in section 40-58, HRS.

a. Recognition of a successor in interest. When in the best interest of the State, a successor in interest may be recognized in an assignment contract in which the STATE, the CONTRACTOR and the assignee or transferee (hereinafter referred to as the "Assignee") agree that:

(1) The Assignee assumes all of the CONTRACTOR'S obligations;

(2) The CONTRACTOR remains liable for all obligations under this Contract but waives all rights under this Contract as against the STATE; and

(3) The CONTRACTOR shall continue to furnish, and the Assignee shall also furnish, all required bonds.

b. Change of name. When the CONTRACTOR asks to change the name in which it holds this Contract with the STATE, the procurement officer of the purchasing agency (hereinafter referred to as the "Agency procurement officer") shall, upon receipt of a document acceptable or satisfactory to the

Agency procurement officer indicating such change of name (for example, an amendment to the CONTRACTOR'S articles of incorporation), enter into an amendment to this Contract with the CONTRACTOR to effect such a change of name. The amendment to this Contract changing the CONTRACTOR'S name shall specifically indicate that no other terms and conditions of this Contract are thereby changed.

c. Reports. All assignment contracts and amendments to this Contract effecting changes of the CONTRACTOR'S name or novations hereunder shall be reported to the chief procurement officer (CPO) as defined in section 103D-203(a), HRS, within thirty days of the date that the assignment contract or amendment becomes effective.

d. Actions affecting more than one purchasing agency. Notwithstanding the provisions of subparagraphs 6a through 6c herein, when the CONTRACTOR holds contracts with more than one purchasing agency of the State, the assignment contracts and the novation and change of name amendments herein authorized shall be processed only through the CPO's office.

7. Indemnification and Defense. The CONTRACTOR shall defend, indemnify, and hold harmless the State of Hawaii, the contracting agency, and their officers, employees, and agents from and against all liability, loss, damage, cost, and expense, including all attorneys' fees, and all claims, suits, and demands therefore, arising out of or resulting from the acts or omissions of the CONTRACTOR or the CONTRACTOR'S employees, officers, agents, or subcontractors under this Contract. The provisions of this paragraph shall remain in full force and effect notwithstanding the expiration or early termination of this Contract.

8. Cost of Litigation. In case the STATE shall, without any fault on its part, be made a party to any litigation commenced by or against the CONTRACTOR in connection with this Contract, the CONTRACTOR shall pay all costs and expenses incurred by or imposed on the STATE, including attorneys' fees.

9. Liquidated Damages. When the CONTRACTOR is given notice of delay or nonperformance as specified in paragraph 13 (Termination for Default) and fails to cure in the time specified, it is agreed the CONTRACTOR shall pay to the STATE the amount, if any, set forth in this Contract per calendar day from the date set for cure until either (i) the STATE reasonably obtains similar goods or services, or both, if the CONTRACTOR is terminated for default, or (ii) until the CONTRACTOR provides the goods or services, or both, if the CONTRACTOR is not terminated for default. To the extent that the CONTRACTOR'S delay or nonperformance is excused under paragraph 13d (Excuse for Nonperformance or Delay Performance), liquidated damages shall not be assessable against the CONTRACTOR. The CONTRACTOR remains liable for damages caused other than by delay.

10. STATE'S Right of Offset. The STATE may offset against any monies or other obligations the STATE owes to the CONTRACTOR under this Contract, any amounts owed to the State of Hawaii by the CONTRACTOR under this Contract or any other contracts, or pursuant to any law or other obligation owed to the State of Hawaii by the CONTRACTOR, including, without limitation, the payment of any taxes or levies of any kind or nature. The STATE will notify the CONTRACTOR in writing of any offset and the nature of such offset. For purposes of this paragraph, amounts owed to the State of Hawaii shall not include debts or obligations which have been liquidated, agreed to by the CONTRACTOR, and are covered by an installment payment or other settlement plan approved by the State of Hawaii, provided, however, that the CONTRACTOR shall be entitled to such exclusion only to the extent that the CONTRACTOR is current with, and not delinquent on, any payments or obligations owed to the State of Hawaii under such payment or other settlement plan.

11. Disputes. Disputes shall be resolved in accordance with section 103D-703, HRS, and chapter 3-126, Hawaii Administrative Rules ("HAR"), as the same may be amended from time to time.

12. Suspension of Contract. The STATE reserves the right at any time and for any reason to suspend this Contract for any reasonable period, upon written notice to the CONTRACTOR in accordance with the provisions herein.

a. Order to stop performance. The Agency procurement officer 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 performance 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 performance order issued pursuant to this section. Stop performance orders shall include, as appropriate: (1) A clear description of the work to be suspended; (2) Instructions as to the issuance of further orders by the CONTRACTOR for material or services; (3) Guidance as to action to be taken on subcontracts; and (4) Other instructions and suggestions to the CONTRACTOR for minimizing costs. Upon receipt of such an order, the CONTRACTOR shall forthwith comply with its terms and suspend all performance under this Contract at the time stated, provided, however, the CONTRACTOR shall take all reasonable steps to minimize the occurrence of costs allocable to the performance covered by the order during the period of performance stoppage. Before the stop performance order expires, or within any further period to which the parties shall have agreed, the Agency procurement officer shall either:

(1) Cancel the stop performance order; or

(2) Terminate the performance covered by such order as provided in the termination for default provision or the termination for convenience provision of this Contract.

b. Cancellation or expiration of the order. If a stop performance order issued under this section is cancelled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, the CONTRACTOR shall have the right to resume performance. 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 performance 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 performance stoppage; provided that, if the Agency procurement officer 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 performance. If a stop performance order is not cancelled and the performance covered by such order is terminated for default or convenience, the reasonable costs resulting from the stop performance order shall be allowable by adjustment or otherwise.

d. Adjustment of price. Any adjustment in contract price made pursuant to this paragraph shall be determined in accordance with the price adjustment provision of this Contract.

13. Termination for Default.

a. 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 Agency procurement officer 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 Agency procurement officer, 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 Agency procurement officer may procure similar goods or services in a manner and upon the terms deemed appropriate by the Agency procurement officer. 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.

b. CONTRACTOR'S duties. Notwithstanding termination of the Contract and subject to any directions from the Agency procurement officer, the CONTRACTOR shall take timely, reasonable, and

necessary action to protect and preserve property in the possession of the CONTRACTOR in which the STATE has an interest.

c. Compensation. Payment for completed goods and services delivered and accepted by the STATE shall be at the price set forth in the Contract. Payment for the protection and preservation of property shall be in an amount agreed upon by the CONTRACTOR and the Agency procurement officer. If the parties fail to agree, the Agency procurement officer 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 Agency procurement officer deems to be necessary to protect the STATE against loss because of outstanding liens or claims and to reimburse the STATE for the excess costs expected to be incurred by the STATE in procuring similar goods and services.

d. Excuse for nonperformance or delayed performance. 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 performance hereunder which endangers such performance, if the CONTRACTOR has notified the Agency procurement officer within fifteen (15) days after the cause of the delay and the failure arises out of causes such as: acts of God; acts of a 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 and services to be furnished by the subcontractor were reasonably obtainable from other sources in sufficient time to permit the CONTRACTOR to meet the requirements of the Contract. Upon request of the CONTRACTOR, the Agency procurement officer 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 this Contract. As used in this paragraph, the term "subcontractor" means subcontractor at any tier.

e. Erroneous termination for default. If, after notice of termination of the CONTRACTOR'S right to proceed under this paragraph, it is determined for any reason that the CONTRACTOR was not in default under this paragraph, or that the delay was excusable under the provisions of subparagraph 13d, "Excuse for nonperformance or delayed performance," the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to paragraph 14.

f. Additional rights and remedies. The rights and remedies provided in this paragraph are in addition to any other rights and remedies provided by law or under this Contract.

14. Termination for Convenience.

a. Termination. The Agency procurement officer may, when the interests of the STATE so require, terminate this Contract in whole or in part, for the convenience of the STATE. The Agency procurement officer shall give written notice of the termination to the CONTRACTOR specifying the part of the Contract terminated and when termination becomes effective.

b. CONTRACTOR'S obligations. The CONTRACTOR shall incur no further obligations in connection with the terminated performance and on the date(s) set in the notice of termination the CONTRACTOR will stop performance to the extent specified. The CONTRACTOR shall also terminate outstanding orders and subcontracts as they relate to the terminated performance. The CONTRACTOR shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated performance subject to the STATE'S approval. The Agency procurement officer 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 performance not terminated by the notice of termination and may incur obligations as necessary to do so.

c. Right to goods and work product. The Agency procurement officer may require the CONTRACTOR to transfer title and deliver to the STATE in the manner and to the extent directed by the Agency procurement officer:

(1) Any completed goods or work product; and

(2) 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 Agency procurement officer, protect and preserve property in the possession of the CONTRACTOR in which the STATE has an interest. If the Agency procurement officer does not exercise this right, the CONTRACTOR shall use best efforts to sell such goods and manufacturing materials. Use of this paragraph in no way implies that the STATE has breached the Contract by exercise of the termination for convenience provision.

d. Compensation.

(1) The CONTRACTOR shall submit a termination claim specifying the amounts due because of the termination for convenience together with the cost or pricing data, submitted to the extent required by chapter 3-122, HAR, bearing on such claim. If the CONTRACTOR fails to file a termination claim within one year from the effective date of termination, the Agency procurement officer may pay the CONTRACTOR, if at all, an amount set in accordance with subparagraph 14d(3) below.

(2) The Agency procurement officer and the CONTRACTOR may agree to a settlement provided the CONTRACTOR has filed a termination claim supported by cost or pricing data submitted as required 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 subparagraph 14c, and the Contract price of the performance not terminated.

(3) Absent complete agreement under subparagraph 14d(2) the Agency procurement officer shall pay the CONTRACTOR the following amounts, provided payments agreed to under subparagraph 14d(2) shall not duplicate payments under this subparagraph for the following:

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

(B) Costs incurred in preparing to perform and performing the terminated portion of the performance plus a fair and reasonable profit on such portion of the performance, such profit shall not include anticipatory profit or consequential damages, less amounts paid or to be paid for accepted goods or services; provided, however, 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;

(C) Costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to subparagraph 14b. These costs must not include costs paid in accordance with subparagraph 14d(3)(B);

(D) 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 costs of the CONTRACTOR reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under subparagraph 14d(2), and the contract price of performance not terminated.

(4) Costs claimed, agreed to, or established under subparagraphs 14d(2) and 14d(3) shall be in accordance with Chapter 3-123 (Cost Principles) of the Procurement Rules.

15. Claims Based on the Agency Procurement Officer's Actions or Omissions.

a. Changes in scope. If any action or omission on the part of the Agency procurement officer (which term includes the designee of such officer for purposes of this paragraph 15) requiring performance changes within the scope of the Contract constitutes the basis for a claim by the CONTRACTOR for additional compensation, damages, or an extension of time for completion, the CONTRACTOR shall continue with performance of the Contract in compliance with the directions or orders of such officials, 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:

(1) Written notice required. The CONTRACTOR shall give written notice to the Agency procurement officer:

(A) Prior to the commencement of the performance involved, if at that time the CONTRACTOR knows of the occurrence of such action or omission;

(B) Within thirty (30) days after the CONTRACTOR knows of the occurrence of such action or omission, if the CONTRACTOR did not have such knowledge prior to the commencement of the performance; or

(C) Within such further time as may be allowed by the Agency procurement officer in writing.

(2) Notice content. This notice shall state that the CONTRACTOR regards the act or omission as a reason which may entitle the CONTRACTOR to additional compensation, damages, or an extension of time. The Agency procurement officer, upon receipt of such notice, may rescind such action, remedy such omission, or take such other steps as may be deemed advisable in the discretion of the Agency procurement officer;

(3) Basis must be explained. The notice required by subparagraph 15a(1) describes as clearly as practicable at the time the reasons why the CONTRACTOR believes that additional compensation, damages, or an extension of time may be remedies to which the CONTRACTOR is entitled; and

(4) Claim must be justified. The CONTRACTOR must maintain and, upon request, make available to the Agency procurement officer within a reasonable time, detailed records to the extent practicable, and other documentation and evidence satisfactory to the STATE, justifying the claimed additional costs or an extension of time in connection with such changes.

b. CONTRACTOR not excused. Nothing herein contained, however, shall excuse the CONTRACTOR from compliance with any rules or laws precluding any state officers and CONTRACTOR from acting in collusion or bad faith in issuing or performing change orders which are clearly not within the scope of the Contract.

c. Price adjustment. Any adjustment in the price made pursuant to this paragraph shall be determined in accordance with the price adjustment provision of this Contract.

16. Costs and Expenses. Any reimbursement due the CONTRACTOR for per diem and transportation expenses under this Contract shall be subject to chapter 3-123 (Cost Principles), HAR, and the following guidelines:

a. Reimbursement for air transportation shall be for actual cost or coach class air fare, whichever is less.

b. Reimbursement for ground transportation costs shall not exceed the actual cost of renting an intermediate-sized vehicle.

c. Unless prior written approval of the HOPA is obtained, reimbursement for subsistence allowance (i.e., hotel and meals, etc.) shall not exceed the applicable daily authorized rates for inter-island or out-of-state travel that are set forth in the current Governor's Executive Order authorizing adjustments in salaries and benefits for state officers and employees in the executive branch who are excluded from collective bargaining coverage.

17. Payment Procedures; Final Payment; Tax Clearance.

a. Original invoices required. All payments under this Contract shall be made only upon submission by the CONTRACTOR of original invoices specifying the amount due and certifying that services requested under the Contract have been performed by the CONTRACTOR according to the Contract.

b. Subject to available funds. Such payments are subject to availability of funds and allotment by the Director of Finance in accordance with chapter 37, HRS. Further, all payments shall be made in accordance with and subject to chapter 40, HRS.

c. Prompt payment.

(1) Any money, other than retainage, paid to the CONTRACTOR shall be disbursed to subcontractors within ten (10) days after receipt of the money in accordance with the terms of the subcontract; provided that the subcontractor has met all the terms and conditions of the subcontract and there are no bona fide disputes; and

(2) Upon final payment to the CONTRACTOR, full payment to the subcontractor, including retainage, shall be made within ten (10) days after receipt of the money; provided that there are no bona fide disputes over the subcontractor's performance under the subcontract.

d. Final payment. Final payment under this Contract shall be subject to sections 103-53 and 103D-328, HRS, which require a tax clearance from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR have been paid. Further, in accordance with section 3-122-112, HAR, CONTRACTOR shall provide a certificate affirming that the CONTRACTOR has remained in compliance with all applicable laws as required by this section.

18. Federal Funds. If this Contract is payable in whole or in part from federal funds, CONTRACTOR agrees that, as to the portion of the compensation under this Contract to be payable from federal funds, the CONTRACTOR shall be paid only from such funds received from the federal government, and shall not be paid from any other funds. Failure of the STATE to receive anticipated federal funds shall not be considered a breach by the STATE or an excuse for nonperformance by the CONTRACTOR.

19. Modifications of Contract.

a. In writing. Any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract permitted by this Contract shall be made by written amendment to this Contract, signed by the CONTRACTOR and the STATE, provided that change orders shall be made in accordance with paragraph 20 herein.

b. No oral modification. No oral modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract shall be permitted.

c. Agency procurement officer. By written order, at any time, and without notice to any surety, the Agency procurement officer may unilaterally order of the CONTRACTOR:

(A) Changes in the work within the scope of the Contract; and

(B) Changes in the time of performance of the Contract that do not alter the scope of the Contract work.

d. Adjustments of price or time for performance. If any modification increases or decreases the CONTRACTOR'S cost of, or the time required for, performance of any part of the work under this Contract, an adjustment shall be made and this Contract modified in writing accordingly. Any adjustment in contract price made pursuant to this clause shall be determined, where applicable, in accordance with the price adjustment clause of this Contract or as negotiated.

e. Claim barred after final payment. No claim by the CONTRACTOR for an adjustment hereunder shall be allowed if written modification of the Contract is not made prior to final payment under this Contract.

f. Claims not barred. In the absence of a written contract modification, nothing in this clause shall be deemed to restrict the CONTRACTOR'S right to pursue a claim under this Contract or for a breach of contract.

g. Head of the purchasing agency approval. If this is a professional services contract awarded pursuant to section 103D-303 or 103D-304, HRS, any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract which increases the amount payable to the CONTRACTOR by at least $25,000.00 and ten per cent (10%) or more of the initial contract price, must receive the prior approval of the head of the purchasing agency.

h. Tax clearance. The STATE may, at its discretion, require the CONTRACTOR to submit to the STATE, prior to the STATE'S approval of any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract, a tax clearance from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR have been paid.

i. Sole source contracts. Amendments to sole source contracts that would change the original scope of the Contract may only be made with the approval of the CPO. Annual renewal of a sole source contract for services should not be submitted as an amendment.

20. Change Order. The Agency procurement officer may, by a written order signed only by the STATE, at any time, and without notice to any surety, and 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 or services to be furnished are to be specially provided to the STATE in accordance therewith;

(2) Method of delivery; or

(3) Place of delivery.

a. 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 the Contract price made pursuant to this provision shall be determined in accordance with the price adjustment provision 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 Agency procurement officer promptly and duly makes 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 any extension of time for completion.

b. Time period for claim. Within ten (10) days after receipt of a written change order under subparagraph 20a, unless the period is extended by the Agency procurement officer in writing, the CONTRACTOR shall respond with a claim for an adjustment. The requirement for a timely written response by CONTRACTOR cannot be waived and shall be a condition precedent to the assertion of a claim.

c. Claim barred after final payment. No claim by the CONTRACTOR for an adjustment hereunder shall be allowed if a written response is not given prior to final payment under this Contract.

d. Other claims not barred. In the absence of a change order, nothing in this paragraph 20 shall be deemed to restrict the CONTRACTOR'S right to pursue a claim under the Contract or for breach of contract.

21. Price Adjustment.

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

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

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

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

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

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

b. Submission of cost or pricing data. The CONTRACTOR shall provide cost or pricing data for any price adjustments subject to the provisions of chapter 3-122, HAR.

22. Variation in Quantity for Definite Quantity Contracts. Upon the agreement of the STATE and the CONTRACTOR, the quantity of goods or services, or both, if a definite quantity is specified in this Contract, may be increased by a maximum of ten per cent (10%); provided the unit prices will remain the same except for any price adjustments otherwise applicable; and the Agency 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.

23. Changes in Cost-Reimbursement Contract. If this Contract is a cost-reimbursement contract, the following provisions shall apply:

a. The Agency procurement officer may at any time by written order, and without notice to the sureties, if any, make changes within the general scope of the Contract in any one or more of the following:

(1) Description of performance (Attachment 1);

(2) Time of performance (i.e., hours of the day, days of the week, etc.);

(3) Place of performance of services;

(4) Drawings, designs, or specifications when the supplies to be furnished are to be specially manufactured for the STATE in accordance with the drawings, designs, or specifications;

(5) Method of shipment or packing of supplies; or

(6) Place of delivery.

b. If any change causes an increase or decrease in the estimated cost of, or the time required for performance of, any part of the performance under this Contract, whether or not changed by the order, or otherwise affects any other terms and conditions of this Contract, the Agency procurement officer shall make an equitable adjustment in the (1) estimated cost, delivery or completion schedule, or both; (2) amount of any fixed fee; and (3) other affected terms and shall modify the Contract accordingly.

c. The CONTRACTOR must assert the CONTRACTOR'S rights to an adjustment under this provision within thirty (30) days from the day of receipt of the written order. However, if the Agency procurement officer decides that the facts justify it, the Agency procurement officer may receive and act upon a proposal submitted before final payment under the Contract.

d. Failure to agree to any adjustment shall be a dispute under paragraph 11 of this Contract. However, nothing in this provision shall excuse the CONTRACTOR from proceeding with the Contract as changed.

e. Notwithstanding the terms and conditions of subparagraphs 23a and 23b, the estimated cost of this Contract and, if this Contract is incrementally funded, the funds allotted for the performance of this Contract, shall not be increased or considered to be increased except by specific written modification of the Contract indicating the new contract estimated cost and, if this contract is incrementally funded, the new amount allotted to the contract.

24. Confidentiality of Material.

a. All material given to or made available to the CONTRACTOR by virtue of this Contract, which is identified as proprietary or confidential information, will be safeguarded by the CONTRACTOR and shall not be disclosed to any individual or organization without the prior written approval of the STATE.

b. All information, data, or other material provided by the CONTRACTOR to the STATE shall be subject to the Uniform Information Practices Act, chapter 92F, HRS.

25. Publicity. The CONTRACTOR shall not refer to the STATE, or any office, agency, or officer thereof, or any state employee, including the HOPA, the CPO, the Agency procurement officer, or to the services or goods, or both, provided under this Contract, in any of the CONTRACTOR'S brochures, advertisements, or other publicity of the CONTRACTOR. All media contacts with the CONTRACTOR about the subject matter of this Contract shall be referred to the Agency procurement officer.

26. Ownership Rights and Copyright. The STATE shall have complete ownership of all material, both finished and unfinished, which is developed, prepared, assembled, or conceived by the CONTRACTOR pursuant to this Contract, and all such material shall be considered "works made for hire." All such material shall be delivered to the STATE upon expiration or termination of this Contract. The STATE, in its sole discretion, shall have the exclusive right to copyright any product, concept, or material developed, prepared, assembled, or conceived by the CONTRACTOR pursuant to this Contract.

27. Liens and Warranties. Goods provided under this Contract shall be provided free of all liens and provided together with all applicable warranties, or with the warranties described in the Contract documents, whichever are greater.

28. Audit of Books and Records of the CONTRACTOR. The STATE may, at reasonable times and places, audit the books and records of the CONTRACTOR, prospective contractor, subcontractor, or prospective subcontractor which are related to:

a. The cost or pricing data, and

b. A state contract, including subcontracts, other than a firm fixed-price contract.

29. Cost or Pricing Data. Cost or pricing data must be submitted to the Agency procurement officer and timely certified as accurate for contracts over $100,000 unless the contract is for a multiple-term or as otherwise specified by the Agency procurement officer. Unless otherwise required by the Agency procurement officer, cost or pricing data submission is not required for contracts awarded pursuant to competitive sealed bid procedures.

If certified cost or pricing data are subsequently found to have been inaccurate, incomplete, or noncurrent as of the date stated in the certificate, the STATE is entitled to an adjustment of the contract price, including profit or fee, to exclude any significant sum by which the price, including profit or fee, was increased because of the defective data. It is presumed that overstated cost or pricing data increased the contract price in the amount of the defect plus related overhead and profit or fee. Therefore, unless there is a clear indication that the defective data was not used or relied upon, the price will be reduced in such amount.

30. Audit of Cost or Pricing Data. When cost or pricing principles are applicable, the STATE may require an audit of cost or pricing data.

31. Records Retention.

(1) Upon any termination of this Contract or as otherwise required by applicable law, CONTRACTOR shall, pursuant to chapter 487R, HRS, destroy all copies (paper or electronic form) of personal information received from the STATE.

(2) The CONTRACTOR and any subcontractors shall maintain the files, books, and records that relate to the Contract, including any personal information created or received by the CONTRACTOR on behalf of the STATE, and any cost or pricing data, for at least three (3) years after the date of final payment under the Contract. The personal information shall continue to be confidential and shall only be disclosed as permitted or required by law. After the three (3) year, or longer retention period as required by law has ended, the files, books, and records that contain personal information shall be destroyed pursuant to chapter 487R, HRS or returned to the STATE at the request of the STATE.

32. Antitrust Claims. The STATE and the CONTRACTOR recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the purchaser. Therefore, the CONTRACTOR hereby assigns to STATE any and all claims for overcharges as to goods and materials purchased in connection with this Contract, except as to overcharges which result from violations commencing after the price is established under this Contract and which are not passed on to the STATE under an escalation clause.

33. Patented Articles. The CONTRACTOR shall defend, indemnify, and hold harmless the STATE, and its officers, employees, and agents from and against all liability, loss, damage, cost, and expense, including all attorneys fees, and all claims, suits, and demands arising out of or resulting from any claims, demands, or actions by the patent holder for infringement or other improper or unauthorized use of any patented article, patented process, or patented appliance in connection with this Contract. The CONTRACTOR shall be solely responsible for correcting or curing to the satisfaction of the STATE any such infringement or improper or unauthorized use, including, without limitation: (a) furnishing at no cost to the STATE a substitute article, process, or appliance acceptable to the STATE, (b) paying royalties or other required payments to the patent holder, (c) obtaining proper authorizations or releases from the patent holder, and (d) furnishing such security to or making such arrangements with the patent holder as may be necessary to correct or cure any such infringement or improper or unauthorized use.

34. Governing Law. The validity of this Contract and any of its terms or provisions, as well as the rights and duties of the parties to this Contract, shall be governed by the laws of the State of Hawaii. Any action at law or in equity to enforce or interpret the provisions of this Contract shall be brought in a state court of competent jurisdiction in Honolulu, Hawaii.

35. Compliance with Laws. The CONTRACTOR shall comply with all federal, state, and county laws, ordinances, codes, rules, and regulations, as the same may be amended from time to time, that in any way affect the CONTRACTOR'S performance of this Contract.

36. Conflict Between General Conditions and Procurement Rules. In the event of a conflict between the General Conditions and the procurement rules, the procurement rules in effect on the date this Contract became effective shall control and are hereby incorporated by reference.

37. Entire Contract. This Contract sets forth all of the agreements, conditions, understandings, promises, warranties, and representations between the STATE and the CONTRACTOR relative to this Contract. This Contract supersedes all prior agreements, conditions, understandings, promises, warranties, and representations, which shall have no further force or effect. There are no agreements, conditions, understandings, promises, warranties, or representations, oral or written, express or implied, between the STATE and the CONTRACTOR other than as set forth or as referred to herein.

38. Severability. In the event that any provision of this Contract is declared invalid or unenforceable by a court, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining terms of this Contract.

39. Waiver. The failure of the STATE to insist upon the strict compliance with any term, provision, or condition of this Contract shall not constitute or be deemed to constitute a waiver or relinquishment of the STATE'S right to enforce the same in accordance with this Contract. The fact that the STATE specifically refers to one provision of the procurement rules or one section of the Hawaii Revised Statutes, and does not include other provisions or statutory sections in this Contract shall not constitute a waiver or relinquishment of the STATE'S rights or the CONTRACTOR'S obligations under the procurement rules or statutes.

40. Pollution Control. If during the performance of this Contract, the CONTRACTOR encounters a "release" or a "threatened release" of a reportable quantity of a "hazardous substance," "pollutant," or "contaminant" as those terms are defined in section 128D-1, HRS, the CONTRACTOR shall immediately notify the STATE and all other appropriate state, county, or federal agencies as required by law. The Contractor shall take all necessary actions, including stopping work, to avoid causing, contributing to, or making worse a release of a hazardous substance, pollutant, or contaminant, and shall promptly obey any orders the Environmental Protection Agency or the state Department of Health issues in response to the release. In the event there is an ensuing cease-work period, and the STATE determines that this Contract requires an adjustment of the time for performance, the Contract shall be modified in writing accordingly.

41. Campaign Contributions. The CONTRACTOR is hereby notified of the applicability of 11-355, HRS, which states that campaign contributions are prohibited from specified state or county government contractors during the terms of their contracts if the contractors are paid with funds appropriated by a legislative body.

42. Confidentiality of Personal Information.

a. Definitions.

"Personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either name or data elements are not encrypted:

(1) Social security number;

(2) Driver's license number or Hawaii identification card number; or

(3) Account number, credit or debit card number, access code, or password that would permit access to an individual's financial information.

Personal information does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

"Technological safeguards" means the technology and the policy and procedures for use of the technology to protect and control access to personal information.

b. Confidentiality of Material.

(1) All material given to or made available to the CONTRACTOR by the STATE by virtue of this Contract which is identified as personal information, shall be safeguarded by the CONTRACTOR and shall not be disclosed without the prior written approval of the STATE.

(2) CONTRACTOR agrees not to retain, use, or disclose personal information for any purpose other than as permitted or required by this Contract.

(3) CONTRACTOR agrees to implement appropriate "technological safeguards" that are acceptable to the STATE to reduce the risk of unauthorized access to personal information.

(4) CONTRACTOR shall report to the STATE in a prompt and complete manner any security breaches involving personal information.

(5) CONTRACTOR agrees to mitigate, to the extent practicable, any harmful effect that is known to CONTRACTOR because of a use or disclosure of personal information by CONTRACTOR in violation of the requirements of this paragraph.

(6) CONTRACTOR shall complete and retain a log of all disclosures made of personal information received from the STATE, or personal information created or received by CONTRACTOR on behalf of the STATE.

c. Security Awareness Training and Confidentiality Agreements.

(1) CONTRACTOR certifies that all of its employees who will have access to the personal information have completed training on security awareness topics relating to protecting personal information.

(2) CONTRACTOR certifies that confidentiality agreements have been signed by all of its employees who will have access to the personal information acknowledging that:

(A) The personal information collected, used, or maintained by the CONTRACTOR will be treated as confidential;

(B) Access to the personal information will be allowed only as necessary to perform the Contract; and

(C) Use of the personal information will be restricted to uses consistent with the services subject to this Contract.

d. Termination for Cause. In addition to any other remedies provided for by this Contract, if the STATE learns of a material breach by CONTRACTOR of this paragraph by CONTRACTOR, the STATE may at its sole discretion:

(1) Provide an opportunity for the CONTRACTOR to cure the breach or end the violation; or

(2) Immediately terminate this Contract.

In either instance, the CONTRACTOR and the STATE shall follow chapter 487N, HRS, with respect to notification of a security breach of personal information.

e. Records Retention.

(1) Upon any termination of this Contract or as otherwise required by applicable law, CONTRACTOR shall, pursuant to chapter 487R, HRS, destroy all copies (paper or electronic form) of personal information received from the STATE.

(2) The CONTRACTOR and any subcontractors shall maintain the files, books, and records that relate to the Contract, including any personal information created or received by the CONTRACTOR on behalf of the STATE, and any cost or pricing data, for at least three (3) years after the date of final payment under the Contract. The personal information shall continue to be confidential and shall only be disclosed as permitted or required by law. After the three (3) year, or longer retention period as required by law has ended, the files, books, and records that contain personal information shall be destroyed pursuant to chapter 487R, HRS or returned to the STATE at the request of the STATE.