

State of Hawaii
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF BOATING AND OCEAN RECREATION
Honolulu, Hawaii

BOARD OF LAND AND NATURAL RESOURCES

Dawn N.S. Chang
Chairperson

CONTRACT SPECIFICATIONS AND PLANS


Job No. MA24-04
Lahaina Small Boat Harbor Water System Leak Assessment and Repair
Lahaina, Maui, Hawaii


September 2024

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Approved: 
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September 2024

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NOTICE TO BIDDERS

(Chapter 103D, HRS)

COMPETITIVE SEALED BIDS for Job No. MA24-04, Lahaina Small Boat Harbor Water System Leak Assessment and Repair, Lahaina, Maui, Hawaii shall be submitted to the Department of Land and Natural Resources, Division of Boating and Ocean Recreation, Engineering Branch on the specified date and time through the State of Hawaii e-Procurement System (HiePRO) at:
<http://www.spo.hawaii.gov/hiepro>.

The Department of Land and Natural Resources Interim General Conditions dated October 1994, as amended, and the General Conditions – AGS008 latest revision (General Conditions), shall be made a part of the specifications. Electronic copies of the General Conditions are available through the State Procurement Office website.

The purpose of this Invitation for Bids is to award to a Contractor work that shall consist of paying for all materials, tools, equipment, labor and other incidental work necessary to provide a leak assessment and provide necessary repairs to restore the water system at Lahaina Small Boat Harbor, Lahaina, Maui as required or called for in this Proposal, Specifications and Plans.

Due to the nature of work contemplated, bidders must possess a valid State Contractor's license Class "A" General Engineering or Class "C-37" Plumbing.

This project is located directly at the Lahaina Small Boat Harbor, Lahaina, Maui, Hawaii.

The estimated cost of construction is \$750,000.00.

Prospective Bidders are strongly recommended to visit the project site prior to submitting their bid. Special arrangements shall be made by calling Mr. Paul Sensano at (808) 216-5597.

As a condition for award of the contract and final payment, the vendor shall provide proof of compliance with the requirements of 103D-310(c) HRS. Proof of compliance/documentation is obtained through Hawaii Compliance Express (HCE). Vendors shall register in Hawaii Compliance Express (HCE), a program separate from HiePRO. The vendor is responsible for maintaining compliance. If the vendor does not maintain timely compliance in HCE, an offer otherwise deemed responsive and responsible may not be awarded.

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

The Engineering Branch Head is responsible for administering and overseeing the Contract, including monitoring and assessing contractor performance.

The job is subject to preference for Hawaii Products established by Section 103D, Hawaii Revised Statutes. The Hawaii Product List may be examined at the State Procurement Office. Should there be any questions, please use the question and answer section of the HiePRO solicitation.

INFORMATION AND INSTRUCTIONS TO BIDDERS

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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. SEALED PROPOSALS: **Not applicable. See 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 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 Land and Natural Resources (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 standard questionnaire. When required, 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 Board 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 Board 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. Bidders on this project shall possess a Class "A" contractor's license. See Notice to Bidders for specialty contractor license requirements.

- I. IRREGULAR BIDS: No irregular bids or propositions for doing the work will be considered by the Board.
- 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 Board, six copies of the Contract, performance and payment bonds shall be executed. **For contracts less than \$50,000, the State reserves the right to contract the work under a purchase order.**
- 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 of Land and Natural Resources 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 Contractor shall process all required permit applications, obtain all

necessary permits and approvals, and pay all charges and fees related to project permits. Special attention shall be called to the Contractor's responsibility to obtain the services of civil engineer licensed in the State of Hawaii to prepare all necessary documents to obtain approval from the State Department of Health, Wastewater Branch (DOH-WWB) for construction and use of the wastewater system, including payment for all engineering and permitting fees due to the civil engineer for these services. The cost of these services shall be included in the Contractor's bid. In all cases, the Contractor shall give all notices necessary and incident to the due and lawful prosecution of the work.

The Department of Land and Natural Resources, Division of Boating and Ocean Recreation is exempt from the following permits:

- SMA Permit
- Building Permit
- Grading Permit

The following is a list of *known* permits or approvals required for this project. The contractor is still responsible to determine all project permit requirements whether listed below or not:

- Approval from DOH-WWB for construction and use of new wastewater system
- Approval from Disability and Communication Access Board for compliance with Americans with Disability Act

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 Board'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 LOCAL LABOR: The Contractor shall hire local labor whenever practicable.

- 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 by the Contractor at the end of the project in both hard copy and 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

- 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.
- The Contractor shall also 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. **Not in Contract.**
- All signs shall be kept neat and clean, and properly erected at all times.
- CC. FIELD OFFICE AREA FOR DEPARTMENT: 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. **Not in Contract.**
- 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 Board 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 the contactor shall be in compliance with the following requirements:

- 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).
- 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).
- 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).

COMPLIANCE, DOCUMENTATION AND HAWAII COMPLIANCE EXPRESS

As a condition for award of the contract and as proof of compliance with the following requirements of 103D-310(c) HRS:

Vendors are required to be compliant with all appropriate state and federal statutes. Proof of compliance (compliance documentation) is required. See the HePS Buyer FAQ on the State Procurement website for more information.

Proof of compliance/documentation is obtained through Hawaii Compliance Express (HCE). Vendors shall register in Hawaii Compliance Express (HCE), a program separate from HePS. The annual subscription fee to utilize the HCE service is currently \$12.00. Allow 2 weeks to obtain complete compliance status after initial registration. It is highly recommended that vendors subscribe to HCE prior to responding to a solicitation.

The vendor is responsible for maintaining compliance. If the vendor does not maintain timely compliance in HCE, an offer otherwise deemed responsive and responsible may not be awarded.

Vendors are required to be compliant with all of the requirements of 103D-310(c) HRS at the specified response due date (bid opening). The proof of compliance/documentation will be verified through the Hawaii Compliance Express. Failure to be fully compliant at the specified response date may deem the vendor’s bid to be non-responsive and vendor’s bid will be rejected.

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.hawaii.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 replacing the last paragraph with the following:

In the event the Notice to Proceed is not issued within three hundred and sixty-five (365) days after the date of bid opening, the Contractor may submit a claim for increased labor and materials costs (but not overhead costs) that will be incurred after 365 days after the date of bid opening plus the contract time allowed for performance of the work. Such claims shall be accompanied with the necessary documentation to justify the claim. No payments will be made for escalation costs that are not fully justified as determined by the State.

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 Land and Natural Resources, 1151 Punchbowl Street, Honolulu, Hawaii 96813, 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.

The notice of award, if any, resulting from this solicitation shall be posted on the HIePRO website.

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** - Contractor shall not commence any work until it obtains, at its own expense, all required herein 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 laws of the State to issue such insurance in the State of Hawaii. Coverage by a “Non-Admitted” carrier is permissible provided the carrier has a AM Best’s Rating of “A-VII” or better.
2. 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.
3. Certificate(s) of Insurance acceptable to the Department shall be filed with the Engineer prior to commencement of the work. Certificates shall identify if the insurance company is a “captive” insurance company or a “Non-Admitted” carrier to the State of Hawaii. The Best’s Rating must be stated for the “Non-Admitted” carrier. Certificates shall contain a provision that coverages afforded under the policies will not be canceled or changed until at least thirty (30) 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.

4. 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.
5. 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.
6. 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.
7. If the Contractor is self-insured, it shall furnish, upon the request and the satisfaction of the Engineer, any documentation to demonstrate the ability to self-insure itself. The Engineer, from time to time, can conduct an audit to determine the ability of the Contractor to be self-insured. Failure to comply with the Engineer's request will be considered a material breach of the contract, and at the discretion of the Engineer, may be sufficient grounds to terminate the contract, suspend any work or withhold future payments.
8. It is the responsibility of the Contractor to notify the Department of any changes to its insurance policies or if the Contractor receives a notice of cancellation of any of its insurance policies. The Contractor will immediately provide written notice to the Department should the insurance policies evidenced on its Certificate of Insurance form be cancelled, limited in scope, or not renewed upon expiration.
9. In addition, the Contractor's insurance policies shall contain the following clauses:
 - (a) The State of Hawaii is added as an additional insured with respect to operations performed for the State of Hawaii.
 - (b) It is agreed that any insurance maintained by the State of Hawaii will apply in excess of, and not contribute with, insurance provided by this policy.
- 10. 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 worker's compensation insurance for all persons whom they employ or may employ in carrying out the work under this contract. This insurance shall be in strict conformity with the

requirements of the most current and applicable State of Hawaii Worker's Compensation Insurance laws in effect on the date of the execution of this contract and as modified during the duration of the contract.

- (b) Commercial General Liability. The Contractor shall obtain General Liability insurance with a limit of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate. The commercial general liability insurance shall include the State as an additional insured. The required limit of insurance may be provided by a single policy or with a combination of primary and excess policies.
- (c) Comprehensive Automobile Liability. The Contractor shall obtain Auto Liability insurance covering all owned, non-owned and hired autos with a combined single Limit of not less than \$1,000,000 per accident for bodily injury and property damage. The State shall be named as additional insured. The required limit of insurance may be provided by a single policy or with a combination of primary and excess policies.

Furthermore, the Contractor's commercial general liability insurance and automobile liability insurance 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 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.

- (d) 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.

Job No. MA24-04
Lahaina Small Boat Harbor Water System Leak Assessment and Repair
Lahaina, Maui, Hawaii

Scope of Work and Specifications

Leak Assessment:

The contractor shall coordinate with the County of Maui, Department of Water Supply (DWS), as necessary to open and close DWS-maintained shut off valves and water meters during leak testing. Contractor shall provide “hot” taps on existing water mains or connection to existing waterlines as shown on plans for hydrostatic pressure testing, including excavation, backfilling, pavement repair and all necessary piping, fittings, and appurtenances required for testing. All pressure testing taps shall be plugged at the main with a corporation stop after all testing is completed. One initial hydrostatic pressure test shall be performed to determine the location of leaks within the water system. Pressure testing shall be done in accordance with the State of Hawaii Water System Standards, 2002, as amended, at a test pressure of 225 psi.

Prior to beginning leak assessment pressure testing, the Contractor shall complete installation of new caps and concrete thrust blocks (as necessary) on existing service laterals, fire hose cabinet laterals, and fire hydrant laterals.

Upon completion of all necessary repairs and new work, a final hydrostatic pressure test shall be performed, in accordance with the State of Hawaii Water System Standards, 2002, as amended, to ensure all repairs and new work are free of leaks and ready for use, at a test pressure of 225 psi.

Repair:

Upon completion of initial water leak testing, any water mains, valves, service laterals, fire hose cabinet laterals, or fire hydrant laterals that are leaking shall be repaired or replaced using the allowance item for repair in the bid proposal. The contractor shall provide a cost proposal for repairs and receive approval from the Engineer prior to completing the repair. All repair work shall be performed in accordance with the State of Hawaii Water System Standards, 2002, as amended, including the use of materials on the approved materials list.

New Work:

The contractor shall install new waterlines, fire department connections, fire hydrants, cleanouts, valves, valve boxes, and other new work as shown on the plans and specifications including pressure testing and chlorination.

Flushing and Chlorination:

Upon completion and acceptance of Leak Assessment, Repair, and New Work, the contractor shall thoroughly flush and chlorinate all water mains, service laterals, fire departments, and fire hydrants as shown on the plans and in accordance with the State of Hawaii Water System Standards, 2002, as amended. Chlorination shall be performed by a licensed chlorination contractor, and they shall provide a chlorination certificate prior to final acceptance of all repair and new work.