

# **REQUIREMENTS and SPECIFICATIONS TO CONSTRUCT**

**GRAVSITE RESTORATION AT  
EAST HAWAII VETERANS CEMETERY NO. 2  
JOB NO.: CA-202617-C  
TAX MAP KEY: 2-3-020: 007  
HILO, ISLAND OF HAWAII, HAWAII**

**FOR AND BY THE DEPARTMENT OF DEFENSE  
OFFICE OF VETERANS SERVICES  
STATE OF HAWAII**

July 21, 2026

Civil Engineer: AECOM Technical Services, Inc.  
Landscape Architect: PBR Hawaii & Associates, Inc.

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East Hawaii Veterans Cemetery No.2, Hilo, Island of Hawaii, Hawaii  
Gravesite Restoration for East Hawaii Veterans Cemetery No. 2  
Job No. CA-202617-C

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## SPECIAL NOTICE TO BIDDERS – GOODS AND SERVICES

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

The Department of Defense no longer requires a submittal of “INTENTION TO BID” unless otherwise stated in the notice to bidders.

If a notice to bid is required, the written notice shall be received no later than TEN calendar days prior to the date designated for opening bids. If the 10th calendar day prior to the day designated for opening bids is a weekend or legal State holiday, then the written notice must be received no later than the last working day immediately prior to said weekend or 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 hand carried, then the bearer is responsible to ensure that the notice is time stamped by said office.

It is the responsibility of the perspective 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 venture 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 contractor's license.

The Adjutant General or his designated representative may, in accordance with Section 103D-310, Hawaii Revised Statutes, require the prospective bidder to submit answers to questions in the “Standard Questionnaire and Financial Statement for Bidders,” 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 Adjutant General or his designated representative 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, (IF SENT TO YOU), will be sufficient cause for the Department to disqualify a prospective bidder.

INTERPRETATION OF QUANTITIES IN BID SCHEDULE - When quantities for individual items of work are listed in the bid 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 his 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, the Adjutant General or his designated representative reserves the right to increase or decrease the scope of the improvement.

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.

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 contractor and/or subcontractors asking the name of each person or firm to be engaged on the project as a joint contractor or subcontractor.

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.

BIDDERS RESPONSIBILITY FOR EXAMINATION OF PLANS, SPECIFICATIONS, SITE OF WORK, ETC. - The bidder shall examine carefully the site 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 bond.

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 or the conditions to be encountered in performing the project.

ADDENDA AND INTERPRETATIONS - Discrepancies, omissions, or doubts as to the meaning of drawings and specifications should be communicated in writing to: Department of Defense, State of Hawaii, ATTN: HIENG, 3949 Diamond Head Road, Honolulu, HI, 96816, for the interpretation and must be received by the Engineering Office, Department of Defense, 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 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 interpretations shall not relieve such bidder from any obligation under his bid as submitted. All addenda so issued shall become part of the contract documents.

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 therein. 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, title, 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). If made by a joint venture the name and post office address of each member of the individual form, 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.

DELIVERY OF PROPOSALS - The entire proposal shall be placed in a sealed envelope 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 Bidders. 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 officials by that time indicated. The words 'SEALED BID' must be clearly written or typed on the face of the sealed envelope containing the proposal package.

WITHDRAWAL OR REVISION OF PROPOSALS - Any bid may be withdrawn or revised at any time prior to, but not after, the time fixed in the public notice for the opening of bids, provided that a request in writing, executed by the bidder or his duly authorized representative, for the withdrawal or revision of such bid is filed with the Adjutant General before the time set for the opening of bids. The withdrawal of a bid shall not prejudice the right of a bidder to file a new bid. Whether or not bids are opened exactly at the time fixed in the public notice for opening bids, a bid will not be received after that time, nor may any bid be withdrawn after the time fixed in the public notice for the opening of bids.

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

DISQUALIFICATION OF BIDDERS - Any one or more of the following cause will be considered as sufficient for the disqualification of a bidder and the rejection of his proposal or proposals:

- A. Evidence of collusion among bidders.
- B. Lack of responsibility and cooperation as shown by past work.
- C. Being in arrears on existing contracts with the State of Hawaii, or having defaulted on a previous contract.
- D. Lack of proper equipment and/or sufficient experience to perform the work contemplated.
- E. More than one proposal for the same work from an individual, firm, partnership, corporation or joint venture under the same or different name.
- F. Delivery of bids after the deadline specified in the advertisement calling for bids.
- G. Failure to pay, or satisfactorily settle, all bids overdue for labor and material on former contracts in force at the time of issuance of proposal forms.

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 immediately be made public. 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.

IRREGULAR PROPOSALS - Proposals will be considered irregular and may be rejected for the following reasons:

- A. If the proposal is unsigned.
- B. If proposal is on a form other than that furnished by the Department or if the form is altered or any part thereof detached.
- C. If the proposal shows any non-compliance with applicable law, alteration of form, additions not called, conditional bids, incomplete bids, uninitiated erasures, other defects, or if the prices are obviously unbalanced, or if sufficient funds are not available to prosecute the work.
- D. 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.

- E. 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.

AWARD OF CONTRACT - The award of contract, if it be awarded, will be made within ninety (90) 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 Adjutant General 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 104 and Chapter 444, Hawaii Revised Statutes, as amended.

CANCELLATION OF AWARD - The Adjutant General or his designated representative 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.

EXECUTION OF THE CONTRACT - The contract shall be signed by the successful bidder and returned, within ten (10) consecutive calendar days, after the bidder has received his contract for execution or within such further time as the Adjutant General or his designated representative 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 Adjutant General or his designated representative has endorsed therein 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 totaling less than \$50,000, 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 by Purchase Order shall not be deemed a waiver of these specification requirements.

PROTECTION OF PROPERTY – The Contractor shall confine all of his operations to the immediate vicinity of the work and take all necessary precautions during the progress of the work to protect the adjoining property from damage and injury. The Contractor shall repair and make good to the entire satisfaction of the Engineer any damages to existing utilities, streets, sidewalks and other properties.

The Contractor shall repair the damaged or disturbed utilities to existing condition at no cost to the State. Any damage claims due to the disruption of services caused by the utilities being damaged or disturbed shall be paid by the Contractor who shall save harmless the State from all suits, actions or claims of any character.

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

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.

LIABILITY INSURANCE – The Contractor shall not commence any work until it obtains, at its own expense, all required liability insurance. Such insurance must have the approval of the State as to limit form and amount and must be maintained with a company acceptable to the State. Such insurance must be maintained for the full period of the contract and shall provide protection from claims arising out of or resulting from the Contractor's operations under the

Contract itself or by any Subcontractor or by anyone directly or indirectly employed by any of them or by anyone for whose acts any of them may be liable.

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 and not less than \$2,000,000 in the aggregate to protect such contractor and all 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.

The 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 final acceptance of the work by the State.

A certificate of insurance acceptable to the State shall be filed with the State prior to commencement of the work. Such certificate shall contain a provision that coverage afforded under the policy will not be canceled or changed until at least thirty days written notice has been given to the State by registered mail at the address denominated for the State in the Contract for official communications to it should any policy be canceled before final acceptance by the State, and the Contractor fails to immediately procure replacement insurance as specified, the State reserves the right to procure such insurance and to deduct the cost thereof from any sum due the Contractor.

**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 and within the time required by the contract.

- A. Character and Proficiency of Workers – All workers must have sufficient skill and experience to perform the work assigned to them and in the operation of the equipment.

Any worker employed on the project by the Contractor or 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 objectionable 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(s) 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.

- C. Equipment Requirements – All equipment furnished by the Contractor and used shall be of such size and of such mechanical condition that the work can be prosecuted in an acceptable manner.

NOTICE TO PROCEED - After the contract is fully executed, 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 Adjutant General or his designated representative may terminate the contract.

## **SPECIAL PROVISIONS FOR CONSTRUCTION CONTRACTS**

### **RESPONSIBILITY OF OFFERORS**

Offeror shall furnish proof of compliance In accordance with Act 190 Amendment to HRS 103D-310(c)

Required as a prerequisite to entering into a contract, the contractor shall register on the Hawaii Compliance Express web site for all tax clearances by going to <http://vendors.ehawaii.gov> and registering there.

A Certificate of Vendor Compliance generated from this website should be included with their bid proposal. A Compliant status is required prior to awarding the contract.

### **COMPREHENSIVE ANNUAL FINANCIAL REPORTING**

For any project that involves work on multiple structures, including non-building structures, whether it be new work or renovation work, or when the project involves both site improvements and a structure, the Contractor shall provide the following information to the Project Manager for fixed asset allocation purposes:

1. Within 30 calendar days of award as applicable to the project, the following shall be submitted:
  - a. The total cost of each individual structure;
  - b. The total cost of on-site improvement work; and
  - c. The total cost of off-site improvement work.
2. After all work, including all change order work has been completed, and prior to a request for final payment, the following shall be submitted:
  - a. The total cost of each individual structure including any related change order cost;
  - b. The total cost of on-site improvement work including any related change order cost; and
  - c. The total cost of off-site improvement work including any related change order cost.
3. The sum total cost of each category noted above shall total to the contract amount awarded, plus all change order work issued.
  - a. The cost of each individual structure includes the cost of the structure and any work within five (5) feet of the structure or building line which may include, but is not limited to its foundation, foundation earthwork, and utility improvements within and immediately below the building line.
  - b. The on-site improvement cost includes all site improvement work from

five (5) feet and beyond the building line and up to the project's property line, which may include but is not limited to clearing and grubbing, grading, drainage system, site utility, walkway, parking lot, and landscape improvements.

- c. The off-site improvement cost includes all off-site improvement work outside of the project's property line, which may include but is not limited to walkway, landscape, drainage, utility, and roadway improvements.

## **LIABILITY INSURANCE**

The Contractor shall not commence any work until it obtains, at its own expense, all required liability insurance. Such insurance must have the approval of the State as to limit form and amount and must be maintained with a company acceptable to the State. Such insurance must be maintained for the full period of the contract and shall provide protection from claims arising out of or resulting from the Contractor's operations under the Contract itself Subcontractor or by anyone directly or indirectly employed by any of them or by anyone for whose acts any of them may be liable.

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 and not less than \$2,000,000 in the aggregate to protect such contractor and all 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 anyone directly or indirectly employed by either of them and to include automotive liability, workers compensation and employers liability.

The 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 final acceptance of the work by the State.

A certificate of insurance acceptable to the State shall be filed with the State prior to commencement of the work. Such certificate shall contain a provision that coverage afforded under the policy will not be canceled or changed until at least thirty days written notice has been given to the State by registered mail at the address denominated for the State in the Contract for official communications to it should any policy be canceled before final acceptance by the State, and the Contractor fails to immediately procure replacement insurance as specified, the State reserves the right to procure such insurance and to deduct the cost thereof from any sum due the Contractor.

## **BID PREPARATION**

**Offer Form, Page Of-1.** Offeror is requested to submit its offer using Offeror's exact legal name as registered with the Department of Commerce and Consumer Affairs, if applicable; and to indicate exact legal name in the appropriate space on Offer Form, page OF-1. Failure to do so may delay proper execution of the contract.

The authorized signature on the first page of the Offer Form shall be an original signature in ink. If unsigned or the affixed signature is a facsimile or a photocopy, the offer shall be automatically rejected unless accompanied by other material, containing an original signature, indicating the Offeror's intent to be bound.

**Hawaii Business.** A business entity referred to as a "Hawaii business", is registered and incorporated or organized under the laws of the State of Hawaii.

**Compliant non-Hawaii business.** A business entity referred to as a "compliant non-Hawaii business," is not incorporated or organized under the laws of the State of Hawaii, but is registered to do business in the State.

**Tax Liability.** Work to be performed under this solicitation is a business activity taxable under Chapter 237, Hawaii Revised Statutes (HRS), and vendors are advised that they are liable for the Hawaii GET at the current rate.

**4.712% tax rate.** All businesses located on Oahu and county of Hawaii are required to pay the ½% County Surcharge tax on all Oahu transactions for which they pay the 4% GE tax. Neighbor island and out-of-state businesses that deliver goods or services to Oahu and have a 'physical presence' on Oahu, must pay the new ½% County Surcharge tax on their Oahu transactions.

**4% tax rate.** Neighbor island (except County of Hawaii) and out-of-state businesses that do not deliver any goods or services to Oahu are not subject to the new ½% County Surcharge tax.

If, however, an Offeror is a person exempt by the HRS from paying the GET and therefore not liable for the taxes on this solicitation, Offeror shall state its tax exempt status and cite the HRS chapter or section allowing the exemption.

**Taxpayer Preference.** For evaluation purposes, pursuant to §103D-1008, HRS, the Bidder's tax-exempt price offer submitted in response to an IFB shall be increased by the applicable retail rate of general excise tax and the applicable use tax. Under no circumstance shall the dollar amount of the award include the aforementioned adjustment.

## **AWARD OF CONTRACT**

**Method of Award.** Award, if made, shall be to the responsive, responsible offeror submitting the lowest Lump Sum Bid unless otherwise noted in the bid documents.

**Responsibility of Lowest Responsive Bidder.** Reference Responsibility of Offerors in §3-122-112, HAR. If compliance documents have not been submitted to the State Department of Defense prior to award, the lowest responsive offeror shall produce documents to the procurement officer to demonstrate compliance with this section.

### **HRS Chapter 237 tax clearance requirement for award and final payment.**

Instructions are as follows:

In accordance with Act 190 Amendment to HRS 103D-310(c)

Required as a prerequisite to entering into a contract, the contractor shall register on the Hawaii Compliance Express web site for all tax clearances by going to <http://vendors.ehawaii.gov> and registering there.

A Certificate of Vendor Compliance generated from this website should be included with their bid proposal. A Compliant status is required prior to awarding the contract.

A current Certificate of Vendor Compliance must accompany the invoice for final payment on the contract.

### **HRS Chapters 383 (Unemployment Insurance), 386 (Workers' Compensation), 392 (Temporary Disability Insurance), and 393 (Prepaid Health Care) requirements for award.** Instructions are as follows:

Pursuant to §103D-310(c), HRS, The Certificate of Vendor Compliance must have a "Compliant" rating with the DLIR.

### **Compliance with Section 103D-310(c)(1) and (2), HRS.**

Contractors are required to provide a state and federal tax clearance as a prerequisite to entering into a public contract of \$2,500 or more. To meet this requirement, all bidders shall submit valid tax clearances with their bid proposals when the bid is \$2,500 or more.

In accordance with Act 190 Amendment to HRS 103D-310(c), required as a prerequisite to entering into a contract, the contractor shall register on the Hawaii Compliance Express web site for all tax clearances by going to <http://vendors.ehawaii.gov> and registering there.

A Certificate of Vendor Compliance generated from this website shall be included with their bid proposal. A Compliant status is required prior to awarding the contract.

Failure to submit the required tax clearance will be sufficient grounds for the State to refuse to receive or consider the prospective bidder's proposal.

The Certificate of Vendor Compliance should be applied for as soon as possible. If a valid certificate is not submitted on a timely basis for award of a contract, an offer otherwise responsive and responsible may not receive the award.

**Final Payment Requirements.** A current Certificate of Vendor Compliance will be required for final payment.

## **SPECIAL PROVISIONS for Act 68, SLH 2010, CONSTRUCTION CONTRACTS**

### **DEFINITIONS FOR TERMS USED IN ACT 68, SLH 2010:**

- a. "Contract" means contracts for construction under 103D, HRS.
- b. "Contractor" has the same meaning as in section 103D-104, HRS, provided that "contractor" includes a Subcontractor where applicable.
- c. "Construction" has the same meaning as in section 103D-104, HRS.
- d. "Procurement Officer" has the same meaning as in section 103D-104, HRS.
- e. "Resident" means a person who is physically present in the State of Hawaii at the time the person claims to have established the person's domicile in the State of Hawaii and shows the person's intent is to make Hawaii the person's primary residence.
- f. "Shortage trade" means a construction trade in which there is a shortage of Hawaii residents qualified to work in the trade as determined by the Department of Labor and Industrial Relations.

### **EMPLOYMENT OF STATE RESIDENTS REQUIREMENTS – ACT 68, SLH 2010:**

- a. A Contractor awarded a contract 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 within shortage trades, as determined by the Department of Labor and Industrial Relations (DLIR), shall not be included in the calculation for this section.

- b. Prior to starting any construction work, the Contractor shall submit the subcontract dollar amount for each of its Subcontractors.
- c. The requirements of this section 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 Subcontractors workforce used to perform the subcontract.
- d. The Contractor and any Subcontractor whose subcontract is \$50,000 or more shall comply with the requirements of Act 68 for the entire duration of the contract.
  - 1. Certification of Compliance for Employment of State Residents (attached) shall be made prior to submittal of the final invoice.
  - 2. The Certification of Compliance for Employment of State Residents shall be made under oath by an officer of the company by completing a Certification of Compliance for Employment of State Residents form and executing the Certificate before a licensed notary public.
  - 3. In addition to the certification as required above, the Contractor and Subcontractors shall maintain records such as certified payrolls for laborers and mechanics who performed work at the site and time sheets for all other employees who performed work on the project. These records shall include the names, addresses and number of hours worked on the project by all employees of the Contractor and Subcontractor who performed work on the project to validate compliance with Act 68. The Contractor and Subcontractors shall retain these records and provide access to the State for a minimum period of four (4) years after the final payment, except that if any litigation, claim, negotiation, investigation, audit or other action involving the records has been started before the expiration of the four (4) year period, the Contractor and Subcontractors shall retain the records until completion of the action and resolution of all issues that arise from it, or until the end of the four (4) year period, whichever occurs later. Furthermore, it shall be the Contractor's responsibility to enforce compliance with this provision by any Subcontractor.
- e. A Contractor who fails to comply with this section shall be subject to any of the following sanctions:
  - 1. Temporary suspension of work on the project until the Contractor or its Subcontractor complies with Act 68;
  - 2. Withholding of payment on the contract until the Contractor or its Subcontractor complies with Act 68;

3. Permanent termination of the Contractor or Subcontractor from any further work on the project;
4. Recovery by the State, as applicable, of any moneys expended on the contract or subcontract as applicable; or
5. Proceedings for debarment or suspension of the Contractor or Subcontractor under Hawaii Revised Statutes §103D-702.

**Conflict with Federal Law:**

This section shall not apply if the application of this section is in conflict with any federal law, or if the application of this section will disqualify the State from receiving Federal funds or aid.

**Davis-Bacon Act:**

Davis-Bacon Act prevailing wage rates apply to all State of Hawaii Construction contracts over \$2,000.00.

**GRAVESITE RESTORATION FOR EAST HAWAII VETERANS CEMETERY NO.2, HILO,  
HAWAII, STATE OF HAWAII  
DEPARTMENT OF DEFENSE, OFFICE OF VETERANS CEMETERY  
JOB NO. CA-202617-C, FAI NO. HI-10-29**

Adjutant General  
State Department of Defense  
3949 Diamond Head Road  
Honolulu, Hawaii 96816-4495

Dear Sir:

The undersigned has carefully read and understands the terms and conditions specified in the Specifications and Special Provisions attached hereto, and in the General Conditions, by reference made a part hereof and available upon request; and hereby submits the following offer to perform the work specified herein, all in accordance with the true intent and meaning thereof. The undersigned further understands and agrees that by submitting this offer, 1) he/she is declaring his/her offer is not in violation of Chapter 84, Hawaii Revised Statutes, concerning prohibited State contracts, and 2) he/she is certifying that the price(s) submitted was (were) independently arrived at without collusion.

The undersigned represents: **(Check  $\checkmark$  one only)**

- ☐ **A Hawaii business** incorporated or organized under the laws of the State of Hawaii; **OR**  
☐ **A Compliant Non-Hawaii business** not incorporated or organized under the laws of the State of Hawaii. Business shall be registered prior to award at the State of Hawaii Department of Commerce and Consumer Affairs Business Registration Division to do business in the State of Hawaii. State of incorporation: \_\_\_\_\_

Offeror is:

- ☐ Sole Proprietor    ☐ Partnership    ☐ Corporation    ☐ Joint Venture  
☐ Other \_\_\_\_\_

Federal I.D. No.: \_\_\_\_\_

Hawaii General Excise Tax License I.D. No.: \_\_\_\_\_

Payment address (other than street address below): \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_

Business address (street address): \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_

Respectfully submitted:

**(x)** \_\_\_\_\_  
Authorized (Original) Signature

Date: \_\_\_\_\_

Telephone No.: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Name and Title (Please Type or Print)

Fax No.: \_\_\_\_\_

\* \_\_\_\_\_  
**Exact Legal Name of Company (Offeror)**

E-mail Address: \_\_\_\_\_

\*If Offeror is a "dba" or a "division" of a corporation,  
furnish the exact legal name of the corporation  
under which the awarded contract will be executed:

OFFER FORM

**OF-1** JOB NO. CA-202617-C, FAI NO. HI-10-29

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The undersigned has carefully examined the attached plans and specifications and hereby proposes to furnish at his own expense all labor, materials, tools and equipment necessary to construct all work as shown and called for, in strict accordance with the specifications, schedules and drawings pertaining thereto.

**COST, TIME AND SCHEDULE**

**COST: TOTAL LUMP SUM BASE BID:** \$ \_\_\_\_\_

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\_\_\_\_\_ DOLLARS  
*{BIDDER'S INSTRUCTIONS: Fill in the total lump sum base bid price in numbers and write out the total lump sum base bid price in words.}*

**COST: TOTAL LUMP SUM BASE BID (STATE-FUNDED):** \$ \_\_\_\_\_

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\_\_\_\_\_ DOLLARS  
*{BIDDER'S INSTRUCTIONS: Fill in the total lump sum base bid (State-funded) price in numbers and write out the total lump sum base bid (State-funded) price in words.}*

**Alternates** (See A.0.2.2 – ALTERNATES for description).

For the purposes of evaluating the Bid, the Alternates are listed in the order of precedence.

|                                                 |          |
|-------------------------------------------------|----------|
| Add Alternate No. 1, "Section J"                | \$ _____ |
| Add Alternate No. 1, "Section J" (State-funded) | \$ _____ |
| Add Alternate No. 2, "Section K"                | \$ _____ |
| Add Alternate No. 2, "Section K" (State-funded) | \$ _____ |
| Add Alternate No. 3, "Section L"                | \$ _____ |
| Add Alternate No. 3, "Section L" (State-funded) | \$ _____ |
| Add Alternate No. 4, "Section H"                | \$ _____ |
| Add Alternate No. 4, "Section H" (State-funded) | \$ _____ |
| Add Alternate No. 5, "Section I"                | \$ _____ |
| Add Alternate No. 5, "Section I" (State-funded) | \$ _____ |
| Add Alternate No. 6, "Section E"                | \$ _____ |
| Add Alternate No. 6, "Section E" (State-funded) | \$ _____ |

**TIME:**

See A.0.2.1 – PROJECT REQUIREMENTS for additional time and duration requirements.

(Including the cost of delivery, unloading, freight charges, all applicable taxes, and other cost involved) and will fully complete all the work under this contract within **540** consecutive calendar days from the date of commencement specified by the written order of the Adjutant General including the date of said order.

## Contract Duration

### Construction Duration for Alternates

|                                     |            |               |
|-------------------------------------|------------|---------------|
| Additional days for Alternate No. 1 | <b>150</b> | Calendar Days |
| Additional days for Alternate No. 2 | <b>150</b> | Calendar Days |
| Additional days for Alternate No. 3 | <b>120</b> | Calendar Days |
| Additional days for Alternate No. 4 | <b>60</b>  | Calendar Days |
| Additional days for Alternate No. 5 | <b>150</b> | Calendar Days |
| Additional days for Alternate No. 6 | <b>60</b>  | Calendar Days |

### **SCHEDULE OF WORK:**

Contractor shall commence and complete all work within the contract duration stipulated and as follows:

1. After the project is awarded, the contractor shall begin preparatory work, obtain approvals, permits, process submittals or conduct other work as directed. The contractor shall not start any work at the jobsite or order any materials, unless the Contracting Officer specifically issues a written authorization to proceed with designated work.
2. Upon receipt of the executed contract and a written authorization from the Contracting Officer, the contractor may proceed with ordering materials, doing offsite fabrication and similar work, approved by the Department, prior to issuance of the formal Notice to Proceed. The Contractor shall not start any work at the jobsite before the formal Notice to Proceed is issued, unless the Contracting Officer specifically issues a written authorization to proceed with designated work. Payment for materials ordered and received prior to the Departments issuance of the formal Notice to Proceed are subject to the following conditions:
  - a. The contractor is responsible for all storage costs incurred. No additional compensation will be made;
  - b. Ordering materials prior to the formal Notice to Proceed will not decrease or increase the specified contract time; and
  - c. Conditions as specified in the GENERAL CONDITIONS, and other conditions required by the contract documents.
3. After issuance of the formal Notice to Proceed or upon written authorization from the Contracting Officer to proceed with designated work, the contractor shall order approved materials, do off-site fabrication and similar work. The contractor shall start and complete the jobsite work per the dates, times and durations noted above.

### **BID SECURITY**

State in words and numerals the Bid Bond dollar amount.

Enclosed herewith as required by law (Cross Out Those Not Applicable):

Surety Bond (\*1)  
Certificate of Deposit (\*2)  
Certified Check (\*2)  
Cashier's Check (\*2)  
Share Certificate (\*2)  
Treasurer's Check (\*2)  
Official Check (\*2)  
Teller's Check (\*2)  
Legal Tender

(\*1) Surety bond underwritten by a company licensed to issue bonds in this State;

- (\*2) 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.
- These instruments may be utilized only to a maximum of \$100,000.
  - 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.

In the amount of:

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\_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_).  
(Bid Security shall be no less than 5% of the total lump sum base bid amount including alternates) as required by law.

### **RECEIPT OF ADDENDA AND BID CLARIFICATIONS**

Receipt of the following addenda issued by the Department is acknowledged by the day(s) of the receipt indicated below:

Addendum No. 1 \_\_\_\_\_ Addendum No. 2 \_\_\_\_\_  
Addendum No. 3 \_\_\_\_\_ Addendum No. 4 \_\_\_\_\_

It is understood that failure to receive any such addendum shall not relieve the Contractor from any obligation under this Proposal as submitted. (See Special Notice to Bidders for information regarding addenda.)

### **PREFERENCE**

Bidder agrees that:

- If applicable to this project, preferences are considered when evaluating bids to determine the ranking of the respective bidders. The award of the contract will be in the amount of the bid exclusive of any preference adjustments
- If granted the Apprenticeship Agreement Preference, and awarded the contract, the offeror (contractor) must, for the duration of the contract, certify each month that work is being conducted on the project, that it continues to be a participant in the relevant apprenticeship program for each trade it employs.

### **HAWAII PRODUCTS PREFERENCE**

In accordance with ACT 174, SLH 2022, effective June 27, 2022, Hawai'i Products Preference shall not apply to solicitations for public works construction. Therefore, the Hawai'i Products Preference shall not apply to this project.

### **APPRENTICESHIP AGREEMENT PREFERENCE**

The estimated value of the public works contract is \$250,000 or more and the apprenticeship agreement preference pursuant to Hawaii Revised Statutes §103-55.6 (Act 17, SLH 2009) **shall apply**.

- 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 the 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 of Bidder's Participation – Form 1* verifying participation in an apprenticeship program registered with the DLIR. "Apprenticeable trade" shall have the same meaning as "apprenticeable occupation" pursuant to Hawaii Administrative Rules (HAR) §12-30-5.
- a. The *Certification of Bidder's Participation – 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 *Certification of Bidder's Participation – Form 1* for each trade must be submitted with the bid. A facsimile or copy is acceptable to be submitted with the bid, however the signed original must be submitted within five (5) working days of the bid open date. If the signed original is not received within this timeframe, the preference may be denied. Previous certifications shall not apply.
  - d. When filling out the *Certification of Bidder's Participation – 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 State Department of Labor and Industrial Relations website. "Registered apprenticeship program" means a construction trade program approved by and registered with the DLIR pursuant to HAR § 12-30-1 and §12-30-4.
  - e. The *Certification of Bidder's Participation – 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 of Bidder's participation – 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 amount by five (5) percent for evaluation purposes.
5. Should the bidder qualify for other preferences (for example, Hawaii Products), all applicable preference shall be applied to the bid price.
6. If the winning bidder has submitted Form 1 with his bid packet, the Form 2 will be required the first week of each month for the prior month beginning with the month of the start of work.

**LISTING JOINT CONTRACTORS OR SUBCONTRACTORS (HRS, 103D-302)**

It is the sole responsibility of the bidder to review the requirements of this project and determine the appropriate specialty contractor's licenses that are required to complete the project. The bidder acknowledges that as a general contractor ('A' or 'B' license) the bidder is prohibited from undertaking any work solely or as part of a larger project, which would require the bidder ('A' or 'B' general contractor) to act as a specialty ('C' license) contractor in any area in which the bidder ('A' or 'B' general contractor) has no specialty contractor's license. The bidder ('A' or 'B' general contractor) must have the appropriate 'C' specialty contractor's licenses either obtained on its own, or obtained automatically under HAR §16-77-32.

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.

The bidder certifies that the following is a complete listing of all joint contractors or subcontractors covered under Chapter 444, Hawai'i Revised Statutes, who will be engaged by the bidder on this project to perform the nature and scope of work indicated pursuant to Section 103D-302, Hawai'i Revised Statutes, and understands that failure to comply with this requirement shall be just cause for rejection of the bid.

The bidder further certifies that only those joint contractors or subcontractors listed shall be allowed to perform work on this project and that all other work necessary shall be performed by the bidder with his own employees. If no joint contractor or subcontractor is listed, it shall be construed that all of the work shall be performed by the bidder with his own employees.

All bidders must be sure that they possess and that the subcontractors listed in the proposal possess all the necessary specialty licenses needed to perform the work for this project. The bidder shall be solely responsible for assuring that all of the specialty licenses required to perform the work is covered in his bid.

All subcontractors listed below must be registered on the Hawai'i Compliance Express web site and have a compliant rating prior to issuing a Notice to Proceed for all contracts over \$500,000.00.

The bidder shall include the license number of the joint contractors or subcontractors listed below. Failure to provide the correct names and license numbers as registered with the Contractor's Licensing Board may cause rejection of the bid submitted.

Instructions to complete the Joint Contractors or Subcontractors List:

1. Describe the specialty Contractor's nature of work to be performed for this project and provide the complete firm name of the joint Contractor or Subcontractor in the respective columns.
2. List only one joint Contractor or Subcontractor per required specialty Contractor's classification.
3. For projects with alternate(s), fill out the respective "Joint Contractors or Subcontractors List for the Alternate(s)". Bidder shall describe the specialty Contractor's nature of work to be performed on this project for the respective alternate. Bidders shall fill in the complete name and nature of work to be performed by the respective joint Contractor or Subcontractor. If the joint Contractor or Subcontractor previously listed under base bid, list under Alternate(s) are not required.

| <u>Complete Firm Name of Joint Contractor<br/>or Subcontractor for Lump Sum Bid</u> | <u>License<br/>Number</u> | <u>Nature and Scope of Work<br/>to be performed</u> |
|-------------------------------------------------------------------------------------|---------------------------|-----------------------------------------------------|
| _____                                                                               | _____                     | _____                                               |
| _____                                                                               | _____                     | _____                                               |
| _____                                                                               | _____                     | _____                                               |
| _____                                                                               | _____                     | _____                                               |
| _____                                                                               | _____                     | _____                                               |
| _____                                                                               | _____                     | _____                                               |
| _____                                                                               | _____                     | _____                                               |

#### **Joint Contractors or Subcontractors List for the Alternates**

Bidder agrees that for projects with alternates, the joint Contractors or Subcontractors listed in the completed "Joint Contractors or Subcontractors List for the Alternates" will perform the work for the respective alternate.

#### **NOTE:**

1. By submitting this proposal, the undersigned is declaring 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.
2. Anti-collusion Certification – In accordance with §3-122-192 (HAR), the bidder declares that the price submitted for this bid is independently arrived at without collusion.
3. The Adjutant General or his designated representative reserves the right to reject any and/or all bids and waive any defects when, in his opinion, such rejection or waiver will be in the best interest of the State.

#### **4. Bid Evaluation Criteria:**

- a. **Evaluating Bids:** The lowest responsive, responsible bid is determined by the following procedures:
- 1) Chapter 103D, HRS, which provides for the preferences, shall apply.
  - 2) The total lump sum bid price is adjusted to reflect the applicable preferences.
    - a) For projects with alternates, the total lump sum base bid price and alternates will be adjusted to reflect the applicable preferences.
  - 3) Project control budget is established prior to the submission of bids.
  - 4) If there is more than one alternate for a project, the State will determine the precedence of the alternates for each project prior to the submission of bids.
  - 5) The project will be evaluated based on the adjusted bid price.
- b. **Evaluating Bids with Additive Alternates:**
- 1) Prior to opening bids, the State will announce the project control budget. All bids will be evaluated on the basis of the same alternate item.
  - 2) After adjusting for applicable preferences, the alternates, in their precedence order, are added to the total lump sum base bid price. This (these) sum(s) are compared to the project control budget, and must be within the project control budget.
  - 3) If adding another alternate would make the aggregate amount exceed the project control budget for all bidders, that alternate will be skipped and the next alternate will be added, provided an award might be made within the project control budget. This procedure will continue, until adding any remaining alternates will result in the aggregate total amount for all the bidders to exceed the project control budget, or until no additional alternates remain.
  - 4) The bidder with the lowest aggregate amount, within the project control budget (after application of the various preferences), for the total lump sum base bid plus the alternates in their precedence order, is the "Low Bidder" for that project and is designated for award.
  - 5) Additive Alternate Example: The project control budget available is \$100,000. In the order of precedence, alternates A-1, A-2 and A-3 are additive alternates. After applying the preferences, the bids are ranked lowest price to highest price and are "Bid A", "Bid B" and "Bid C". Bid A's total lump sum base bid price and three additive alternates (in the precedence order) are \$80,000, \$16,000, \$10,000 and \$5,000 respectively. Bid B's total lump sum base bid price and three additive alternates (in the precedence order) are \$82,000, \$10,000, \$9,000 and \$3,000 respectively. Bid C's total lump sum base bid price and three additive alternates (in the precedence order) are \$85,000, \$10,000, \$8,000 and \$4,000 respectively.
    - a) In adding the alternates to the bids, alternate A-1 is under the project control budget for all bids. The second alternate A-2 is initially skipped since it would cause the aggregate amount of all bids to exceed \$100,000. The third alternate A-3 is added and the aggregate amounts, including base bid price plus alternates A-1 and A-3, of both Bid B and Bid C, are under the project control budget.
    - b) Bid A's aggregate total is \$101,000. Bid B's aggregate total is \$95,000. Bid C's aggregate total is \$99,000.
    - c) Bid B's price including alternates A-1 and A-3 is the lowest bid price (over Bid C) and has an aggregate amount within the adjusted project control budget, and

therefore is designated the "Low Bidder" for the project.

- 6) Should the Lump Sum Base Bid of all bidders exceed the project control budget, the bidder with the lowest total lump sum base bid after application of the preferences is designated the low bidder for the project.
- 7) Bids may not be withdrawn for sixty (60) days so that the National Cemetery Association (NCA) may prepare, process and award the final grant application after bid opening.

**5. Method of Award:**

- A. The contract will be awarded to the lowest responsive and responsible Bidder whose bid (including any alternates which may be selected) meets the requirements and criteria set forth in the solicitation documents and as determined by the Department.
  - B. In the event the total lump sum bid for bids without alternates or with additive alternates of all bidders exceeds the project control budget, the Department reserves the right to make an award to the apparent Low Bidder if additional funds are available or by reducing the scope of work through negotiation.
  - C. Additional Requirements for Bids with Alternates: After determining the designated Low Bidder for the project, an award may be made on the amount of the Low Bidder's total lump sum base bid alone or on any combination of alternates exclusive of any preferences. The combination of alternates may include substituting any of the alternates that were included in the designated Low Bidder's aggregate price with an alternate that was not included, provided:
    - 1) It is in the best interest of the State,
    - 2) Funds are available at the time of award, and
    - 3) The combination of the total lump sum base bid plus alternate(s) does not change the established Low Bidder for the project.
6. Upon the acceptance of the proposal by the Adjutant General or his designated representative, the undersigned must enter into and execute a contract for the same and furnish a bond, as required by law. This bond shall conform to the provisions of Section 103D-324 of the Hawaii Revised Statutes and any law applicable thereto.
  7. The award of the contract shall be conditioned upon funds being made available for these projects and further upon the right of the Adjutant General or his designated representative to hold all bids received for a period of one-hundred and eighty (180) days from the date of the opening thereof, unless otherwise required by law, during which time no bid may be withdrawn.
  8. Where noted in the bid documents, the "Engineer" and "Contracting Officer" shall mean the "Project Contact Person".
    - a. Project Contact Person: The Department of Defense employee who will be identified at the Pre-Construction Meeting.
  9. **Permits:** Grading Permit is required for this project. The Contractor is responsible to pay for and obtain these permits, and all other permits as may be required for the project.
  10. The Surety shall not be held liable beyond two (2) years of the project acceptance date.
  11. **Certification for Safety and Health Programs for Offers in excess of \$100,000** - In accordance with HRS 396-18, the bidder certifies that its organization will have a written

safety and health plan for this project that will be available and implemented by the date when onsite construction starts. Bidder may obtain the requirements for the safety plan from the Department of Labor and Industrial Relations, Occupational, Safety and Health Division (HIOSH).

12. **Labor and Wage Certification** (Chapter 104 HRS) - For projects in excess of \$2,000, the bidder shall comply with the requirements of Chapter 104 HRS, "Wages and Hours of Employment on Public Works Construction Projects" and shall certify that:
  - a. Individuals engaged in the performance of the contract on the job site, shall not be paid less than wages the Director of Labor and Industrial Relations determines to be prevailing for corresponding classes of laborers and mechanics employed on public works projects, including any periodic adjustments to the prevailing wages during the performance of the contract;
  - b. Overtime compensation shall be at one and one-half times the basic hourly rate plus fringe benefits for hours worked on Saturday, Sunday, or legal holiday of the State or in excess of eight hours on any other day; and
  - c. All applicable laws of the federal and state governments relating to workers' compensation, unemployment compensation, payment of wages, and safety shall be fully complied with.
13. Upon the acceptance of the bid by the Procurement Officer, the bidder must enter into and execute a contract and furnish a performance and payment bond. These bonds shall conform to the provisions of HRS Sections 103D-324 and 325, and any law applicable thereto.
14. **Compliance with §103D-310 HRS:** Bidder shall be incorporated or organized under the laws of the State or registered to do business in the State as a separate branch or division that is capable of fully performing under the contract.
15. **CAMPAIGN CONTRIBUTIONS BY STATE AND COUNTY CONTRACTORS PROHIBITED.**  
If awarded a contract in response to this solicitation, offeror agrees to comply with HRS §11-355, which states that campaign contributions are prohibited from a State and County government contractor during the term of the contract if the contractor is paid with funds appropriated by the legislative body between the execution of the contract through the completion of the contract.
16. **CHARACTER OF WORKERS OR EQUIPMENT**  
The Contractor shall perform with his own organization, work amounting to not less than twenty percent (20%) of the total contract cost. The Engineer may require the Contractor to verify the percentage of work he will be providing with his own organization by furnishing pertinent information such as all of the actual subcontractor(s)' quotations he received for the bid. If requested, the Contractor shall provide such verification within 5 working days of the request.
17. **CERTIFICATION FOR SAFETY AND HEALTH PROGRAM FOR BIDS IN EXCESS OF \$100,000**  
In accordance with HRS 396-18, by submitting this proposal, the undersigned certifies that his company 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).
18. **TAX CLEARANCES FROM THE STATE DIRECTOR OF TAXATION AND INTERNAL REVENUE SERVICE**

- a. Contractors are required to provide a state and federal tax clearance as a prerequisite to entering into a public contract of \$2,500 or more. To meet this requirement, all bidders shall submit valid tax clearances with their bid proposals when the bid is \$2,500 or more.
- b. Failure to submit the required tax clearance may be sufficient grounds for the State to refuse to receive or consider the prospective bidder's proposal.
- c. In accordance with Act 190 Amendment to HRS 103D-310(c), required as a prerequisite to entering into a contract, the contractor shall register on the Hawai'i Compliance Express web site for all tax clearances by going to <http://vendors.ehawaii.gov> and registering there.
- d. In all contracts over \$500,000.00 all sub-contractors will be required to be registered on the Hawaii Compliance Express and have a compliant rating prior to issuing the Notice to Proceed.
- e. A Certificate of Vendor Compliance generated from this website shall be included with their bid proposal. A Compliant status is required prior to awarding the contract.

19. **LICENSE**

Due to the nature of the work contemplated, bidder must possess a valid State of Hawai'i Contractor's license in the appropriate classification.

20. **LIQUIDATED DAMAGES**

In accordance with the GENERAL CONDITIONS, Article 7 – PROSECUTION AND PROGRESS, Section 7.26, FAILURE TO COMPLETE THE WORK ON TIME, upon failure to complete the work or any portion of the work within the time or time fixed in the contract or extension thereof, the Contractor shall pay liquidated damages to the State, in the amount of **\$200** per calendar day of delay.

21. **COMPENSATION**

All payments shall be made in the manner and at the times indicated in the Contract Documents.

It is understood and agreed that the compensation paid by the State to the Contractor shall include all expenses incurred by the Contractor for all loss or damage arising out of the nature of the work, from the action of the elements, or from any delay or unforeseen obstruction or difficulty encountered in the prosecution of the work; for all risks of every description connected with the work; and for all expenses incurred by or in consequence of the suspension or discontinuation of the work, except as set forth in the General Conditions.

It is further agreed by the parties that any portion of the Contract price payable to the Contractor out of federal funds shall be paid to the Contractor only when such federal funds are received, and this contract shall not be construed as binding the State to pay said portion out of any fund other than those which are received from the Federal government.

22. **GUARANTY OF WORK**

The Contractor agrees to guaranty all work under this Contract for the period(s) stipulated in the Contract Documents from the project acceptance date.

If any unsatisfactory condition or damage develops within the time of this guaranty due to materials or workmanship that are deficient, inferior, or not in accordance with the contract, the Contractor shall, when notified by the State, immediately place such guaranteed work in a condition satisfactory to the State and make repairs of all damage to the buildings, equipment and grounds made necessary in fulfillment of the guaranty. Everything necessary for the fulfillment of any guaranty shall be done without any expense to the State. It is understood

that the performance and payment bond furnished by the Contractor under this Contract may be used to secure performance of Contractor's guaranty.

**23. CONTRACT DOCUMENTS**

It is understood and agreed that the following documents, and any amendments or addenda thereto, comprise this contract and are fully a part of this Contract as though attached hereto or set forth at length herein: (1) Contractor's accepted proposal; (2) General Conditions; (3) Drawings; (4) Specifications, including the Notice to Bidders, Instructions to Bidders, and Special Conditions, Addenda, Bid Clarifications, if any; (5) Combination Performance and Labor and Material Payment Bond; and (6) this Contract Agreement.

**24. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION – LOWER TIER COVERED TRANSACTIONS (VA Form 40-0895-12)**

- a. This project is seeking U.S. Department of Veterans Affairs (USDVA) State Cemetery Grant Program Reimbursements. The completed certification form is required by the USDVA.
- b. Bidders shall submit the completed VA Form 40-0895-12 (attached, 1 page) with this Offer Form, or within 5 calendar days after the bid opening date.
- c. NOTE: Contractor shall fill out all fields on the form. Project FAI No. is pre-filled. The "Name of Lower Tier Participant" is the name of Company's authorized person signing the form. The "Title of Lower Tier Participant" is the title of Company's authorized person.

**25. CERTIFICATION REGARDING LOBBYING**

By submitting an offer, the bidder/Contractor certifies to the best of their knowledge and belief that:

- a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the Bidder shall complete and submit Standard Form LLL, "Disclosure of Lobbying Activities", in accordance with its instructions (see Attachment).
- c. The language of this certification shall be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

NOTE: Bidders shall submit the completed Standard Form LLL (attached, 2 pages) with this Offer Form, or within 5 calendar days after the bid opening date.

\_\_\_\_\_  
\*Signature

Title \_\_\_\_\_

HAWAI'I GENERAL EXCISE TAX

I.D. NO. \_\_\_\_\_

\_\_\_\_\_  
Name of Company

\_\_\_\_\_  
Address

LICENSE CLASSIFICATION  
AND/OR SUBCLASSIFICATION NO.

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Date

\_\_\_\_\_  
(CORPORATE SEAL)

\*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.

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



## CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION - LOWER TIER COVERED TRANSACTIONS (*Contractor*)

Respondent Burden: Public reporting burden for this collection of information is estimated to average 15 minutes. Statutory authority for a State Cemetery Grant is 38 U.S.C. 2408. The information requested is necessary to ensure that the contractor has not been debarred, suspended or is ineligible to participate in the VA grant process and receive Federal funds. VA may not conduct or sponsor and you are not required to respond to this collection of information unless it displays a valid OMB number. Respond to this collection is voluntary. Send comments regarding this burden estimate or any other aspects of this collection of information, including suggestions for reducing this burden, to OIRA Desk Officer for VA, 725 17th St NW, Washington, DC 20503. SEND COMMENTS ONLY. Please do not send applications for a grant to this address.

**AUTHORITY:** This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, Title 2 Part 180, Participants' Responsibilities. The regulations were published as Part VII of the May 26, 1988, Federal Register (pages 19160 - 19211). Copies of the regulations may be obtained by contacting the person to whom this proposal is submitted.

**CERTIFICATION:** The authorized representative certifies, by submission of this form, that neither the representative nor principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

### INSTRUCTIONS:

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of act upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "participant," "person," "primary covered transaction," "principle," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

|                                     |                                                           |
|-------------------------------------|-----------------------------------------------------------|
| NAME AND ADDRESS OF COMPANY:        | PROJECT FAI ( <i>Federal Application Identifier</i> ) NO. |
| NAME OF LOWER TIER PARTICIPANT      | TITLE OF LOWER TIER PARTICIPANT                           |
| SIGNATURE OF LOWER TIER PARTICIPANT | DATE SIGNED ( <i>mm/dd/yyyy</i> )                         |

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## **SAMPLE FORMS**

Request for Substitution  
Name of Corporation  
Weekly Quality Control Report Form

## ARTICLE 1 - Definitions

Whenever the following terms or pronouns are used in these Bidding and Execution of Contract Requirements, and General Conditions, or in any contract documents or instruments where these Bidding and Execution of Contract Requirements, and General Conditions govern, the intent and meaning shall be interpreted as follows

- 1.1\_ ADDENDUM (plural - Addenda) A written or graphic document, including Drawings and Specifications, issued by the Engineer during the bidding period which modify or interpret the bidding documents, by additions, deletions, clarifications or corrections which shall be considered and made a part of the bid proposal and the contract when executed.
- 1.2\_ ADDITION (to the contract sum) Amount added to the contract Sum by Change Order.
- 1.3\_ ADMINISTRATIVE RULES - Hawaii Administrative Rules for Chapter 103-D of the Hawaii Revised Statutes.
- 1.4\_ ADMINISTRATOR - The Public Works Administrator, Department of Accounting and General Services
- 1.5\_ ADVERTISEMENT - A public announcement soliciting bids or offers.
- 1.6\_ AMENDMENT - A written document properly executed by the Contractor and DOD issued to amend the existing contract between the State and the Contractor.
- 1.7\_ BAD WEATHER DAY - When weather or other conditions prevent a minimum of four hours of work with the Contractor's normal work force on controlling items of work at the site.
- 1.8\_ BENEFICIAL OCCUPANCY - The point of project completion when the State can use the constructed facility in whole or in part for its intended purpose even though substantial completion may not be achieved.
- 1.9\_ BID See OFFER
- 1.10\_ BID SECURITY - The security furnished by the bidder from which the State may recover its damages in the event the bidder breaches its promise to enter into a contract with the State and fails to execute the required bonds covering the work contemplated, if its proposal is accepted.
- 1.11\_ BIDDER - See Offeror
- 1.12\_ BIDDING DOCUMENTS (or SOLICITATION DOCUMENTS) - The advertisement solicitation notice and instructions, Offer requirements, Offer forms, and the proposed contract documents including all addenda, and clarifications issued prior to receipt of the Offer.
- 1.13\_ BULLETIN - A written notice to the Contractor requesting a price and / or time proposal for contemplated changes preparatory to the issuance of a field order or change order.
- 1.14\_ BY OR TO THE ENGINEER - To avoid cumbersome and confusing repetition of expressions in these General Conditions, 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.
- 1.15\_ 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.
- 1.16\_ CHANGE ORDER - A written order signed by the Engineer that establishes the full payment and final settlement of all claims for direct, indirect and consequential costs, including costs of delays, and establishes any adjustments to contract time related to the work covered and affected by one or more field orders, or for change work done or agreed to be done without issuance of a separate field order. A change order signed by all the parties to the contract constitutes a supplemental agreement.
- 1.17\_ COMPLETION - See SUBSTANTIAL COMPLETION and FINAL COMPLETION.
- 1.18\_ COMPTROLLER - The Comptroller of the State of Hawaii, Department of Accounting and General Services.

- 1.19\_ CONSULTANT - A person, firm or corporation having a contract with the State to furnish services with respect to the project
- 1.20\_ CONTRACT - The written agreement between the Contractor and the State of Hawaii by its Adjutant General, 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 therefore at the prices set forth therein. The contract shall include the Contract Documents and also any and all amendments and change orders which are required to complete the construction in an acceptable manner.
- 1.21\_ CONTRACT COMPLETION DATE - The calendar day on which all work on the project, required by the contract, must be completed. See CONTRACT TIME and FINAL COMPLETION.
- 1.22\_ CONTRACT DOCUMENTS - The Contract, Addenda (which pertain to the Contract Documents, Contractor's Proposal (including Wage Schedule, List of Subcontractors and other documentation accompanying the Bid and any post bid documentation submitted prior to the Notice of Award) when attached as an exhibit to the Contract, the Notice to Proceed, the Bonds, these GENERAL CONDITIONS, the SPECIAL CONDITIONS, the Specifications and the Drawings as the same are more specifically identified in the Contract together with all written Amendments, Change Orders, Field Orders, a written order for minor changes in the work and Engineer's written interpretations and clarifications issued on or after the effective date of the Contract.
- 1.23\_ CONTRACT PRICE - The amount designated on the face of the contract for the performance of work including allowances for extra if any.
- 1.24\_ CONTRACT TIME (or CONTRACT DURATION) - The number of calendar (or working) days provided for completion of the contract, inclusive of authorized time extensions. The number of days shall begin running on the effective date in the Notice to Proceed. If in lieu of providing a number of calendar (or working) days, the contract requires completion by a certain date, the work shall be completed by that date.
- 1.25\_ CONTRACTOR - Any individual, partnership, firm, corporation, joint venture, or other legal entity undertaking the execution of the work under the terms of the contract with the State of Hawaii, and acting directly or through its agents, or employees.
- 1.26\_ DEPARTMENT - The Department of Defense, State of Hawaii (abbreviated DOD).
- 1.27\_ DRAWINGS (or Plans) - The contract drawings in graphic or pictorial form, which show the design, location, character, dimensions and details of the Work to be done and which shall be a part of the Contract Documents.
- 1.28\_ ENGINEER - The Department of Defense Engineer, or the authorized person to act in the Engineer's behalf.
- 1.29\_ EQUAL OR APPROVED EQUAL - Whenever this term is used in the drawings or specifications, it shall be interpreted to mean a brand or article, prequalified in accordance with Section 6.3 SUBSTITUTION OF MATERIALS AND EQUIPMENT, that may be used in place of the one specified.
- 1.30\_ FIELD ORDER - A written order issued by the Engineer or the Engineer's authorized representative to the Contractor requiring the contract work to be performed in accordance with a change or changes in the work. A field order may (1) establish a price adjustment and/or time adjustment in an amount the Engineer believes is reasonable for the change; or (2) may declare that the Engineer does not intend to adjust contract time or price for the work; or (3) may request the Contractor to submit a proposal for an adjustment to the contract time and/or price by a certain date.
- 1.31\_ FINAL COMPLETION - The date set by the Engineer that all work required by the contract and any amendments or changes thereto is in full compliance with the contract.
- 1.32\_ FORCE ACCOUNT - Term used when Work is ordered to be done without prior agreements as to lump sum or unit price cost thereof and is to be billed for at cost of labor, materials and equipment, insurances, taxes, etc., plus an agreed percentage for overhead and profit.
- 1.33\_ GUARANTEE - Legally enforceable assurance of the duration of satisfactory performance of quality of a product or Work

- 1.34\_ **GOODS - Materials.** §103D-104
- 1.35\_ **HAZARDOUS MATERIALS** - Any and all radioactive materials, asbestos, polychlorinated biphenyls, petroleum, crude oil, chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, toxic substances or materials cited in Hazardous Material Laws. Abandoned motor vehicles or parts thereof are not hazardous material.
- 1.36\_ **HOLIDAYS** - The days of each year which are set apart and established as State holidays pursuant to Chapter 8, Hawaii Revised Statutes.
- 1.37\_ **INSPECTOR** - The person assigned by the Engineer to make detailed inspections of contract performance and materials supplied for the work.
- 1.38\_ **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 bids.
- 1.39\_ **PERFORMANCE LIQUIDATED DAMAGES** The amount prescribed in the General Conditions, Section 7.26 **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.
- 1.40\_ **LETTER OF AWARD** - A written notice from the Engineer to the successful bidder(s) stating that its proposal has been accepted by the State.
- 1.41\_ **MAJOR UNIT PRICE ITEM** - A unit price item which, when extended on its estimated quantities in the proposal form, exceeds five percent (5%) of the total base bid proposal less any allowance and contingent items included in the proposal.
- 1.42\_ **NON-CONFORMING WORK** - Work that does not fulfill the requirements of the Contract Documents.
- 1.43\_ **NOTICE TO CONTRACTORS** - See Solicitation.
- 1.44\_ **NOTICE TO PROCEED** - A written notice from the Contracting Officer to the Contractor advising it of the date on which it is to begin the prosecution of the Work, which date shall also be the beginning of Contract Time.
- 1.45\_ **POST CONTRACT DRAWINGS** - Drawings issued after the award of the contract for the purpose of clarification and / or changes to the work indicated in the original drawings and which may be made a part of the contract.
- 1.46\_ **PROJECT ACCEPTANCE DATE** - The calendar day on which the Engineer accepts the project as sufficiently completed in compliance with the contract so that the State can occupy or utilize the Work for its intended use. See **SUBSTANTIAL COMPLETION**.
- 1.47\_ **PROJECT CONTRACT LIMITS (or Contract Zone)** - The portion of the site as delineated on the drawings 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.
- 1.48\_ **PROJECT GUARANTEE** - A guarantee issued by the Contractor to the State. See **GUARANTEE**.
- 1.49\_ **PROPOSAL (Bid)** - See Offer (or Bid).
- 1.50\_ **PROPOSAL FORM** - See Offer Form (or Bid Form).
- 1.51\_ **PUNCH LIST** - A list compiled by the Engineer (or Contractor) stating work yet to be completed or corrected by the Contractor in order to substantially complete or finally complete the contract requirements.
- 1.52\_ **QUESTIONNAIRE** - The specified forms on which the bidder shall furnish required information as to its ability to perform and finance the work.
- 1.53\_ **SHOP DRAWINGS** - All drawings, diagrams illustrations, schedules and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work.
- 1.54\_ **SPECIAL CONDITIONS** - Supplements or modifies the standard clauses of the **GENERAL CONDITIONS** setting forth conditions or requirements peculiar to the individual project under consideration, which are not thoroughly or

satisfactorily covered, described or explained in these GENERAL CONDITIONS.

- 1.55\_ SPECIFICATIONS - That portion of the Contract Documents consisting of written descriptions for materials, equipment, construction systems, standards, workmanship, directions, provisions and requirements that pertain to the method and manner of performing the work and certain administrative requirements applicable thereto.
- 1.56\_ STATE - The State of Hawaii acting through its authorized representative.
- 1.57\_ SUBCONTRACT - Any written agreement between the Contractor and its subcontractors which contains the conditions under which the subcontractor is to perform a portion of the work for the Contractor.
- 1.58\_ 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.
- 1.59\_ SUBSTANTIAL COMPLETION - The status of the project when the Contractor has completed all the work and 1) all utilities and services are connected and working, 2) all equipment is in acceptable working condition, 3) additional activity by the Contractor to correct punch list items as described herein will not prevent or disrupt use of the work or the facility in which the work is located, and 4) the building, structure, improvement or facility can be used for its intended purpose.
- 1.60\_ SUPERINTENDENT - The employee of the Contractor who is charged with the responsibility of all the Work.
- 1.61\_ SURETY - The qualified individual, firm or corporation other than the Contractor, which executes a bond with and for the Contractor to insure its acceptable performance of the contract.
- 1.62\_ UNUSUALLY SEVERE WEATHER - Uncommonly harsh weather including but not limited to hurricanes, tornados, tropical storms and tropical depressions, or as otherwise defined in the SPECIAL CONDITIONS.
- 1.63\_ WORK - The furnishing of all labor, materials, equipment, and other incidentals necessary or convenient for the successful completion of the

project and the execution of all the duties and obligations imposed by the contract.

- 1.64\_ WORKING DAY - A calendar day, exclusive of Saturdays, Sundays and State-recognized legal holidays for the month in question.
- 1.65\_ OFFER (or Bid) - The executed document submitted by an Offeror in response to a solicitation request, to perform the work required by the proposed contract documents, for the price quoted and within the time allotted.
- 1.66\_ OFFEROR (or BIDDER) - Any individual, partnership, firm, corporation, joint venture or other legal entity submitting directly or through a duly authorized representative or agent, an Offer for the work or construction contemplated.
- 1.67\_ OFFER FORM (or BID FORM) - The form prepared by the Department on which the Offeror submits the written offer or bid. By submitting an offer or bid, the Offeror adopt the language on the form as its own.
- 1.68\_ PROJECT START DATE - The date established in the Notice to Proceed when the Contractor shall begin prosecution of the work and the start of contract time.
- 1.69\_ SOLICITATION - An Invitation to Bid or Request for Proposals or any other document issued by the Department to solicit bids or offers to perform a contract. The solicitation may indicate the time and place to receive the bids or offers and the location, nature and character of the work, construction or materials to be provided.

## ABBREVIATIONS

|       |                                 |
|-------|---------------------------------|
| HAR   | Hawaii Administrative Rules     |
| HRS   | Hawaii Revised Statutes         |
| VECP  | Value Engineering cost Proposal |
| DOTAX | State Department of Taxation    |
| IRS   | Internal Revenue Service        |

## **BIDDING AND EXECUTION OF CONTRACT REQUIREMENTS**

### **ARTICLE 2 - Proposal Requirements and Conditions**

#### **2.1 QUALIFICATION OF BIDDERS**

Prospective bidders must be capable of performing the work for which bids are invited, and must be capable of entering into a public contract of \$25,000 or more.

##### **2.1.1 Notice of Intention to Bid**

2.1.1.1 In accordance with Section 103D-310, Hawaii Revised Statutes, and Section 3-122-111, Hawaii Administrative Rules, a written notice of intention to bid need not be filed for construction of any public building or public work. A written notice of intention to bid need not be filed for 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.

2.1.1.2 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. 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 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.

2.1.1.3 No persons, 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 owed to the State of Hawaii or any of its political subdivisions or is in default of any obligation to the State of Hawaii or to all or to any of its political subdivisions, including default as a surety or failure to perform faithfully and diligently any previous contract with the Department.

2.1.1.4 The Engineer may, in accordance with Section 103D-310 Hawaii Revised Statutes, require the prospective Bidder to submit answers to questions 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 its organization in performing similar work and a statement of the equipment proposed to be used, together with adequate proof of the availability of such equipment, at least two (2) working days 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.

2.1.1.5 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.

2.1.1.6 Failure to complete and submit the prequalification questionnaire by the designated deadline will be sufficient cause for the Department to disqualify a prospective Bidder.

##### **2.1.2 Compliance Certificate § 103D -310(c) HRS**

2.1.2.1 Contractors are required to provide proof of compliance in order to receive a contract of \$25,000 or more. To meet this requirement, Offerors may apply and register at the "Hawaii Compliance Express" website: <http://vendors.chawaii.gov/hce/splash/welcome/html>

2.1.2.2 Tax clearances may be obtained by completing the Tax Clearance Application (Form A-6) and submitting it to the Hawaii State Department of Taxation (DOTAX) or the Internal Revenue Service (IRS). The application may be obtained from the DOTAX, or the IRS. The application may be mailed in or walked in to either the DOTAX or the IRS. Both tax agencies encourage the use of their mail-in process, which should be completed within twenty-one (21) calendar days. Tax clearance certificates will be issued to the applicant upon determination that the applicant has filed all tax returns due, and has paid all amounts owing on such returns, including penalty and interest.

2.1.2.3 Only original tax clearance certificates or certified copies will be accepted for this purpose. Failure to submit the required tax clearance certificates may be sufficient grounds for the Department to refuse to receive or consider the prospective bidder's proposal.

2.1.2.4 Tax clearance certificates are valid for six (6) months. The six-month period will begin with the later approval date stamped on the tax clearance. An original

copy of a tax clearance that bears an original green certified copy stamp will be accepted by the Department for final payment. The period of validity is two months.

2.1.2.5 The tax clearances submitted with the bid proposals must be valid on the solicitation's first legal advertisement date or any date thereafter up to the bid opening date. Valid tax clearances submitted with the proposal will remain valid for the contract award and encumbrance.

2.1.2.6 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.

2.1.2.7 If a business cannot obtain a tax clearance certificate because of tax delinquencies, it may submit a "special letter" from DOTAX and/or the IRS. The "special letter" may only be obtained if (1) the business has an existing installment agreement with the tax agency, or (2) the delinquency is the subject of an administrative or judicial appeal. The bidder is cautioned that the "special letter" from the IRS must be certified by DOTAX. All conditions applied to tax clearance certificates for this purpose are applicable to these "special letters". Instructions to obtain the "special letter" are available from each respective tax agency.

2.1.2.8 Various combinations of tax clearance certificates and "special letters" are acceptable for this purpose as follows: Tax clearance certificate signed by both tax agencies;

(a) Individual tax clearance certificates from each tax agency, respectively;

(b) Tax clearance certificate from one tax agency and a "special letter" from the other tax agency;

(c) "Special letters" from both tax agencies.

2.1.3 Wrongful Refusal to Accept a Bid - In the event the Engineer, for any reason, wrongfully refuses to accept what would otherwise be a responsive and responsible lowest bid, the exclusive remedy for such lowest bidder shall be the recovery of the reasonable actual costs of preparing the bid. No other bidder shall have any claim for damages. Refer to 2.13 PROTEST.

## **2.2 INTERPRETATION OF QUANTITIES IN BID SCHEDULE**

2.2.1 When quantities for individual items of work are listed in the proposal form for which respective unit prices are asked, said quantities are estimated or 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.

2.2.2 After determining the low bidder by comparison of bids submitted in accordance with the proposal form and Section 3.1 CONSIDERATION OF PROPOSALS: CANCELLATION in these specifications, the quantities of unit price items of work may increase or decrease.

2.2.3 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, subject to Section 4.7 VARIATIONS IN ESTIMATED QUANTITIES.

## **2.3 CONTENTS OF PROPOSAL FORMS**

2.3.1 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.

2.3.2 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.

2.3.3 The drawings, specifications and other documents designated in the proposal form, will also be considered a part thereof whether attached or not.

2.3.4 By submitting a bid on the proposal form, a bidder accepts the language therein as its own.

## **2.4 THE SITE AND PROPOSED CONTRACT DOCUMENTS**

2.4.1 The Bidder shall examine carefully the Project Site contemplated and the proposal, drawings, specifications, supplemental specifications, SPECIAL CONDITIONS, and any documents or items referenced therein 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 informed of the conditions to be encountered in performing the Work and of the requirements of the drawings, specifications, supplemental specifications, SPECIAL CONDITIONS and any documents and items referenced therein, and contract and bonds.

## **2.5 ADDENDA AND BID CLARIFICATIONS**

2.5.1 The terms and requirements of the bid documents (i.e. drawings, specifications and other bid and contract documents) cannot be changed prior to the bid opening except by a duly issued addenda or bid clarification.

2.5.2 The Department may alter, increase or decrease the scope of the work or the contract time, provisions and conditions by issuing a written addendum which sets forth such alterations, increase or decrease.

2.5.3 Bid Discrepancy - If a bidder discovers what it considers to be a discrepancy, ambiguity, omission or doubt as to the meaning of drawings, specifications and any other bid or contract documents, the bidder shall request in writing no later than 14 days before the bids are opened.

2.5.4 Addenda to the bid documents will be provided to all prospective bidders at the respective offices furnished for such purposes. Each addendum shall be an addition to the Contract Documents.

2.5.5 Upon providing an addenda, all bidders shall be deemed to be on notice of the information therein whether or not the addendum or bid clarification is actually received. All addenda and bid clarifications so issued shall become part of the Contract Documents.

2.5.6 No claim for additional compensation and/or time for performance will be allowed if the Contractor discovered, or in the exercise of reasonable care, should have discovered a discrepancy, ambiguity, omission or doubt for which an interpretation was not requested.

## **2.6 SUBSTITUTION OF MATERIALS AND EQUIPMENT BEFORE BID OPENING**

2.6.1 Brand names of materials or equipment are specified or shown on the drawings to indicate a quality, style, appearance or performance and not to limit competition. The Bidder shall base its bid on one of the specified brand names unless alternate brands are qualified as equal or better in an addendum. Qualifications of such proposed alternate brands shall be submitted in writing and addressed to the Engineer. The face of the envelope containing the request must be clearly marked "SUBSTITUTION REQUEST". The request may be hand carried to the Department of Defense, State of Hawaii, 3949 Diamond Head Road, Honolulu, HI 96816-4495, or mailed. In either case, the written request must be received no later than the time and date specified in the NOTICE TO BIDDERS. The written request will be time stamped by the Department. For the purpose of this section, the time designated by the time stamping device in the Engineering Office shall be

official. If the written request is hand carried, the bearer is responsible to ensure that the request is time stamped by the Engineering Office.

2.6.2 Submit three (3) sets of the written request, technical brochures, and a statement of variances. Refer to the Appendix for the Sample "Request for Substitution."

2.6.3 Statement of Variances - The statement of variances must list all features of the proposed substitution which differ from the drawings, specifications and / or product(s) specified and must further certify that the substitution has no other variant features. The brochure and information submitted shall be clearly marked showing make, model, size, options, etc., and must include sufficient evidence to evaluate each feature listed as a variance. A request will be denied if submitted without sufficient evidence. If after installing the substituted product, an unlisted variance is discovered, Contractor shall immediately replace the product with a specified product all at no cost to the State

2.6.4 Substitution Denial - Any substitution request not complying with the above requirements will be denied. Substitution requests sent to other agencies and received by the Engineering Office after the deadline above will be denied.

2.6.5 An addendum shall be issued to inform all prospective bidders of any accepted substitution in accordance with Section 2.5 ADDENDA AND BID CLARIFICATIONS.

2.6.6 For substitutions of materials and equipment after issuance of the Letter of Award, refer to Section 6.3 SUBSTITUTION OF MATERIALS AND EQUIPMENT AFTER BID OPENING.

## **2.7 PREPARATION OF PROPOSAL**

2.7.1 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 or total sum bid at which the work contemplated is proposed to be done. These prices must be written in ink or typed. 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. By submitting a bid, the Bidder adopts the language of the proposal as its own.

2.7.2 If the proposal is made by an individual, the person's 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. 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.

2.7.3 Pursuant to the requirements of Section 103D-302, HRS, each Bidder shall include in its 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 and their respective contractor's license number. If the Bidder fails to list a joint contractor or subcontractor, the State may accept the bid if it is in the State's best interest and the value of the work to be performed by the joint contractor or subcontractor is equal to or less than one percent of the total bid amount. The Bidder shall be solely responsible for verifying that their joint contractor or subcontractor has the proper license at the time of the submitted bid.

## **2.8 BID SECURITY §3-122-223(d) HAR**

2.8.1 Subject to the exceptions in Section 3-122-223(d) HAR, all lump sum bids of \$25,000 and higher, or lump sum base bids including alternates of \$25,000 and higher, that are not accompanied by bid security are non-responsive. Bid security shall be one of the following: §3-122-222(a) HAR

2.8.1.1 Surety bid bond underwritten by a company licensed to issue bonds in this State which shall be substantially in the form of the Surety Bid Bond form in the Appendix; or

2.8.1.2 Legal Tender; or

2.8.1.3 Certificate of Deposit; Credit Union 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.
- (c) **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. If the certificate is made out to two names, the certificate must be assigned unconditionally to the Department of Defense.

2.8.2 Unless otherwise stated, the bid security shall be in an amount equal to at least five percent (5%) of the lump sum bid or lump sum base bid including alternates or in an amount required by the terms of the federal funding, where applicable.

2.8.3 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.

2.8.4 If the Bidder is a joint -venture, all parties to the joint venture must sign the bond; provided, that one party to the joint-venture may sign on behalf of the joint-venture if evidence in the form of a joint-venture agreement or power of attorney, is submitted showing the authority of the signatory to sign the bond on behalf of the joint-venture.

2.8.5 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.

2.8.6 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 bid accompanied by such surety bid bond will be automatically rejected.

**2.9 DELIVERY OF PROPOSALS** - The entire proposal shall be placed together with the bid security, in a sealed envelope 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.

**2.10 WITHDRAWAL OR REVISION OF PROPOSAL** - may be modified prior to the deadline to submit the offers by any of the following documents.

**2.10.1 Withdrawal of Proposals:**

**2.10.1.1** A signed, written notice received in the office designated in the solicitation; or

**2.10.1.2** A written notice faxed to the office designated in the solicitation; or

**2.10.1.3** 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.

**2.10.2 Modification of Proposals:**

**2.10.2.1** A written notice received in the office designated in the solicitation, stating that a modification to the offer is submitted; and

**2.10.2.2** The actual modification sealed securely in a separate envelope or container, accompanying the written notice.

**2.11 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.

**2.12 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 its proposal or proposals:

**2.12.1** Non-compliance with Section 2.1  
**QUALIFICATION OF BIDDERS.**

**2.12.2** Evidence of collusion among bidders.

**2.12.3** Lack of responsibility and cooperation as shown by past work such as failing to complete all of the requirements to close the project within a reasonable time or engaging in a pattern of unreasonable or frivolous claims for extra compensation.

**2.12.4** Being in arrears on existing contracts with the State of Hawaii, or having defaulted on a previous contract with the State of Hawaii.

**2.12.5** Lack of proper equipment and/or sufficient experience to perform the work contemplated, as revealed by the Standard Questionnaire and Financial Statement for Bidders.

**2.12.6** No contractor's license or a contractor's license which does not cover type of work contemplated.

**2.12.7** More than one proposal for the same work from an individual, firm, partnership, corporation or joint venture under the same or different name.

**2.12.8** Delivery of bids after the deadline specified in the advertisement calling for bids.

**2.12.9** 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.

**2.12.10** Debarment or suspension pursuant to the provisions of Chapters 103D, 104 and 444, Hawaii Revised Statutes, as amended.

## **2.13 PROTEST**

**2.13.1** Protests shall be adjudicated in accordance with §103D-701, HRS and as amended.

**2.13.2** No Protest based upon the contents of the solicitation shall be considered unless it is submitted in writing to the Engineer, prior to the date set for the receipt of proposals.

**2.13.3** A protest of an award or proposed award pursuant to §103D-302 or §103D-303, HRS, shall be submitted in writing to the Engineer within five (5) working days after the posting of the award of the Contract.

**2.13.4** In addition to any other relief, when a protest is sustained and the protestor should have been awarded the contract under the solicitation but is not, then the protestor shall be entitled to the actual costs reasonably incurred in connection with the solicitation, including bid or proposal preparation costs but not attorney's fees.

## **ARTICLE 3 - Award and Execution of Contract**

### **3.1 CONSIDERATION OF PROPOSALS;**

**CANCELLATION** - 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, the Department may cancel the solicitation, reject any and all proposals in whole or part and may waive any defects or technicalities whenever such action is deemed to be in the best interest of the State.

**3.2 IRREGULAR PROPOSALS** - Proposals will be considered irregular and may be rejected for the following reasons:

3.2.1 If the proposal is unsigned.

3.2.2 If bid security is not in accordance with Section 2.8 BID SECURITY.

3.2.3 If proposal is on a form other than that furnished by the Department; or if the form is altered or any part thereof detached.

3.2.4 If the proposal shows any non-compliance with applicable law, alteration of form, additions not called, conditional bids, incomplete bids, non initialed erasures, other defects, or if the prices are obviously unbalanced.

3.2.5 If the Bidder adds any provisions reserving the right to accept or reject an award.

3.2.6 If the Bidder adds any provisions reserving the right to enter into a contract pursuant to an award.

3.2.7 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.

3.2.8 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 its 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 its 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.

3.2.9 If in the opinion of the Engineer, the Bidder and its listed subcontractors do not have the contractor's licenses or combination of contractor's licenses necessary to complete all of the work.

### **3.3 CORRECTION OF BIDS AND WITHDRAWAL OF BIDS §3-122-31 HAR**

3.3.1 Corrections to bids after bid openings but prior to award may be made under the following conditions:

3.3.1.1 If the mistake is attributable to an arithmetical error, the Engineer shall so correct the mistake. In case of error in extension of bid price, the unit price shall govern.

3.3.1.2 If the mistake is a minor informality which shall not affect price, quantity, quality, delivery, or contractual conditions, the Bidder shall request correction by submitting proof of evidentiary value which demonstrates that a mistake was made. The Engineer shall prepare a written approval or denial in response to this request. Examples of such mistakes include:

(a) Typographical errors;

(b) Transposition errors;

(c) Failure of a Bidder to sign the bid, but only if the unsigned bid is accompanied by other material indicating the Bidder's intent to be bound.

3.3.1.3 For reasons not allowable under paragraphs 3.3.1.1 and 3.3.1.2 when the Engineer determines that the correction or waiver of an obvious mistake is in the best interest of the Department or is warranted for the fair treatment of other bidders.

3.3.2 Withdrawal of bids after bid opening but prior to award may be made when the bid contains a mistake attributable to an obvious error which affects price, quantity, quality, delivery, or contractual conditions, and the bidder requests withdrawal by submitting proof of evidentiary value which demonstrates that a mistake was made. The Contracting Officer shall prepare a written approval or denial in response to this request.

3.3.3 Correction or withdrawal of bids after award is not permissible except in response to a written withdrawal

or correction request by the Contractor, and the Engineer makes a written determination that the Department's procurement practices and policies would not be materially affected by such correction or withdrawal.

### **3.4 AWARD OF CONTRACT**

3.4.1 The award of contract, if it be awarded, will be made within ninety (90) 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 its bid has been accepted and that it has been awarded the contract.

3.4.2 If the contract is not awarded within the ninety (90) days noted in paragraph 3.4.1 above, 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.

3.4.3 No contract will be awarded to any person or firm suspended or debarred under the provisions of Chapters 103D, 104 and Chapter 444, Hawaii Revised Statutes as amended.

3.4.4 The contract will be drawn on the forms furnished by the Comptroller. The contract will not be binding upon the Department until all required signatures have been affixed thereto and written certification that funds are available for the work has been made.

**3.5 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. The exclusive remedy to the awardee for such cancellation shall be payment of the reasonable bid preparation costs and the reimbursement of any direct expenses incurred as directed in the Notice of Award. Such cancellation will not incur any liability by the Department to any other Bidder.

**3.6 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 four lowest Bidders will be returned within five (5) working days following the complete execution of the contract.

### **3.7 REQUIREMENT OF PERFORMANCE AND PAYMENT BONDS**

3.7.1 Performance and Payment Bonds shall be required for contracts \$25,000 and higher. 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:

3.7.1.2 Surety bonds underwritten by a company licensed to issue bonds in this State; or

3.7.1.3 A certificate of deposit; credit union 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 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 acceptable.

3.7.2 If the Contractor fails to deliver the required performance and payment bonds, the contractor's award shall be canceled, the Department shall have the remedies provided under Section 3.9 FAILURE TO EXECUTE THE CONTRACT and award of the contract shall be made to the next lowest responsible and responsive bidder.

### **3.8 CAMPAIGN CONTRIBUTIONS BY STATE AND COUNTY CONTRACTORS**

Contractors are hereby notified of the applicability of Section 11-205.5, 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.

### **3.9 EXECUTION OF THE CONTRACT**

3.9.1 Upon acceptance of the successful bidder's offer by the Contracting Officer, the Contractor shall provide satisfactory performance and payments bonds within ten (10) calendar days after the award of the contract or within such further time as granted by the Contracting Officer. 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 has endorsed thereon its certificate, as required by Section 103D-309, HRS, 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.

3.9.2 On any individual award totaling less than \$25,000, the State reserves the right to execute the contract by the issuance of a State Purchase Order. Issuance of a State Purchase Order shall result in a binding contract between the parties without further action by the State. The issuance of a Purchase Order shall not be deemed a waiver of these General Conditions and Contract Document requirements.

### **3.10 FAILURE TO EXECUTE THE CONTRACT**

3.10.1 Before the Award - If a low Bidder without legal justification withdraws its bid after the opening of bids but before the award of the contract, the State shall be entitled to retain as liquidated damages the amount established as bid security, and may take all appropriate actions to recover the performance liquidated damages sum from the property or third-party obligations deposited as bid security.

3.10.2 After the Award - If the Bidder to whom a contract is awarded shall fail or neglect to furnish security within ten (10) calendar days after such award or within such further time as the Contracting Officer may allow, the State shall be entitled to recover from such Bidder its actual damages, including but not limited to the difference between the bid and the next lowest responsive bid, as well as personnel and administrative costs, consulting and legal fees and other expenses incurred in arranging a contract with the next low responsive bidder or calling for new bids. The State may apply all or part of the amount of the bid security to reduce its damages. If upon determination by the State of the amount of its damages the bid security exceeds that amount, it shall release or return the excess to the person who provided same.

3.10.3 Engineer's Options - Upon a withdrawal of the lowest responsive bid, or upon a refusal or failure of the lowest Bidder to execute the contract, the Engineer may thereupon award the contract to the next lowest responsible and responsive Bidder or may call for new bids, whichever method the Engineer may deem to be in the best interests of the State.

### **3.11 NOTICE TO PROCEED**

3.11.1 After the contract is fully executed and signed by the Department of Defense, the Contractor will be sent a formal Notice to Proceed letter advising the Contractor of

the date on which it may proceed with the work. The Contractor shall be allowed ten (10) consecutive working days from said date to begin its work. In the event that the Contractor refuses or neglects to start the work, the Engineer may terminate the contract in accordance with Section 7.27 TERMINATION OF CONTRACT FOR CAUSE.

3.11.2 The Contractor may commence its operations strictly at its own risk prior to receipt of the formal notice to proceed, provided it makes a written request and has received approval from the Engineer in writing. All work performed shall be conducted in accordance with Section 7.1 PROSECUTION OF THE WORK.

3.11.3 In certain cases, the State, with agreement of the Contractor, may issue a Notice to Proceed before full execution of the contract by the Engineer and it may further issue a Notice to Proceed concurrently with the Notice of Award.

3.11.4 In the event the Notice to Proceed is not issued within one hundred and eighty (180) days after the date of the award of contract the Contractor may submit a claim for increased labor and material costs (but not overhead costs) which are directly attributable to the delay beyond the first 180 days. Such claims shall be accompanied with the necessary documentation to justify the claim. No payment will be made for escalation costs that are not fully justified.

## **GENERAL CONDITIONS ARTICLE 4 - Scope of Work**

4.1 **INTENT OF CONTRACT, DUTY OF CONTRACTOR** - The intent of the Contract is to provide for the construction, complete in every detail, of the Work described at the accepted bid price and within the time established by the contract. The Contractor has the duty to furnish all labor, materials, equipment, tools, transportation, incidentals and supplies and to determine the means, methods and schedules required to complete the work in accordance with the drawings, specifications and terms of the contract.

4.2 **CHANGES** - 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 work as may be found to be necessary or desirable. Such changes shall not invalidate the Contract nor release the Surety, and the Contractor will perform the work as changed, as though it had been a part of the original Contract.

4.2.1 **Minor Changes** - Minor changes in the work may be directed by the Engineer with no change in contract price or time of performance. Minor changes are consistent with the intent of the Contract Documents and

do not substantially alter the type of work to be performed or involve any adjustment to the contract sum or extension of the contract time.

#### 4.2.2 Oral Orders

4.2.2.1 Any oral order, direction, instruction, interpretation or determination from the Engineer or any other person which in the opinion of the Contractor causes any change, shall be considered as a change only if the Contractor gives the Engineer written notice of its intent to treat such oral order, direction, instruction, interpretation or determination as a change directive. Such written notice must be delivered to the Engineer before the Contractor acts in conformity with the oral order, direction, instruction, interpretation or determination, but not more than five (5) days after delivery of the oral order to the Contractor. The written notice shall state the date, circumstances, whether a time extension will be requested, and source of the order that the Contractor regards as a change. Such written notice may not be waived and shall be a condition precedent to the filing of any claim by the Contractor. Unless the Contractor acts in accordance with this procedure, any such oral order shall not be treated as a change for which the Contractor may make a claim for an increase in the contract time or contract price related to such work.

4.2.2.2 No more than five (5) days after receipt of the written notice from the Contractor, a Field Order shall be issued for the subject work if the State agrees that it constitutes a change. If no Field Order is issued in the time established, it shall be deemed a rejection of Contractor's claim for a change. If the Contractor objects to the failure to issue a Field Order, it shall file a written protest with the Engineer within thirty (30) days after delivery to the Engineer of the Contractor's written notice of its intention to treat the oral order as a change. In all cases, the Contractor shall proceed with the work. The protest shall be determined as provided in Section 7.25 DISPUTES AND CLAIMS.

4.2.3 Field Orders – Upon receipt of a Field Order, the Contractor shall proceed with the changes as ordered. If the Contractor does not agree with any of the terms or conditions or in the adjustment or non-adjustment to the contract time and / or contract price, Contractor shall file a notice of intent to claim within thirty (30) calendar days after receipt of the written Field Order that was not agreed upon by both parties. Failure to file such protest within the time specified shall constitute agreement on the part of the Contractor with the terms, conditions, amounts and adjustment or non-adjustment to contract price and / or contract time set forth in the Field Order. The requirement for timely written notice shall be a condition precedent to the assertion of a claim.

#### 4.2.4 Change Orders

4.2.4.1 The Department will issue sequentially numbered Change Orders at times it deems appropriate during the contract period. A Change Order may contain the adjustment in contract price and / or time for a number of Field Orders. The Change Order will be issued in the format attached (refer to the Appendix). No payment for any change will be made until the change order is issued.

4.2.4.2 The penal sum of the Surety Performance and Payment Bonds will be adjusted by the amount of each and every Change Order.

4.2.4.3 Upon receipt of a change order, that the Contractor does not agree with any of the terms or conditions or the adjustments or non adjustments of the contract price or contract time; the Contractor shall not execute or sign the change order, but shall return the unsigned change order, along with a written notification of the conditions or items that are in dispute.

4.2.4.4 If the Contractor signs or executes the change order, this constitutes an agreement on the part of the Contractor with the terms and conditions of the change order. A change order that is mutually agreed to and signed by the parties of the contract constitutes a contract modification.

4.2.5 Claim Notification – The Contractor shall file a notice of intent to claim for a disputed change order within 30 calendar days after receipt of the written order. Failure to file the protest within the time specified constitutes an agreement on the part of the Contractor within the terms, conditions, amounts and adjustment or non-adjustment to contract price or contract time set forth in the dispute change order. The requirement for timely written notice shall be a condition precedent to the assertion of a claim.

4.2.6 Proceeding with Directed Work – Upon receipt of a contract modification, change order, or field order, the Contractor shall proceed with the directed changes and instructions. The Contractor's right to make a claim for additional compensation or an extension of time for completion is not affected by proceeding with the changes and instructions described in a change order and field order.

4.2.7 Pricing or Negotiating Costs Not Allowed – The Contractor's cost of responding to requests for price or time adjustments is included in the contract price. No additional compensation will be allowed unless authorized by the Contracting Officer.

#### 4.3 DUTY OF CONTRACTOR TO PROVIDE PROPOSAL FOR CHANGES

4.3.1 A Field Order may request the Contractor to supply the Department with a proposal for an adjustment

to the contract time or contract price for the work described therein. Any such request for a proposal shall not affect the duty of the Contractor to proceed as ordered with the work described in the Field Order.

4.3.2 The Engineer from time to time may issue a Bulletin to the Contractor requesting price and / or time adjustment proposals for contemplated changes in the work. A Bulletin is not a directive for the Contractor to perform the work described therein.

4.3.3 Within fifteen (15) days after receipt of a Bulletin or Field Order containing a request for proposal, the Contractor shall submit to the Engineer a detailed written statement in a format similar to the one shown in the Appendix to these General Conditions setting forth all charges the Contractor proposes for the change and the proposed adjustment of the contract time, all properly itemized and supported by sufficient substantiating data to permit evaluation. No time extension will be granted for delays caused by late Contractor pricing of changes or proposed changes. If the project is delayed because Contractor failed to submit the cost proposal within the fifteen (15) days, or as allowed by the Engineer, performance liquidated damages will be assessed in accordance with Section 7.26 FAILURE TO COMPLETE THE WORK ON TIME.

4.3.4 No payment shall be allowed to the Contractor for pricing or negotiating proposed or actual changes.

#### **4.4 PRICE ADJUSTMENT HRS 103D-501**

4.4.1 A fully executed change order or other document permitting billing for the adjustment in price under any method listed in paragraphs (4.4.1.1) through (4.4.1.5) shall be issued within ten days after agreement on the 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:

4.4.1.1 By agreement on a fixed price adjustment before commencement of the pertinent performance;

4.4.1.2 By unit prices specified in the contract or subsequently agreed upon before commencement of the pertinent performance;

4.4.1.3 Whenever there is a variation in quantity for any work covered by any line item in the schedule of costs submitted as required by Section 7.2 COMMENCEMENT REQUIREMENTS, by the Department at its discretion, adjusting the lump sum price proportionately;

4.4.1.4 Force Account Method. At the sole option of the Contracting Officer, by the costs attributable to the event or situation covered by the change, plus appropriate profit or fee, all as specified in Section 4.5 ALLOWANCES

FOR OVERHEAD AND PROFIT and the force account provision of Section 8.3 PAYMENT FOR ADDITIONAL WORK before commencement of the pertinent performance;

4.4.1.5 In such other manner as the parties may mutually agree upon before commencement of the pertinent performance; or

4.4.1.6 In the absence of an agreement between the two parties:

4.4.1.6.a For change orders with value not exceeding \$50,000 by documented actual costs of the work, allowing for overhead and profit as set forth in Section 4.5 ALLOWANCES FOR OVERHEAD AND PROFIT. A change order shall be issued within fifteen days of submission by the contractor of proper documentation of completed force account work, whether periodic (conforming to the applicable billing cycle) or final. The procurement officer shall return any documentation that is defective to the contractor within fifteen days after receipt, with a statement identifying the defect; or

4.4.1.6.b For change orders with value exceeding \$50,000 by a unilateral determination by the Contracting Officer of the reasonable and necessary costs attributable to the event or situation covered by the change, plus appropriate profit or fee, all as computed by the Contracting Officer in accordance with applicable sections of Chapters 3-123 and 3-126 of the Hawaii Administrative Rules, and Section 4.5 ALLOWANCES FOR OVERHEAD AND PROFIT. When a unilateral determination has been made, a unilateral change order shall be issued within ten days. Upon receipt of the unilateral change order, if the contractor does not agree with any of the terms or conditions, or the adjustment or non-adjustment of the contract time or contract price, the contractor shall file a notice of intent to claim within thirty days after the receipt of the written unilateral change order. Failure to file a protest within the time specified shall constitute agreement on the part of the contractor with the terms, conditions, amounts, and adjustment or non-adjustment of the contract time or the contract price set forth in the unilateral change order.

4.4.1.7 In such other manner as the parties may mutually agree;

4.4.1.8 At the sole option of the Engineer, by the costs attributable to the event or situation covered by the change, plus appropriate profit or fee, all as specified in Section 4.5 ALLOWANCES FOR OVERHEAD AND PROFIT and the force account provision of Section 8.3 PAYMENT FOR ADDITIONAL WORK; or

4.4.1.9 In the absence of an agreement between the two parties, by a unilateral determination by the Engineer of

the reasonable and necessary costs attributable to the event or situation covered by the change, plus appropriate profit or fee, all as computed by the Engineer in accordance with applicable sections of Chapters 3-123 and 3-126 of the Hawaii Administrative Rules and Regulations, and Section 4.5 ALLOWANCES FOR OVERHEAD AND PROFIT.

4.4.2 Cost or Pricing Data – Contractor shall provide and certify cost or pricing data or any price adjustment to a contract involving aggregate increases and decreases in the costs plus applicable profits expected to exceed \$100,000. The certified cost or pricing data shall be subject to the provisions of HAR chapter 3-122, subchapter 15.

#### **4.5 ALLOWANCES FOR OVERHEAD AND PROFIT HRS103D-501**

4.5.1 In determining the cost or credit to the Department resulting from a change, the allowances for all overhead, including, extended overhead resulting from adjustments to contract time (including home office, branch office and field overhead, and related delay impact costs) and profit combined, shall not exceed the percentages set forth below:

4.5.1.1 For the Contractor, for any work performed by its own labor forces, twenty percent (20%) of the direct cost;

4.5.1.2 For each subcontractor involved, for any work performed by its own forces, ten percent (20%) of the direct cost;

4.5.1.3 For the Contractor or any subcontractor, for work performed by their subcontractors, ten percent (10%) of the amount due the performing subcontractor.

4.5.2 Not more than three markup allowance line item additions not exceeding the maximum percentage shown above will be allowed for profit and overhead, regardless of the number of tier subcontractors.

4.5.3 The allowance percentages will be applied to all credits and to the net increase of direct costs where work is added and deleted by the changes.

#### **4.6 PAYMENT FOR DELETED MATERIAL**

4.6.1 Cancelled Orders - If acceptable material was ordered by the Contractor for any item deleted by an ordered change in the work prior to the date of notification of such deletion by the Engineer, the Contractor shall use its best efforts to cancel the order. The Department shall pay reasonable cancellation charges required by the supplier excluding any markup for overhead and profit to the Contractor.

4.6.2 Returned Materials - If acceptable deleted material is in the possession of the Contractor or is ultimately received by the Contractor, if such material is returnable to the supplier and the Engineer so directs, the material shall be returned and the Contractor will be paid for the reasonable charges made by the supplier for the return of the material, excluding any markup for overhead and profit to the Contractor. The cost to the Contractor for handling the returned material will be paid for as provided in Section 4.4 PRICE ADJUSTMENT.

4.6.3 Uncancelled Materials - If orders for acceptable deleted material cannot be canceled at a reasonable cost, it will be paid for at the actual cost to the Contractor including an appropriate markup for overhead and profit as set forth in Section 4.5 ALLOWANCES FOR OVERHEAD AND PROFIT. In such case, the material paid for shall become the property of the State and the cost of further storage and handling shall be paid for as provided in Section 4.4 PRICE ADJUSTMENT.

#### **4.7 VARIATIONS IN ESTIMATED QUANTITIES §3-125-10 HAR**

4.7.1 Where the quantity of a major unit price item in this contract is estimated on the proposal form 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. The adjustment shall be subject to Section 4.4 PRICE ADJUSTMENT and Section 4.5 ALLOWANCES FOR OVERHEAD AND PROFIT. If the quantity variation is such as to cause an increase in the time necessary for completion, the Engineer shall, upon receipt of a written request for an extension of time within thirty (30) days of the item's completion, ascertain the facts and make such adjustment to the completion date as the Engineer finds justified.

#### **4.8 VARIATIONS IN BOTTOM ELEVATIONS**

The Contractor shall plan and construct to the bottom elevations of footings, piles, drilled shafts, or cofferdams as shown on the drawings. When the bottom of a pile, drilled shaft, or cofferdam is shown as an estimated or approximate elevation, the Contractor shall plan and construct to that elevation or to any deeper elevation required by the drawings or direction of the Engineer. In the event the bottom elevation is lowered, the Contractor shall be entitled to additional payment in accordance with Sections 4.4 PRICE ADJUSTMENT and 4.5 ALLOWANCES FOR OVERHEAD AND PROFIT. In the event the bottom elevation is raised, the State shall be entitled to a credit in accordance with Sections 4.2

CHANGES, 4.4 PRICE ADJUSTMENT and 4.5 ALLOWANCES FOR OVERHEAD AND PROFIT.

#### **4.9 DIFFERING SITE CONDITIONS** §3-125-11 HAR

4.9.1 During the progress of the work, if the Contractor encounters conditions at the site differing materially from those shown in the drawings and specifications, Contractor shall promptly, and before any such conditions are disturbed or damaged (except in an emergency as required by subsection 7.17.8), notify the Engineer in writing of:

4.9.1.1 Subsurface or latent physical conditions at the site differing materially from those indicated in the contract; or

4.9.1.2 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.

4.9.2 After receipt of written notice, the Engineer shall promptly investigate the site, and if it is found that such conditions do materially differ and cause an increase in the Contractor's cost of, or the time required to, perform any part of the Work, whether or not changed as a result of such conditions, an adjustment shall be made and the contract modified accordingly. Any adjustment in contract price made pursuant to this Section 4.9 shall be determined in accordance with Sections 4.4 PRICE ADJUSTMENT and 7.25 DISPUTES AND CLAIMS.

4.9.3 Nothing contained in this Section 4.9 shall be grounds for an adjustment in compensation if the Contractor had actual knowledge or should have known of the existence of such conditions prior to the submission of bids.

#### **4.10 UTILITIES AND SERVICES**

4.10.1 The cost of all the following will be included in the contract price and the Contractor shall be fully responsible for:

4.10.1.1 Reviewing and checking all such information and data,

4.10.1.2 Locating all underground and overhead utilities shown or indicated in the contract documents,

4.10.1.3 Coordination of the Work with the Owners of such underground and overhead utilities during construction, and

4.10.1.4 The safety and protection of all such underground and overhead utilities as provided in

Section 7.17 PROTECTION OF PERSONS AND PROPERTY and repairing any damage thereto resulting from the work.

4.10.2 Unknown Utilities - During the progress of the work, if an underground utility is uncovered or revealed at or contiguous to the site which was not shown or indicated in the Contract Documents, or found at a location that is substantially different than shown or indicated in the Contract Documents, Contractor shall promptly, and before any such conditions are disturbed or damaged (except in an emergency as required by subsection 7.17.8), notify the Engineer. Contractor shall be responsible for the safety and protection of the underground utility as provided in Section 7.17 PROTECTION OF PERSONS AND PROPERTY. Refer to subsections 4.9.2 and 4.9.3.

4.10.3 If the Engineer determines a change in the Contract Documents is required, a Field Order or Change Order will be issued. Upon issuance of a duly authorized Field Order or Change Order regarding the disposition of a newly discovered utility, Contractor shall be responsible for damages to the utility, including any damage claims due to the disruption of service caused by the utility being damaged.

4.10.4 Restoration of Damaged Utilities - The Contractor shall repair and restore to pre-damaged condition any utilities or any other property it damaged. The Contractor shall be liable for any resulting damages, to the Work or to the utility owner or property owner and shall pay any claim due to the disruption of service caused by the utilities being damaged. Contractor shall defend and save harmless the State from all suits, actions or claims of any character brought on account of such damages, whether or not the State may have been partially at fault. Contractor shall obtain public liability and property damage insurance pursuant to Article 7 PROSECUTION AND PROGRESS to cover such risk of damage.

4.10.5 In the event the Contractor, simultaneously with the discovery of an unknown utility or other property, damages that utility or other property, the Contractor shall immediately notify the Engineer. If the Contractor is without fault in such a situation, notwithstanding subsection 4.10.4, the Contractor shall not be liable for resulting damages or the defense of the State from claims brought on account of said damages to unknown utilities or other property. Upon instruction from the Engineer, the Contractor shall repair all damages and execute a plan for dealing with the damaged utility or other property. This repair work shall be considered additional work as covered in Section 4.2 CHANGES.

#### **ARTICLE 5 - Control of Work**

## **5.1 AUTHORITY OF THE ENGINEER**

5.1.1 The Engineer shall make final and conclusive decisions on 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 Contract Documents, 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.

5.1.2 The Engineer shall have the authority to enforce and make effective such decisions and orders at the Contractor's expense when the Contractor fails to carry such decisions and orders out promptly and diligently.

5.1.3 The Engineer shall have the authority to suspend the work wholly or in part as provided in Section 7.24 SUSPENSION OF WORK.

5.1.4 The Engineer may delegate specific authority to act for the Engineer to a specific person or persons. Such delegation of authority shall be established in writing to the Contractor.

## **5.2 AUTHORITY OF THE INSPECTOR**

5.2.1 The Inspector shall observe and inspect the contract performance and materials. The Inspector does not have any authority vested in the Engineer unless specifically delegated in writing.

5.2.2 The Inspector may offer advice and recommendations to the Contractor, but any such advice or recommendations are not directives from the Engineer.

5.2.3 The Inspector has no authority to allow deviations from the Contract Documents and may reject any and all work that the Inspector deems is not in conformity with the contract requirements. Failure of an Inspector at any time to reject non-conforming work shall not be considered a waiver of the Department's right to require work in strict conformity with the Contract Documents as a condition of final acceptance.

**5.3 AUTHORITY OF CONSULTANT(S)** - The Department may engage Consultant(s) for limited or full observation to supplement the inspections performed by the State and respective Counties. Unless otherwise specified in writing to the Contractor, such retained Consultant(s) will have the authority of a Project Inspector.

## **5.4 SHOP DRAWINGS AND OTHER SUBMITTALS**

5.4.1 The following documents shall be submitted where required by the contract documents:

### **5.4.1.1 Shop Drawings**

(1) The Contractor shall prepare, and thoroughly check, approve, all shop drawings, including those prepared by subcontractors or any other persons. The Contractor shall indicate its approval by stamping and signing each drawing. Any shop drawing submitted without being reviewed, stamped and signed will be considered as not having been submitted, and any delay caused thereby shall be the Contractor's responsibility.

(2) Shop drawings shall indicate in detail all parts of an item of work, including erection and setting instructions and engagements with work of other trades or other separate contractors. Shop drawings for structural steel, millwork and pre-cast concrete shall consist of calculations, fabrication details, erection drawings and other working drawings, as necessary, to show the details, dimensions, sizes of members, anchor bolt plans, insert locations and other information necessary for the complete fabrication and erection of the structure to be constructed.

(3) All shop drawings as required by the contract, or as determined by the Engineer to be necessary to illustrate details of the Work shall be submitted to the Engineer with such promptness as to cause no delay in the work or in that of any other Contractor. Delay caused by the failure of the Contractor to submit shop drawings on a timely basis to allow for review, possible resubmittal and acceptance will not be considered as a justifiable reason for a contract time extension. Contractor, at its own risk, may proceed with the work affected by the shop drawings before receiving acceptance; however the Department shall not be liable for any costs or time required for the correction of work done without the benefit of accepted shop drawings.

(4) It is the Contractor's obligation and responsibility to check all of its and its subcontractor's shop drawings and be fully responsible for them and for coordination with connecting and other related work. The Contractor shall prepare, and submit to the Engineer coordination drawings showing the installation locations of all plumbing, piping, duct and electrical work including equipment throughout the project. By approving and submitting shop drawings, the Contractor thereby represents that it has determined and verified all field measurements and field construction criteria, or will do so, and that it has checked and coordinated each shop drawing with the requirements of the work and the contract documents. When shop drawings are prepared and processed before field measurements and field construction criteria can be or have been determined or verified, the Contractor shall make all necessary

adjustments in the work or resubmit further shop drawings, all at no change in contract price or time.

5.4.1.2 Shop Drawing Form - Each drawing and/or series of drawings submitted must be accompanied by a letter of transmittal giving a list of the titles and number of the drawings. Each series shall be numbered consecutively for ready reference and each drawing shall be marked with the following information:

- (1) Date of Submission
- (2) Name of Project
- (3) Project Number
- (4) Location of Project
- (5) Name of submitting Contractor and Subcontractor
- (6) Revision Number

5.4.1.3 The size of the sheets that shop drawings are prepared on shall be as appropriate to suit the drawing being presented so that the information is clearly and legibly depicted. At the determination of the Engineer, for each sheet of drawings, the submittal shall consist of either; one reproducible transparency and five prints, or eight prints.

5.4.1.4 Descriptive Sheets and Other Submittals - When a submittal is required by the contract, the Contractor shall submit to the Engineer eight (8) complete sets of descriptive sheets such as shop drawings, brochures, catalogs, illustrations, calculation, material safety data sheets (MSDS), certificates, reports, warranty, etc., which will completely describe the material, product, equipment, furniture or appliances to be used in the project as shown in the drawings and specifications and how it will be integrated into adjoining construction. When submittals are specified to be submitted under Web Based Construction Management System, the number of complete sets will be as specified or as directed by the Engineer. Prior to the submittal, the Contractor shall review and check all submittal sheets for conformity to the contract requirements and indicate such conformity by marking or stamping and signing each sheet. Where descriptive sheets include materials, systems, options, accessories, etc. that do not apply to this contract, non-relevant items shall be crossed out so that all remaining information will be considered applicable to this contract. It is the responsibility of the Contractor to submit descriptive sheets for review and acceptance by 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.

5.4.1.5 Material Samples and Color Samples – When material and color sample submittals are required by the contract, the Contractor shall submit to the Engineer no

less than three (3) samples conforming to Section 6.6 MATERIAL SAMPLES. One sample will be retained by the Consultant, one sample will be retained by the State, and the remaining sample(s) will be returned to the contractor. Prior to the material and color submittal, the Contractor shall review and check all samples for conformity to the contract requirements and indicate such conformity by marking or stamping and signing each sample. It is the responsibility of the Contractor to submit samples for review and acceptance by 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 material and color samples as required will not be considered as justifiable reasons for contract time extension.

5.4.1.6 Unless the technical sections (Divisions 2 – 16) specifically require the Contractor furnish a greater quantity of shop drawings and other submittals, the Contractor shall furnish the quantities required by this section.

5.4.2 Submittal Variances - The Contractor shall include with the submittal, written notification clearly identifying all deviations or variances from the contract drawings, specifications and other Contract Documents. The notice shall be in a written form separate from the submittal. The variances shall also be clearly indicated on the shop drawing, descriptive sheet, material sample or color sample. Failure to so notify of and identify such variances shall be grounds for the subsequent rejection of the related work or materials, notwithstanding that the submittal was accepted by the Engineer. If the variances are not acceptable to the Engineer, the Contractor will be required to furnish the item as specified or indicated on the contract documents at no additional cost or time.

5.4.3 Review and Acceptance Process - Submittals will be returned to the Contractor within twenty one (21) days (for projects on Oahu) and twenty five (25) days (for projects on the islands of Hawaii, Maui, Kauai, Molokai and Lanai) after receipt by the Engineer unless otherwise agreed between the Contractor and the Engineer or as stated elsewhere in the contract documents.

5.4.3.1 The acceptance by the Engineer of the Contractor's submittal relates only to their sufficiency and compliance with the intention of the contract. Acceptance by the Engineer of the Contractor's submittal does not relieve the Contractor of any responsibility for accuracy of dimensions, details, and proper fit, and for agreement and conformity of submittal with the contract drawings and specifications. Nor will the Engineer's acceptance relieve the Contractor of responsibility for variance from the contract documents unless the Contractor, at the time of submittal, has provided notice and identification of such variances required by this section. Acceptance of a

variance shall not justify a contract price or time adjustment unless the Contractor requests such an adjustment at the time of submittal and the adjustment are explicitly agreed to in writing by the Engineer. Any such request shall include price details and proposed scheduling modifications. Acceptance of a variance is subject to all contract terms, stipulations and covenants, and is without prejudice to any and all rights under the surety bond.

5.4.3.2 If the Engineer returns a submittal to the Contractor that has been rejected, the Contractor, so as not to delay the work, shall promptly make a resubmittal conforming to the requirements of the contract documents and indicating in writing on the transmittal and the subject submittal what portions of the resubmittal has been altered in order to meet the acceptance of the Engineer. Any other differences between the resubmittal and the prior submittal shall also be specifically described in the transmittal.

5.4.3.3 No mark or notation made by the Engineer on or accompanying the return of any submittal to the Contractor shall be considered a request or order for a change in work. If the Contractor believes any such mark or notation constitutes a request for a change in the work for which it is entitled to an adjustment in contract price and/or time, the Contractor must follow the same procedures established in Section 4.2 CHANGES for oral orders, directions, instructions, interpretations or determinations from the Engineer or else lose its right to claim for an adjustment.

**5.5 COORDINATION OF CONTRACT DOCUMENTS** - It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents. The Contract Documents are complementary: 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:

5.5.1 Addenda shall govern over all other Contract Documents. Subsequent addenda issued shall govern over prior addenda only to the extent specified.

5.5.2 SPECIAL CONDITIONS and Proposal shall govern over the GENERAL CONDITIONS and Specifications.

5.5.3 Specifications shall govern over drawings.

5.5.4 Specification Error - 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

specification is as binding as though occurring in all applicable parts.

5.5.4.1 Should an error or conflict appear within a specification section, between a listed manufacturer / product and the performance requirements of the specification section, the performance requirements shall govern.

5.5.5 Drawings:

5.5.5.1 Schedules shall govern over all other notes and drawings.

5.5.5.2 Bottom elevations of footings shown on drawings 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."

5.5.5.3 Except for drawing schedules and bottom elevations as noted above, general notes shall govern over all other portions of the drawings:

5.5.5.4 Larger scale drawings shall govern over smaller scale drawings.

5.5.5.5 Figured or numerical dimensions shall govern over dimensions obtained by scaling. Measurements from the drawings when scaled shall be subject to the approval of the Engineer.

5.5.5.6 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 its own risk and in the settlement of any complications arising from such adjustment without the knowledge and consent of the Engineer, the Contractor shall bear all extra expense involved.

5.5.5.7 Items shown on the drawings that are completely void in terms of description, details, quality and / or performance standards in both the drawings and specifications to make a price determination shall be considered an omission and the Contractor shall immediately refer same to the Engineer for a decision.

5.5.5.8 Where there is a conflict between the architectural sheets and the civil or landscaping or electrical sheets, etc., the conflict shall be considered a discrepancy and the Contractor shall immediately refer same to the Engineer for a decision.

5.5.5.9 Any requirement occurring in one or more of the sheets is as binding as though occurring in all applicable sheets.

## **5.6 INTERPRETATION OF DRAWINGS AND SPECIFICATIONS**

- The Contractor shall carefully study and compare the Contract Documents with each other, with field conditions and with the information furnished by the State and shall at once report to the Engineer errors, conflicts, ambiguities, inconsistencies or omissions discovered. Should an item not be sufficiently detailed or explained in the Contract Documents, Contractor shall report and request the Engineer's clarification and interpretation. The Engineer will issue a clarification or interpretation that is consistent with the intent of and reasonably inferred from Contract Documents.

## **5.7 EXAMINATION OF DRAWINGS, SPECIFICATIONS, PROJECT SITE**

5.7.1 The Contractor shall examine carefully the Project Site to become familiar with the conditions to be encountered in performing the Work and the requirements of the Contract Documents.

5.7.1.1 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 or the conditions to be encountered in performing the project.

5.7.1.2 No extra compensation will be given by reason of the Contractor's misunderstanding or lack of knowledge when the existence of differing site, subsurface or physical conditions could have been reasonably discovered or revealed as a result of any examination, investigation, exploration, test or study of the site and contiguous areas required by the Bidding requirements or Contract Documents to be conducted by or for the Contractor.

5.7.2 When the Contract Drawings include 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 in its test borings and at only the location of each boring. The Contractor acknowledges that underground site conditions in Hawaii vary widely. 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 other conditions may not occur.

5.7.3 Reference is made to the SPECIAL CONDITIONS for identification of subsurface investigations, reports, explorations and tests utilized by the State in preparation the Contract Documents. Such reports, drawings, boring logs etc. are not part of the Contract Documents.

## **5.8 COOPERATION BETWEEN THE CONTRACTOR AND THE DEPARTMENT**

5.8.1 Furnishing Drawings and Specifications - Contractor to supply copies of the Contract Drawings and Specifications. Contractor shall have and maintain at least one copy of the Contract Drawings and Specifications on the work site, at all times. Contractor shall cooperate with the Engineer, the Inspector(s), and other contractors in every possible way.

5.8.2 Superintendent - The Contractor shall have a competent superintendent or agent on the work site while work is being performed under the contract. The superintendent or agent shall be experienced in the type of project being undertaken and the work being performed. The superintendent or agent shall represent the Contractor and shall have the authority to act on behalf of the Contractor. Communications given to the superintendent or agent shall be as binding as if given to the Contractor.

5.8.2.1 If the superintendent or agent is not present at the work site, the Engineer shall have the right to suspend the work as described under Section 7.24 SUSPENSION OF WORK.

5.8.2.2 The Contractor shall file with the Engineer a written statement giving the name of the superintendent or agent assigned to the project. The Contractor shall be responsible for notifying the Engineer in writing of any change in the superintendent or agent.

5.8.2.3 The requirements of this subsection 5.8.2 may be waived by the Engineer.

5.8.3 Engineering Work - The Contractor shall 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, grades, dimensions and elevations called for in the drawings or required in the progress of construction, unless otherwise noted in the contract documents. The Contractor will be held definitely and absolutely responsible for any errors in lines, grades, dimensions and 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 its 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.

5.8.3.1 The Engineer shall furnish the requisite bench elevations.

5.8.3.2 The Contractor shall locate and verify all lines, grades, dimensions and elevations indicated on the drawings before any excavation, or construction begins. Any discrepancy shall be immediately brought to the attention of the Engineer, any change shall be made in accordance with the Engineer's instruction.

5.8.3.3 The Contractor shall verify all street survey monuments (horizontal and vertical alignment) prior to final acceptance by the Engineer in accordance with any governmental requirements.

5.8.3.4 The Contractor shall provide a surveyor or Civil Engineer licensed in the State of Hawaii to verify and establish all lines, grades, dimensions and elevations.

5.8.4 Use of Structure or Improvement - The Department shall have the right, at any time during construction of the structure or improvements, to enter same for the purpose of installing by government labor or by any other Contractor or utility any necessary work in connection with the installation of facilities, it being mutually understood and agreed, however, that the Contractors, utilities and the Department will, so far as possible work to the mutual advantage of all, where their several works in the above mentioned or in unforeseen instances touch upon or interfere with each other.

As a convenience to those involved, the Engineer shall allocate the work and designate the sequence of construction in case of controversy between Contractors on separate projects under State jurisdiction.

5.8.4.1 The Department shall also have the right to use the structure, equipment, improvement or any part thereof, at any time after it is considered by the Engineer as available. In the event that the structure, equipment or any part thereof is so used, the Department shall be responsible for all expenses incidental to such use and any damages resulting from the Department's use.

5.8.4.2 Equipment warranty will commence to run before the work is complete when and if the Department begins actual use of the equipment for the purpose for which the equipment was designed and installed.

5.8.4.3 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, or by extraordinary measures the Contractor must take to accommodate the Department, the Contractor shall be granted an extension of time in accordance with Section 7.21 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 Section 8.3 PAYMENT FOR ADDITIONAL WORK.

**5.9 INSPECTION** - The Engineer, the Department's consultants, Inspectors employed by the Department and other representatives duly authorized 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 acceptance.

5.9.1 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. By entering into a contract for the supply of materials, equipment or performance of labor in connection with the Work, such Material and Equipment Supplier or Labor Contractor consents to and is subject to the terms of this Section 5.9 to the same extent as the Contractor.

5.9.2 Authority to Suspend Operations - 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, the work done thereafter will not be accepted nor paid for.

5.9.3 The inspection of the work shall not relieve the Contractor of any of its obligations to fulfill the contract as prescribed. Notwithstanding prior payment and acceptance by the Engineer, defective and nonconforming work shall be corrected to comply with the contract requirements. Unsuitable, unspecified or unapproved materials may be rejected.

5.9.4 Federal Agency Inspection - Projects financed in whole or in part with Federal funds shall be subject to inspection and corrective requirements at all times by the Federal Agency involved at no cost to the State.

## **5.10 REMOVAL OF DEFECTIVE, NON-CONFORMING AND UNAUTHORIZED WORK**

5.10.1 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 for such removal or replacement. Any work done beyond the work limits shown on the drawings 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 expense.

5.10.2 Scheduling Corrective Work - The Contractor shall perform its corrective or remedial work at the convenience of the State and shall obtain the Engineer's approval of its schedule.

5.10.3 Failure to Correct Work - Upon failure on the part of the Contractor to comply promptly with any order of the Engineer made under the provisions of this Section 5.10, the Engineer shall have authority to cause defective work to be remedied or removed and replaced, and unauthorized work to be removed, at the Contractor's expense, and to deduct the costs from any monies due or to become due the Contractor.

#### **5.11 VALUE ENGINEERING INCENTIVE**

§3-132 HAR amended by Act 149 SLH 1999 - On projects with contract amounts in excess of \$250,000, the following Value Engineering Incentive Clause shall apply to allow the Contractor to share in cost savings that ensue from cost reduction proposals it submits.

5.11.1 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.

5.11.2 Value Engineering Change Proposal - All VECP must:

5.11.2.1 Result in a savings to the State of at least four thousand dollars (\$4,000) by providing less costly items than without impairing any essential functions and characteristics such as service life, reliability, economy of operation, ease of maintenance and all necessary features of the completed work.

5.11.2.2 Require, in order to be applied to this contract, a change order to this contract.

5.11.2.3 Not adversely impact on the schedule of performance or the contract completion date.

5.11.3 VECP Required Information - The VECP will be processed expeditiously and in the same manner as prescribed for any other change order proposal. As a minimum, the following information will be submitted by the Contractor with each proposal:

5.11.3.1 A description of the difference between the existing contract requirements and the VECP, and the comparative advantages and disadvantages of each including durability, service life, reliability, economy of operation, ease of maintenance, design safety standards,

desired appearance, impacts due to construction and other essential or desirable functions and characteristics as appropriate;

5.11.3.2 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;

5.11.3.3 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;

5.11.3.4 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 over the anticipated life of the material, equipment, or facilities as appropriate; the construction schedule, sequence and time; and bid item totals used for evaluation and payment purposes;

5.11.3.5 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

5.11.3.6 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.

5.11.4 Required Use of Licensed Architect or Engineer - When, in the judgment of the Engineer, a VECP alters the design prepared by a registered professional architect or engineer, the Contractor shall ensure the changes to be prepared are by or under the supervision of a licensed professional architect or engineer, and stamped and so certified.

5.11.5 Unless and until a change order applies a VECP to a contract, the Contractor shall remain obligated to perform in accordance with the terms of the contract and the Department shall not be liable for delays incurred by the Contractor resulting from the time required for the Department's determination of the acceptability of the VECP.

5.11.5.1 The determination of the Engineer as to the acceptance of any VECP under a contract shall be final.

5.11.6 Acceptance of VECP - The Engineer may accept in whole or in part any VECP submitted pursuant to this section by issuing a change order to the contract. Prior to issuance of the change order, the Contractor shall submit complete final contract documents similar to those of the

original contract showing the accepted changes and the new design and features as well as the following:

5.11.6.1 Design calculations;

5.11.6.2 The design criteria used; and

5.11.6.3 A detailed breakdown of costs and expenses to construct or implement such revisions.

5.11.6.4 The change order will identify the final VECP on which it is based.

5.11.7 VECP Price Adjustments - When a VECP is accepted under a contract, an adjustment in the contract price shall be made in accordance with Section 4.4 PRICE ADJUSTMENT. The adjustment shall first be established by determining the effect on the Contractor's cost of implementing the change, including any amount attributable to subcontractors and to the Department's charges to the Contractor for architectural, engineering, or other consultant services, and the staff time required to examine and review the proposal. The contract price shall then be reduced by fifty percent (50%) of the net estimated decrease in the cost of performance.

5.11.8 The Contractor may restrict the Department's right to use the data or information or both, on any sheet of a VECP or of the supporting data, submitted pursuant to this paragraph, if it is stated on that sheet as follows:

5.11.8.1 "This data or information or both shall not be disclosed outside the Department or be duplicated, used, or disclosed, in whole or in part, for any purpose other than to evaluate this VECP. This restriction shall not limit the Department's right to use this data or information or both if obtained from another source, or is otherwise available, without limitations. If this VECP is accepted by the Department by issuance of a change order after the use of this data or information or both in such an evaluation, the Department shall have the right to duplicate, use and disclose any data or information or both pertinent to the proposal as accepted in any manner and for any purpose whatsoever and have others so do."

5.11.9 In the event of acceptance of a VECP, the Department shall have 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 or information or both reasonably necessary to fully utilize such proposal.

5.11.10 The Contractor shall submit with each VECP all required information and provide all additional information as may be required by the Engineer to evaluate and implement the VECP. The cost for preparing the VECP shall be the Contractor's responsibility, and any part of the Contractor's cost for

implementing the change shall be due only when the proposal is accepted and a change order is issued.

5.11.11 If the services of the Department's architect, engineer or consultant is necessary to review and evaluate a VECP, the cost therefore shall be paid for by the Contractor.

5.11.12 Each VECP shall be evaluated as applicable to this contract, and past acceptance on another Department project for a similar item shall not be automatic grounds for approval.

5.11.13 The method by which the Contractor will share a portion of the cost savings from an accepted VECP shall be for this contract only, and no consideration shall be made for future acquisition, royalty type payment or collateral savings.

5.11.13.1 The Department may accept the proposed VECP in whole or in part. The Engineer shall issue a contract change order to identify and describe the accepted VECP.

**5.12 SUBCONTRACTS** - Nothing contained in the contract documents shall create a contractual relationship between the State and any subcontractor. The contractor may subcontract a portion of the work but the contractor shall remain responsible for the work that is subcontracted.

5.12.1 Replacing Subcontractors - Contractors may enter into subcontracts only with subcontractors listed in the offer form. The contractor will be allowed to replace a listed subcontractor if the subcontractor:

5.12.1.1 Fails, refuses or is unable to enter into a subcontract consistent with the terms and conditions of the subcontractor's offer presented to the contractor; or

5.12.1.2 Becomes insolvent; or

5.12.1.3 Has any license or certification necessary for performance of the work suspended or revoked; or

5.12.1.4 Has defaulted or has otherwise breached the subcontract in connection with the subcontracted work; or

5.12.1.5 Agrees to be substituted by providing a written release; or

5.12.1.6 Is unable or refuses to comply with other requirements of law applicable to contractors, subcontractors, and public works projects.

5.12.2 Notice of Replacing Subcontractor - The contractor shall provide a written notice to the Contracting Officer when it wishes to replace a subcontractor,

including in the notice, the reasons for replacement. The contractor agrees to defend, hold harmless and indemnify the State against all claims, liabilities, or damages whatsoever, including attorneys fees arising out of or related to the replacement of a subcontractor. The contractor may not replace the subcontractor until the Contracting Officer approves of the replacement.

5.12.3 Adding Subcontractors – The Contractor may enter into a subcontract with a subcontractor that is not listed in the offer form only after this contract becomes enforceable and only after the Contracting Officer has approved the subcontractor.

5.12.4 Subcontracting - Contractor shall perform with its own organization, work amounting to not less than twenty (20%) of the total contract cost, exclusive of costs for materials and equipment the Contractor purchases for installation by its subcontractors, except that any items designated by the State in the contract as “specialty items” may be performed by a subcontract and the cost of any such specialty items so performed by the subcontract may be deducted from the total contract cost before computing the amount of work required to be performed by the Contractor with its own organization.

## **ARTICLE 6 - Control of Materials and Equipment**

### **6.1 MATERIALS AND EQUIPMENT -**

Contractor shall furnish, pay for and install all material and equipment as called for in the drawings and specifications. Materials and equipment shall be new and the most suitable for the purpose intended unless otherwise specified. The State does not guarantee that the specified or pre-qualified product listed in the drawings and specifications are available at the time of bid or during the contract period.

### **6.2 SOURCE OF SUPPLY AND QUALITY OF MATERIALS**

6.2.1 Only materials conforming to the drawings and specifications and, when required by the contract have been accepted by the Engineer, shall be used. In order to expedite the inspection and testing of materials, at the request of the Engineer, the Contractor shall identify its proposed sources of materials within ten (10) days after notification by the Engineer.

6.2.2 At the option of the Engineer, the materials may be accepted 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.

6.2.3 Engineer's Authorization to Test Materials - Materials proposed to be used may be inspected and tested whenever the Engineer deems necessary to determine conformance to the specified requirements. The cost of testing shall be borne by the Contractor. However, should test results show that the material(s) is in compliance with the specified requirements, the cost of the testing will be borne by the State.

6.2.4 Unacceptable Materials - In the event material(s) are found to be unacceptable, the Contractor shall cease their use, remove the unacceptable material(s) that have already been installed or applied, and furnish acceptable materials all at no additional cost to the State. No material which is in any way unfit for use shall be used.

### **6.3 SUBSTITUTION AFTER CONTRACT AWARD**

6.3.1 Materials, equipment, articles and systems noted on the drawings and specifications, establish a standard of quality, function, performance or design requirements and shall not be interpreted to limit competition. Should trade names, makes, catalog numbers or brand names be specified, the contractor shall infer that these items indicate the quality, style, appearance or performance of the material, equipment, article, or systems to be used in the project. The contractor is responsible to use materials, equipment, articles or systems that meet the project requirements. Unless specifically provided otherwise in the contract documents, the contractor may, at its option, use any material equipment, article or system that, in the judgment of the Contracting officer, is equal to that required by the contract documents.

6.3.1.1 If after installing a material, equipment, article or system a variance is discovered, the contractor shall immediately replace the material, equipment, article or system with one that meets the requirements of the contract documents.

6.3.2 Substitution After Contract Award - Subject to the Contracting Officer's determination; material, equipment, article or system with a variant feature(s) may be allowed as a substitution, provided it is in the State's best interest. The State may deny a substitution; and if a substitution is denied, the contractor is not entitled to any additional compensation or time extension.

6.3.2.1 The contractor shall include with the submittal, a notification that identifies all deviations or variances from the contract documents. The notice shall be in a written form separate from the submittal. The variances shall be clearly shown on the shop drawing, descriptive sheet, and material sample or color sample; and the contractor shall certify that the substitution has no other variant features. Failures to identify the variances are grounds to reject the related work or materials, notwithstanding that the

Contracting Officer accepted the submittal. If the variances are not acceptable to the Contracting Officer, the contractor will be required to furnish the item as specified on the contract documents at no additional cost or time.

6.3.2.2 Acceptance of a variance shall not justify a contract price or time adjustment unless the contractor requests an adjustment at the time of submittal and the adjustments are explicitly agreed to in writing by the Contracting Officer. Any request shall include price details and proposed scheduling modifications. Acceptance of a variance is subject to all contract terms, and is without prejudice to all rights under the surety bond.

6.3.2.3 The contractor can recommend improvements to the project, for materials, equipment, articles, or systems by means of a substitution request, even if the improvements are at an additional cost. The Contracting Officer shall make the final determination to accept or reject contractor's proposed improvements. If the proposal material, equipment, article or system cost less than the specified item, the Department will require a sharing of cost similar to value engineering be implemented. State reserves its right to deny a substitution; and if a substitution is denied, the contractor is not entitled to additional compensation or time extension.

6.3.2.4 If the specified material and / or equipment inadvertently lists only a single manufacturer.

6.3.3 A substitution request after Contract Award shall be fully explained in writing. Contractor shall provide brochures showing that the substitute material and / or equipment is equal or better in essential features and also provide a matrix showing comparison of the essential features. Contractor shall justify its request and include quantities and unit prices involved, respective supplier's price quotations and such other documents necessary to fully support the request. Any savings in cost will be credited to the Department. Contractor shall absorb any additional cost for the substitute item(s) or for its installation. Submitting a substitution request, does not imply that substitutions, for brand name specified materials and equipment, will be allowed. The Engineer may reject and deny any request deemed irregular or not in the best interest of the Department. A request for substitution shall not in any way be grounds for an extension of contract time. At the discretion of the Engineer, a time extension may be granted for an approved substitution.

**6.4 ASBESTOS CONTAINING MATERIALS -**  
The use of materials or equipment containing asbestos is prohibited under this contract. Contractor warrants that

all materials and equipment incorporated in the project are asbestos-free.

## **6.5 TEST SAMPLES**

6.5.1 The Engineer may require any or all materials to be tested by means of samples or otherwise. Contractor shall collect and forward samples requested by the Engineer. Contractor shall not use or incorporate any material represented by the samples until all required tests have been made and the material has been accepted. In all cases, the Contractor shall furnish the required samples without charge. Where samples are required from the completed work, the Contractor shall cut and furnish samples from the completed work. Samples so removed shall be replaced with identical material and refinished. No additional compensation will be allowed for furnishing test samples and their replacement with new materials.

6.5.2 Tests of the material samples will be made in accordance with the latest standards of the American Society for Testing and Materials (ASTM), as amended prior to the contract date unless otherwise provided. In cases where a particular test method is necessary or specifications and serial numbers are stipulated, the test shall be made by the method stated in the above-mentioned publication. Where the test reference is the American Association of State Highway and Transportation Officials (AASHTO), it means the specifications and serial numbers of the latest edition and amendments prior to the bid date.

6.5.3 The Engineer may retest any materials which have been tested and accepted at the source of supply after the same has been delivered to the work site. The Engineer shall reject all materials which, when retested, do not meet the requirements of the contract.

## **6.6 MATERIAL SAMPLES**

6.6.1 The Contractor shall furnish all samples required by the drawings and specifications or that may be requested by the Engineer of any and all materials or equipment it proposes to use. Unless specifically required, samples are not to be submitted with the bid.

6.6.2 No materials or equipment of which samples are required shall be used on the Work until the Engineer has received and accepted the samples. If the Contractor proceeds to use such materials before the Engineer accepts the samples, the Contractor shall bear the risk.

6.6.3 Contractor shall furnish two (2) copies of a transmittal letter with each shipment of samples. The letter shall provide 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. Also, each sample submitted shall have a

label indicating the material represented, its place of origin, the names of the producer, the Contractor and the building or work for which the material is intended. Samples of finished materials shall be marked to indicate where the materials represented are required by the drawings or specifications.

6.6.4 Acceptance of any sample(s) shall be only for the characteristics or for the uses named in such acceptance and for no other purpose. Acceptance of samples shall not change or modify any contract requirement. All samples will be provided by the Contractor at no extra cost to the Department. See also Section 5.4 SHOP DRAWINGS AND OTHER SUBMITTALS.

**6.7 NON-CONFORMING MATERIALS** - All materials not conforming to the requirements of these contract documents, 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 acceptance has been given by the Engineer. If the Contractor fails to comply forthwith with any order of the Engineer made under the provisions of this Section 6.7, the Engineer shall have the authority to remove and replace non-conforming materials and charge the cost of removal and replacement to the Contractor.

**6.8 HANDLING MATERIALS** - Contractor shall handle all materials to preserve their quality and fitness for work. Transport aggregates from the source or storage site to the work in tight vehicles to prevent loss or segregation of materials after loading and measuring.

**6.9 STORAGE OF MATERIALS** - Contractor shall store all materials to preserve their quality and fitness for the work. Unless otherwise provided, any portion of the project site within the Project Contract Limit not required for public travel, may be used for storage purposes and for the Contractor's plant and equipment. Any additional space required shall be provided by the Contractor at its expense subject to the Engineer's acceptance. Contractor shall store materials on wooden platforms or other hard, clean surfaces and covered to protect it from the weather and damage. Stored materials shall be located to allow prompt inspection.

**6.10 PROPERTY RIGHTS IN MATERIALS** - Nothing in the contract shall be construed to vest in the Contractor any right to any materials and equipment after such materials and equipment have been attached, affixed to, or placed in the work.

**6.11 ASSIGNMENT OF ANTITRUST CLAIMS FOR OVERCHARGES FOR GOODS PURCHASED** - Contractor (or Vendor) and the Department recognize

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

## **ARTICLE 7 - Prosecution and Progress** (Including Legal Relations And Responsibility)

### **7.1 PROSECUTION OF THE WORK**

7.1.1 After approval of the contract by the Department of Defense, a Notice to Proceed will be given to the Contractor as described in Section 3.10 NOTICE TO PROCEED. 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.

7.1.2 The Contractor shall begin work no later than ten (10) working days from the date in the Notice to Proceed and shall diligently prosecute the same to completion within the contract time allowed. The Contractor shall notify the Engineer at least three (3) working days before beginning work.

7.1.3 If any subsequent suspension and resumption of work occurs, the Contractor shall notify the Engineer at least twenty-four (24) hours before stopping or restarting actual field operations.

7.1.4 Working Prior to Notice to Proceed - The Contractor shall not begin work before the date in the Notice to Proceed. Should the Contractor begin work before receiving the Notice to Proceed, any work performed in advance of the specified date will be considered as having been done at the Contractor's risk and as a volunteer and subject to the following conditions:

7.1.4.1 Under no circumstances shall the Contractor commence work on site until it has notified the Engineer of its 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 Section 7.2 COMMENCEMENT REQUIREMENTS.

7.1.4.2 In the event the contract is not executed, the Contractor shall, at its 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 work performed.

7.1.4.3 All work done prior to the Notice to Proceed shall be performed in accordance with the contract documents, but will only be considered authorized work and be paid for as provided in the contract after the Notice to Proceed is issued.

7.1.5 For repairs and/or renovations of existing buildings, unless otherwise permitted by the Engineer, 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 specified portion of the work. When construction is started, the Contractor shall work expeditiously and pursue the work diligently until it is complete. If only a portion of the work is to be done in stages, the Contractor shall leave the area safe and usable for the user agency at the end of each stage.

**7.2 COMMENCEMENT REQUIREMENTS -**  
Prior to beginning work on site, the Contractor shall submit the following to the Engineer:

7.2.1 Identification of the Superintendent or authorized representative on the job site. Refer to Section 5.8 COOPERATION BETWEEN THE CONTRACTOR AND THE DEPARTMENT.

7.2.2 Proposed Working Hours on the job. Refer to Section 7.5 NORMAL WORKING HOURS.

7.2.3 Permits and Licenses. Refer to Section 7.4 PERMITS AND LICENSES.

7.2.4 Schedule of Prices to be accepted for the agreed Monthly Payment Application. Unless the proposal provides 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 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 work 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 acceptance by the Engineer who may reject same and require the bidder to submit another or several other schedules if in the Engineer's opinion the prices are unbalanced or not sufficiently detailed. This schedule of prices shall be used for the purpose of determining the value of monthly payments due the Contractor for work installed complete in place; and may be used as the basis for determining cost and credit of added or deleted items of work, respectively.

7.2.4.1 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 Monthly Payment Application to the Engineer for review and approval. The Contractor shall be paid the approved percentage of the price established for each item less the retention provided in Section 8.4 PROGRESS PAYMENTS.

7.2.5 Proof of Insurance Coverage. Certificate of Insurance or other documentary evidence satisfactory to the Contracting Officer that the Contractor has in place all insurance coverage required by the contract. The Certificate of Insurance shall contain wording which identifies the Project number and Project title for which the certificate of insurance is issued. Refer to Section 7.3 INSURANCE REQUIREMENTS.

7.2.6 Until such time as the above items are processed and approved, the Contractor shall not be allowed to commence on any operations unless authorized by the Engineer.

## **7.3 INSURANCE REQUIREMENTS**

7.3.1 Obligation of Contractor - Contractor shall not commence any work until it obtains, at its own expense, all required herein insurance. Such insurance shall be provided by an insurance company authorized by the 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 Best's Rating of "A-VII" or better.

7.3.2 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 State.

7.3.3 Certificate(s) of Insurance acceptable to the State 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 coverage's being certified will not be cancelled or materially changes without giving the Engineer at least thirty (30) days prior written notice. If the State is to be an Additional Insured on any of the required insurance, it shall be so noted on the certificate. Should any policy be canceled before final acceptance of the work by the State, and the Contractor fails to immediately procure replacement insurance as specified, the State, in addition to all other remedies it may have for such breach, reserves the right to procure such insurance and deduct the cost thereof from any money due to the Contractor.

7.3.4 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 performance liquidated damages, nor shall it affect the Contractor's separate and independent duty to defend, indemnify and hold the State harmless pursuant to other provisions of this contract. In no instance will the State's exercise of an option to occupy and use completed portions of the work relieve the Contractor of its obligation to maintain the required insurance until the date of final acceptance of the work.

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

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

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

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

7.3.7.2 General Liability - The Contractor shall obtain General Liability insurance with a limit of not less than \$2,000,000 per occurrence and in the Aggregates. The General liability insurance shall include the State as an Additional Insured. The required limit of insurance may be provided by a single policy or with a combination of primary and excess policies. Refer to SPECIAL CONDITIONS for any additional requirements.

7.3.7.3 Auto Liability - The Contractor shall obtain Auto Liability Insurance covering all owned, non-owned and

hired autos with a Combined single Limit of not less than \$1,000,000 per occurrence. The required limit of insurance may be provided by a single policy or with a combination of primary and excess policies. Refer to SPECIAL CONDITIONS for any additional requirements.

#### 7.3.7.4 Property Insurance (Builders Risk)

- (1) New Building(s) - The Contractor shall obtain Property Insurance covering building(s) being constructed under this Contract. The limit shall be equal to the completed value of the building(s) and shall insure against all-loss excluding earthquakes and floods. The coverage shall be provided by a company authorized to write insurance in the State of Hawaii as an insurer.
- (2) Building Renovation and / or Installation Contract - The Contractor shall obtain Property Insurance with a limit equal to the completed value of the work or property being installed and shall insure against all-loss excluding earthquakes and floods. The coverage shall be provided by a company authorized to write insurance in the State of Hawaii as an insurer. Refer to SPECIAL CONDITIONS for any additional requirements.
- (3) The Contractor is not required to obtain property insurance for contracts limited to site development

## 7.4 PERMITS AND LICENSES

7.4.1 The State or its representative may process Federal (e.g. Corps of Engineers), State and County Permit applications. The Contractor shall pick up the pre-processed Permits at the appropriate governmental agency and pay the required fees. Other permits necessary for the proper execution of the work such as utility connection permits, elevator installation permits etc., unless processed by the State and paid for by the Contractor, shall be obtained and paid for by the Contractor.

7.4.2 Until such time as the above permits are approved, the Contractor shall not be allowed to commence any operations without written approval of the Engineer.

7.4.3 The Engineer reserves the right to waive application and processing of the building permit.

**7.5 NORMAL WORKING HOURS** - Prior to beginning operations, unless otherwise established by the State, the Contractor shall notify the Engineer in writing of the time in hours and minutes, A.M. and P.M. respectively, at which it desires to begin and end the day's work. If the Contractor desires to change the working

hours, it shall request the Engineer's approval three (3) consecutive working days prior to the date of the change.

#### **7.6 HOURS OF LABOR** (Section 104-2 Hawaii Revised Statutes)

7.6.1 No laborer or mechanic employed on the job site of any public work of the Department or any political subdivision 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 Section 7.6, 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 Department.

7.6.2 Overtime compensation means, compensation based on one and one-half times the laborers or mechanics basic hourly rate of pay plus the cost to an employer of furnishing a laborer or mechanic with fringe benefits.

#### **7.7 PREVAILING WAGES** - (§ 104-2 HRS)

7.7.1 The Contractor shall at all times observe and comply with all provisions of Chapter 104, HRS, the significant requirements of which are emphasized in the Department of Labor and Industrial Relations Publication No. H104-3 entitled 'Requirements of Chapter 104, HRS Wages and Hours of Employees on Public Works Law'.

7.7.2 Wage Rate Schedule - The wage rate schedule is not physically enclosed in the bid documents. However, the wage rate schedule is incorporated herein by reference and made a part of the Bid and Contract Documents. Said wage rate schedule may be obtained from the Contracts Office, Department of Accounting and General Services, 1151 Punchbowl Street, Room 422, Honolulu, Hawaii or, via the FAX-ON-DEMAND system of the Department of Labor and Industrial Relations, phone number (808) 586-8695. When the bid documents are made available on respective neighbor islands, copies of the wage rate schedule may also be obtained from the office of the respective neighbor island DAGS District Office.

7.7.3 The Contractor or its subcontractor(s) shall pay all laborers and mechanics 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 minimum prevailing wages (basic hourly rate plus fringe benefits), as determined by the Director of Labor and Industrial Relations and published in wage rate schedules. Any increase in wage rates, as determined by the Director of Labor and Industrial Relations and issued in the wage rate schedule, shall be applicable during the performance of the contract, in accordance with section 104-2(a) and (b), Hawaii Revised Statutes. Notwithstanding the provisions of the original contract, if the Director of Labor and Industrial Relations determines that prevailing wages have increased during the performance of the contract, the rate of pay of laborers and mechanics shall be raised accordingly.

7.7.4 Posting Wage Rate Schedule - 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 the person is employed thereunder, provided that where there is a collective bargaining agreement, the Contractor does not have to provide its employees the wage rate schedules. Any revisions to the schedule of wages issued by the Director of Labor and Industrial Relations during the course of the contract shall also be posted by the Contractor and a copy provided to each laborer and mechanic employed under the contract as required above.

7.7.5 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 and the wages actually received by such laborers or mechanics.

WAGE  
RATE  
←

7.8 **FAILURE TO PAY REQUIRED WAGES** (§ 104-4, HRS) - 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 has not received their full overtime compensation, the Department may, by written notice to the Contractor, terminate its right, or the right of any subcontractor, to proceed with the work or with the part of the work on 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 its sureties shall be liable to the Department for any excess costs occasioned thereby.

#### **7.9 PAYROLLS AND PAYROLL RECORDS**

(§ 104-3 HRS)

7.9.1 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 the provisions of Section 2.12 DISQUALIFICATION OF BIDDERS. The Contractor shall be responsible for the timely 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, any amendments thereto during the period of the contract, and that the classifications set forth for each laborer and mechanic conform with the work they performed.

7.9.2 Payroll records for all laborers and mechanics working at the site of the work shall be maintained by the General Contractor and its subcontractors, if any, during the course of the work and preserved for a period of four (4) years thereafter. Such records shall contain the name of each employee, their 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.

7.9.3 Note that the falsification of certifications noted in this Section 7.9 may subject the Contractor or subcontractor to penalties and debarment under the laws referenced in Section 7.14 LAWS TO BE OBSERVED and / or criminal prosecution.

**7.9A APPRENTICESHIP AGREEMENT  
CERTIFICATION (HRS §103-55.6)**

7.9A.1 For the duration of a contract awarded and executed utilizing the apprenticeship agreement preference, the Contractor shall certify for each month that work is being conducted on the project, that it continues to be a participant in the relevant registered apprenticeship program for each trade it employs.

7.9A.2 Monthly certification shall be made by completing the *Monthly Report of Contractor's Participation - Form 2* made available by the State Department of Labor and Industrial Relations, the original to be signed by the respective apprenticeship program sponsors authorized official, and submitted by the Contractor to the Engineer with its monthly payment requests. The *Monthly Report of Contractor's Participation - Form 2* is available on the DLIR website at: <http://hawaii.gov/labor/wdd>.

7.9A.3 Should the Contractor fail or refuse to submit its *Monthly Report of Contractor's Participation - Form 2*, or at any time during the duration of the contract, cease to be a party to a registered apprenticeship agreement for any of the apprenticeable trades the Contractor employs, or will employ, the Contractor will be subject to the following sanctions:

7.9A.3.1 Withholding of the requested payment until all of the required *Monthly Report of Contractor's Participation - Form 2s* are properly completed and submitted.

7.9A.3.2 Temporary or permanent cessation of work on the project, without recourse to breach of contract claims by the Contractor; provided the Department shall be entitled to restitution for nonperformance or liquidated damages claims; or

7.9A.3.3 Proceedings to debar or suspend pursuant to HRS §103D-702.

7.9A.4 If events such as "acts of God", acts of public enemy, acts of the State or any other governmental body in its sovereign or contractual capacity, fires, floods, epidemics, freight embargoes, unusually severe weather, or strikes or other labor disputes prevent the Contractor from submitting the *Monthly Report of Contractor's Participation - Form 2*, the Contractor shall not be penalized as provided herein, provided the Contractor completely and expeditiously complies with the certification process when the event is over.

**7.10 OVERTIME AND NIGHT WORK**

7.10.1 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 these GENERAL CONDITIONS.

7.10.2 Overtime Notification - Contractor shall notify the Engineer in writing at least two (2) working days prior to doing overtime and night work, to insure proper inspection will be available. The notification shall address the specific work to be done. A notification is not required when overtime work and night work are included as normal working hours in the contract and in the contractor's construction schedule.

7.10.3 In the event that work other than that contained in the above notification is performed and for which the Engineer determines State inspection 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 over again in the presence of State inspection personnel.

7.10.4 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.

7.10.5 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 is detrimental to the public welfare or the user agency.

#### **7.11 OVERTIME AND NIGHT PAYMENT FOR STATE INSPECTION SERVICE**

7.11.1 The Department is responsible for overtime or night time payments for Department's inspection services, including Department's Inspector, State staff personnel and the Department's Consultant(s) engaged on the project, when overtime and night work are included as normal working hours in the contract and in the contractor's construction schedule.

7.11.2 Whenever the Contractor's operations require the State's inspection and staff 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 Department prior to the start of any such work. The costs chargeable to the Contractor shall include but not be limited to the following:

7.11.2.1 The cost of salaries which are determined by the State and includes overtime and night time differential for the Department's staff and inspection personnel. In addition to the cost of the salaries, 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.

7.11.2.2 The transportation cost incurred by the Department's staff and inspection personnel which are based on established rental rates or mileage allowance in use by the Department for the particular equipment or vehicle.

7.11.2.3 Fees and other costs billed the State by Consultants engaged on the project for overtime and/or night time work.

7.11.3 Payment for Inspection Services - The monies due the Department for staff and inspection work and use of vehicles and equipment as determined in subsection 7.11.2 shall be deducted from the monies due or to become due the Contractor. In any and all events, the

Contractor shall not pay the Department's employees directly.

#### **7.12 LIMITATIONS OF OPERATIONS**

7.12.1 Contractor shall at all times conduct the work in such manner and in such sequence as will insure the least practicable interference with pedestrian and motor traffic passageways. The Contractor shall furnish convenient detours and provide and plan all other appropriate signs, flashers, personnel, warnings, barricades and other devices for handling pedestrian and motor traffic.

7.12.2 In the event that other contractors are also employed on the job site, the Contractor shall arrange its work and dispose of materials so as not to interfere with the operations of the other contractors engaged upon adjacent work. The Contractor shall join its work to that of others and existing buildings in a proper manner, and in accordance with the drawings and specifications, and perform its work in the proper sequence in relation to that of others, all as may be directed by the Engineer.

7.12.3 Each Contractor shall be responsible for any damage done by it to work performed by another contractor. Each Contractor shall so conduct its operations and maintain the work in such condition that adequate drainage shall be in effect at all times.

7.12.4 In the event that the Contractor fails to prosecute its work as provided in this Section 7.12 or disregards the directions of the Engineer, the Engineer may suspend the work until such time as the Contractor provides for the prosecution of the work with minimum interference to traffic and passageways or other contractors, adequate drainage, the repair of damage and complies with the direction of the Engineer. No payment will be made for the costs of such suspension.

#### **7.13 ASSIGNMENT OR CHANGE OF NAME §3-125-14 HAR**

7.13.1 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 Engineer.

7.13.2 The Contractor may assign money due or to become due it 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 in the contract and particularly all monies withheld or unpaid, whether assigned or not, shall be to use by the Department for the completion of the work in the event that the Contractors should be in default therein.

7.13.3 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 transferor and the transferee and the State shall agree that:

7.13.3.1 The transferee assumes all of the transferor's obligations;

7.13.3.2 Transferor remains liable for all obligations under the contract but waives all rights under the contract against the State; and

7.13.3.3 The transferor shall continue to furnish, and the transferee shall also furnish, all required bonds.

7.13.4 Change of Name - When a Contractor requests to change the name in which it holds a contract with the State, the Engineer 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.

7.13.5 All change of name or novation agreements effected hereunder other than by the Engineer shall be reported to the Engineer within thirty (30) days of the date that the agreement becomes effective.

7.13.6 Notwithstanding the provisions of paragraphs 7.13.3.1 through 7.13.3.3 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 Department of Defense, State of Hawaii.

## **7.14 LAWS TO BE OBSERVED**

7.14.1 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 before and after the date of this contract.

7.14.2 The Contractor shall defend, protect, hold harmless 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 its Subcontractor(s) or any 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.

7.14.3 While the Contractor must comply with all applicable laws, attention is directed to: Wage and Hours of Employees on Public Works, Chapter 104, Hawaii Revised Statutes (HRS); Hawaii Public Procurement Code, Authority to debar or suspend, Section 103D-702, HRS; Hawaii Employment Relations Act, Chapter 377, HRS; Hawaii Employment Security Law, Chapter 383, HRS; Worker's Compensation Law, Chapter 386, HRS; Wage and Hour Law, Chapter 387, HRS; Occupational Safety and Health, Chapter 396, HRS; and Authority to Debar or Suspend, Chapter 126, subchapter 2, Hawaii Administrative Rules (HAR).

**7.15 PATENTED DEVICES, MATERIALS AND PROCESSES** - If the Contractor 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 shall defend, protect, indemnify and hold 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 defend, protect, indemnify and hold harmless the State and its Departments and Agencies for any costs, expenses and damages which it may be obligated to pay by reason of any such infringement at any time during the prosecution or after the completion of the work. This section shall not apply to any design, device, material or process covered by letters of patent or copyright, which the Contractor is required to use by the drawings or specifications.

## **7.16 SANITARY, HEALTH AND SAFETY PROVISIONS**

7.16.1 The Contractor shall provide and maintain in a neat, sanitary condition such accommodations for the use of its 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 drawings or 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 therefore. These requirements shall not modify or abrogate in any way the requirements or regulations of the State Department of Health.

7.16.2 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 their health or safety.

## **7.17 PROTECTION OF PERSONS AND PROPERTY**

7.17.1 Safety Precautions and Programs - The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall take reasonable precautions for the safety of, and shall provide reasonable protection to prevent damage, injury or loss to:

7.17.1.1 All persons on the Work site or who may be affected by the Work;

7.17.1.2 All the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor and its subcontractors; and

7.17.1.3 Other property at the site or adjacent thereto, including trees, shrubs lawns walks pavement, roadways structures, and utilities not designated for removal, relocation or replacement in the course of construction.

7.17.2 Contractor shall give notices and comply with applicable laws, ordinances, regulations, rules, and lawful orders of any public body having jurisdiction for the safety of persons or property or their protection from damage, injury or loss; and the Contractor shall erect and maintain reasonable safeguards for safety and protection, including posting danger signs, or other warnings against hazards.

7.17.3 The Contractor shall notify Owners of adjacent properties and of underground (or overhead) utilities when performing work, which may affect the Owners; and shall cooperate with the Owners in the protection, removal and replacement of their property.

7.17.4 All damage, injury or loss to any property referred to in paragraphs 7.17.1.2 and 7.17.1.3 caused by the fault or negligence or damage or loss attributable to acts or omissions directly or indirectly in whole or part by

the Contractor a subcontractor or any one directly or indirectly employed by them, or by anyone for whose acts they might be liable, shall be remedied promptly by the Contractor.

7.17.5 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the protection of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor

7.17.6 The Contractor shall not load or permit any part of the construction to be loaded so as to endanger its safety. The Contractor shall not injure or destroy trees or shrubs nor remove or cut them without permission of the Engineer. Contractor shall protect all land monuments and property marks until an authorized agent has witnessed or otherwise referenced their location and shall not remove them until directed.

7.17.7 In the event the Contractor encounters on the site, material reasonably believed to be asbestos or other hazard material that has not been rendered harmless, the Contractor shall stop work in the area and notify the Engineer promptly. The work in the affected area shall be resumed in the absence of hazard materials or when the hazard has been rendered harmless.

7.17.8 Emergencies - In an emergency affecting the safety and protection of persons or the Work or property at the site or adjacent thereto, Contractor without special instructions or authorization from the Engineer, shall act, at the Contractor's discretion, to prevent threatened damage, injury or loss. Contractor shall give the Engineer prompt written notice of the emergency and actions taken. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined under the provisions of Section 7.25 DISPUTES AND CLAIMS.

## **7.18 ARCHAEOLOGICAL SITES**

7.18.1 Should historic sites such as walls, platforms, pavements and mounds, or remains such as artifacts, burials, concentration of charcoal or shells be encountered during construction, work shall cease in the immediate vicinity of the find and the find shall be protected from further damage. The Contractor shall immediately notify the Engineer and contact the State Historic Preservation Division which will assess the significance of the find and recommend the appropriate mitigation measures, if necessary.

7.18.2 When required, the Contractor shall provide and install any temporary fencing as shown on the drawings to protect archaeological sites within the project. The fencing shall be installed prior to any construction activity and shall be maintained by the Contractor for the duration

of the project. Fence installation and maintenance shall be to the satisfaction of the Engineer. The Contractor shall remove the fencing upon completion of construction, or as directed by the Engineer.

7.18.3 No work shall be done within the temporary fencing area. If any construction work is done within the temporary fencing, the Contractor shall notify the Engineer immediately; and if the Contractor entered the archaeological site area without permission, it shall stop work in this area immediately. The Engineer shall notify the archaeologist to assess any damage to the area. The Contractor shall allow the archaeologist sufficient time to perform the field investigation.

7.18.4 Any site requiring data recovery within the project shall not be disturbed until data recovery is completed.

#### **7.19 RESPONSIBILITY FOR DAMAGE CLAIMS; INDEMNITY**

7.19.1 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.

7.19.2 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 GENERAL CONDITIONS or from any unforeseen obstructions, acts of God, vandalism, fires or encumbrances which may be encountered in the prosecution of the work.

7.19.3 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.

7.19.4 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 out of or recovered under the Workers' Compensation Laws or violation of any other law, by-law, ordinance, order or decree.

#### **7.20 CHARACTER OF WORKERS OR EQUIPMENT**

7.20.1 The Contractor shall at all times provide adequate supervision and sufficient labor and equipment for prosecuting the work to full completion in the manner and within the time required by the contract.

7.20.2 Character and Proficiency of Workers - All workers shall possess the proper license and / or certification, job classification, skill and experience necessary to properly perform the work assigned to them. All workmen engaged in special work or skilled work such as bituminous courses or 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 GENERAL CONDITIONS, otherwise, the Engineer may take action as prescribed herein.

7.20.2.1 Any worker employed on the project by the Contractor or by any subcontractor who, in the opinion of the Engineer, is not careful and competent, does not perform its work in a proper and skillful manner or is disrespectful, intemperate, disorderly or neglects or refuses to comply with directions given, or is otherwise objectionable 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 may withhold all payments which are or may become due, or the Engineer may suspend the work until the Engineer's orders are followed, or both.

7.20.3 Insufficient Workers - A sufficient number of workers shall be present to ensure the work is accomplished at an acceptable rate. In addition, the proper ratio of apprentice to journey worker shall be maintained to ensure the work is properly supervised and performed. In the event that the Engineer finds insufficient workers are present to accomplish the work at an acceptable rate of progress or if a adequate number of journey workers are not present and no corrective action is taken by the Contractor after being informed in writing, the Engineer may terminate the contract as provided for under Section 7.27 TERMINATION OF CONTRACT FOR CAUSE.

7.20.4 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 performed in an acceptable manner at a satisfactory rate of progress and the quality of work produced will be satisfactory.

7.20.4.1 Equipment used on any portion of the project shall be such that no injury to the work, persons at or near the site, adjacent property or other objects will result from its use.

7.20.4.2 If the Contractor fails to provide adequate equipment for the work, the contract may be terminated as provided under Section 7.27 TERMINATION OF CONTRACT FOR CAUSE.

7.20.4.3 In the event that the Contractor furnishes and operates equipment on a force-account basis, it shall be operated to obtain maximum production under the prevailing conditions.

## **7.21 CONTRACT TIME**

7.21.1 Time is of the essence for this contract.

7.21.2 Calculation of Contract Time - When the contract time is on a working day basis, the total contract time allowed for the performance of the work shall be the number of working days shown in the contract plus any additional working days authorized in writing as provided hereinafter. Refer to Article 1 DEFINITIONS for the definition of Working Day. 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 the date of Project Acceptance 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 completed. Maintenance periods are not included within the contract time unless specifically noted in the Contract Documents.

7.21.3 Modifications of Contract Time  
§3-125-4 HAR

7.21.3.1 Extensions - For increases in the scope for work caused by alterations and additional work made under Section 4.2 CHANGES, the Contractor will be granted a time extension only if the changes increase the time of performance for the Contract. If the Contractor believes that an extension of time is justified and is not adequately provided for in a Field Order, it must request the additional time sought in writing when the detailed cost breakdown required by Section 4.2 CHANGES, is submitted. The Contractor must show how the time of performance for the critical path will be affected and must also support the time extension request with schedules and statements from its subcontractors, suppliers, and/or manufacturers. Compensation for any altered or additional work will be paid as provided in Section 4.2 CHANGES.

7.21.3.2 The Department may direct changes to the work at any time until the work is finally accepted. The issuance of a Field Order at any time may alter or modify the contract duration only by the days specified therein; or if not specified therein, for the days the critical path must be extended for the change. Additional time to perform the extra work will be added to the time allowed in the contract without regard to the date the change directive was issued, even if the contract completion date has passed. A change requiring time will not constitute a waiver of pre-existing Contractor delay.

7.21.4 Delay for Permits - For delays beyond the control of the Contractor in obtaining necessary permits, one day extension for each day delay may be granted by the Engineer, provided the Contractor notifies the Engineer that the permits are not available, as soon as the delay occurs. Time extensions shall be the exclusive relief granted on account of such delays. No additional compensation will be paid for these time extensions.

7.21.5 Delays Beyond Contractor's Control  
§3-125-18(4) - For delays affecting the critical path caused by acts of God, or the public enemy, fire, unusually severe weather, earthquakes, floods, epidemics, quarantine restrictions, labor disputes, freight embargoes and other reasons beyond the Contractor's control, the Contractor may be granted an extension of time provided that:

7.21.5.1 The Contractor notifies the Engineer in writing within five (5) work days after the occurrence of the circumstances described above and states the possible effects on the completion date of the contract.

7.21.5.2 No time extension will be granted for weather conditions other than unusually severe weather occurrences, and floods.

7.21.5.3 The Contractor, if requested, submits to the Engineer within ten (10) work days after the request, a

written statement describing the delay to the project. The extent of delay must be substantiated as follows:

(a) State specifically the reason or reasons for the delay and fully explain in a detailed chronology the effect of this delay to the work and/or the completion date.

(b) Submit copies of purchase order, delivery tag, and any other pertinent documentation to support the time extension request.

(c) Cite the period of delay and the time extension requested.

(d) 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.

7.21.5.4 Time extensions shall be the exclusive relief granted and no additional compensation will be paid the Contractor for such delays.

7.21.6 Delays in Delivery of Materials - For delays in delivery of materials and / or equipment which occur as a result of unforeseeable causes beyond the control and without fault or negligence of both the Contractor, its subcontractor(s) or supplier(s), the Contractor may be granted an extension of time provided that it complies with the following procedures.

7.21.6.1 The Contractor must notify the Engineer in writing within five (5) consecutive working days after it first has any knowledge of delays or anticipated delays and state the effects such delays may have on the completion date of the contract.

7.21.6.2 The Contractor, if requested, must submit to the Engineer within ten (10) working days after a firm delivery date for the material and equipment is established, a written statement as to the delay to the progress of the project. The delay must be substantiated as follows:

(a) State specifically the reason or reasons for the delay. Explain in a detailed chronology the effect of this delay to the other work and / or the completion date.

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

(c) Cite the start and end date of the delay and the days requested therefore. The delay shall not exceed the difference between the originally scheduled delivery date versus the actual delivery date.

7.21.6.3 Time extensions shall be the exclusive relief granted and no additional compensation will be paid the Contractor on account of such delay.

7.21.7 Delays For Suspension of Work - Delay during periods of suspension of the work by the Engineer shall be computed as follows:

7.21.7.1 When the performance of the work is totally suspended for one or more days (calendar or working days, as appropriate) by order of the Engineer in accordance with paragraphs 7.24.1.1, 7.24.1.2, 7.24.1.4 or 7.24.1.6 the number of days from the effective date of the Engineer's order to suspend operations to the effective date of the Engineer's order to resume operations shall not be counted as contract time and the contract completion date will be adjusted. Should the Contractor claim for additional days in excess of the suspension period, Contractor shall provide evidence justifying the additional time. During periods of partial suspensions of the work, the Contractor will be granted a time extension only if the partial suspension affects the critical path. If the Contractor believes that an extension of time is justified for a partial suspension of work, it must request the extension in writing at least five (5) working days before the partial suspension will affect the critical operation(s) in progress. The Contractor must show how the critical path was increased based on the status of the work and must also support its claim, if requested, with statements from its subcontractors. A suspension of work will not constitute a waiver of pre-existing Contractor delay.

7.21.8 Contractor Caused Delays - No time extension will be considered for the following:

7.21.8.1 Delays in performing the work caused by the Contractor, subcontractor and / or supplier.

7.21.8.2 Delays in arrival of materials and equipment caused by the Contractor, subcontractor and / or supplier in ordering, fabricating, delivery, etc.

7.21.8.3 Delays requested for changes which the Engineer determines unjustifiable due to the lack of supporting evidence or because the change is not on the critical path.

7.21.8.4 Delays caused by the failure of the Contractor to submit for review and acceptance by the Engineer, on a timely basis, shop drawings, descriptive sheets, material samples, color samples, etc. except as covered in subsection 7.21.5 and 7.21.6.

7.21.8.5 Failure to follow the procedure within the time allowed to qualify for a time extension.

7.21.8.6 Days the Contractor is unable to work due to normal rainfall or other normal bad weather day conditions.

7.21.9 Reduction in Time - If the Department deletes any portion of the work, an appropriate reduction of contract time may be made in accordance with Section 4.2 CHANGES.

## **7.22 CONSTRUCTION SCHEDULE**

7.22.1 The Contractor shall submit its detailed construction schedule to the Engineer prior to the start of the work. The purpose of the schedule is to allow the Engineer to monitor the Contractor's progress on the work. The schedule shall account for normal inclement weather, unusual soil or other conditions that may influence the progress of the work, schedules and coordination required by any utility, off or on site fabrications, and all other pertinent factors that relate to progress.

7.22.2 Submittal of and the Engineer's receipt of the construction schedule shall not imply the Department's approval of the schedule's breakdown, its individual elements, and any critical path that may be shown. Any acceptance or approval of the schedule 1) shall be for general format only and not for sequences or durations thereon, and 2) shall not be deemed an agreement by the Department that the construction means, methods and resources shown on the schedule will result in work that conforms to the contract requirements. The Contractor has the risk of all elements (whether or not shown) of the schedule and its execution. Additional compensation shall not be due the Contractor in the event that deviations from the Contractor's schedule, caused by any design revisions required to resolve site conditions or State, County, or utility requirements, affect the efficiency of its operations.

7.22.3 In the event the Contractor submits and the Department receives an accelerated schedule (shorter than the contract time), such will not constitute an agreement to modify the contract time or completion date, nor will the receipt, acceptance or approval of such a schedule incur any obligation by the Department.

7.22.4 Caution - The Department will not be responsible if the Contractor does not meet its accelerated schedule.

7.22.5 The requirements of this Section 7.22 CONSTRUCTION SCHEDULE may be waived by the Engineer.

**7.23 STATEMENT OF WORKING DAYS** - For all contracts on a working day basis, the Contractor will submit a statement of the number of working days for

each month together with the Monthly Payment Application. The Monthly Payment Application will not be processed without the statement of working days.

## **7.24 SUSPENSION OF WORK §3-125-7 HAR**

7.24.1 Procedure to be followed - The Engineer may, by written order, suspend the performance of the Work up to thirty (30) days and the Engineer, for an unlimited number of days, either in whole or in part for any cause, including but not limited to:

7.24.1.1 Weather or excess bad weather days, considered unsuitable by the Engineer for prosecution of the work; or

7.24.1.2 Soil Conditions considered unsuitable by the Engineer for prosecution of the work; or

7.24.1.3 Failure of the Contractor to:

(1) Correct conditions unsafe for the general public or for the workers;

(2) Carry out orders given by the Engineer;

(3) Perform the work in strict compliance with the provisions of the contract; or

(4) Provide a qualified Superintendent on the jobsite as described under Section 5.8 COOPERATION BETWEEN THE CONTRACTOR AND THE DEPARTMENT.

7.24.1.4 When any redesign is deemed necessary by the Engineer; or

7.24.1.5 Disturbance due to noise, odors or dust arising from the construction even if such disturbance does not violate the section on Environmental Protection contained in the specifications; or

7.24.1.6 The convenience of the State.

7.24.2 Partial, Total Suspension of Work - Suspension of work on some but not all items of work shall be considered a partial suspension. Suspension of work on the entire work at the job site shall be considered total suspension. The period of suspension shall be computed as set forth in subsection 7.21.7 -Delays for Suspension of Work.

## **7.24.3 Payment §3-125-7 HAR**

7.24.3.1 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 paragraphs 7.24.1.4 or 7.24.1.6, the Contractor may be reimbursed for actual direct costs incurred on work at the jobsite, as authorized

in writing by the Engineer, including costs expended for the protection of the work. Payment for equipment which must standby during such suspension of work shall be made as described in clause 8.3.4.5. (c). No payment will be made for profit on any suspension costs. An allowance of five percent (5%) will be paid on any reimbursed actual costs for indirect categories of delay costs, including extended branch and home-office overhead and delay impact costs.

7.24.3.2 However, no adjustment to the contract amount or time shall be made under this Section 7.24 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.

7.24.3.3 Any adjustment in contract price made pursuant to this subsection shall be determined in accordance with this Section 7.24 and Section 4.2 CHANGES.

7.24.3.4 Claims for such compensation shall be filed with the Engineer within ten (10) calendar days after the date of the order to resume work or such claims will be waived by the Contractor. Together with the claim, the Contractor shall submit substantiating documents supporting the entire amount shown on the claim. The Engineer may make such investigations as are deemed necessary and shall be the sole judge of the claim and the Engineer's decision shall be final.

7.24.4 Claims Not Allowed - No claim under this Section 7.24 shall be allowed:

7.24.4.1 For any direct costs incurred more than twenty (20) days before the Contractor shall have notified the Engineer in writing of any suspension that the Contractor considered compensable. This requirement shall not apply as to a claim resulting from a suspension order under paragraphs 7.24.1.4 or 7.24.1.6, and

7.24.4.2 Unless the claim is asserted in writing within ten (10) calendar days after the termination of such suspension, delay, or interruption, but in no case not later than the date of final payment under the contract.

7.24.4.3 No provision of this Section 7.24 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 paragraphs 7.24.1.1, 7.24.1.2, 7.24.1.3 and 7.24.1.5.

## **7.25 DISPUTES AND CLAIMS §3-126-31 HAR**

7.25.1 Required Notification - As a condition precedent for any claim, the Contractor must give notice in writing to the Engineer in the manner and within the time periods stated in Section 4.2 CHANGES for claims for extra compensation, damages, or an extension of time due for one or more of the following reasons:

7.25.1.1 Requirements not clearly covered in the contract, or not ordered by the Engineer as an extra;

7.25.1.2 Failure by the State and Contractor to agree to an Oral Order or an adjustment in price or contract time for a Field Order or a Change Order issued by the State;

7.25.1.3 An action or omission by the Engineer requiring performance changes beyond the scope of the contract;

7.25.1.4 Failure of the State to issue a Field Order for controversies within the scope of Section 4.2 CHANGES.

7.25.1.5 For any other type of claim, the Contractor shall give notice within the time periods set forth in contract provisions pertaining to that event. If no specific contract provisions pertain to the claim, then the written notice of claim must be submitted within fifteen (15) days of the event giving rise to the claim.

7.25.2 Continued Performance of Work - The Contractor shall at all times continue with performance of the contract in full compliance with the directions of the Engineer. Continued performance by the Contractor shall not be deemed a waiver of any claim for additional compensation, damages, or an extension of time for completion, provided that the written notice of claim is submitted in accordance with subsection 7.25.1

7.25.3 The requirement for timely written notice shall be a condition precedent to the assertion of a claim.

7.25.4 Requirements for Notice of Claim -The notice of claim 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 it is entitled. At a minimum, it shall provide the following:

7.25.4.1 Date of the protested order, decision or action;

7.25.4.2 The nature and circumstances which caused the claim;

7.25.4.3 The contract provision that support the claim;

7.25.4.4 The estimated dollar cost, if any, of the protested work and how that estimate was determined; and

7.25.4.5 An analysis of the progress schedule showing the schedule change or disruption if the Contractor is asserting a schedule change or disruption.

7.25.5 If the protest or claim is continuing, the information required in subsection 7.25.4 above shall be supplemented as requested by the Engineer.

7.25.6 Final Statement for Claim - The Contractor shall provide a final written statement of the actual adjustment in contract price and/or contract time requested for each notice of claim. Such statement shall clearly set forth that it is the final statement for that notice of claim. All such final statements shall be submitted within thirty (30) days after completion of the work that is the subject of the claim, but in no event no later than thirty (30) days after the Project Acceptance Date or the date of termination of the Contractor, whichever comes first.

7.25.7 All claims of any nature are barred if asserted after final payment under this contract has been made, except as provided under Section 8.9 CLAIMS ARISING OUT OF PAYMENT FOR REQUIRED WORK.

7.25.8 Contractor may protest the assessment or determination by the Engineer of amounts due the State from the Contractor by providing a written notice to the Engineer within thirty (30) days of the date of the Engineer's written assessment or determination. Said notice shall comply with all requirements of subsections 7.25.4 and 7.25.6 above. The requirement of such notice cannot be waived and it is a condition precedent to any claim by the Contractor. Failure to comply with these notice provisions constitutes a waiver of any claim.

7.25.9 In addition to the requirements of subsections 7.25.4, 7.25.6, and 7.25.8, all final written statements of claim shall be certified. This certification requirement applies to the Contractor without exception, including, but not limited to, situations involving "pass through" claims of subcontractors or suppliers. The certification must be executed by a person duly authorized to bind the Contractor with respect to the claim. The certification shall state as follows:

7.25.9.1 "I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the Contractor believes the State is liable; and that I am duly authorized to certify the claim on behalf of the Contractor."

7.25.10 Decision on Claim / Appeal - The Contracting Officer shall decide all controversies between the State and the contractor which arise under, or are by virtue of, this contract and which are not resolved by mutual agreement. The decision of the Contracting Officer on the

claim shall be final and conclusive, unless fraudulent or unless the contractor delivers to the Adjutant General a written appeal of the Contracting Officer's decision no later than 30 days after the date of the Contracting Officer's decision. The Adjutant General's decision shall be final and conclusive, unless fraudulent or unless the contractor brings an action seeking judicial review of the Adjutant General's decision in an appropriate circuit court of this State within six months from the date of the Adjutant General's decision.

7.25.10.1 If the contractor delivers a written request for a final decision concerning the controversy, the Adjutant General shall issue a final decision within 90 days after receipt of such a request; provided that if the Adjutant General does not issue a written decision within 90 days or within such longer period as may be agreed upon by the parties, then the contractor may proceed as if an adverse decision had been received. Both parties to this contract agree that the period of up to 30 days to appeal the Contracting Officer's decision to the Adjutant General shall not be included in the 90 day period to issue a final decision.

7.25.11 Payment and Interest - The amount determined payable pursuant to the decision, less any portion already paid, normally should be paid without awaiting Contractor action concerning appeal. Such payments shall be without prejudice to the rights of either party. Interest on amounts ultimately determined to be due to a Contractor shall be payable at the Statutory rate applicable to judgments against the State under Chapter 662, HRS from the date of receipt of a properly certified final written statement of actual adjustment required until the date of decision; except, however, that if an action is initiated in circuit court, interest under this Section 7.25 shall only be calculated until the time such action is initiated. Interest on amounts due the State from the Contractor shall be payable at the same rate from the date of issuance of the Engineer's notice to the Contractor. Where such payments are required to be returned by a subsequent decision, interest on such payments shall be paid at the statutory rate from the date of payment.

7.25.12 Contractor shall comply with any decision of the Engineer and proceed diligently with performance of this contract pending final resolution by a circuit court of this State of any controversy arising under, or by virtue of, this contract, except where there has been a material breach of contract by the State; provided that in any event the Contractor shall proceed diligently with the performance of the contract where the Engineer has made a written determination that continuation of work under the contract is essential to the public health and safety.

## **7.26 FAILURE TO COMPLETE THE WORK ON TIME**

7.26.1 Completion of the work within the required time is important because delay in the prosecution of the work will inconvenience the public and interfere with the State's business. In addition, the State will be damaged by the inability to obtain full use of the completed work and by increased engineering, inspection, superintendence, and administrative services in connection with the work. Furthermore, delay may detrimentally impact the financing, planning, or completion of other State projects because of the need to devote State resources to the project after the required completion date. The monetary amount of such public inconvenience, interference with State business, and damages, is difficult, if not impossible, to accurately determine and precisely prove. Therefore, it is hereby agreed that the amount of such damages shall be the appropriate sum of performance liquidated damages as set forth below.

7.26.1.1 When the Contractor fails to complete the Work or any portion of the Work within the time or times fixed in the contract or any extension thereof, it is agreed the Contractor shall pay a penalty fee of \$100 a day until all work is completed.

7.26.1.2 If the Contractor fails to correct Punch list deficiencies as required by Section 7.32 PROJECT ACCEPTANCE DATE, the State will be inconvenienced and damaged, therefore, it is agreed that the Contractor shall pay a penalty fee of \$100 a day until the date the Punch list items are corrected and accepted by the Engineer.

7.26.1.3 If the Contractor fails to submit final documents as required by Section 7.33 FINAL SETTLEMENT OF THE CONTRACT, the State will be inconvenienced and damaged, therefore, it is agreed that the Contractor shall pay a penalty fee of \$100 a day for all days after the Contract Completion Date or any extension thereof, until the date the final documents are received by the Engineer.

7.26.1.4 The Engineer shall assess the total amount of penalty fees for each in accordance with the amount stated in the Specification Section 00800 SPECIAL CONDITIONS and provide written notice of such assessment to the Contractor.

7.26.2 Acceptance of Liquidated Damages -The assessment of performance liquidated damages by the Engineer shall be accepted by the parties hereto as final, unless the Contractor delivers a written appeal of the Engineer's decision in accordance with subsection 7.25.10 requirements. Any allowance of time or remission of charges or performance liquidated damages shall in no other manner affect the rights or obligations of the parties under this contract nor be construed to prevent action under Section 7.27 TERMINATION OF CONTRACT

FOR CAUSE. If the Department terminates the Contractor's right to proceed, the resulting damage will include such performance liquidated damages for such time as may be required for final completion of the work after the required contract completion date.

7.26.3 Payments for Performance Liquidated Damages - Liquidated damages shall be deducted from monies due or that may become due to the Contractor under the contract or from other monies that may be due or become due to the Contractor from the State.

## **7.27 TERMINATION OF CONTRACT FOR CAUSE §3-125-18 HAR**

7.27.1 Default - If the Contractor refuses or fails to perform the work, or any separable part thereof, with such diligence as will assure its completion within the time specified in this contract, or any extension thereof, fails to complete the work within such time, or commits any other material breach of this contract, and further fails within seven (7) days after receipt of written notice from the Engineer to commence and continue correction of the refusal or failure with diligence and promptness, the Engineer may, by written notice to the Contractor, declare the Contractor in breach and terminate the Contractor's right to proceed with the work or the part of the work as to which there has been delay or other breach of contract. In such event, the Department may take over the work and perform the same to completion, by contract or otherwise, and may take possession of, and utilize in completing the work, the materials, appliances, and plant as may be on the site of the work and necessary therefore. Whether or not the Contractor's right to proceed with the work is terminated, the Contractor and the Contractor's sureties shall be liable for any damage to the Department resulting from the Contractor's refusal or failure to complete the work within the specified time.

7.27.2 Additional Rights and Remedies - The rights and remedies of the Department provided in this contract are in addition to any other rights and remedies provided by law.

### **7.27.3 Costs and Charges**

7.27.3.1 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 it been allowed to complete the work under the contract. If such expense exceeds the sum which would have been payable under the contract, then the Contractor and the surety shall be liable and shall pay the Department the amount of the excess.

7.27.3.2 In case of termination, the Engineer shall limit any payment to the Contractor to the part of the contract satisfactorily completed at the time of termination. Payment will not be made until the work has satisfactorily been completed and the tax clearance required by Section 8.8 FINAL PAYMENT is submitted by the Contractor. Termination shall not relieve the Contractor or Surety from liability for performance liquidated damages.

7.27.4 Erroneous Termination for Cause - If, after notice of termination of the Contractor's right to proceed under this Section 7.27, it is determined for any reason that good cause did not exist to allow the Department to terminate as provided herein, the rights and obligations of the parties shall be the same as, and the relief afforded the Contractor shall be limited to, the provisions contained in Section 7.28 TERMINATION FOR CONVENIENCE.

## **7.28 TERMINATION FOR CONVENIENCE**

§3-125-22 HAR

7.28.1 Termination - The Engineer may, when the interests of the State so require, terminate this contract in whole or in part, for the convenience of the State. The Engineer shall give written notice of the termination to the Contractor specifying the part of the contract terminated and when termination becomes effective.

7.28.2 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 subject to the State's approval. The Engineer may direct the Contractor to assign the Contractor's right, title, and interest under terminated orders or subcontracts to the State. The Contractor must still complete the work not terminated by the notice of termination.

7.28.3 Right to Construction and Goods - The Engineer may require the Contractor to transfer title and delivery to the State in the manner and to the extent directed by the Engineer, the following:

7.28.3.1 Any completed work; and

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

7.28.3.3 The Contractor shall protect and preserve all property in the possession of the Contractor in which the State has an interest. If the Engineer does not elect to retain any such property, the Contractor shall use its best efforts to sell such property and construction material for the Department's account in accordance with the standards of section 490:2-706, HRS.

## **7.28.4 Compensation**

7.28.4.1 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. 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 7.28.4.3.

7.28.4.2 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 7.28.3.3 of this Section, and the contract price of the work not terminated.

7.28.4.3 Absent complete agreement, the Engineer shall pay the Contractor the following amounts, less any payments previously made under the contract.

(a) The cost of all contract work performed prior to the effective date of the notice of termination work plus a five percent (5%) markup on the actual direct costs, including amounts paid to subcontractor, less amounts previously 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 markup shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss. No anticipated profit or consequential damage will be due or paid.

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

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

7.28.4.4 Costs claimed, agreed to, or established by the State shall be in accordance with chapter 3-123, HAR.

**7.29 CORRECTING DEFECTS** - If the Contractor fails to commence to correct 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 to the Contractor or surety and without termination of contract, correct the defects and deduct the cost thereof from the contract price.

**7.30 FINAL CLEANING** - 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 will be 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 therefore.

**7.31 SUBSTANTIAL COMPLETION, AND FINAL INSPECTION** - Before the Department accepts the project as being completed, unless otherwise stipulated by the Engineer, the following procedure shall be followed:

**7.31.1 Substantial Completion:**

7.31.1.1 The Contractor and its subcontractors shall inspect the project to confirm whether the Project is Substantially Complete. This inspection effort shall include the testing of all equipment and providing a Punch list that identifies deficiencies which must be corrected. Contractor shall make the corrections and if required repeat the procedure. Also, the Contractor shall schedule final Building, Plumbing, Electrical, Elevator, Fire and other required inspections and obtain final approvals.

(a) When in compliance with the above requirements, the Contractor shall notify the Engineer in writing that project is Substantially Complete and ready for a Final Inspection. Along with the Substantial Completion notification, the Contractor shall provide its Punch list(s) with the status of the deficiencies and dates when the deficiencies were corrected. The Project Inspector and / or the Engineer shall make a preliminary determination whether project is Substantially Complete.

(b) If the Project is not Substantially Complete, the Engineer shall inform the Contractor. The Contractor shall identify deficiencies which must be corrected, update

its Punch list, make the necessary corrections and repeat the previous step. After completing the necessary work, the Contractor shall notify the Engineer in writing that Punch list deficiencies have been corrected and the project is ready for a Final Inspection.

(c) If the Project is Substantially Complete, the Engineer shall schedule a Final Inspection within fifteen (15) days of the Contractor's notification letter or as otherwise determined by the Engineer.

7.31.1.2 In addition, and to facilitate closing of the project, the Contractor shall also proceed to obtain the following closing documents (where applicable) prior to the Final Inspection:

- (1) Field-Posted As-Built Drawings.
- (2) Maintenance Service Contract and two (2) copies of a list of all equipment.
- (3) Operating and maintenance manuals.
- (4) Air conditioning test and balance reports.
- (5) Any other final submittal required by the technical sections of the contract.

7.31.2 Final Inspection: If at the Final Inspection the Engineer determines that all work is completed, the Engineer shall notify the Contractor in accordance with Section 7.32 PROJECT ACCEPTANCE DATE. Should there be remaining deficiencies which must be corrected, the Contractor shall provide an updated Punch list to the Engineer, within five (5) days from the Final Inspection Date. The Contractor shall make the necessary corrections.

7.31.2.1 The Engineer shall confirm the list of deficiencies noted by the Contractor's punch list(s) and will notify the Contractor of any other deficiencies that must be corrected before final settlement.

7.31.3 The Engineer may add to or otherwise modify the Punch list from time to time. The Contractor shall take immediate action to correct the deficiencies.

7.31.4 Revoking Substantial Completion - At any time before final Project Acceptance is issued, the Engineer may revoke the determination of Substantial Completion if the Engineer finds it was not warranted. The Engineer shall notify the Contractor in writing with the reasons and outstanding deficiencies negating the declaration. Once notified, the Contractor shall make the necessary corrections and repeat the required steps noted in subsections 7.31.1 and 7.31.2.

**7.32 PROJECT ACCEPTANCE DATE**

7.32.1 If upon Final Inspection, the Engineer finds that the project has been satisfactorily completed in compliance with the contract, the Engineer shall declare the project completed and accepted and will notify the Contractor in writing of the acceptance by way of the Project Acceptance Notice.

7.32.2 Protection and Maintenance - After the Project Acceptance Date, the Contractor shall be relieved of maintaining and protecting the work EXCEPT that this does not hold true for those portions of the work which have not been accepted, including Punch list deficiencies. The State shall be responsible for the protection and maintenance of the accepted facility.

7.32.3 The date of Project Acceptance shall determine:

7.32.3.1 End of Contract Time.

7.32.3.2 Commencement of all guaranty periods except as noted in Section 7.34 CONTRACTOR'S RESPONSIBILITY FOR WORK: RISK OF LOSS.

7.32.3.3 Commencement of all maintenance services except as noted in Section 7.34 CONTRACTOR'S RESPONSIBILITY FOR WORK: RISK OF LOSS.

7.32.4 Punch list Requirements - If a Punch list is required under Section 7.31 SUBSTANTIAL COMPLETION AND FINAL INSPECTION, the Project Acceptance Notice will include the Engineer's Punch list and the date when correction of the deficiencies must be completed.

7.32.4.1 Punch list corrective work shall be completed prior to Contract Completion Date, or extension thereof.

7.32.5 Upon receiving the Punch list, the Contractor shall promptly devote the required time, labor, equipment, materials and incidentals necessary to correct the deficiencies expeditiously.

7.32.6 For those items of work that cannot be completed by the established date, the Contractor shall submit a schedule in writing to the Engineer for approval along with documentation to justify the time required, no later than five (5) working days before the date stipulated for completion of the Punch list work. A Proposed schedule submitted after the five (5) day period will not be considered.

7.32.7 Failure to Correct Deficiencies - If the Contractor fails to correct the deficiencies within the time established in paragraph 7.32.4.1, the Contracting Officer shall assess liquidated damages as required by Section 7.26 - FAILURE TO COMPLETE THE WORK ON TIME.

7.32.8 If the Contractor fails to correct the deficiencies and complete the work by the established or agreed to date, the State also reserves the right to correct the deficiencies by whatever method it deems necessary and deduct the cost from the final payment due the contractor.

7.32.9 The Contractor may further be prohibited from bidding in accordance with Section 2.12 - DISQUALIFICATION OF BIDDERS. In addition, assessment of damages shall not prevent action under Section 7.27 - TERMINATION OF CONTRACT FOR CAUSE.

**7.33 FINAL SETTLEMENT OF CONTRACT -**  
The contract will be considered settled after the project acceptance date and when the following items have been satisfactorily submitted, where applicable:

7.33.1 Necessary Submissions in addition to the items noted under paragraph 7.31.1.2.

7.33.1.1 All written guarantees required by the contract.

7.33.1.2 Complete and certified weekly payrolls for the Contractor and its Subcontractor(s).

7.33.1.3 Certificate of Plumbing and Electrical Inspection.

7.33.1.4 Certificate of Building Occupancy.

7.33.1.5 Certificates for Soil Treatment and Wood Treatment.

7.33.1.6 Certificate of Water System Chlorination.

7.33.1.7 Certificate of Elevator Inspection, Boiler and Pressure Pipe installation.

7.33.1.8 All other documents required by the Contract.

7.33.2 Failure to Submit Closing Documents - The Contractor shall submit the final Payment Application and the above applicable closing documents within sixty (60) days from the date of Project Acceptance or the agreed to Punch list completion date. Should the Contractor fail to comply with these requirements, the Engineer may terminate the Contract for cause. The pertinent provisions of Section 7.27 TERMINATION OF CONTRACT FOR CAUSE shall be applicable.

7.33.3 In addition, should the Contractor fail to furnish final closing documents within the required time period, the Engineer shall assess performance liquidated damages as required by Section 7.26 FAILURE TO COMPLETE THE WORK ON TIME.

### **7.34 CONTRACTOR'S RESPONSIBILITY FOR WORK; RISK OF LOSS**

7.34.1 Until the establishment of the Project Acceptance Date or Beneficial Occupancy whichever is sooner, the Contractor shall take every necessary precaution against injury or damage to any part of the work caused by the perils insured by an All Risk policy excluding earthquakes and floods, 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 the perils insured by an All Risk policy before the date of final acceptance and shall bear the risk and expense thereof.

7.34.2 After the Project Acceptance Date or Beneficial Occupancy whichever is sooner, the Contractor shall be relieved of maintaining and protecting the work except for those portions of the work which have not been accepted including Punch list deficiencies.

7.34.3 The risk of damage to the work from any hazard or occurrence that may be covered by a required Property Insurance policy is that of the Contractor, unless such risk of loss is placed elsewhere by express language in the contract documents. No claims for any loss or damage shall be recognized by the Department, nor will any such loss or damage excuse the complete and satisfactory performance of the contract by the Contractor.

### **7.35 GUARANTEE OF WORK**

7.35.1 In addition to any required manufacturers warranties, all work and equipment shall be guaranteed by the Contractor against defects in materials, equipment or workmanship for one year from the Project Acceptance Date or as otherwise specified in the Contract Documents, whichever is earlier.

7.35.2 Repair of Work - If, within any guarantee period, repairs or changes are required in connection with the guaranteed work, which in the opinion of the Engineer is necessary due to materials, equipment or workmanship which are inferior, defective or not in accordance with the terms of the Contract, the Contractor shall within five (5) working days and without expense to the Department commence to:

7.35.2.1 Place in satisfactory condition in every instance all such guaranteed work and correct all defects therein; and

7.35.2.2 Make good and repair or replace to new or pre-existing condition all damages to the building, facility, work or equipment or contents thereof, resulting from such defective materials, equipment or installation thereof.

7.35.3 Manufacturer's and Installer's Guarantee- Whenever a manufacturer's or installer's guarantee on any

product specified in the respective Specification sections, exceeds one year, this guarantee shall become part of this contract in addition to the Contractor's guarantee. Contractor shall complete the guarantee forms in the name of the Department and submit such forms to the manufacturer within such time required to validate the guarantee. Contractor shall submit to the Department a photocopy of the completed guarantee form for the Department's record as evidence that such guarantee form was executed by the manufacturer.

7.35.4 If a defect is discovered during a guarantee period, all repairs and corrections to the defective items when corrected shall again be guaranteed for the original full guarantee period. The guarantee period shall be tolled and suspended for all work affected by the defect. The guarantee period for work affected by the defect shall restart for its remaining duration upon confirmation by the Engineer that the deficiencies have been repaired or remedied.

7.35.5 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 Specification sections.

7.35.5.1 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.

### **7.36 WORK OF AND CHARGES BY UTILITIES**

7.36.1 The Contractor shall be responsible for scheduling and coordinating the work with the utility companies and applicable Governmental agencies for permanent service installation and connections or modifications to existing utilities. The Contractor shall make available all portions of the work necessary for the Utility companies to do their work. The Department shall not bear the risk of any damage to the contract work caused by any utility company, and work of repairing such damage and delay costs must be resolved between the Contractor and the utility company and their insurers.

7.36.2 Unless stated as an allowance item to be paid by the Contractor, the Department will pay the utility companies and applicable governmental agencies directly for necessary modifications and connections. Contractor charges for overhead, supervision, coordination, profit, insurance and any other incidental expenses shall be included in the Contractor's Bid whether the utility is paid directly by the Department or by an allowance item in the Contract.

### **7.37 RIGHT TO AUDIT RECORDS**

7.37.1 Pursuant to Section 103D-317 HRS the State, at reasonable times and places, may audit the books and records of a Contractor, prospective contractor, subcontractor and prospective subcontractor relating to the Contractor's or subcontractor's cost or pricing data. The books and records shall be maintained by the Contractor and subcontractor(s) for a period of four (4) years from the date of final payment under the contract.

7.37.2 The Contractor shall insure that its subcontractors comply with this requirement and shall bear all costs (including attorney's fees) of enforcement in the event of its subcontractor's failure or refusal to fully cooperate.

7.37.3 Additionally, Sections 231-7, 235-108, 237-39 and other HRS chapters through reference, authorizes the Department of Taxation to audit all taxpayers conducting business within the State. Contractors must make available to the Department of Taxation all books and records necessary to verify compliance with the tax laws.

#### **7.38 RECORDS MAINTENANCE, RETENTION AND ACCESS**

7.38.1 The Contractor and any subcontractor whose contract for services is valued at \$25,000 or more shall, in accordance with generally acceptable accounting practices, maintain fiscal records and supporting documents and related files, papers, and reports that adequately reflect all direct and indirect expenditures and management and fiscal practices related to the Contractor and subcontractor's performance of services under this Agreement.

7.38.2 The representative of the Department, the Adjutant General of the State of Hawaii, the Attorney General, (the Federal granting agency, the Comptroller General of the United States, and any of their authorized representatives when federal funds are utilized), and the Legislative Auditor of the State of Hawaii shall have the right of access to any book, document, paper, file, or other record of the Contractor and any subcontractor that is related to the performance of services under this Agreement in order to conduct an audit or other examination and / or to make copies, excerpts and transcripts for the purposes of monitoring and evaluating the Contractor and subcontractor's performance of services and the Contractor and subcontractor's program, management, and fiscal practices to assure the proper and effective expenditure of funds and to verify all costs associated with any claims made under this Agreement.

7.38.3 The right of access shall not be limited to the required retention period but shall last as long as the records are retained. The Contractor and subcontractor shall retain all records related to the Contractor and subcontractor's performance of services under this

Agreement for four (4) years from the date of final payment, except that if any litigation, claim, negotiation, investigation, audit or other action involving the records has been started before the expiration of the four (4) year period, the Contractor and subcontractors shall retain the records until completion of the action and resolution of all issues that arise from it, or until the end of the four (4) year retention period, whichever occurs later. Furthermore, it shall be the Contractor's responsibility to enforce compliance with this provision by any subcontractor.

### **ARTICLE 8 - Measurement and Payment**

#### **8.1 MEASUREMENT OF QUANTITIES**

8.1.1 All work completed under the Contract shall be measured by the Engineer according to United States standard measures, or as stated in this Contract. The method of measurement and computations to be used in determination of quantities of material furnished and of work performed under the contract shall conform 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 physical measurement before the work has progressed in a manner which would prohibit a proper check.

8.1.2 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 or structures having an 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 driven length from toe to top of cutoff, 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. 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 approved 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 therefore, 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 rejecting the work or materials that 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 its sureties such damages as the Department 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, or 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 notice requirement or breach of the contract shall not be held to be a waiver of any other notice requirement or subsequent breach.

### **8.3 PAYMENT FOR ADDITIONAL WORK**

**8.3.1 Payment for Changed Conditions** – A contract modification or change order complying with section 4.4 PRICE ADJUSTMENT and section 4.5 ALLOWANCES FOR OVERHEAD AND PROFIT shall be issued for all changes that are directed under Section 4.2 CHANGES. No payment for any change including work performed under the force account provisions will be made until a change order is issued or contract modification is executed.

**8.3.1.1** At the completion of the force account work or at an intermediate interval approved by the Engineer, the contractor shall submit its force account cost proposal, including; approved daily force account records with any attached invoices or receipt, to the Engineer for processing a contract modification or change order.

**8.3.2** On credit proposals and 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.

**8.3.3** When payment is to be made for additional work directed by a field order, the total price adjustment as specified in the field order or if not specified therein for the work contained in the related change order shall be considered full compensation for all materials, labor, insurance, taxes, equipment use or rental and overheads, both field and home office including extended home and branch office overhead and other related delay impact costs.

**8.3.4 Force Account Method** - When, for the convenience of the Department, payment is to be made by the Force Account method, all work performed or labor and materials and equipment furnished shall be paid for as

described below. Payment by the Force Account method will not alter any rights, duties and obligations under the contract.

**8.3.4.1 Labor** - For all hourly workers, 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.

(a) All markups for overhead and profit shall be added subject to limitations established in Section 4.5 ALLOWANCES FOR OVERHEAD AND PROFIT.

(b) No allowance for overtime compensation will be given without the written approval of the Engineer prior to performance of such work.

**8.3.4.2 Insurance and Taxes** - The Contractor and subcontractor(s) will also receive the actual additional costs paid for property damage, liability, workers compensation insurance premiums, State unemployment contributions, Federal unemployment taxes, social security and Medicare taxes to which a markup of up to six percent (6%) may be added.

**8.3.4.3 Materials** - For materials accepted by the Engineer and used, the Contractor and subcontractor(s) shall receive the actual cost of such materials delivered and incorporated into work, plus a markup allowed under Section 4.5 ALLOWANCES FOR OVERHEAD AND PROFIT.

**8.3.4.4 Subcontractors** - Subcontractor costs shall be the actual costs of the subcontractor marked up as defined in this Section 8.3 plus a markup allowed under Section 4.5 ALLOWANCES FOR OVERHEAD AND PROFIT.

#### **8.3.4.5 Equipment**

(1) For machinery or special equipment (other than small tools as herein defined in clause 8.3.4.5.(h) owned or leased by the Contractor or a related entity, the use of which has been authorized by the Engineer:

(a.) 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.

- (b.) 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. If there is no agreement, the Engineer will set a rate. The Contractor may contest the rate pursuant to Section 7.25 DISPUTES AND CLAIMS.
- (c.) 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.
- (2) For machinery or special equipment (other than small tools as herein defined in clause 8.3.4.5.(h) rented by the Contractor or a related entity specifically for the Force Account work, the use of which has been authorized by the Engineer; The Contractor will be paid the actual rental cost for the machinery or equipment, including mobilization and demobilization costs. A receipt from the equipment supplier shall be submitted to the Engineer.
- (3) For machinery or special equipment (other than small tools as herein defined in clause 8.3.4.5. (h) rented by the Contractor or a related entity for use in the project, but which will also be used for the Force Account work, the use of which has been authorized by the Engineer; The Contractor will be paid the actual rental cost for the machinery or equipment. No additional mobilization and demobilization costs will be paid. A receipt from the equipment supplier shall be submitted to the Engineer.
- (4) 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 an equipment item pursuant to paragraph 8.3.4.5. 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. If there is no agreement, the Engineer shall set the rate. The Contractor may contest the rate pursuant to Section 7.25 DISPUTES AND CLAIMS.
- (5) 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 equipment is no longer needed. 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, excluding Saturdays, Sundays and Legal Holidays, unless the equipment is used to perform work on such days, the rental shall be two hours per day until the equipment is no longer needed.
- (5.1) The rental time to be paid will be for the time actually used. Any hours or operation in excess of 8 hours in any one day must be approved by the Engineer prior to the performance of such work.
- (5.2) 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.
- (5.3) In the event the Force Account work is completed in less than 8 hours, equipment rental shall nevertheless be paid for a minimum 8 hours.
- (5.4) 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.
- (5.5) No additional premium beyond the normal rates used will be paid for equipment over 8 hours per day or 40 hours per week.
- (6) 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.
- (7) 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.
- (8) Individual pieces of equipment or tools having a replacement value of one thousand dollars (\$1,000) or less, whether or not consumed by use, shall be considered to be small tools and included in the allowed markup for overhead and profit and no separate payment will be made therefore.

(9) The total of all Force Account rental charges accrued over the duration of the contract for a specific item of equipment shall not exceed the replacement cost of that equipment.

(9.1) The Contractor shall provide the cost of replacement to the Engineer prior to using the equipment. If the Engineer does not agree with the replacement cost, the Engineer shall set the replacement cost. The Contractor may contest the replacement cost pursuant to Section 7.25 DISPUTES AND CLAIMS.

(10) Should the item of equipment be rented from an unrelated entity, the rental cost will be treated as an equipment cost under paragraph 8.3.4.5.

(11) Transportation and/or Mobilization: The following provisions shall govern in determining the compensation to be paid to the Contractor for use of equipment or machinery on the Force Account method:

(11.1) The location from which the equipment is to be moved or transported shall be approved by the Engineer.

(11.2) Where the equipment must be transported to the site of the force account work, the Department will pay the reasonable 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 reasonable cost of mobilizing and transporting the equipment back to its original location or to another location, whichever cost is less.

(11.3) 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.

(11.4) 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 reasonable cost of moving of the Equipment back to its original or another location, whichever cost is less.

(11.5) At the discretion of the Engineer, when the Contractor desires to use such equipment for other than Force Account work, the costs of mobilization and transportation shall be prorated between the Force Account and non Force Account work.

(12) Pickup trucks, vans, storage trailers, unless specifically rented for the Force Account work, shall be considered incidental to the Force Account work and the costs therefore are included in the markup allowed under Section 4.5 ALLOWANCES FOR OVERHEAD AND PROFIT.

8.3.4.6 State Excise (Gross Income) Tax and Bond - A sum equal to the current percentage rate for the State excise (Gross Income) tax on the total sum determined in paragraphs 8.3.4.1, 8.3.4.2, 8.3.4.3 and 8.3.4.4 above, and the bond premium shall be added as compensation to the Contractor. The actual bond premium not to exceed one percent (1%) shall be added to items covered by paragraphs 8.3.4.1, 8.3.4.2, 8.3.4.3 and 8.3.4.4 when applicable.

The compensation as determined in paragraphs 8.3.4.1, 8.3.4.2, 8.3.4.3, 8.3.4.4 and 8.3.4.5 above shall be deemed to be payment in full for work paid on a force account basis.

8.3.4.7 Records - The Contractor and the Engineer shall compare records of the labor, materials and equipment rentals paid by the Force Account basis at the end of each day. These daily records, if signed by both parties, shall thereafter be the basis for the quantities to be paid for by the Force Account method. The Contractor shall not be entitled to payment for Force Account records not signed by the Engineer.

8.3.4.8 Statements - No payment will be made for work 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

(c.1) Quantities of materials, prices and extensions

(c.2) Costs of transporting materials, if such cost is not reflected in the prices of the materials.

(c.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 stock and that the amount claimed represents the actual cost to the Contractor.

(d) Insurance - Cost of property damage, liability and worker's compensation insurance premiums, unemployment insurance contributions, and social security tax.

#### **8.4 PROGRESS AND / OR PARTIAL PAYMENTS**

8.4.1 Progress Payments - The Contractor will be allowed progress payments on a monthly basis upon preparing the Monthly Payment Application forms and submitting them to the Engineer. The monthly payment 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 as determined by the Engineer and will be subject to compliance with Section 7.9 PAYROLLS AND PAYROLL RECORDS.

8.4.2 In the event the Contractor or any Subcontractor fails to submit certified copies of payrolls in accordance with the requirements of Section 7.9 PAYROLLS AND PAYROLL RECORDS, the Engineer may retain 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 until such records have been duly submitted. The Contractor shall not be due any interest payment for any amount thus withheld.

8.4.3 Payment for Materials - The Contractor will also be allowed payments of the manufacturer's, supplier's, distributor's or fabricator's invoice cost of accepted materials to be incorporated in the work on the following conditions:

8.4.3.1 The materials are delivered and properly stored at the site of Work; or

8.4.3.2 For special items of materials accepted by the Engineer, the materials are delivered to the Contractor or subcontractor(s) and properly stored in an acceptable location within a reasonable distance to the site of Work.

8.4.4 Partial payments shall be made only if the Engineer finds that:

8.4.4.1 The Contractor has submitted bills of sale for the materials or otherwise demonstrates clear title to such materials.

8.4.4.2 The materials are insured for their full replacement value to the benefit of the Department against theft, fire, damages incurred in transportation to the site, and other hazards.

8.4.4.3 The materials are not subject to deterioration.

8.4.4.4 In case of materials stored off the project site, the materials are not commingled with other materials not to be incorporated into the project.

#### **8.5 PROMPT PAYMENT §3-125-23 HAR**

8.5.1 Any money paid to a Contractor for work performed by a subcontractor shall be disbursed to such subcontractor 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 on which the Engineer has withheld payment.

8.5.2 Upon final payment to the Contractor, full payment to all subcontractors shall be made within ten (10) days after receipt of the money, provided there are no bona fide disputes over the subcontractor's performance under the subcontract.

8.5.3 All sums retained or withheld from a subcontractor and otherwise due to the subcontractor for satisfactory performance under the subcontract shall be paid by the contracting officer to the contractor and subsequently, upon receipt from the contracting officer, by the contractor to the subcontractor within the applicable time periods specified in subsection 8.5.2 and section 103-10 HRS.

8.5.3.1 Where a subcontractor has provided evidence to the contractor of satisfactorily completing all work under their subcontract and has provided a properly documented final payment request as described in subsection (8.5.5) of this section, and;

8.5.3.1.a Has provided to the contractor an acceptable performance and payment bond for the project executed by a surety company authorized to do business in the State, as provided in section 8.6 RETAINAGE; or

8.5.3.1.b The following has occurred:

8.5.3.1.b.1 A period of ninety days after the day on which the last of the labor was done or performed and the

last of the material was furnished or supplied has elapsed without written notice of a claim given to contractor and the surety, as provided for in section 103D-324 HRS; and

8.5.3.1.b.2 The subcontractor has provided to the contractor:

8.5.3.1.b.2.1 An acceptable release of retainage bond, executed by a surety company authorized to do business in the State, in an amount of not more than two times the amount being retained or withheld by the contractor.

8.5.3.1.b.2.2 Any other bond acceptable to the contractor; or

8.5.3.1.b.2.3 Any other form of mutually acceptable collateral.

8.5.4 If the contracting officer or the contractor fails to pay in accordance with this section, a penalty of one and one-half per cent per month shall be imposed upon the outstanding amounts due that were not timely paid by the responsible party. The penalty may be withheld from future payment due to the contractor, if the contractor was the responsible party. If a contractor has violated subsection 8.5.2 three or more times within two years of the first violation, the contractor shall be referred by the contracting officer to the contractor license board for action under section 444-17(14) HRS.

8.5.5 Final Payment Request. A properly documented final payment request from a subcontractor, as required by subsection 8.5.3, shall include:

8.5.5.1 Substantiation of the amounts requested;

8.5.5.2 A certification by the subcontractor, to the best of the subcontractor's knowledge and belief, that:

8.5.5.2.a The amounts requested are only for performance in accordance with the specification, terms, and conditions of the subcontract;

8.5.5.2.b The subcontractor has made payments due to its subcontractors and suppliers from previous payments received under the subcontract and will make timely payments from the proceeds of the payment covered by the certification, in accordance with their subcontract agreements and the requirements of this section; and

8.5.5.2.c The payment request does not include any amounts that the subcontractor intends to withhold or retain from a subcontractor or supplier in accordance with the terms and conditions of their subcontract; and

8.5.5.2.d The submission of documentation confirming that all other terms and conditions required under the subcontract agreement have been fully satisfied.

8.5.6 The Engineer shall return any final payment request that is defective to the contractor within seven days after receipt, with a statement identifying the defect.

8.5.7 A payment request made by a contractor to the Engineer that includes a request for sums that were withheld or retained from a subcontractor and are due to a subcontractor may not be approved under subsection 8.5.3 unless the payment request includes:

8.5.7.1 Substantiation of the amounts requested; and

8.5.7.2 A certification by the contractor, to the best of the contractor's knowledge and belief, that:

8.5.7.2.a The amounts requested are only for performance in accordance with the specifications, terms, and conditions of the contract;

8.5.7.2.b The subcontractor has made payments due to its subcontractors and suppliers from previous payments received under the contract and will make timely payments from the proceeds of the payment covered by the certification, in accordance with their subcontract agreements and the requirements of this section; and

8.5.7.2.c The payment request does not include any amounts that the contractor intends to withhold or retain from a subcontractor or supplier in accordance with the terms and conditions of their subcontract.

8.5.8 The Engineer shall return any final payment request that is defective to the contractor within seven days after receipt, with a statement identifying the defect.

8.5.9 This section shall not be construed to impair the right of a contractor or a subcontractor at any tier to negotiate and to include in their respective subcontracts provisions that provide for additional terms and conditions that are requested to be met before the subcontractor shall be entitled to receive final payment under subsection 8.5.3 of this section; provided that any such payments withheld shall be withheld by the Engineer.

**8.6 RETAINAGE** – The Department will retain a portion of the amount due under the contract to the contractor, to ensure the proper performance of the contract.

8.6.1 The sum withheld by the Department from the contractor shall not exceed five percent (5%) of the total amount due the contractor and 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 Engineer may continue to withhold as retainage, sums not exceeding five percent (5%) of the amount due the contractor.

8.6.2 The retainage shall not include sums deducted as liquidated damages from moneys due or that may become due the contractor under the contract.

8.6.3 General Obligation Bonds – The contractor may withdraw retainage monies in whole or in part by providing a general obligation bond of the State or its political subdivisions suitable to the Department. The contractor shall endorse over to the Department and deposit with the Department any general obligation bond suitable to the Department, but in no case with a face value less than the value established by law, of the amount to be withdrawn. The Department may sell the bond and use the proceeds in the same way as it may use monies directly retained from progress payments or the final payment.

8.6.4 Any retainage provided for in this section or requested to be withheld by the contractor shall be held by the Engineer.

8.6.5 A dispute between a contractor and subcontractor of any tier shall not constitute a dispute to which the State or any county is a party, and there is no right of action against the State or any county. The State and a county may not be interpleaded in any judicial or administrative proceeding involving such a dispute.

8.6.6 The retention amount withheld by the contractor from its subcontractor shall be not more than the same percentage of retainage as that of the contractor (also applies to subcontractors who subcontract work to other subcontractors) where a subcontractor has provided evidence to the contractor of:

8.6.6.1 A valid performance and a payment bond for the project that is acceptable to the contractor and executed by a surety company authorized to do business in this State;

8.6.6.2 Any other bond acceptable to the contractor; or

8.6.6.3 Any other form of collateral acceptable to the contractor.

8.6.7 A written notice of any withholding shall be issued to a subcontractor, with a copy to the procurement officer, specifying the following:

8.6.7.1 The amount to be withheld;

8.6.7.2 The specific causes for the withholding under the terms of the subcontract; and

8.6.7.3 The remedial actions to be taken by the subcontractor to receive payment of the amounts withheld.

8.6.8 The provisions of this section shall not be construed to require payment to subcontractors of retainage released to a contractor pursuant to an agreement entered into with the contracting officer meeting the requirements of subsection 8.6.3.

**8.7 WARRANTY OF CLEAR TITLE** - The Contractor warrants and guarantees that all work and materials covered by progress payments made thereon shall be free and clear of all liens, claims, security interests or encumbrances, and shall become the sole property of the Department. 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 Department to require the fulfillment of all the items of the contract.

## **8.8 FINAL PAYMENT**

8.8.1 Upon final settlement, 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 a Tax Clearance Certificate from the Department of Taxation and the Internal Revenue Service to the effect that all taxes levied or accrued under Federal and State Statutes against the contractor have been paid.

8.8.2 Sums necessary to meet any claims of any kind by the State may be retained from the sums due the Contractor until said claims have been fully and completely discharged or otherwise satisfied.

**8.9 CLAIMS ARISING OUT OF PAYMENT FOR REQUIRED WORK** - If the Contractor disputes any determination made by the Engineer regarding the amount of work satisfactorily completed, or the value thereof, or the manner in which payment therefore is made or calculated, it shall notify the Engineer in writing of the specific facts supporting the Contractor's position. Such notice shall be delivered to the Engineer no later than thirty (30) days after the Contractor has been tendered payment for the subject work, or, if no payment has been tendered, not later than fifty (50) days after it has submitted the Monthly Payment Application required under Section 8.4 PROGRESS PAYMENTS herein to the Engineer for the work that is the subject of the dispute. The delivery of the written notice cannot be waived and shall be a condition precedent to the filing of the claim. No claim for additional compensation for extra work or change work shall be allowed under this provision, unless the notice requirements of Article 4 SCOPE OF WORK have been followed. Acceptance of partial payment of a Monthly Payment Application amount shall not be deemed a waiver of the right to make a claim described

herein provided the notice provisions are followed. The existence of or filing of a payment claim herein shall not relieve the Contractor of its duty to continue with the performance of the contract in full compliance with the directions of the Engineer. Any notice of claim disputing the final payment made pursuant to Section 8.8 FINAL PAYMENT must be submitted in writing not later than thirty (30) days after final payment that is identified as such has been tendered to the Contractor.

## **ARTICLE 9 - CONFIDENTIALITY OF PERSONAL INFORMATION**

9.1 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.

### **9.2 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.

### **9.3 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.

9.4 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.

### **9.5 Records Retention.**

- (1) Upon any termination of this Contract, 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 three (3) years after the date of final payment under the Contract. The personal information shall continue to be confidential and shall not be disclosed without the prior written approval of the STATE. After the three (3) year retention period has ended, the files, books, and records that contain personal information shall be destroyed pursuant to chapter 487R, HRS.

ADDITIONAL GENERAL CONDITIONS FOR  
CONSTRUCTION CONTRACTS

*The following sections of the Hawaii Administrative Rules, Chapter 3-125 are amended as shown below.*

CHANGES FOR CONSTRUCTION CONTRACTS - HAR 3-125-4

1. Change Order. The procurement officer, at any time, and without notice to any surety in a signed writing designated or indicated to be a change order, may make changes in the work within the scope of the contract as may be found to be necessary or desirable. Such changes shall not invalidate the contract or release the sureties, and the contractor will perform the work as changed, as though it had been part of the original contract. Minor changes in the work may be directed by the procurement officer with no change in contract price or time or performance.
2. 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 may be made and the contract modified in writing accordingly. Any adjustment in contract price made pursuant to this clause shall be determined in accordance with the price adjustment clause of this contract. Failure of the parties to agree to an adjustment shall not excuse a contractor from proceeding with the contract as changed, provided that the State promptly and duly makes such provisional adjustments in payment or time for the direct costs of the work as changed as the State deems reasonable. The right of the contractor to dispute the contract price or time required for performance or both shall not be waived by its performing the work, provided however, that it follows the notice requirements for disputes and claims established by the contract or these rules.
3. Time Period for Claim. Within thirty days after receipt of a written change order under paragraph (1), unless such period is extended by the procurement officer in writing, the contractor shall file a notice of intent to assert claim for an adjustment. The requirement for timely written notice cannot be waived and shall be a condition precedent to the assertion of a claim.
4. Claim barred after final payment. No claim by the contractor for an adjustment hereunder shall be allowed if written notice is not given prior to final payment under this contract.
5. Claims not barred. In the absence of such a change order, nothing in this clause shall restrict the contractor's right to pursue a claim under the contract or for breach of contract.

PRICE ADJUSTMENT FOR CONSTRUCTION CONTRACTS - HAR 3-125-13.

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

- a. By agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;
  - b. By unit prices specified in the contract or subsequently agree upon;
  - c. Whenever there is a variation in quantity for any work covered by any line item in breakdown costs provided by the contractor pursuant to contractual pre-work submittal requirements, by the procurement officer, at the procurement officer's discretion, adjusting the lump sum price proportionately;
  - d. In such other manner as the parties may mutually agree;
  - e. At the sole option of the procurement officer, by the costs attributable to the event or situation covered by the change, plus appropriate profit or fee; or
  - f. In the absence of agreement between the parties, by a unilateral determination by the procurement officer of the costs attributable to the event or situation covered by the clause, plus appropriate profit or fee, all as computed by the procurement officer in accordance with generally accepted accounting principles and applicable sections of chapters 3-123 and 3-126 of the Hawaii Administrative Rules.
2. Determining the cost or credit. In determining the cost or credit to the State resulting from a change, the allowances for all overhead, extended overhead resulting from adjustments to contract time (including home office and field overhead) and profit combined, shall not exceed the percentages set forth below:
  - a. For the contractor, for any work performed by its own labor forces, fifteen per cent of the cost;
  - b. For each subcontractor involved, for any work performed by its own forces, fifteen per cent of the cost;
  - c. For the contractor or any subcontractor, for work performed by their subcontractors, seven per cent of the amount due the performing subcontractor.
3. Percentages for fee and overhead. Not more than three line item percentages for fee and overhead, not to exceed the maximum percentages shown above, will be allowed regardless of the number of tier subcontractors.

#### PROMPT PAYMENT BY CONTRACTORS TO SUBCONTRACTORS – HAR 3-125-23

1. Prompt payment clause. Any money, other than retainage, paid to a contractor shall be dispersed to subcontractors within ten 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, upon final payment to the contractor, full payment to the subcontractor, including retainage, shall be made within ten days after receipt of the money; provided that there are no bona fide disputes over the subcontractor's performance under the subcontract.

## **A.0.1.6 SPECIAL CONDITIONS**

### **1. GENERAL CONDITIONS**

- a. As specified in the GENERAL CONDITIONS: The *GENERAL CONDITIONS* and these *SPECIAL CONDITIONS* shall govern all work specified in all Divisions and Sections.
- b. Revisions to the *GENERAL CONDITIONS*: The following conditions included in this paragraph and subparagraphs shall govern respective items in the published the *GENERAL CONDITIONS* and *ADDITIONAL GENERAL CONDITIONS FOR CONSTRUCTION CONTRACTS*.
  - 1) Under ARTICLE 3 - AWARD AND EXECUTION OF CONTRACTS, modify section 3.11 NOTICE TO PROCEED by deleting subsections 3.11.1 and 3.11.2 and substitute the following:

"3.11.1 After the contract is fully executed and signed by the Comptroller, the Contractor will be sent a letter allowing the ordering of approved materials before the formal Notice to Proceed letter is sent. Subsequently, the formal Notice to Proceed letter will be sent informing the Contractor of the date on which it shall proceed with the designated work. The Contractor shall be allowed ten (10) consecutive working days from said date to begin its work. In the event that the Contractor refuses or neglects to start the work, the Comptroller may terminate the contract in accordance with Section 7.27 TERMINATION OF CONTRACT FOR CAUSE."

### **2. SPECIALTY CONTRACTOR'S AND SUBCONTRACTOR'S LICENSE**

Contractor shall be solely responsible to assure that all the specialty licenses required to perform the work are covered by the Contractor or its Subcontractor(s) or joint Contractors.

### **3. WORKING HOURS**

- a. The regular working hours for this project is from 7:00 AM to 4:30 PM Monday through Friday, excluding State Holidays, unless otherwise noted or restricted under PROJECT REQUIREMENTS. In the event of conflict, the working hours provisions of specification PROJECT REQUIREMENTS shall govern over this item.
- b. The Contractor may be given approval to work beyond the regular hours including Saturdays, Sundays, State Holidays, night work, or after hours under the provisions of the GENERAL CONDITIONS, Article 7 - PROSECUTION AND PROGRESS, Section 7.10, OVERTIME AND NIGHT WORK and under specifications PROJECT REQUIREMENTS.

### **4. ACT 105 (Session Laws of Hawaii 2011) - TEMPORARY SUSPENSION OF GENERAL EXCISE AND USE TAX EXEMPTIONS**

- a. Act 105 temporarily suspends the general excise tax and use tax exemptions for certain amounts received by certain persons and, instead, requires those persons to pay the applicable tax on those amounts at a specified rate. The suspension and imposition of the tax commences on July 1, 2011 and ends on June 30, 2013.

- b. Bidders can view Act 105 on the Hawaii State Legislature website at:

<http://www.capitol.hawaii.gov/session2011/lists/RptActs.aspx>

- c. Bidders are informed of Act 105 which shall apply to this project. No additional compensation shall be allowed due to Act 105.

## **5. COMPREHENSIVE ANNUAL FINANCIAL REPORTING**

- a. For any project that involves work on multiple structures, including non-building structures, whether it be new work or renovation work, or when the project involves both site improvements and a structure, the Contractor shall provide the following information to the Contracting Officer for fixed asset allocation purposes:

- 1) Within 30 calendar days of award as applicable to the project, the following shall be submitted:
  - a) The total cost of each individual structure;
  - b) The total cost of on-site improvement work; and
  - c) The total cost of off-site improvement work.
- 2) After all work, including all change order work has been completed, and prior to a request for final payment, the following shall be submitted:
  - a) The total cost of each individual structure including any related change order cost;
  - b) The total cost of on-site improvement work including any related change order cost; and
  - c) The total cost of off-site improvement work including any related change order cost.
- 3) The sum total cost of each category noted above shall total to the contract amount awarded, plus all change order work issued.
  - a) The cost of each individual structure includes the cost of the structure and any work within five (5) feet of the structure or building line which may include, but is not limited to its foundation, foundation earthwork, and utility improvements within and immediately below the building line.
  - b) The on-site improvement cost includes all site improvement work from five (5) feet and beyond the building line and up to the project's property line, which may include but is not limited to clearing and grubbing, grading, drainage system, site utility, walkway, parking lot, and landscape improvements.
  - c) The off-site improvement cost includes all off-site improvement work outside the of the project's property line, which may include but is not limited to walkway, landscape, drainage, utility, and roadway improvements.

## 6. COMPLIANCE WITH THE DAVIS-BACON ACT

- a. General: This project intends to use federal funds for construction and is therefore subject to the requirements of the Davis-Bacon Act. For this project, the Contractor shall comply with the guidelines of both Chapter 104 HRS (<https://hidot.hawaii.gov/highways/files/2024/10/eH104-3-rev-05-24.pdf>) and the Davis-Bacon Act (<https://sam.gov/wage-determination/HI20260001/3>).
- b. Posting Requirements: The Contractor shall be required to post the applicable Davis-Bacon Wage Determination with the Davis-Bacon Poster (WH-1321) [see Attachments to this section] on the job site in a prominent and accessible place where they may be easily seen by workers.
- c. Davis-Bacon Contract Provisions:
  - 1) Provisions applicable to any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a public building or public work, or building or work financed in whole or in part from federal funds:
    - a) Minimum Wages:
      - (1) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at the time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics.

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

Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by workers.

(2) Classification:

- (a) The Contracting Officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The Contracting Officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met.
  - i. The work to be performed by the classification requested is not performed by a classification in the wage determination; and
  - ii. The classification is utilized in the area by the construction industry; and
  - iii. The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- (b) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Contracting Officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the Contracting Officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.
- (c) In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives, and the Contracting Officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the Contracting Officer shall refer the questions, including the views of all interested parties and the recommendation of the Contracting Officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.
- (d) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.a.2)b) or 1.a.2)c) of this section, shall be paid to all workers performing work within the

classification under this contract from the first day on which work is performed in the classification.

- (3) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
  - (4) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program provided, that the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.
- b) Withholding: The State Department of Defense shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Contractor under this contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime Contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the State Department of Defense may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.
- c) Payrolls and Basic Records:
- (1) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid.

(2) Submittals:

(a) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the U.S. Department of Homeland Security if the agency is a party to the contract, but if the agency is not such a party, the Contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to the U.S. Department of Homeland Security. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division website at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime Contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the State Department of Defense if the agency is a party to the contract, but if the agency is not such a party, the Contractor will submit them to the applicant, sponsor, or owner, as the case may be, for transmission to the State Department of Defense, the Contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime Contractor to require a subcontractor to provide addresses and social security numbers to the prime Contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, sponsor, or owner).

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance", signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

- i. That the payroll for the payroll period contains the information required to be provided under § 5.5(a)(3)(ii) of Regulations, 29 CFR Part 5, the appropriate information is being maintained under §5.5(a)(3)(i) of Regulations, 29 CFR Part 5, and that such information is correct and complete;
- ii. That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR Part 3;

- iii. That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.
  - (c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 1.c.2)b) of this section.
  - (d) The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under §1001 of Title 18 and § 231 of Title 31 of the United States Code.
- (3) The Contractor or subcontractor shall make the records required under paragraph 1.c.1) of this section available for inspection, copying, or transcription by authorized representatives of the State Department of Defense or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.
- d) Apprentices and Trainees:
- (1) Apprentices: Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage

rate on the wage determination for the work actually performed. Where a Contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of the fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

- (2) Trainees: Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than

the applicable predetermined rate for the work performed until an acceptable program is approved.

- (3) Equal Employment Opportunity: The utilization of apprentices, trainees, and journeymen under this part shall be in conformity with the equal opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.
- e) Compliance with Copeland Act Requirements: The Contractor shall comply with the requirements of 29CFR Part 3, which are incorporated by reference in this contract.
- f) Subcontracts: The Contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the State Department of Defense may by appropriate instructions require, and also a clause requiring subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.
- g) Contract Termination: A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a Contractor and a subcontractor as provided in 29 CFR 5.12.
- h) Compliance with Davis-Bacon and Related Act Requirements: All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.
- i) Disputes Concerning Labor Standards: Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of the contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency the U.S. Department of Labor, or the employees or their representatives.
- j) Certification of Eligibility:
  - (1) By entering into this contract, the Contractor certifies that neither it (nor her or she) or any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
  - (2) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
  - (3) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

- d. Prevailing Wages: For this contract, the Contractor shall pay the higher of the Davis-Bacon "prevailing wage" as listed in the applicable Davis-Bacon wage determination and the applicable Chapter 104, HRS prevailing wage rate schedule as published by the State of Hawaii Department of Labor and Industrial Relations. Current State of Hawaii wage rate schedules can be found at <http://hawaii.gov/labor/rs/wrs/wrs.htm>.

## **7. Additional Liability Insurance**

The contractor's policies shall name the County of Hawaii as an additional insured entity and assign such as a Certificate Holder.

Additional Insured: County of Hawaii  
25 Aupuni Street  
Hilo, Hawaii 96720

Certificate Holder: Department of Parks and Recreation, County of Hawaii  
101 Pauahi Street, Suite 6  
Hilo, Hawaii 96720

STATE OF HAWAII  
DEPARTMENT OF DEFENSE  
OFFICE OF THE ADJUTANT GENERAL  
3949 DIAMOND HEAD ROAD  
HONOLULU, HAWAII 96816-4495

**A.0.1.8 - NOTICE TO BIDDERS - CONSTRUCTION**

COMPETITIVE SEALED BIDDING (IFB) for "Gravesite Restoration for East Hawaii Veterans Cemetery No. 2, Hilo, Hawaii, State of Hawaii, Department of Defense, Office of Veterans Services, Job No. CA-202617-C" will be issued and awarded by the Department of Defense, Engineering Office via Hawaii Electronic Procurement System (HlePRO). **All bids shall be submitted and uploaded through HlePRO prior to and no later than 2:00 P.M. HST on Tuesday, August 4, 2026.** The record of each Bidder and their respective proposal shall be open to public inspection by request for copies of bids. Late bids will not be accepted after the due date and time or received in any other form than electronically through HlePRO.

Proposed Scope of Work consists of, but not limited to: Headstone raising, realignment and cleaning, grading and turf installation of disturbed areas at the East Hawaii Veterans Cemetery No. 2. The estimated construction cost is between \$2.5 million and \$5 million.

A Site Visit/Pre-bid meeting will be held on July 29, 2026, at 9:00 a.m. The site visit will start at the East Hawaii Veterans Cemetery at 9:00 a.m., July 29, 2026, with Wade Ishii. Please email Mr. Ishii at [wade.t.ishii@hawaii.gov](mailto:wade.t.ishii@hawaii.gov) before July 27, 2026, to register for the site visit. All interested bidders and sub-contractors are welcome, but not required to attend.

Bidders are advised that they should not wait until the last minute to submit their bid through HlePRO. Bidders are solely responsible for ensuring that their electronic submission through HlePRO is complete and all mandatory bid files are attached to their bid prior to the due date and time. The Engineering Office shall not be responsible for any delay or failure of any Bidder to submit any materials updated through the IFB process on a timely basis.

**QUESTIONS AND REQUESTS FOR CLARIFICATION**

Questions and Requests for Clarification regarding the Technical Specifications or any other aspect of the IFB must be submitted via HlePRO by **2:00 p.m. July 30, 2026**. Responses are scheduled to be posted on **August 3, 2026**. The Department of Defense, Engineering Office shall not be required to answer Questions or Requests for Clarification not submitted via HlePRO or received after the Questions and Requests for Clarification deadline.

Bidders are responsible for checking for any addenda for this project. The addenda will be posted on the HlePRO listing and at the State Department of Defense website at <http://dod.hawaii.gov/hieng/>

All documents can be downloaded from HlePRO and at the State Department of Defense website at <http://dod.hawaii.gov/hieng/>.

**REQUIREMENT FOR CONTRACTORS LICENSING CLASSIFICATIONS**

Due to the nature of the work contemplated Bidder must possess a valid State of Hawaii Contractor's license in the appropriate classification.

General Engineering Contractors holding an 'A' license and General Building Contractors holding a 'B' license 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.

Bidders are solely responsible to review the project requirements, determine the appropriate licenses required, and ensure that they possess and that the Subcontractor(s) listed in their OFFER FORM possess the necessary specialty licenses to perform the work for this project.

#### **PROJECT LABOR AGREEMENT**

A Project Labor Agreement (PLA) will be required for any construction project in excess of one million five hundred thousand dollars (\$1,500,000).

The Contractor who is awarded the project shall be required to submit to the Department of Defense, Engineering a complete, fully executed Agreement-To-Be-Bound within fourteen (14) calendar days of project award, or as soon thereafter as is practicable as determined by the Department. The Contractor must also obtain Letters of Assent from each subcontractor of whatever tier who may be employed on the project and submit copies of such Letters to the Department of Defense, Engineering within fourteen (14) calendar days of project award, or as soon thereafter as is practicable as determined by the Department. The required form of the Contractor's Agreement To Be Bound and the subcontractors' Letter of Assent may be found in the solicitation packet. Failure to timely submit any required Agreement-To-Be-Bound or any required Letter of Assent shall be cause for the State in its sole discretion to rescind the subject award and to award the project to: the responsive and responsible offerer with the next lowest bid price for solicitations made under HRS 103D-302; or the next highest ranked offerer satisfying all solicitation requirements for solicitations made under HRS 103D-303.

#### **OFFER DEEMED FIRM/AUTHORITY TO SUBMIT OFFER**

Submission of an electronic response to the State of Hawai'i constitutes and shall be deemed an offer to sell the specified goods and/or services to the State of Hawai'i at the price shown in the response and under the State's Terms and Conditions. The electronic response submitter certifies that he/she is authorized to sign the response for the submitting vendor and that the response is made without connection with any person, firm, or corporation making a response for the same goods and/or services and is in all respects fair and without collusion or fraud.

#### **CAMPAIGN CONTRIBUTIONS BY STATE AND COUNTY CONTRACTORS PROHIBITED**

If awarded a contract in response to this solicitation, offeror agrees to comply with HRS §11-355, which states that campaign contributions are prohibited from a State and County government contractor during the term of the contract if the contractor is paid with funds appropriated by the legislative body between the execution of the contract through the completion of the contract.

#### **HAWAI'I PRODUCTS' PREFERENCE**

In accordance with ACT 174, SLH 2022, effective June 27, 2022, Hawai'i Products Preference shall not apply to solicitations for public works construction. Therefore, the Hawai'i Products Preference shall not apply to this project.

Stephen F. Logan  
Major General  
Adjutant General

Posted on: July 20, 2026

## **A.0.2.0 GENERAL REQUIREMENTS**

### **A.0.2.1 PROJECT REQUIREMENTS**

#### **PART 1 - GENERAL**

##### **1.01 WORK COVERED BY CONTRACT DOCUMENTS**

- A. Project Identification: Project consists of investigating and designing the re-alignment and re-setting of the grave markers throughout the cemetery and replacing/re-grading the grass in affected areas.
  - 1. Project Location: East Hawaii Veterans Cemetery No. 2  
110 Laimana Street  
Hilo, Island of Hawaii, Hawaii
- B. Perform operations necessary to execute, complete and deliver the work as required by the Contract Documents.
- D. The sections into which these specifications are divided shall not be considered an accurate or complete segregation of work by trades. This also applies to work specified within each section.
- E. Contractor shall not alter the Drawings and Specification. If an error or discrepancy is found, notify the State of Hawaii, Department of Defense (SDOD), Engineering Office (HIENG) Designated Representative (HIENG-DR).
- F. Specifying of interface and coordination in the various specification sections is provided for information and convenience only. These requirements in the various sections shall complement the requirements of this section.

##### **1.02 SPECIFICATION FORMATS AND CONVENTIONS**

- A. Specification Content: The Specifications use certain conventions for the style of language and the intended meaning of certain terms, words, and phrases when used in particular situations. These conventions are as follows:
  - 1. Abbreviated Language: Language used in the Specifications and other Contract Documents is abbreviated 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. Words and meanings shall be interpreted as appropriate. Words implied, but not stated, shall be inferred, as the sense requires. Singular words shall be interpreted as plural, and plural words shall be interpreted as singular where applicable as the context of the Contract Documents indicates. 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.
  - 2. Imperative mood and streamlined language are generally used in the Specifications. Requirements expressed in the imperative mood are to be performed by Contractor.

Occasionally, the indicative or subjunctive mood may be used in the section text for clarity to describe responsibilities that must be fulfilled indirectly by Contractor or by others when so noted.

- a. The words “shall”, “shall be”, or “shall comply with”, depending on the context, are implied where a colon (:) is used within a sentence or phrase.
3. Abbreviations and Acronyms for Industry Organizations: Where abbreviations and acronyms are used in Specifications or other Contract Documents, they shall mean the recognized name of the entities indicated in Gale Research’s “Encyclopedia of Associations” or in Columbia Books’ “National Trade & Professional Associations of the U.S.”.

## B. Terms

1. Directed: Terms such as “directed”, “requested”, “authorized”, “selected”, “approved”, “required”, and “permitted” mean directed by the HIENG-DR, requested by the HIENG-DR, and similar phrases.
2. Indicated: The term “indicated” refers to graphic representations, notes, or schedules on drawings or to other paragraphs or schedules in specifications and similar requirements in the Contract Documents. Terms such as “shown”, “noted”, “scheduled”, and “specified” are used to help the user locate the reference.
3. Furnish: The term “furnish” means to supply and deliver to project site, ready for unloading, unpacking, assembly, and similar operations.
4. Install: The term “install” describes operations at project site including unloading, temporarily storing, unpacking, assembling, erecting, placing, anchoring, applying, working to dimension, finishing, curing, protecting, cleaning, and similar operations.
5. Provide: The terms “provide” or “provides” means to furnish and install, complete and ready for the intended use.
6. Installer: An installer is the Contractor or another entity engaged by Contractor as an employee, Subcontractor, or Sub-Subcontractor, to perform a particular construction operation, including installation, erection, application, and similar operations.
7. Submit: Terms such as “submit”, “furnish”, “provide”, and “prepare” and similar phrases in the context of a submittal, means to submit to the HIENG-DR via the Construction Manager (CM).

## C. Industry Standards

1. Applicability of Standards: Unless the Contract Documents include more stringent requirements, applicable construction industry standards have the same force and effect as if bound or copied directly into the Contract Documents to the extent referenced. Such standards are made a part of the Contract Documents by reference.

2. Publication Dates: Comply with standards in effect as of date of the Contract Documents, unless otherwise indicated.
3. Conflicting Requirements: If compliance with 2 or more standards is specified and the standards establish different or conflicting requirements for minimum quantities or quality levels, comply with the most stringent requirement. Refer uncertainties and requirements that are different, but apparently equal, to HIENG-DR for a decision before proceeding.

### **1.03 CONTRACT**

- A. For Contract Conditions, refer to the Notice to Bidders, Offer Form, Special Notice to Bidders, Special Provisions, General Conditions and other contract requirements provided in the project specifications.

### **1.04 NOT USED**

### **1.05 USE OF PREMISES AND WORK RESTRICTIONS**

- A. General: Contractor shall have full use of construction zones as specified in the construction plans for construction operations, including use of project site in affected areas only, during construction period. Contractor's use of premises is limited only by State's right to perform work or to retain other Contractors on portions of the project site.
- B. Contractor's use of premises is restricted as follows:
  1. Construction Times and Schedule:
    - a. Night, weekend and overtime work is allowed unless restricted elsewhere.
    - b. The project area shall be cleaned up and presentable for memorial events on Veterans Day in November and Memorial Day in May. No work is allowed on these days.
    - c. During internment ceremonies, the Contractor shall stop all noise producing work until the completion of the ceremony. Ceremonies usually last for 30 to 60 minutes, and may occur once per week. The Cemetery Operations Manager will notify the Contractor of internment ceremonies one week in advance.
  2. Site Access and Parking:
    - a. Parking: Parking for the Contractor's employees (or Subcontractors) will be limited to the available areas within the designated Project Contract Limits or in areas designated by the HIENG-DR. Do not use parking stalls in regularly designated parking zones within the Facility grounds. Unauthorized vehicles parked in any area outside of the designated project construction site will be subject to towing at the Contractor's expense.
    - b. Maintain access to the Loading area through Project Contract Limits.
  3. Sanitation: Provide self-contained combination toilet and urinal units as specified in TEMPORARY FACILITIES AND CONTROLS.
  4. Noise and Dust Control:
    - a. In adjacent locations surrounding the project site, noise, dust and other disrupting activities, resulting from construction operations, are detrimental to the conduct of

the Facility activities. Therefore, Contractor shall monitor its construction activities. Exercise precaution when using equipment and machinery to keep the noise and dust levels to a minimum.

- b. To reduce loud disruptive noise levels, ensure mufflers and other devices are provided on equipment, internal combustion engines and compressors.
- c. The HIENG-DR will require any construction activity that produces excessiveness of noise and dust to be performed during non-business hours. The HIENG-DR shall make the final determination. Overtime costs for the Contractor's employees and work force are the Contractor's responsibility.

5. Other Conditions:

- a. Arrange for construction debris and trash to be removed from project site weekly.
- b. Operate machinery and equipment with discretion and with minimum interference to driveways and walkways. Do not leave machinery and equipment unattended in the parking area and driveways.
- c. Store materials in the areas as designated by the HIENG-DR. Locate construction equipment, machinery, equipment and supplies within the Project Contract Limits.
- d. Keep access road to the project site free of dirt and debris. Provide, erect and maintain lights, barriers, signs, etc. when working on Facility driveways and walkways to protect pedestrians. Obey County traffic and safety regulations.
- e. All contractor and subcontractor employees shall park personal vehicles off site.

## **1.06 WORK UNDER OTHER CONTRACTS**

- A. Separate Contract: The State may execute a separate contract for certain construction at the project site that was not known at the time Offers were submitted.
- B. Cooperate fully with separate Contractors so work on those contracts may be carried out smoothly, without interfering with or delaying work under this Contract.

## **1.07 FUTURE WORK**

- A. It is not anticipated the State will award a future contract that depends on the Work under this contract.

## **1.08 MISCELLANEOUS PROVISIONS**

- A. Historical Archaeological Artifacts: All items having any apparent historical or archaeological interest discovered in the course of construction activities shall be carefully preserved. Should historic remains such as artifacts, burials, concentrations of shell or charcoal be encountered during the construction activities, work shall cease immediately in the adjacent vicinity of the find and the applicable site shall be protected from further damage. The Contractor shall immediately contact the HIENG-DR and the State Historic Preservation Division (SHPD) DLNR at (808) 692-8015. SHPD will assess the significance of the find and recommend an appropriate mitigation measure if necessary.

## **PART 2 - PRODUCTS (Not Used)**

## **PART 3 - EXECUTION (Not Used)**

### **A.0.2.2 ALTERNATES**

#### **PART 1 - GENERAL**

##### **1.01 SUMMARY**

- A. This section includes administrative and procedural requirements for alternates.
- B. The description of alternates is not intended to give a detailed description of all additional or deductive work required by the alternate item(s), as only the principal features of such additional or deductive work are listed.
- C. Should any one or all of the alternates become a part of the contract, the cost of all additional or deductive work required by the alternate item(s), even though not specifically mentioned herein, are included in the lump sum bid price.

##### **1.02 DEFINITIONS**

- A. Alternate: An amount proposed by Bidders (Offerors) and stated on the Bid Form for certain work defined herein that may be added to or deducted from the Total Lump Sum Bid Price amount if State decides to accept a corresponding change either in the amount of construction to be completed or in the products, materials, equipment, systems, or installation methods described in the Contract Documents.
  - 1. The cost or credit for each alternate is the net addition to or deduction from the Contract Sum to incorporate alternate into the Work. No other adjustments are made to the Total Lump Sum Bid Price.

##### **1.03 PROCEDURES**

- A. Coordination: Modify or adjust affected adjacent work as necessary to completely integrate work of the alternate into the Project.
  - 1. Include as part of each alternate, miscellaneous devices, accessory objects, and similar items incidental to or required for a complete installation whether or not indicated as part of alternate.
- B. Notification: Immediately following award of the Contract, notify each party involved, in writing, of the status of each alternate. Indicate if alternates have been accepted, rejected, or deferred for later consideration.
- C. Execute accepted alternates under the same conditions as other work of the Contract.
- D. Schedule: A Schedule of Alternates is included at the end of this section. Specification sections referenced in schedule contain requirements for materials necessary to achieve the work described under each alternate.

**PART 2 – PRODUCTS (Not Used)**

**PART 3 – EXECUTION**

**3.01 SCHEDULE OF ALTERNATES**

- A. Additive Alternate No. 1: Grave marker realignment – Section J.
- B. Additive Alternate No. 1: State-funded flower vase work – Section J.
- C. Additive Alternate No. 2: Grave marker realignment – Section K.
- D. Additive Alternate No. 2: State-funded flower vase work – Section K.
- E. Additive Alternate No. 3: Grave marker realignment – Section L.
- F. Additive Alternate No. 3: State-funded flower vase work – Section L.
- G. Additive Alternate No. 4: Grave marker realignment – Section H.
- H. Additive Alternate No. 4: State-funded flower vase work – Section H.
- I. Additive Alternate No. 5: Grave marker realignment – Section I.
- J. Additive Alternate No. 5: State-funded flower vase work – Section I.
- K. Additive Alternate No. 6: Grave marker realignment – Section E.
- L. Additive Alternate No. 6: State-funded flower vase work – Section E.

**A.0.2.3 PROJECT MANAGEMENT AND COORDINATION**

**PART 1 - GENERAL**

**1.01 SUMMARY**

- A. This section includes administrative provisions for coordinating construction operations on Project including, but not limited to, the following:
  - 1. General project coordination procedures.
  - 2. Project meetings.

**1.02 PERFORMANCE AND COORDINATION**

- A. Contractor is in charge of the Work within the Project Contract Limits, and shall direct and schedule the Work. Include general supervision, management and control of the Work of this project, in addition to other areas more specifically noted throughout the

Specifications. Final responsibility for performance, interface, and completion of the Work and the Project is the Contractor's.

- B. The Contractor is responsible for jobsite Administration. Provide a competent superintendent on the job and provide an adequate staff to execute the Work. In addition, all workers shall dress appropriately and conduct themselves properly at all times. Loud abusive behavior, sexual harassment and misconduct will not be tolerated. Workers found in violation of the above shall be removed from the job site as directed by the HIENG-DR.
- C. 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.
- D. Coordination: Provide project interface and coordination to properly and accurately bring together the several parts, components, systems, and assemblies as required to complete the Work pursuant to the GENERAL CONDITIONS and SPECIAL CONDITIONS.
  - 1. Provide interface and coordination of all trades, crafts and subcontracts. Ensure and make correct and accurate connections of abutting, adjoining, overlapping, and related work. Provide anchors, fasteners, accessories, appurtenances, and incidental items needed to complete the Work, fully, and correctly in accordance with the Contract Documents.
  - 2. Provide excavation, backfilling and trenching for trades to install their work.
  - 3. Equipment, appliances, fixtures, and systems requiring plumbing and mechanical services, rough-in, and connections, or other utilities and services shall be provided with such services, rough-in, and final connections.
  - 4. Materials, equipment, component parts, accessories, incidental items, connections, and services required to complete the Work which are not provided by Subcontractors shall be provided by the Contractor.
  - 5. Coordination: Coordinate construction operations included in various sections of the Specifications to ensure efficient and orderly installation of each part of the Work. Coordinate construction operations, included in different sections that depend on each other for proper installation, connection, and operation.

### **1.03 COOPERATION WITH OTHER CONTRACTORS**

- A. The State reserves the right at any time to contract for or otherwise perform other or additional work within the Project Contract Limits. The Contractor of this project shall to the extent ordered by the HIENG-DR, conduct its work so as not to interfere with or hinder the progress or completion of the work performed by the State or other Contractors.

### **1.04 COORDINATION WITH OTHER PRIME CONTRACTORS**

- A. Multiple prime Contractors performing work under separate agreements with the State may be present near the project location, adjacent to and abutting the Project Contract Limits. This Contractor shall coordinate activities, sequence of work, protective barriers and any and all areas of work interfacing with other Prime Contractor's work. Contractor shall provide a continuity of finishes, walks, landscape, etc. at abutting Contract Limits so no additional work will be required. Any damage to other Prime Contractor's Work committed by this Contractor (or its Subcontractor) shall be repaired promptly at no additional cost to the State.
- B. Coordinate Subcontractors and keep them informed of any work from the other Projects that may affect the site or the Subcontractor's work. If the Contractor has any questions regarding its coordination responsibilities or needs clarification as to the impact in scheduling of its work and the work of other projects, this Contractor shall notify the HIENG-DR in writing.
- C. Subject to approval by the HIENG-DR, this Contractor shall amend and schedule its work and operations to minimize disruptions to the work and operations of other projects.
  - 1. Relocate or remove and replace temporary barriers, fencing supports or bracing to allow work by others to proceed unimpeded. Do not remove required barriers supporting work until specified time or as approved by the HIENG-DR. This does not relieve the Contractor of the responsibility of proper coordination of the work. If directed by the HIENG-DR, leave in place any temporary barriers.
  - 2. Coordinate work that abuts or overlaps work of the other projects with the HIENG-DR and other Prime Contractors to mutual agreement so that work is 100 percent complete with continuity of all materials, systems and finishes.
  - 3. When directed by the HIENG-DR, provide access into the construction zone to allow the other project's Contractor(s) to perform their Work and work that must be interfaced.
  - 4. Contractor shall adjust and coordinate its Work and operations as required by the other projects as part of the Work of this contract without additional cost or delay to the State.
  - 5. When directed by the HIENG-DR, provide a combined Contractor's construction schedule.
- D. Other Contracts: If known, they are listed in PROJECT REQUIREMENTS.

#### **1.05 SUBMITTALS**

- A. Photo Documentation: Prior to the start of jobsite work, the Contractor shall photo document the existing conditions at the site and file with the HIENG-DR one complete set of documents.
- B. Reporting: Submit meeting minutes and schedule updating as specified.

#### **1.06 PROJECT MEETINGS AND TRAINING**

- A. General: Schedule and conduct meetings and conferences as directed by the HIENG-DR.
  - 1. Attendees: Inform participants and others involved, and individuals whose presence is required, of date and time of each meeting. Notify HIENG-DR of scheduled meeting dates and times.
  - 2. Agenda: Prepare the meeting agenda. Distribute the agenda to all invited attendees.
  - 3. Minutes: Contractor record significant discussions and agreements achieved. Distribute the meeting minutes to everyone concerned, including HIENG-DR, within 7 days of the meeting.
- B. Preconstruction Conference: HIENG-DR shall schedule a preconstruction conference before the start of construction, at a time convenient to the HIENG-DR, but no later than 7 days before the Project start date or jobsite start date whichever is later. Conference will be held at the Project site or another convenient location. The HIENG-DR shall conduct the meeting to review responsibilities and personnel assignments.
  - 1. Attendees: HIENG-DR, and design consultants; Facility Users; Contractor and its superintendent; major Subcontractors; manufacturers; suppliers; and other concerned parties shall attend the conference. All participants at the conference shall be familiar with the Project and authorized to conclude matters relating to the Work.
  - 2. Agenda: Discuss items of significance that could affect progress, including the following:
    - a. Tentative construction schedule.
    - b. Phasing.
    - c. Critical work sequencing and coordination.
    - d. Designation of responsible personnel.
    - e. Use of the premises.
    - f. Responsibility for temporary facilities and controls.
    - g. Parking availability.
    - h. Office, work, and storage areas.
    - i. Equipment deliveries and priorities.
    - j. First aid.
    - k. Security.
    - l. Progress cleaning.
    - m. Working hours.
- C. Progress Meetings: Conduct progress meetings at monthly or other intervals as determined by the HIENG-DR. Coordinate dates of meetings with preparation of payment requests.
  - 1. Attendees: In addition to HIENG-DR, each Contractor, Subcontractor, supplier, and other entity concerned with current progress or involved in planning, coordination, or performance of future activities shall be represented at these meetings. All

- participants at the meeting shall be familiar with Project and authorized to conclude matters relating to the Work.
2. Agenda: Review and correct or approve minutes of previous progress meeting. Review other items of significance that could affect progress. Include topics for discussion as appropriate to status of Project.
    - a. Contractor's Construction Schedule: Review progress since the last meeting. Determine whether each activity is on time, ahead of schedule, or behind schedule, in relation to Contractor's Construction Schedule. Determine how construction behind schedule will be expedited; secure commitments from parties involved to do so. Discuss whether schedule revisions are required to ensure that current and subsequent activities will be completed within the Contract Time.
    - b. Review present and future needs of each entity present, including the following:
      - 1) Outstanding Requests for information (clarification).
      - 2) Interface requirements.
      - 3) Sequence of operations.
      - 4) Status of outstanding submittals.
      - 5) Deliveries.
      - 6) Off-site seed production.
      - 7) Access.
      - 8) Site utilization.
      - 9) Temporary facilities and controls.
      - 10) Work hours.
      - 11) Hazards and risks.
      - 12) Progress cleaning.
      - 13) Quality and work standards.
      - 14) Force Account work.
      - 15) Change Orders and Change Proposals.
      - 16) Documentation of information for payment requests.
    - c. Corrective Action Plan: Contractor shall provide a plan of corrective action for any item which is delayed or expected to be delayed, then that item impacts the contractual dates.
  3. Reporting: Distribute minutes of the meeting to each party present and to parties who should have been present. Include a brief summary, in narrative form, of progress since the previous meeting and report.
    - a. Schedule Updating: Revise Contractor's Construction Schedule after each progress meeting where revisions to the schedule have been made or recognized. Issue revised schedule concurrently with the report of each meeting.

## **PART 2 - PRODUCTS (Not Used)**

## **PART 3 - EXECUTION (Not Used)**

### **A.0.2.4 CONSTRUCTION PROGRESS DOCUMENTATION**

#### **PART 1 - GENERAL**

##### **1.01 SUMMARY**

A. This section includes administrative and procedural requirements for documenting the progress of construction during performance of the Work, including the following:

1. Contractor's Construction Schedule.
2. Submittals Schedule.
3. Schedule of Prices.
4. Payment Application.

B. Related sections include the following:

1. PROJECT MANAGEMENT AND COORDINATION for preparing a combined Contractor's Construction Schedule.
2. SUBMITTAL PROCEDURES for submitting schedules and reports.

## **1.02 DEFINITIONS**

A. Activity: A discrete part of a project that can be identified for planning, scheduling, monitoring, and controlling the construction project. Activities included in a construction schedule consume time and resources.

1. Critical activities are activities on the critical path and control the total length of the project. They must start and finish on the planned early start and finish times.
2. Predecessor activity is an activity that must be completed before a given activity can be started.

B. CPM: Critical path method, which is a method of planning and scheduling a construction project where activities are arranged based on activity relationships. Network calculations determine when activities can be performed and the critical path of project.

C. Critical Path: The longest continuous chain of activities through the network schedule that establishes the minimum overall Project duration and contains no float.

D. Event: The starting or ending point of an activity.

E. Float: The measure of leeway in starting and completing an activity.

1. Float time is not for the exclusive use or benefit of either the State or Contractor, but is a jointly owned, expiring Project resource available to both parties as needed to meet schedule milestones and Contract completion date.
2. Free float is the amount of time an activity can be delayed without adversely affecting the early start of the following activity.

3. Total float is the measure of leeway in starting or completing an activity without adversely affecting the planned Project completion date.

F. Schedule of Prices: A statement furnished by Contractor allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor's Payment Applications.

### **1.03 SUBMITTALS**

A. Required Submittals: Submit 8 sets of the list of the required submittals, by Specification section, within 15 days after award of the contract or upon earlier written instructions from the HIENG-DR.

1. The listing shall indicate and include the following:
  - a. The number of copies required for submittal.
  - b. Planned submittal date.
  - c. Approval date required by the Contractor.
  - d. A space where the "date of submittal" can be inserted.
  - e. A space where the "date of approval" can be inserted.
  - f. A space where an "action code" can be inserted.

B. Construction Schedule: Submit 7 sets of the Construction Schedule for review within 15 days after the award of the contract or upon earlier written instructions from the HIENG-DR.

C. Schedule of Prices: Submit 3 sets of the Schedule of Prices integrated with the Construction Schedule for review within 15 days after the award of the contract or upon earlier written instructions from the HIENG-DR.

D. Payment Application: Submit the payment application at earliest possible date and no sooner than the last day of the month after all payroll affidavits, updated submittal registers, and schedules have been submitted.

### **1.04 COORDINATION**

A. Coordinate preparation and processing of schedules and reports with performance of construction activities and with scheduling and reporting of separate Contractors.

B. Construction Schedule: Coordinate Contractor's Construction Schedule with the Schedule of Prices, Submittals Schedule, loaded monthly event activity, and other required schedules and reports.

1. Secure time commitments for performing critical elements of the Work from parties involved.
2. Coordinate each construction activity in the network with other activities and schedule them in proper sequence.

C. Schedule of Prices: Coordinate preparation of the schedule with preparation of Contractor's Construction Schedule.

## **PART 2 - PRODUCTS**

### **2.01 SUBMITTALS SCHEDULE**

- A. Comply with GENERAL CONDITIONS "SHOP DRAWINGS AND OTHER SUBMITTALS". Furnish required submittals specified in this section and in the Technical Sections. Submittals include one or more of the following: shop drawings, material samples, technical data, material safety data information, schedules of materials, schedules of operations, guarantees, certifications, operating and maintenance manuals, and field posted as-built drawings.
- B. Preparation: Furnish a schedule of submittals per HIENG-DR.
  - 1. Coordinate Submittals Schedule with list of subcontracts, the Schedule of Prices, and Contractor's Construction Schedule.
  - 2. The schedule shall accommodate a minimum of 25 calendar days for the State's review, as applicable for the Island the project is located.
  - 3. Prepare and submit an updated list to the HIENG-DR at monthly intervals or as directed by the HIENG-DR. The listing shall reflect all approvals received since the last update.

### **2.01 CONTRACTOR'S CONSTRUCTION SCHEDULE - PERT CHART CRITICAL PATH METHOD (CPM)**

- A. The construction schedule shall address the entire project, to the extent required by the Contract Documents, and shall show an expedient and practical execution of work. If requested by the HIENG-DR, the Contractor shall participate in a preliminary meeting to discuss the proposed schedule and requirements prior to submitting the schedule.
- B. The Construction Schedule shall indicate the following:
  - 1. Elements of the Project in detail time scaled by month or by week, and a project summary.
  - 2. The order and interdependence of activities and the sequence in which the work is to be accomplished.
  - 3. How the start of a given activity is dependent upon the completion of preceding activities and how its completion restricts the start of following activities.
  - 4. The submittal and approval of shop drawings, samples, procurement of critical materials and equipment, receipt of materials with estimated costs of major items for which payment will be requested in advance of installation, fabrication of special materials and equipment, and their installation and testing.
  - 5. Provide a separate report with the following:
    - a. The description of the activity.

- b. The duration of time in calendar days.
  - c. For each activity indicate the early start date.
  - d. For each activity indicate the early finish date.
  - e. For each activity indicate the late start date.
  - f. For each activity indicate the late finish date.
  - g. Total float time.
  - h. Cost of event.
  - i. Contract-required dates for completion of all or parts of the Work.
  - j. Events are to be used on "Monthly Progress Report" for monthly payment request.
- C. Upon completion of the HIENG-DR's review, the Contractor shall amend the schedule to reflect the comments. If necessary, the Contractor shall participate in a meeting with the HIENG-DR to discuss the proposed schedule and changes required. Submit the revised schedule for review within 7 calendar days after receipt of the comments.
- D. Use the reviewed schedule for planning, organizing and directing the work, for reporting progress, and for requesting payment for the work completed. Unless providing an update, do not make changes to the reviewed schedule without the HIENG-DR's approval.
- E. Should changes to the schedule be desired, submit a request in writing to the HIENG-DR and indicate the reasons for the proposed change. If the changes are major, the HIENG-DR may require the Contractor to revise and resubmit the schedule at no additional cost to the State. Contractor shall mitigate the impact of all changes by readjusting the sequence of activities, duration of time, or resources utilizing available float.
- 1. A change is major if, in the opinion of the HIENG-DR, the change affects the substantial completion date or other contractual and milestone dates.
  - 2. Minor changes are those that only affect activities with adequate float time.
- F. Once the schedule is reviewed by the HIENG-DR, the Contractor shall submit 6 sets of the revised schedule within 14 calendar days.
- G. Throughout the duration of the project, the HIENG-DR may require more detailed breakdowns of activities, logic, and schedule submittals from the Contractor.
- H. Updated Schedules: Submit at monthly intervals or as directed by the HIENG-DR. The schedule shall reflect all changes occurring since the last update including the following:
- 1. Activities started and completed during the previous period.
  - 2. The estimated duration to complete each activity that was started but not completed.
  - 3. Percentage of cost payable for each activity.
  - 4. Modifications and pending proposed changes.

5. Narrative report describing current and anticipated problem areas or delaying factors with their impact together with an explanation of corrective actions taken or proposed.
- I. Failure on the part of the Contractor to submit updated schedules may be grounds for the HIENG-DR to withhold progress payments for items noted on the schedule.
- J. Contractor shall prosecute the work according to the CPM Schedule. The HIENG-DR shall rely on the reviewed Contractor's CPM Schedule and regular updates for planning and coordination. The HIENG-DR's review of the Contractor's CPM Construction Schedule does not relieve the Contractor of its obligation to complete the work within the allotted contract time. Nor does the review grant, reject or in any other way act on the Contractor's request for adjustments to complete remaining contract work, or for claims of additional compensation. These requests shall be processed in accordance with other relevant provisions of the contract.
- K. If the HIENG-DR issues a field order or change order or other directive that affects the sequence or duration of work activities noted on the construction progress schedule, the Contractor shall promptly update the schedule. To accomplish this update, add, delete or revise the work activities noted or change the logic in the schedule to show the Contractor's plan to incorporate the change into the flow of work. All change orders and time extension requests that affect the construction schedule shall be evaluated based on their impact on the approved Construction Schedule.
- L. If the current work is behind schedule or projected to be behind schedule, such as negative float on a critical activity or inability to meet the Contract Completion Date, the HIENG-DR may require the Contractor, at the Contractor's cost, to take remedial measures to get the project back on schedule. This may require increasing the work force, working overtime and weekends, air freighting materials, or other similar actions.
- M. If at any time the HIENG-DR determines that any critical activity has fallen behind the CPM schedule by 15 calendar days or more, the Contractor shall submit a remedial plan to recapture the lost scheduled time. Include a revised schedule. Furnish the remedial plan no later than 7 calendar days from HIENG-DR's notification.
- N. If an accelerated schedule is proposed, refer to GENERAL CONDITIONS, "CONSTRUCTION SCHEDULE".

## **2.03 SCHEDULE OF PRICES**

- A. Furnish a schedule of prices to the HIENG-DR.
- B. Provide a breakdown of the Contract Sum in enough detail to facilitate developing and the continued evaluation of Payment Applications. Provide several line items for principal subcontract amounts, or for materials or equipment purchased or fabricated and stored, but not yet installed, where appropriate. Round amounts to nearest whole dollar; total shall equal the Contract Price.
- C. Each item in the Schedule of Prices and Payment Application shall be complete. Include total cost and proportionate share of general overhead and profit for each item.

## **2.04 PAYMENT APPLICATION**

- A. Use the Schedule of Prices as the Monthly Construction Progress Report. Each Payment Application shall be consistent with previous applications and payments. The HIENG-DR shall determine the appropriateness of each payment application item.
- B. Payment Application Times: The date for each progress payment is the last day of each month. The period covered by each Payment Application starts on the first day of the month or following the end of the preceding period and ends on the last day of the month.
- C. Updating: Update the schedule of prices listed in the Payment application when Change Orders or Contract Modifications result in a change in the Contract Price.
- D. Provide a separate line item for each part of the Work where Payment Application may include materials or equipment purchased or fabricated and stored, but not yet installed.
- E. Differentiate between items stored on-site and items stored off-site. Include evidence of insurance or bonded warehousing if required.
- F. Provide separate line items for initial cost of materials, for each subsequent stage of completion, and for total installed value of that part of the Work.
- G. Payment Application Forms: Use and submit copies of the Payment Application and Construction Progress forms provided by Department. Furnish 7 copies.
- H. Application Preparation: Complete every entry on form. Execute by a person authorized to sign legal documents on behalf of the Contractor.
  - 1. Entries shall match data on the Schedule of Prices and Contractor's Construction Schedule. Use updated schedules if revisions were made. Include amounts of Change Orders and Contract Modifications issued before last day of construction period covered by application.
- I. No payment will be made until the following are submitted each month:
  - 1. Monthly Estimate, 7 copies.
  - 2. Monthly Progress Report, 7 copies.
  - 3. Statement of Contract Time, 7 copies.
  - 4. Updated Submittal Register, 1 copy.
  - 5. Updated Progress Schedule, 1 copy.
  - 6. All Daily Reports, 1 copy.
  - 7. All Payroll Affidavits for work done, 1 copy.
- J. Retainage: The Department will withhold retainage in compliance with the GENERAL CONDITIONS.
- K. Transmittal: Submit the signed original and 6 copies of each Payment Application for processing.

## **2.05 CONTRACTOR DAILY PROGRESS REPORTS**

- A. The General Contractor and all Subcontractors shall keep a daily report of events.
- B. The form of the Contractor Daily Progress Report shall be as directed by the HIENG-DR.
- C. Submit copies of the previous week's reports on Monday morning at 10:00 a.m.
- D. Submit copies of the reports with the monthly payment request for the whole period since the last payment request submittal.
- E. Deliver the reports in hard copy, by e-mail, or web based construction management as directed by the HIENG-DR.

## **PART 3 - EXECUTION (Not Used)**

### **A.0.2.5 SUBMITTAL PROCEDURES**

#### **PART 1 - GENERAL**

##### **1.01 SUMMARY**

- A. Comply with the GENERAL CONDITIONS "Shop Drawings and Other Submittals" section and "Material Samples" section.
- B. This section includes administrative and procedural requirements for submitting Shop Drawings, Product Data, Samples, and other miscellaneous submittals.
- C. Related Sections include the following:
  - 1. CONSTRUCTION PROGRESS DOCUMENTATION for submitting schedules and reports, including Contractor's Construction Schedule and the Submittals Schedule.
  - 2. CLOSEOUT PROCEDURES for submitting warranties, project record documents and operation and maintenance manuals.

##### **1.02 SUBMITTAL PROCEDURES**

- A. Coordinate Work and Submittals: Contractor shall certify the submittals were reviewed and coordinated.
- B. Submittal Certification: Provide in MS Word when submitting electronically. HIENG-DR will provide an electronic copy of the Submittal Certification. Provide a reproduction (or stamp) of the "Submittal Certification" and furnish the required information with all submittals. Include the certification on:
  - 1. The title sheet of each shop drawing, or on
  - 2. The cover sheet of submittals in 8-1/2 inch x 11-inch format, or on

3. One face of a cardstock tag (minimum size 3-inch x 6-inch) tied to each sample. On the sample tag, identify the sample to ensure sample can be matched to the tag if accidentally separated. The opposite face of the tag will be used by the HIENG-DR to receive, review, log stamp and include comments.
- C. Variances: The Contractor shall request approval for a variance. Clearly note any proposed deviations or variances from the Specifications, Drawings, and other Contract Documents on the submittal and also in a separately written letter accompanying the submittal.
- D. Submittal Certification Form (stamp or digital)

CONTRACTOR'S NAME: \_\_\_\_\_  
PROJECT: \_\_\_\_\_  
JOB NO.: \_\_\_\_\_

**As the General Contractor, we checked this submittal and we certify it is 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.**

SUBMITTAL NUMBER \_\_\_\_\_ DATE RECEIVED \_\_\_\_\_  
REVISION NUMBER \_\_\_\_\_ DATE RECEIVED \_\_\_\_\_  
SPECIFICATION SECTION NUMBER /PARAGRAPH NUMBER \_\_\_\_\_  
DRAWING NUMBER \_\_\_\_\_  
SUBCONTRACTOR'S NAME \_\_\_\_\_  
SUPPLIER'S NAME \_\_\_\_\_  
MANUFACTURER'S NAME \_\_\_\_\_

**NOTE: DEVIATIONS FROM THE CONTRACT DOCUMENTS ARE PROPOSED AS FOLLOWS (Indicate "NONE" if there are no deviations)**

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Note: Form can be combined with Design Consultant's Review stamp. This is available from the HIENG-DR.

## PART 2 - PRODUCTS (Not Used)

## PART 3 - EXECUTION

### 3.01 SUBMITTAL REGISTER AND TRANSMITTAL FORM

- A. Contractor shall use submittal register and transmittal forms as directed by the HIENG-DR.

East Hawaii Veterans Cemetery No. 2, Hilo, Island of Hawaii, Hawaii  
Gravesite Restoration for East Hawaii Veterans Cemetery No. 2  
Job No. CA-202617-C

- B. The listing of required submittals within this Section is provided for the Contractor's convenience. Review the specification technical sections and prepare a comprehensive listing of required submittals. Furnish submittals to the HIENG-DR for review.
- C. Contractor shall separate each submittal item by listing all submittals in the following groups with the items in each group sequentially listed by the specification section they come from:
1. Administrative
  2. Data
  3. Tests
  4. Closing
- D. Contractor shall separate all different types of data as separate line items all with the column requirements.
- E. Contractor shall send monthly updates and reconciled copies electronically to the HIENG-DR and the Design Consultant in MS Word or MS Excel or other format as accepted by the HIENG-DR.

| Section No. – Title                 | Shop Drawings & Diagrams | Samples | Certificates (Material, Treatment, Applicator, etc.) | Product Data, Manufacturer's Technical Literature | MSDS Sheets | Calculations | Reports (Testing, Maintenance, Inspection, etc.) | Test Plan | O & M Manual | Equipment or Fixture Listing | Schedules (Project Installation) | Maintenance Service Contract | Field Posted As-Built Drawings | Others | Guaranty or Warranty | Manufacturer's Guaranty or Warranty (Greater than one year) |
|-------------------------------------|--------------------------|---------|------------------------------------------------------|---------------------------------------------------|-------------|--------------|--------------------------------------------------|-----------|--------------|------------------------------|----------------------------------|------------------------------|--------------------------------|--------|----------------------|-------------------------------------------------------------|
| Project Management and Coordination |                          |         |                                                      |                                                   |             |              | ■                                                |           |              |                              |                                  |                              |                                | ■      |                      |                                                             |
| Construction Progress Documentation |                          |         |                                                      |                                                   |             |              |                                                  |           |              |                              | ■                                |                              |                                | ■      |                      |                                                             |
| Submittal Procedures                |                          |         | ■                                                    |                                                   |             |              |                                                  |           |              |                              |                                  |                              |                                | ■      |                      |                                                             |
| Quality Requirements                |                          |         | ■                                                    |                                                   |             |              | ■                                                |           |              |                              | ■                                |                              | ■                              | ■      |                      |                                                             |
| Temporary Facilities and Controls   |                          |         |                                                      |                                                   |             |              | ■                                                |           |              |                              |                                  |                              |                                | ■      |                      |                                                             |
| Closeout Procedures                 | ■                        |         |                                                      |                                                   |             |              |                                                  |           | ■            |                              |                                  |                              | ■                              | ■      | ■                    |                                                             |
|                                     |                          |         |                                                      |                                                   |             |              |                                                  |           |              |                              |                                  |                              |                                |        |                      |                                                             |

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#### **A.0.2.6 QUALITY REQUIREMENTS**

### **PART 1 – GENERAL**

#### **1.01 SUMMARY**

- A. This section includes administrative and procedural requirements for quality assurance and for Contractor's Quality Control responsibilities and duties.
- B. Testing and inspecting services are required to verify compliance with requirements specified or indicated. These services do not relieve Contractor of responsibility for compliance with the Contract Document requirements.
  - 1. Specific quality-control requirements for individual construction activities are specified in the sections that specify those activities. Requirements in those sections may also cover production of standard products.
  - 2. Specified tests, inspections, and related actions do not limit Contractor's quality-control procedures that facilitate compliance with the Contract Document requirements.
  - 3. Requirements of this section or by the Department or authorities having jurisdiction, do not limit the Contractor's responsibility to provide quality-control services.

#### **1.02 DEFINITIONS**

- A. Quality-Assurance Services: Activities, actions, and procedures performed before and during execution of the Work to guard against defects and deficiencies and ensure that proposed construction complies with requirements.
- B. Quality-Control Services: Tests, inspections, procedures, and related actions during and after execution of the Work to evaluate that completed construction complies with requirements. Services do not include contract enforcement activities performed by HIENG-DR.
- C. Testing Agency: An entity engaged to perform specific tests, inspections, or both. Testing laboratory shall mean the same as testing agency.

#### **1.03 SUBMITTALS**

- A. Qualification Data: For QC Manager (alternate QC Manager), inspection and testing agencies, furnish evidence to demonstrate their capabilities and experience. Include proof of qualifications in the form of education, certifications, and license. For the testing

agencies, include a recent report on the inspection of the testing agency by a recognized authority.

1. The HIENG-DR may disapprove any QC Manager (alternate QC Manager), inspection or testing agency or individual employed by the agency when the HIENG-DR determines it is in the best interest of the State. The Contractor is not entitled to any claim or cost increase or time extension due to the HIENG-DR's disapproval of an agency or individual.

B. Reports: Prepare and submit certified written reports that include the following:

1. Date of issue.
2. Project title and number.
3. Name, address, and telephone number of testing agency.
4. Dates and locations of samples and tests or inspections.
5. Names of individuals making tests and inspections.
6. Description of the Work and test and inspection method.
7. Identification of product and Specification Section.
8. Complete test or inspection data.
9. Test and inspection results and an interpretation of test results.
10. Ambient conditions at time of sample taking and testing and inspecting.
11. Comments or professional opinion on whether tested or inspected Work complies with the Contract Document requirements.
12. Name and signature of laboratory inspector.
13. Recommendations on retesting and reinspecting.

C. Permits, Licenses, and Certificates: Submit copies of permits, licenses, certifications, inspection reports, releases, jurisdictional settlements, notices, receipts for fee payments, judgments, correspondence, records, and similar documents, established for compliance with standards and regulations bearing on performance of the Work.

**1.04 SCHEDULE FOR SUBMITTING INFORMATION AND REPORTS**

A. Deliver the original and two copies each of the following to the State:

1. Combined Contractor Production and Contractor Quality Control Report, (one sheet):  
By [10:00 AM] the next working day after each day that work is performed.

2. QC Specialist Reports: By 10:00 AM the next working day after each day that work is performed, attached to the Contractor Quality Control Report;
3. Field Test Reports: Within two working days after the test is performed, attached to the Contractor Quality Control Report;
4. Monthly Summary Report of Tests: 2 copies attached to the Contractor Quality Control Report;
5. Testing Plan and Log: 2 copies, at the end of each month;
6. Rework Items List: 2 copies, by the last working day of the month;
7. Quality Control meeting minutes: 2 copies, within 2 working days after the meeting and;
8. Quality Control Certifications: As required by the paragraph titled "Quality Control Certifications.

#### **1.05 QUALITY ASSURANCE**

- A. Fabricator Qualifications: A firm experienced in producing products similar to those indicated for this Project and with a record of successful in-service performance, as well as sufficient production capacity to produce required units.
- B. Factory-Authorized Service Representative Qualifications: An authorized representative of manufacturer who is trained and approved by manufacturer to inspect installation of manufacturer's products that are similar in material, design, and extent to those indicated for this Project.
- C. Professional Architect or Engineer Qualifications: A professional architect or engineer who is legally qualified to practice in jurisdiction where Project is located and who is experienced in providing architect or engineering services of the kind indicated. Engineering services are defined as those performed for installations of the system, assembly; or product that are similar to those indicated for this Project in material, design, and extent.
- D. Inspection and Testing Agency Qualifications: An agency with the experience and capability to conduct testing and inspecting indicated, as documented by ASTM E-548, and that specializes in types of tests and inspections to be performed.

#### **1.07 QUALITY CONTROL**

- A. Contractor Responsibilities: Unless otherwise indicated, provide quality-control services specified and required by authorities having jurisdiction.
  1. Engage qualified inspection or testing agencies to perform quality-control services, unless services are indicated as the Department's responsibility.
  2. Notify HIENG-DR and the inspection or testing agencies at least 24 hours in advance of time when Work that requires testing or inspecting will be performed.

3. Submit certified written reports of each quality-control service.
  4. Testing and inspecting requested by Contractor and not required by the Contract Documents are Contractor's responsibility.
  5. Submit additional copies of each written report directly to authorities having jurisdiction, when they so direct.
- B. Retesting and Reinspecting: Regardless of whether original tests or inspections were Contractor's responsibility, provide quality-control services, including retesting and reinspecting, for construction that revised or replaced Work that failed to comply with requirements established by the Contract Documents.
- C. Testing Agency Responsibilities: Cooperate with the Department and Contractor in performance of duties. Provide qualified personnel to perform required tests and inspections.
1. Notify the HIENG-DR and Contractor promptly of irregularities or deficiencies observed in the Work during performance of its services.
  2. Interpret tests and inspections and state in each report whether tested and inspected work complies with or deviates from requirements.
  3. Submit a certified written report, in duplicate, of each test, inspection, and similar quality-control service through Contractor.
  4. Do not release, revoke, alter, or increase requirements of the Contract Documents or approve or accept any portion of the Work.
  5. Do not perform any duties of Contractor.
- D. Associated Services: Cooperate with agencies performing required tests, inspections, and similar quality-control services, and provide reasonable auxiliary services as requested. Notify agency sufficiently in advance of operations to permit assignment of personnel. Provide the following:
1. Access to the Work.
  2. Incidental labor and facilities necessary to facilitate tests and inspections.
  3. Adequate quantities of representative samples of materials that require testing and inspecting. Assist agency in obtaining samples.
  4. Facilities for storage and field-curing of test samples.
  5. Preliminary design mix proposed for use for material mixes that require control by testing agency.

6. Security and protection for samples and for testing and inspecting equipment at Project site.
- E. Coordination: Coordinate sequence of activities to accommodate required quality-assurance and quality-control services with a minimum of delay and to avoid necessity of removing and replacing construction to accommodate testing and inspecting.
1. Schedule times for tests, inspections, obtaining samples, and similar activities.

#### **1.08 QUALITY CONTROL MANAGER**

- A. Duties: Provide a Quality Control Manager at the work site to implement and manage the QC Program. In addition to implementing and managing the QC Program, the QC Manager may perform the duties of the Project Superintendent. The QC Manager is required to conduct the QC meetings, perform submittal review, ensure testing is performed and provide QC certifications and documentation required in this Contract. The QC Manager is responsible for managing and coordinating Testing Laboratory personnel and any other inspection and testing personnel required by this Contract.
- B. Qualifications: An individual with a minimum of 10 years' experience as a superintendent, inspector, QC Manager, project manager, or construction manager on similar size and type construction contracts which included the major trades that are part of this Contract. The individual must have experience in the areas of hazard identification and safety compliance. It is desirable that the QC Manager completed the course "Construction Quality Management for Contractors" offered by the Navy or the Army Corps of Engineers or other similar course.
- C. Approval: QC Manager shall be subject to the approval of the HIENG-DR. Unless the Contractor has a QC Manager on staff, the Contractor shall provide the names of at least three individuals, and shall rank the individuals based on the Contractor's preference to work with or hire. The HIENG-DR may approve all or any one of the individuals. If any individual is presently working for the Contractor as a QC Manager, the Contractor may choose to submit only one individual, and that individual is subject to approval.
1. Furnish evidence showing the individual(s) meets the qualifications, experience, training and other criteria required by this section.

#### **1.09 RECORD (As-Builts) DRAWINGS**

- A. The QC Manager is required to ensure the record drawings and jobsite record sets are kept current on a daily basis in accordance with CLOSEOUT PROCEDURES.

#### **1.20 NOTIFICATION OF NON-COMPLIANCE**

- A. Contractor will be notified of any detected non-compliance items. Take immediate corrective action after receipt of such notice.

### **PART 2 - PRODUCTS (Not Used)**

## **PART 3 - EXECUTION**

### **3.01 REPAIR AND PROTECTION**

- A. General: On completion testing, inspecting, sample taking, and similar services, repair damaged construction and restore substrates and finishes.
  - 1. Provide materials and comply with installation requirements specified in other Sections of these Specifications. Restore patched areas and extend restoration into adjoining areas in a manner that eliminates evidence of patching.
- B. Protect construction exposed by or for quality-control service activities.
- C. Repair and protection are Contractor's responsibility, regardless of the assignment of responsibility for quality-control services.

### **3.02 STATE'S AUTHORITY**

- A. Review and removal of Quality Control Personnel:
  - 1. All Quality Control organization personnel are subject to review by HIENG-DR and the HIENG-DR may interview any member of the Quality Control organization at any time in order to verify the submitted qualifications.
  - 2. The HIENG-DR has the authority to have the QC Manager replaced at any time for cause. Justifications may include but are not limited to: not being on site when QC Manager's duties are required, or wrongfully approving substandard and noncompliant work.
  - 3. The Contractor is not entitled to any claim or cost increase or time extension due to the HIENG-DR's disapproval of an agency or individual.

## **A.0.2.7 TEMPORARY FACILITIES AND CONTROLS**

## **PART 1 - GENERAL**

### **1.01 SUMMARY**

- A. Requirements for temporary facilities and controls, including temporary utilities, support facilities, and security and protection facilities.
- B. Temporary utilities include but are not limited to, the following:
  - 1. Storm drainage.
  - 2. Water service and distribution.
  - 3. Sanitary facilities, including toilets, wash facilities, and drinking water facilities.
  - 4. Electric power service.
  - 5. Lighting.
  - 6. Telephone service.

- C. Support facilities include, but are not limited to, the following:
  - 1. Project signs.
  - 2. Storage sheds.
  - 3. Trash and refuse disposal.
  - 4. Erosion controls and site drainage.
  - 5. Lifts and hoists.
  - 6. Construction aids and miscellaneous services and facilities.
- D. Security and protection facilities and measures include, but are not limited to, the following:
  - 1. Environmental protection.
  - 2. Stormwater control.
  - 3. Barricades, warning signs, and lights.
  - 4. Fire protection.
- E. Related Sections: Refer to other sections for other temporary requirements.

#### **1.02 USE CHARGES**

- A. General: Cost or use charges for temporary facilities are not chargeable to the State and shall be included in the Contract Price. Allow other entities to use temporary services and facilities without cost, including, but not limited to, the following:
  - 1. Other Contractors with agreements with the State working within the contract limits.
  - 2. Occupants of Project.
  - 3. Testing agencies.
  - 4. HIENG-DR and personnel of authorities having jurisdiction.

#### **1.03 SUBMITTALS**

- A. Temporary Utility Reports: Submit reports of tests, inspections, meter readings, and similar procedures performed on temporary utilities.
- B. Landfill Disposal Receipts: Submit copies of receipts issued by a landfill facility. Include receipts with Contractor Daily Progress Report

#### **1.04 QUALITY ASSURANCE**

- A. Standards: Comply with UBC Chapter 33, "Site Work, Demolition and Construction", ANSI A10.6, NECA's "Temporary Electrical Facilities", and NFPA 241, "Construction, Alteration, and Demolition Operations".
  - 1. Trade Jurisdictions: Assigned responsibilities for installation and operation of temporary utilities are not intended to interfere with trade regulations and union jurisdictions.

2. Electric Service: Comply with NECA, NEMA, and UL standards and regulations for temporary electric service. Install service to comply with NFPA 70, "National Electrical Code".
  - a. Tests and Inspections: Arrange for authorities having jurisdiction to test and inspect each temporary utility before use. Obtain required certifications and permits.

#### **1.05 PROJECT CONDITIONS**

- A. Temporary Utilities: At the earliest feasible time, when acceptable to the HIENG-DR, change over from use of temporary service to use of permanent service.
  1. Temporary Use of Permanent Facilities: Installer of each permanent service shall assume responsibility for operation, maintenance, and protection of each permanent service during its use as a construction facility before HIENG-DR's acceptance, regardless of previously assigned responsibilities.
- B. Conditions of Use: The following conditions apply to use of temporary services and facilities by all parties engaged in the Work:
  1. Keep temporary services and facilities clean and neat.
  2. Relocate temporary services and facilities as required by progress of the Work.

#### **1.06 PREPARATION AND PROTECTION**

- A. Protection of Property: Continually maintain adequate protection of the Work from damage and protect all property, including but not limited to buildings, equipment, furniture, grounds, vegetation, material, utility systems located at and adjoining the job site. Repair, replace or pay the expense to repair damages resulting from Contractor's fault or negligence.
- B. Before starting work to be applied to previously erected constructions, make a thorough and complete investigation of the recipient surfaces and determine their suitability to receive required additional construction and finishes. Make any repair that is required to properly prepare surfaces and coordinate the Work to provide a suitable surface to receive following Work.
- C. Commencing work by any trade implies acceptance of existing conditions and surfaces as satisfactory for the application of subsequent work, and full responsibility for finished results and assumption of warranty obligations under the Contract.
- D. Protect existing (including interiors) work to prevent damage by vandals or the elements. Provide temporary protection. Use curtains, barricades, or other appropriate methods. Take positive measures to prevent breakage of glass and damage to plastic, aluminum and other finishes.
- E. Repairs and Replacements: Promptly replace and repair damages to the approval of the HIENG-DR. Additional time required to secure replacements and to make repairs does not justify a time extension.

## **PART 2 - PRODUCTS**

### **2.01 MATERIALS**

- A. General: Provide new materials. Undamaged, previously used materials in serviceable condition may be used if approved by HIENG-DR. Provide materials suitable for use intended.
- B. 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.

### **2.02 EQUIPMENT**

- A. Self Contained Combination Toilet and Urinal Units: Single occupant units of chemical, aerated recirculation, or combustion type; vented; fully enclosed with a glass fiber reinforced polyester shell or similar nonabsorbent material. One quarter of, or at least one unit(s) shall contain a handwash sink with potable water storage.
- B. Contractor may connect to existing on-site irrigation, but shall sub-meter from the cemetery water supply and pay for the associated water usage for temporary irrigation and dust control needs.

## **PART 3 - EXECUTION**

### **3.01 INSTALLATION, GENERAL**

- A. Locate facilities where they will serve Project adequately and result in minimum interference with performance of the Work. Relocate and modify facilities as required.
  - 1. Secure approval from HIENG-DR before modifications are made to the State Inspector's Field Office.
- B. Provide each facility ready for use when needed to avoid delay. Maintain and modify as required. Do not remove until facilities are no longer needed or are replaced by authorized use of completed permanent facilities.

### **3.02 TEMPORARY UTILITY INSTALLATION**

- A. General: Connect to existing service where directed by the HIENG-DR.
  - 1. Arrange with utility company, the State, and existing users for time when service can be interrupted, if necessary, to make connections for temporary services.
  - 2. Provide adequate capacity at each stage of construction. Before temporary utility is available, provide trucked in services.

- B. Storm Drainage: If storm drains are not available or cannot be used, provide drainage ditches, dry wells, stabilization ponds, and similar facilities.
- C. Water Service: A temporary tap into the facility's existing water system is allowed, subject to the following conditions:
  - 1. Comply with the Department of Health's and County water provider's requirements when tapping into the existing water system.
  - 2. Meter the tapped line and prior to water use, notify the HIENG-DR to observe an initial meter reading.
  - 3. Take monthly meter readings. Pay the State, on a monthly basis, for water used at the current rate per 1,000 gallons.
  - 4. Payments are to be by check, made payable to the "Director of Finance, State of Hawaii" and mailed as directed by the HIENG-DR:
  - 5. Checks shall be accompanied by the following information:
    - a. Name of facility, Project Name and Title and Job No.
    - b. Contractor's name
    - c. Initial meter reading for the month and final meter reading for the month.
    - d. Volume of water used and the amount due in payment for that water
  - 6. Upon completion of the project and just prior to removal of the water meter, notify the HIENG-DR to observe a final meter reading.
  - 7. Should the Contractor at any time fail to comply with any or all of the above conditions, the Department may terminate the use of water. The Contractor shall remove the hookup within 48 hours of notification of such termination.
- D. Sanitary Facilities: Provide temporary toilets, wash facilities, and drinking water fixtures. Comply with regulations and health codes for type, number, location, operation, and maintenance of fixtures and facilities.
  - 1. Disposable Supplies: Provide toilet tissue, paper towels, paper cups, and similar disposable materials for each facility. Maintain adequate supply. Provide covered waste containers for disposal of used material.
  - 2. Toilets: Install self-contained toilet units. Shield toilets to ensure privacy. Provide separate facilities for male and female personnel.
  - 3. Wash Facilities: Install wash facilities supplied with potable water at convenient locations for personnel who handle materials that require wash up. Dispose of drainage properly. Supply cleaning compounds appropriate for each type of material handled.
  - 4. Locate toilets and drinking water fixtures so personnel need not walk more than 2 stories vertically or 200-feet horizontally to facilities.
- E. 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.
- F. Lighting: Provide temporary lighting with local switching that provides adequate illumination for construction operations and traffic conditions.
- G. Telephone Service: Provide a portable wireless telephone with voice-mail or messaging service for superintendent's use in making and receiving telephone calls when at the construction site.

### 3.03 SUPPORT FACILITIES INSTALLATION

- A. General: Comply with the following:
1. Locate storage sheds, sanitary facilities, and other temporary support facilities for easy access or where shown on Contract Drawings or as directed by the HIENG-DR.
  2. Maintain support facilities until near Substantial Completion. Remove before Substantial Completion.
- B. Site Drainage:
1. Dispose of rainwater in a lawful manner that will not result in flooding Project or adjoining property nor endanger permanent Work or temporary facilities.
- C. Project Sign and Temporary Sign(s):
1. Provide and install project identification sign and other signs as listed. Sign designs are attached to Part 3 of this Section:
    - a. Project Sign, project information and general format is provided as follows:

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STATE  
OF  
HAWAII

GRAVESITE RESTORATION AT  
EAST HAWAII VETERANS CEMETERY NO. 2

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DEPARTMENT OF DEFENSE

Office of Veterans Services – John P. Alamodin, Director

GOVERNOR JOSH GREEN

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  2. b. Warning Sign
  2. Install signs where directed by the HIENG-DR or where indicated to inform public and persons seeking entrance to the Project. Do not permit installation of unauthorized signs.
  3. Provide temporary signs to provide directional information to constructional personnel and visitors.
  4. Construct signs with durable materials, properly supported or mounted, and visible.
- D. Trash, Refuse Disposal:
1. Department of Health – Illegal Dumping Notice. See attachment to Part 3 of this section.
    - a. This Notice to be printed out on 8.5x11” paper.
    - b. This Notice to be posted at the job site field office and/or in locations visible to all contractors, subcontractors, suppliers, vendors, etc. throughout the duration of the project.
  2. Illegal Dumping of solid waste could subject the Contractor to fines and could lead to felony prosecution in accordance with Chapter 342H, HRS. For more

information, see the following web site:

<http://www.hawaii.gov/health/environmental/waste/sw/pdf/llldump.pdf>

3. Provide waste collection containers in sizes adequate to handle waste from construction operations. Containerize and clearly label hazardous, dangerous, or unsanitary waste materials separately from other waste.
4. Do not burn debris or waste materials on the project site.
5. Do not bury debris or waste material on the project site unless specifically allowed elsewhere in these specifications as backfill material.
6. Haul unusable debris and waste material to an appropriate off site dump area.
  - a. Water down debris and waste materials during loading operations or provide other measures to prevent dust or other airborne contaminants.
  - b. Vacuum, wet mop, or damp sweep when cleaning rubbish and fines which can become airborne from floors or other paved areas. Do not dry sweep.
  - c. Use enclosed chutes or containers to conveying debris from above the ground floor level.
7. 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.

### **3.04 ENVIRONMENTAL CONTROLS**

- A. General: Provide protection, operate temporary facilities, and conduct construction in ways and by methods that comply with environmental regulations and that minimize possible air, waterway, and subsoil contamination or pollution or other undesirable effects.
- B. Dust Control:
  1. 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 60.1 Air Pollution Control.
  2. Contractor is responsible for and shall determine the method of dust control. Subject to the Contractor's choice, the use of water or environmentally friendly chemicals may be used over surfaces that create airborne dust.
  3. Contractor is responsible for all damage claims due to their negligence to control dust.
- C. Noise Control
  1. Keep noise within acceptable levels at all times in conformance with the State Department of Health, Administrative Rules, Title 11, Chapter 46 Community Noise Control. Obtain and pay for the Community Noise Permit when construction equipment or other devices emit noise at levels exceeding the allowable limits.
  2. Ensure mufflers and other devices are provided on equipment, internal combustion engines and compressors to reduce loud disruptive noise levels and maintain equipment to reduce noise to acceptable levels.
  3. Unless specified elsewhere, do not start construction equipment that meet allowable noise limits prior to 6:45 A.M. or equipment exceeding allowable noise levels prior to 7:00 A.M.

D. Erosion Control

1. During grading operations, maintain the grade to prevent damage to adjoining property from water and eroding soil.
2. Install temporary berms, cut off ditches and other provisions needed for construction methods and operations. Should there be a question if the temporary measures are insufficient to prevent erosion, the HIENG-DR shall make the final determination.
3. Construct and maintain drainage outlets and silting basins where shown on the Drawings and when required to minimize erosion and pollution of waterways during construction.

### **3.05 VIOLATION OF ENVIRONMENTAL PROVISIONS**

- A. Violations of any of the above environmental control requirements or any other pollution control requirements; which may also be specified in the other Specifications sections, shall be resolved under the SUSPENSION and CORRECTIVE WORK Section of the GENERAL CONDITIONS.

### **3.06 BARRICADES AND ENCLOSURES**

- A. Barricades: Before construction operations begin, erect temporary construction barricade(s) to prevent unauthorized persons from entering the project area and to the extent required by the HIENG-DR.
1. Maintain temporary construction barricade(s) throughout the duration of the Work. During the course of the project, the HIENG-DR may require additional barricades be provided for the safety of the public. Contractor shall erect the additional barricade(s) at its own expense.
  2. Construction
    - a. plastic fencing

### **3.07 TEMPORARY FIRE PROTECTION**

- A. Install and maintain temporary fire protection facilities of types needed to protect against reasonably predictable and controllable fire losses. Comply with NFPA 241.
1. Provide fire extinguishers, visible and accessible from construction activity.
    - a. Class ABC dry chemical extinguishers or a combination of extinguishers of NFPA recommended classes for exposures.
    - b. Locate fire extinguishers where convenient and effective for their intended purpose.
  2. Store combustible materials in containers in fire safe locations.
  3. Maintain unobstructed access to fire extinguishers, fire hydrants, temporary fire protection facilities, and other access routes for firefighting.
  4. Develop and supervise an overall fire prevention and first aid fire protection program for personnel at Project site. Review needs with local fire department and establish procedures to be followed. Instruct personnel in methods and procedures. Post warnings and information.

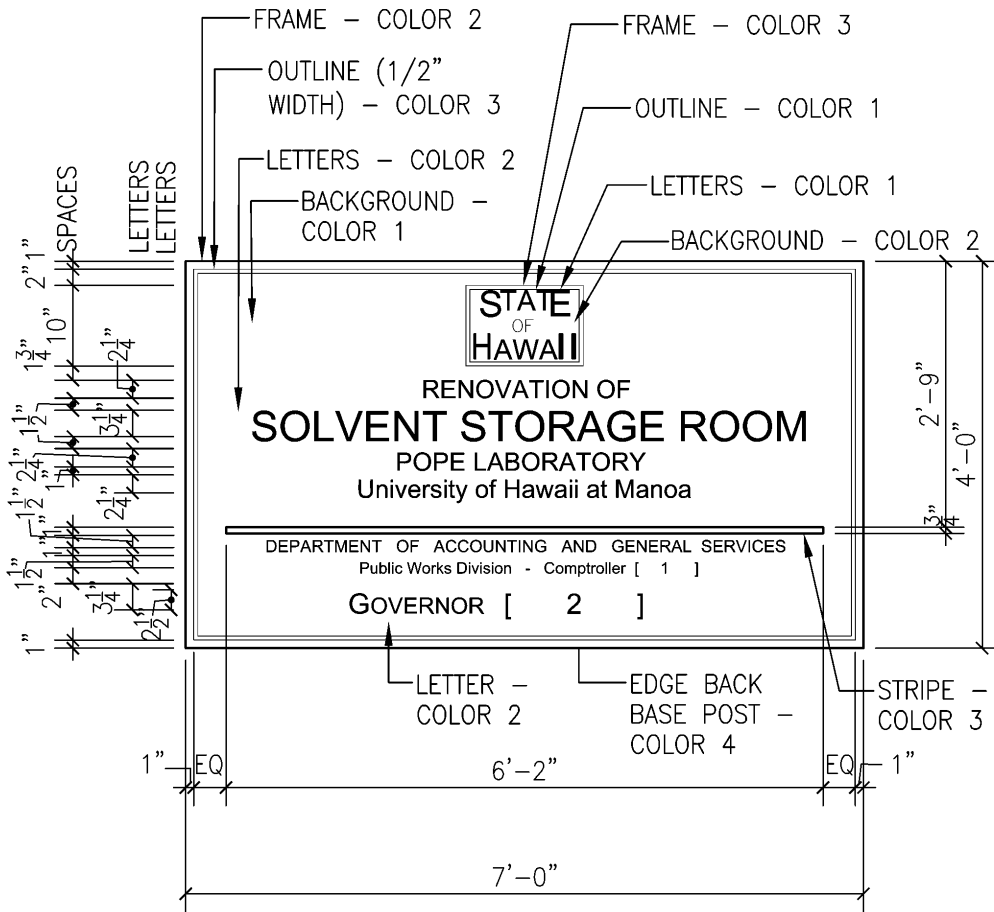
### **3.08 OPERATION, TERMINATION, AND REMOVAL**

- A. Maintenance: Maintain facility in good condition until project completion.
- B. Termination and Removal: Remove each temporary facility when need for its service has ended, or when it has been replaced by authorized use of a permanent facility, or no later than Substantial Completion. Complete or, if necessary, restore permanent construction that may have been delayed because of interference with temporary facility. Repair damaged Work, clean exposed surfaces, and replace construction that cannot be satisfactorily repaired.
  - 1. Materials and facilities that constitute temporary facilities are the property of Contractor. The Department reserves the right to take possession of Project identification signs.

### **3.09 ATTACHMENTS**

- A. Project Sign Drawings.
  - 1. Standard Detail for Project Sign Layout - DETAIL A/TG 01500.
  - 2. Standard Detail for Project Sign Specifications - DETAIL B/TG 01500.
  - 3. Standard Detail for Project Sign Details - DETAIL C/TG 01500.
- B. Dust Control Fence Drawings: Standard Detail for Dust Control Fence - DETAILS D and E/TG 01500.
- C. Warning Sign: Requirements for Warning Sign.
- D. Department of Health – Illegal Dumping Notice

East Hawaii Veterans Cemetery No. 2, Hilo, Island of Hawaii, Hawaii  
Gravesite Restoration for East Hawaii Veterans Cemetery No. 2  
Job No. CA-202617-C



[1] Comptroller's First, Middle Initial and Last Name  
[2] Governor's First, Middle Initial and Last Name



## PROJECT SIGN LAYOUT

SCALE: NTS

Note:

Detail A /TG 01500 project information shown is a sample; project information and general format is provided in Section A.0.2.7.3.03.C.1.a.

## 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.

## ART WORK

CONSTANT ELEMENTS OF THE SIGN LAYOUT – FRAME, OUTLINE, STRIPE, AND OFFICIAL STATE INFORMATION – MAY BE DUPLICATED FOLLOWING WORKING 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 AS SHOWN.

## TITLES

THE SPECIFIC MAJOR WORK OF THE PROJECT UNDER CONSTRUCTION IS EMPHASIZED BY USING 3 3/4" TYPE, ALL CAPITALS. SECONDARY INFORMATION SUCH AS LOCATIONS OR BUILDINGS USES 2 1/4" TYPE, ALL CAPITALS. OTHER RELATED INFORMATION OF LESSER IMPORTANCE USES 2 1/4" (CAPITAL HEIGHT) IN LOWER CASE LETTERS. ALL LINES OF TYPE SHOULD NOT EXCEED THE WIDTH OF THE 6'-2" STRIPE.

## MATERIALS

PANEL IS 3/4" EXTERIOR GRADE HIGH DENSITY OVERLAID PLYWOOD, WITH RESIN BONDED SURFACES ON BOTH SIDES.

## PAINTS & INKS

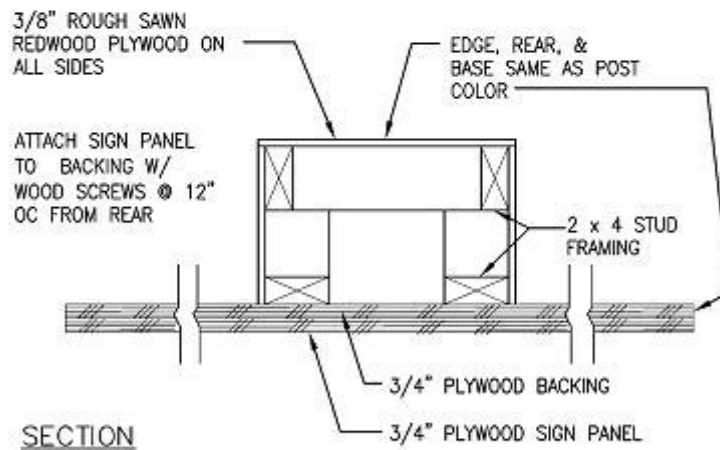
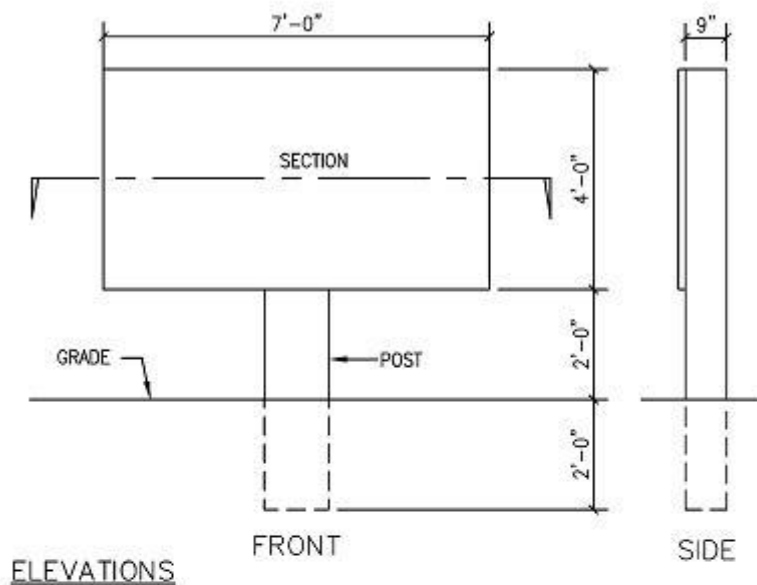
SCREEN PRINT INKS ARE MATTE FINISH. PAINTS ARE SATIN FINISH, EXTERIOR GRADE. REFERENCES TO AMERITONE COLOR KEY PAINT ARE FOR COLOR MATCH ONLY.

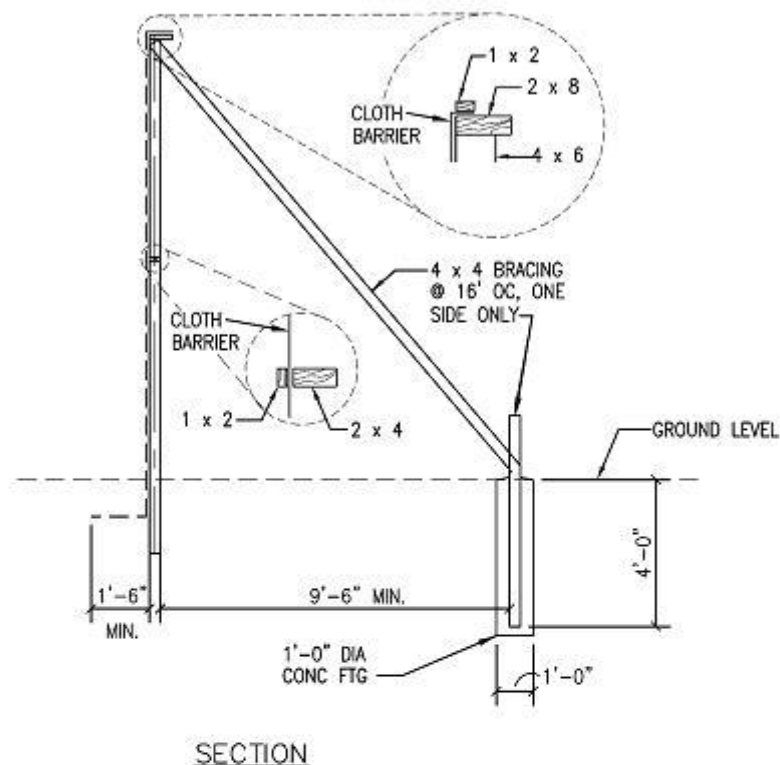
|        |    |        |                 |
|--------|----|--------|-----------------|
| COLOR: | 1. | 1BL10A | BOHEMIAN BLUE   |
|        | 2. | 2H16P  | SOFTLY (WHITE)  |
|        | 3. | 2VR2A  | HOT TANGO (RED) |
|        | 4. | 1M52E  | TOKAY (GRAY)    |



## PROJECT SIGN SPECIFICATIONS

East Hawaii Veterans Cemetery No. 2, Hilo, Island of Hawaii, Hawaii  
Gravesite Restoration for East Hawaii Veterans Cemetery No. 2  
Job No. CA-202617-C





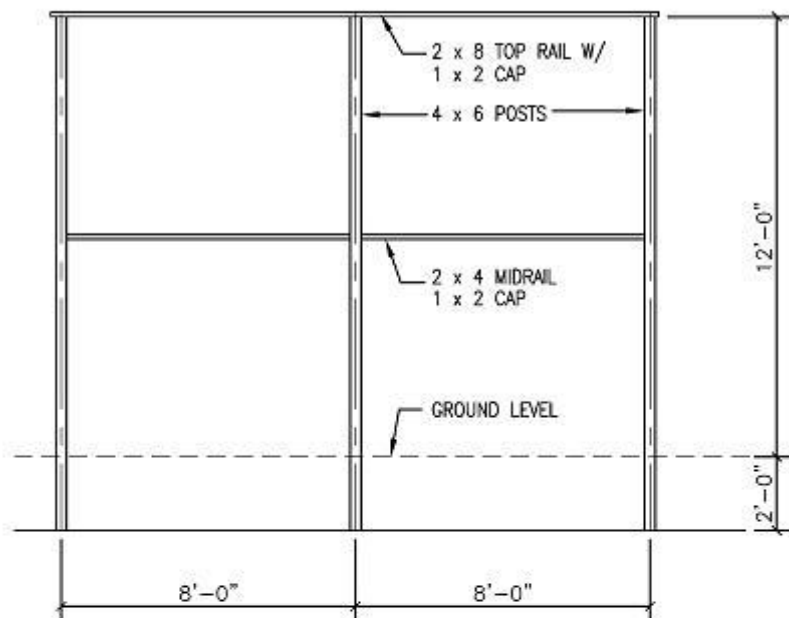
NOTES:

1. CLOTH BARRIER NOT SHOWN IN FRONT VIEW.
2. CLOTH BARRIER TO BE "GEOTEXTILE" OR "NURSERY SHADE".
3. LUMBER SIZES ARE NOMINAL INCHES.
4. AS SHOWN CLOTH TO BE BURIED AT BASE TO INDICATED DIMENSION.
5. 1 x 2 CLOTH BARRIER CAPS TO BE NAILED @ 12" OC.
6. BURLAP IS NOT ACCEPTABLE AS THE CLOTH BARRIER.
7. CLOTH TO HAVE NO HORIZONTAL SEAMS.
8. VERTICAL SEAMS TO BE MADE OVER UPRIGHTS ONLY.
9. ALL SEAMS TO BE CAPPED WITH MINIMUM 1 x 2.
10. ALL JOINTS TO BE SECURELY FASTENED BY MECHANICAL MEANS.



STANDARD DETAIL FOR  
DUST CONTROL FENCE

SCALE: NTS



# ELEVATION

## NOTES:

1. CLOTH BARRIER NOT SHOWN IN FRONT VIEW.
2. CLOTH BARRIER TO BE "GEOTEXTILE" OR "NURSERY SHADE".
3. LUMBER SIZES ARE NOMINAL INCHES.
4. AS SHOWN CLOTH TO BE BURIED AT BASE TO INDICATED DIMENSION.
5. 1 x 2 CLOTH BARRIER CAPS TO BE NAILED @ 12" OC.
6. BURLAP IS NOT ACCEPTABLE AS THE CLOTH BARRIER.
7. CLOTH TO HAVE NO HORIZONTAL SEAMS.
8. VERTICAL SEAMS TO BE MADE OVER UPRIGHTS ONLY.
9. ALL SEAMS TO BE CAPPED WITH MINIMUM 1 x 2.
10. ALL JOINTS TO BE SECURELY FASTENED BY MECHANICAL MEANS.



STANDARD DETAIL FOR  
 DUST CONTROL FENCE

SCALE: NTS

**REQUIREMENTS FOR WARNING SIGN**



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 attached illustration.
5. **Installation**
  - a. Signs shall be located at 50-foot intervals around roped off work area or at all entrances in the case of interior work.
  - 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.

**DEPARTMENT OF HEALTH  
ILLEGAL DUMPING NOTICE**

The law requires you to dispose solid waste only at recycling or disposal facilities permitted by the Department of Health.

**“Solid waste” includes municipal refuse, construction and demolition waste, household waste, tires, car batteries, derelict vehicles, green wastes, furniture, and appliances.**

**Illegal dumping of solid waste  
or allowing illegal disposal of solid waste on your property even if contractual or other arrangements  
are made could subject you to fines from \$10,000 to \$25,000 per occurrence  
and could lead to felony prosecution  
in accordance with Chapter 342H, HRS.**

**Contact the Department of Health,  
Solid Waste Section at 586-4226  
to report illegal dumping activities  
or if you have further questions.**

## **A.0.2.8 EXECUTION REQUIREMENTS**

### **PART 1 - GENERAL**

#### **1.01 SUMMARY**

- A. This section includes general procedural requirements governing execution of the Work including the following:
  - 1. Construction layout. Field engineering and surveying.
  - 2. General installation of products.
  - 3. Progress cleaning.
  - 4. Starting and adjusting.
  - 5. Protection of installed construction.
  - 6. Correction of the Work.
- B. Related Sections
  - 1. CLOSEOUT PROCEDURES.

#### **1.02 SUBMITTALS**

- A. Landfill Receipts: Submit copy of receipts issued by a landfill facility, licensed to accept asbestos waste for disposal.

#### **1.03 NOTIFICATION**

- A. Contact the HIENG-DR and the Project Contact Person at least 3 working days prior to starting any onsite work.

#### **1.04 PROJECT AND SITE CONDITIONS**

- A. Project Contract Limits (Contract Zone Limits) indicate only in general the limits of the work involved. Perform necessary and incidental work, which may fall outside of these demarcation lines. Confine construction activities within the Project Contract Limits and do not spread equipment and materials indiscriminately about the area.
- B. Disruption of Utility Services: Prearrange work related to the temporary disconnection of electrical and other utility systems with the Project Contact Person listed in SPECIAL CONDITIONS and the HIENG-DR. Unless a longer notification period is required elsewhere in the Contract Documents, notify the HIENG-DR at least 15 days in advance of any interruption of existing utility service. Time and duration of interruptions are subject to the HIENG-DR's approval. Keep the utility interruptions and duration to a minimum so as not to cause inconvenience or hardship to the facility. If temporary electrical or other utility systems hook-up is required, provide the necessary services. Pay for temporary services as part of the contract, unless specifically noted otherwise.

- D. Contractor's Operations - Provide means and methods to execute the Work and minimize interruption or interference to the facility's operations. Rearrange the construction schedule when construction activities result in interruptions that hamper the operations of the facilities.
- E. Maintain safe passageway to and from the facility's occupied buildings, rooms and other occupied spaces for the using agency personnel and the public at all times.
- F. Contractor, Subcontractor(s) and their employees will not be allowed to park in zones assigned to Users or facility personnel. Subject to availability, the HIENG-DR may designate areas outside of the Contract Zone Limits to be used by the Contractor. Restore any lawn area damaged by construction activities.

#### **1.05 QUALITY ASSURANCE**

- A. Land Surveyor Qualifications: A professional land surveyor with a license to practice in Hawaii.
- B. Professional Engineer Qualifications: A professional engineer with a license to practice in Hawaii.

### **PART 2 - PRODUCTS (Not Used)**

### **PART 3 - EXECUTION**

#### **3.01 EXAMINING THE SITE**

- A. Contractor and Subcontractors are expected to visit the site and make due allowances for difficulties and contingencies to be encountered. Compare contract documents with work in place. Become familiar, with existing conditions, the conditions to be encountered in performing the Work, and the requirements of the drawings and specifications.
- B. Verify construction lines, grades, dimensions and elevations indicated on the drawings before any clearing, excavation or construction begins. Bring any discrepancy to the attention of the HIENG-DR, and make any change in accordance with the HIENG-DR instruction.
- C. Obtain all field measurements required for the accurate installation of the Work included in this Contract. Verify governing dimensions and examine adjoining work on which the Contractor or Subcontractor's work is in any way dependent. Submit differences discovered during the verification work to the HIENG-DR for interpretations before proceeding with the associated work. Exact measurements are the Contractor's responsibility.
- D. Furnish or obtain templates, patterns, and setting instructions as required for the installation of all Work. Verify dimensions in the field.
- E. Contractor shall accept the site in the condition that exists at the time access is granted to begin the Work. Verify existing conditions and dimensions shown and other dimensions not indicated but necessary to accomplish the Work.
- F. Locate all general reference points and take action to prevent their destruction. Lay out work and be responsible for lines, elevations and measurements and the work executed. Exercise precautions to verify figures and conditions shown on drawings before layout of work.

### **3.02 SITE UTILITIES**

- A. Cooperate, coordinate and schedule work to maintain construction progress, and accommodate the operations and work of the owners of underground or overhead utility lines or other property in removing or altering the lines or providing new services.
- B. Contact all the various utility companies before the start of the work to ascertain any existing utilities and to develop a full understanding of the utility requirements with respect to this Project. Furnish the HIENG-DR with evidence that the utility companies were contacted.
- C. Should the Contractor discover the existence and location of utilities in the contract drawings are not correct, do not disturb the utilities and immediately notify the HIENG-DR.
- D. Do not disturb or modify any utilities encountered, whether shown or not on the Contract Drawings, unless otherwise instructed in the drawings and specifications or as directed by the HIENG-DR. Repair and restore to pre-damaged condition any utilities or any other property damaged by construction activities.
- E. Transfer to "Field Posted As-Built" drawings the location(s) and depth(s) of new and existing utilities that differ from the Contract Drawings. Locate by azimuth and distance and depth(s) from fixed referenced points.

### **3.03 FIELD MEASUREMENTS**

- A. Take field measurements to align and install the Work properly.
- B. Spacing Requirements: Verify spacing requirements and dimensions of items shown diagrammatically on Drawings.
- C. Review of Contract Documents and Field Conditions: Submit a Request For Information (RFI) immediately upon discovery of the need for clarification of the Contract Documents. Include a detailed description of problem encountered, together with recommendations for changing the Contract Documents.

### **3.04 CONSTRUCTION LAYOUT**

- A. Verification: Before proceeding to lay out the Work, verify layout information shown on Drawings, in relation to the property survey and existing benchmarks. If discrepancies are discovered, notify the HIENG-DR promptly.
- B. General: Engage a licensed land surveyor to lay out the Work using accepted surveying practices.
  - 1. Establish benchmarks, control points, lines and levels at each story or level of construction and elsewhere as needed to locate each element of Project.
  - 2. Establish dimensions within tolerances indicated. Do not scale Drawings to obtain required dimensions.
  - 3. Inform installers of lines and levels to which they must comply.

4. Check the location, level and plumb, of every major element as the Work progresses.
  5. Notify the HIENG-DR when deviations from required lines and levels exceed allowable tolerances.
  6. Close site surveys with an error of closure equal to or less than the standard established by authorities having jurisdiction.
- C. Site Improvements: Locate and lay out site improvements, including grading, fill and topsoil placement.
- D. Building Lines and Levels: Locate and lay out control lines and levels for headstone alignment. Transfer survey markings and elevations for use with control lines and levels.
- E. Record Log: Maintain a log of layout control work. Record deviations from required lines and levels. Include beginning and ending dates and times of surveys, weather conditions, name and duty of each survey party member, and types of instruments and tapes used. Make the log available for reference by the HIENG-DR.

### **3.05 FIELD ENGINEERING**

- A. Reference Points: Locate existing permanent or temporary benchmarks, control points and similar reference points before beginning the Work. Preserve and protect permanent benchmarks and control points during construction operations.
1. Do not change or relocate existing benchmarks or control points without the HIENG-DR's approval. Report lost or destroyed permanent benchmarks or control points promptly. Report the need to relocate permanent benchmarks or control points to the HIENG-DR before proceeding.
  2. Replace lost or destroyed permanent benchmarks and control points promptly. Base all replacements on the original survey control points.
- B. Benchmarks: Establish and maintain a minimum of 2 permanent or temporary benchmarks on Project site, referenced to data established by survey control points. Comply with authorities having jurisdiction for type and size of benchmark.
1. Record benchmark locations, with horizontal and vertical data, on Project Record Documents.
  2. Where the actual location or elevation of layout points cannot be marked, provide temporary reference points sufficient to locate the Work.
  3. Remove temporary reference points when no longer needed. Restore marked construction to its original condition.

### **3.06 INSTALLATION**

- A. Install materials, items, fixtures required by the various sections of the Specifications in accordance with Contract Documents, by workers specially trained and skilled in performance of the particular type of work, to meet guarantee and regulatory agency requirements. Should the drawings or specifications be void of installation requirements, install the materials, items, and fixtures in accordance with the manufacturer's current specifications, recommendations, instructions and directions.

### **3.07 CUTTING**

- A. Oversee cutting of asphalt concrete and other materials where indicated on drawings and as required by job conditions.

### **3.08 CLEANING**

- A. General: Clean the Project site and work areas daily, including common areas. Coordinate progress cleaning for joint-use areas where more than one installer has worked. Enforce requirements strictly. Dispose of materials lawfully.
  - 1. Comply with requirements in NFPA 241 for removal of combustible waste materials and debris.
  - 2. Do not hold waste more than 7 days unless approved otherwise by the HIENG-DR.
  - 3. Containerize hazardous waste materials separately from other waste. Mark containers appropriately and dispose of legally, according to regulations.
- B. Site: Maintain Project site free of waste materials and debris.
- C. Work Areas: Clean areas where work is in progress to the level of cleanliness necessary for proper execution of the Work.
  - 1. Remove liquid spills promptly.
  - 2. Where dust would impair proper execution of the Work, broom-clean or vacuum the entire work area, as appropriate.
- D. Headstone Surfaces: Clean surfaces and protect as necessary to ensure freedom from damage and deterioration at time of Substantial Completion.
- E. Waste Disposal: Burying or burning waste materials on-site will not be permitted. Washing waste materials down sewers or into waterways will not be permitted.
- F. During handling and installation, clean and protect construction in progress and adjoining materials already in place. Apply protective covering where required to ensure protection from damage or deterioration at Substantial Completion.
- G. Clean and provide maintenance on completed construction as frequently as necessary through the remainder of the construction period.
- H. Limiting Exposures: Supervise construction operations to assure that no part of the construction, completed or in progress, is subject to harmful, dangerous, damaging, or otherwise deleterious exposure during the construction period.

### **3.09 PROTECTION OF INSTALLED CONSTRUCTION**

- A. Provide final protection and maintain conditions that ensure installed Work is without damage or deterioration at time of Substantial Completion.

### **3.10 CORRECTION OF THE WORK**

- A. Repair, replace or restore defective construction. Restore damaged headstones. Repairing includes re-grassing defective areas, refinishing damaged headstone surfaces, and touching up with matching materials.
- B. Restore permanent facilities used during construction to their specified condition.

## **A.0.2.9 CLOSEOUT PROCEDURES**

### **PART 1 - GENERAL**

#### **1.01 SUMMARY**

- A. This section includes administrative and procedural requirements for contract closeout, including the following:
  - 1. Project Record Documents.
- B. Related documents include the following:
  - 1. EXECUTION REQUIREMENTS.

#### **1.02 SUBSTANTIAL COMPLETION**

- A. Preliminary Procedures: Before requesting a Final Inspection to determine Substantial Completion, complete the following items in addition to requirements of the GENERAL CONDITIONS.
  - 1. Terminate and remove temporary facilities from Project site, along with mockups, construction tools, and similar elements.
  - 2. Complete final cleaning requirements.
  - 3. Touch up and otherwise repair and restore marred exposed finishes to eliminate visual defects.

#### **1.03 FINAL COMPLETION**

- A. Preliminary Procedures: Within 10 days from the Project Acceptance Date, complete the requirements of GENERAL CONDITIONS, PROSECUTION AND PROGRESS.

#### **1.04 LIST OF INCOMPLETE ITEMS (PUNCH LIST)**

- A. Preparation: Submit 2 copies of any updated and action taken list. In addition to requirements of GENERAL CONDITIONS, PROSECUTION AND PROGRESS, include identification of each area affected by construction operations for incomplete items and items needing correction including, if necessary, areas disturbed by Contractor that are outside the limits of construction.
  - 1. Include the following information at the top of each page:
    - a. Project Name and Title.
    - b. Job No.

- c. Date and page number.
- d. Name of Contractor.

## **1.05 PROJECT RECORD DOCUMENTS AND REQUIREMENTS**

### **A. General:**

1. Definition: "Project Record Documents", including Record Drawings, shall fulfill the requirements of "Field-Posted As-Built Drawings" listed in the GENERAL CONDITIONS.
2. Do not use Project Record Documents for daily construction purposes. Protect Project Record Documents from deterioration and loss. Provide access to Project Record Documents for HIENG-DR's reference during normal working hours. Maintain these documents as specified in paragraph entitled "Record Drawings" hereinafter.
3. The Designer, under contract with the State, will update the drawings to show all addendum, PCD, and sketch changes. The HIENG-DR will transmit these drawings (mylar or vellum) to the Contractor who will make all "red-line" corrections to these drawings to record the changes depicted on the Contractor's Field Posted Record ("As-Built") by accepted drafting practices as approved by the HIENG-DR.
4. Where the recorded changes depicted on the Contractor's Field Posted Record ("As-Built") are in the form of shop drawings, the Contractor shall provide those shop drawings on mylar or vellum sheets in the same material and size as the drawings transmitted to the Contractor. The new drawing sheets shall be titled and numbered to conform to the construction drawings and clearly indicate what information they supersede in the actual construction drawings. For example a new drawing that replaces drawing M-3, could be numbered M3a.
5. The Contractor shall bring to the attention of the HIENG-DR any discrepancy between the changes made by the Designer and those depicted on addendum, PCD, and sketch changes. The HIENG-DR will resolve any conflicts.
6. Submit final Record Documents (Field Posted Record Drawings) within 10 days after the Final Inspection Date but no later than the Contract Completion Date, unless the GENERAL CONDITIONS require an earlier submittal date.
7. The Contractor shall guarantee the accuracy of its final Record Documents. The State will hold the Contractor liable for costs the State incurs as a result of inaccuracies in the Contractor's Record Documents.
8. Prepare and submit construction photographs and electronic files, damage or settlement surveys, property surveys, and similar final record information as required by the HIENG-DR.

### **B. Record Drawings:**

1. Maintain a duplicate full-size set of Field Posted Record ("As-Built") Drawings at the job site. Clearly and accurately record all deviations from alignments, elevations and dimensions, which are stipulated on the drawings and for changes directed by the HIENG-DR that deviate from the drawings.

2. Record changes immediately after they are constructed in place and where applicable, refer to the authorizing document (Field Order, Change Order, or Contract Modification). Use red pencil to record changes. Make Field Posted Record Drawings available to the HIENG-DR at any time so that its clarity and accuracy can be monitored.
  - a. Give particular attention to information on concealed elements that cannot be readily identified and recorded later.
  - b. Accurately record information in an understandable drawing technique.
  - c. Record data as soon as possible after obtaining it. Record and check the markup before enclosing concealed installations.
  - d. Mark the contract drawings or the shop drawings, whichever is most capable of showing actual physical conditions, completely and accurately. Where Shop Drawings are marked, show cross-reference on contract drawings.
  - e. Mark important additional information that was either shown schematically or omitted from original Drawings.
  - f. Locate concealed building utilities by dimension from bench marks or permanent structures. Locate site utilities by dimensions, azimuth and lengths from bench marks or permanent structures.
  - g. Note field order numbers, Change Order numbers, Contract Modification numbers, Alternate numbers, post-construction drawing numbers (PCD) and similar identification (RFI numbers) where applicable.
  - h. The Contractor shall initial each deviation and each revision marking.
3. Use the final updated Contract Drawing set plus applicable shop drawings for making the final Field Posted Record Drawings submittal.
4. Certify drawing accuracy and completeness. Label and sign the record drawings.
5. Label the title sheet and on all sheets in the margin space to the right of the sheet number, written from the bottom upward, with the title "FIELD POSTED RECORD DRAWINGS" and certification information as shown below. Provide a signature line and company name line for each subcontractor that will also certify the respective drawing. Adjust size to fit margin space.

FIELD POSTED  
RECORD DRAWINGS

Certified By: \_\_\_\_\_ Date: \_\_\_\_\_  
[Contractor's Company Name]

6. Revise the Drawing Index and label the set "FIELD POSTED RECORD DRAWINGS". Include the label "A COMPLETE SET CONTAINS [ ] SHEETS" in the margin at the bottom right corner of each sheet. Quantify the total number of sheets comprising the set.
7. If the HIENG-DR determines a drawing does not accurately record a deviation or omits relevant information, the State will correct any FIELD POSTED RECORD DRAWINGS sheet. Contractor will be charged for the State's cost to correct the error or omission.
8. Use the final Field Posted Record Drawings sheets to create one electronic version of the set. The set shall be recorded in Adobe Acrobat PDF (Portable Document Format). Create a single indexed, bookmarked PDF file of the entire set of drawings and record on the CD. Submit one set of the final Field Posted Record Drawings sheets and the complete electronic CD set(s).

## **PART 2 - PRODUCTS**

### **2.01 MATERIALS**

- A. Cleaning Agents: Use cleaning materials and agents recommended by manufacturer or fabricator of the surface to be cleaned. Do not use cleaning agents that are potentially hazardous to health or property or that might damage finished surfaces.

## **PART 3 - EXECUTION**

### **3.01 FINAL [PROGRESSIVE] CLEANING**

- A. General: In addition to requirements of GENERAL CONDITIONS conduct cleaning and waste-removal operations to comply with local laws and ordinances and federal and local environmental and antipollution regulations.
- B. Cleaning: Employ experienced workers for final cleaning. Clean each surface or unit to condition expected in an average maintenance program. Comply with manufacturers written instructions unless noted otherwise. Complete the following cleaning operations before requesting final inspection for entire Project or for a portion of Project:
  - 1. Clean Project site, yard, and grounds, in areas disturbed by construction activities, including landscape development areas, of rubbish, waste material, litter, and other foreign substances.
  - 2. Pressure wash paved areas clean. Remove petrochemical spills, stains, and other foreign deposits resulting from construction activities.
  - 3. Rake grounds that are neither planted nor paved to a smooth, even-textured surface.
  - 4. Remove tools, construction equipment, machinery, and surplus material from Project site.
  - 5. Clean exposed exterior and interior hard-surfaced finishes to a dirt-free condition, free of stains, films, and similar foreign substances. Avoid disturbing natural weathering of exterior surfaces. Restore reflective surfaces to their original condition.
  - 6. Touch up and otherwise repair and restore marred, exposed finishes and surfaces. Replace finishes and surfaces that cannot be satisfactorily repaired or restored or that already show evidence of repair or restoration.
  - 7. Leave Project clean and ready for use.
- C. Comply with safety standards for cleaning. Do not burn waste materials. Do not bury debris or excess materials on the State's property. Do not discharge volatile, harmful, or dangerous materials into drainage and sewer systems or onto State property. Remove waste materials from Project site and dispose of lawfully.

## **A.1.0 DESCRIPTION/SPECIFICATIONS/WORK STATEMENT**

### **A.1.1 NCA MISSION**

The National Cemetery Administration honors veterans with a final resting place and lasting memorials that commemorate their service to our Nation. State and Tribal Government Veterans cemeteries are national shrines. The standards of maintenance, appearance and operational procedures performed by the Contractor at this cemetery shall reflect this nation's concern for those interned there. For this reason, the Contractor's strict adherence to the specifications shall be required and shall be essential.

### **A.1.2 SCOPE OF WORK**

- A. Contractor shall furnish all equipment, parts, materials, supplies, labor, and supervision necessary and incidental to the raising, realigning, resetting, cleaning of grave markers, and renovation of associated turf at the East Hawaii Veterans Cemetery No.2 (EHVC2). For map, see construction plans.
- B. Work for this State of Hawaii Department of Defense Operations and Maintenance (O&M) Project (Job No. CA-202617-C, FAI No. HI-10-29) shall be performed in strict accordance with all terms, conditions, specifications, schedules and drawings.
- C. One of the most important considerations in erecting or emplacing a marker is that of precision in alignment. Much of the beauty that exists or should exist in a national cemetery is the direct result of perfectly aligned markers. It only takes one marker out of alignment to spoil the appearance of an entire row, and thereby, the appearance of the entire section. The appearance of the finished work shall be gravesite section(s) that are contoured grass landscape and markers aligned with each other in vertical, horizontal, lateral, and diagonal directions within the tolerances specified herein. It is critical that existing conditions are surveyed and contours adjusted as necessary and approved by the State of Hawaii, Department of Defense, Engineering Office Designated Representative (HIENG-DR) to produce such an appearance. Failure to achieve this finished work shall be basis for accepting or not accepting the finished work.
- D. Visits to the site by Bidders may be made only by appointment with the HIENG-DR or authorized designer of the EHVC2.
- E. Burial Section Data: See construction plans.

### **A.1.3 SPECIFICATIONS AND DRAWINGS**

Upon request, two (2) additional sets of specifications and drawings will be provided to the Contractor at time of award.

### **A.1.4 FIRE SAFETY**

- A. Applicable Publications: Publications listed below form part of this Article to extent referenced. Publications are referenced in text by basic designations only.
  - (i) American Society for Testing and Materials (ASTM):  
E84-1998.....Surface Burning Characteristics of Building Materials

- (ii) National Fire Protection Association (NFPA):
  - 10-1998.....Standard for Portable Fire Extinguishers
  - FCLCH-30-1996.....Flammable and Combustible Liquids Code
  - 51B-1999.....Standard for Fire Prevention During Welding, Cutting and Other Hot Work
  - 70-1999.....National Electrical Code
  - 241-1996.....Standard for Safeguarding Construction, Alteration, and Demolition Operations

- (iii) Occupational Safety and Health Administration (OSHA)
  - 29 CFR 1926.....Safety and Health Regulations for Construction

- B. Fire Safety Plan: Establish and maintain a fire protection program in accordance with 29 CFR 1926. Prior to start of work, prepare a plan detailing project-specific fire safety measures, including periodic status reports, and submit to HIENG-DR for review.
- C. Site and Building Access: Maintain free and unobstructed access to facility emergency services and for fire, police and other emergency response forces in accordance with NFPA 241.
- D. Facilities: Separate temporary facilities, such as trailers, storage sheds, and dumpsters, from existing buildings and new construction by distances in accordance with NFPA 241. For small facilities with less than 6 m (20 feet) exposing overall length, separate by 3m (10 feet). Onsite staging area to be defined by HIENG-DR after Award.
- E. Temporary Electrical: Install, use and maintain installations in accordance with 29 CFR 1926, NFPA 241 and NFPA 70. If temporary electrical is required, the Contractor shall notify the HIENG-DR prior to use of Temporary Electrical Services.
- F. Means of Egress: Do not block exits of occupied buildings, including paths from exits to roads.
- G. Fire Extinguishers: Provide and maintain extinguishers in construction areas and temporary storage areas in accordance with 29 CFR 1926, NFPA 241 and NFPA 10.
- H. Flammable and Combustible Liquids: Store, dispense and use liquids in accordance with 29 CFR 1926, NFPA 241 and NFPA 30.
- I. Smoking: Smoking is prohibited on County of Hawaii property.

#### **A.1.5 OPERATIONS AND STORAGE AREAS**

- A. Coordination of Work with HIENG-DR or Authorized Designee: The burial activities and other interment services at a Cemetery shall take precedence over construction activities. Construction noise during the interment services cannot disturb the burial service. To cause the least possible interference with cemetery activities, the Contractor will cease all work in areas where burials are taking place. Trucks and workmen are prohibited from passing through the service area during this period.
- B. The Contractor shall confine all operations (including storage of materials) on Government premises to areas authorized or approved by the HIENG-DR. The Contractor shall hold and save the Government, its officers and agents, free and harmless from liability of any nature resulting from

the Contractor's performance and/or negligence. It is understood that the Veterans Affairs (VA) and HIENG-DR shall not be held responsible for any damage to the Contractor's equipment, materials, supplies or the like which may result from vandalism, theft etc. while on site.

- C. Temporary buildings (e.g., storage sheds, shops, offices) and utilities may be erected by the Contractor only with the approval of the HIENG-DR and shall be built with labor and materials furnished by the Contractor without expense to the Government. The temporary buildings and utilities shall remain the property of the Contractor and shall be removed and the area restored by the Contractor at its own expense upon completion of the work.
- D. The Contractor shall, under regulations prescribed by the HIENG-DR, use only established roadways, or use temporary roadways constructed by the Contractor when and as authorized by the HIENG-DR.

When materials are transported in performance of work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by any Federal, State, or local law or regulation. When it is necessary to cross curbs or sidewalks, the Contractor shall protect them from damage. The Contractor shall repair or pay for the repair of any damaged curbs, sidewalks, or roads.

- E. The HIENG-DR shall designate working space and space available for storing materials within the existing cemetery area. Unless otherwise indicated on drawings as the Contractor's "Staging Area", all working and storage space must be approved by the HIENG-DR prior to its use.
- F. Contract personnel are subject to the Cemetery rules of conduct. In addition to items listed elsewhere in this contract, the Contractor is responsible for ensuring that no contract work causes any committal service, ceremony, procession or visitation to be delayed, altered, or otherwise impacted in such a way that the dignity, security, or safety of the event or visit is compromised.
- G. Contractor shall execute work in such a manner as to interfere as little as possible with work being done by others. Keep roads clear of construction materials, debris, standing construction equipment and vehicles at all times. Materials and Equipment shall not be stored in other than assigned areas.
- H. The Government is not liable for theft or damage to Contractor's property regardless if it is stored in a fenced enclosure or not.

#### **A.1.6 UTILITIES SERVICES**

- A. No utility services such as water, gas, steam, sewers or electricity, or fire protection systems and communications systems may be interrupted without prior approval of the HIENG-DR.
- B. Contractor shall submit a request to interrupt any such services to HIENG-DR, in writing, 48 hours in advance of proposed interruption. Request shall state reason, date, exact time of, and approximate duration of such interruption.
- C. Contractor will be advised (in writing) of approval of request, or of which other date and/or time such interruption will cause least inconvenience to operations of Cemetery. Interruption time approved by the cemetery may occur at other than Contractor's normal working hours.

- D. To minimize interference of construction activities with flow of Cemetery traffic, the Contractor is to keep roads, walks and entrances to grounds, to parking and to occupied areas of buildings clear of materials, debris and standing construction equipment and vehicles. At least one lane must be open to traffic at all times.

#### **A.1.7 ALTERATIONS**

- A. Survey: Before any work is started, the Contractor shall conduct a thorough survey with the HIENG-DR of areas in which alterations occur, and areas that are anticipated routes of access. The Contractor shall submit a report to the HIENG-DR, signed by the Contractor. This report shall list existing conditions at site. Use of a video camera to survey and document existing conditions is encouraged.
- B. Resurvey: Thirty days (30) before expected final inspection date, the Contractor and HIENG-DR together shall make a thorough re-survey of the areas of burial sections involved. The re-survey report shall list any damages caused by Contractor's workmen in executing work under this contract.

#### **A.1.8 PROTECTION OF EXISTING VEGETATION, GRASS, STRUCTURES, EQUIPMENT, UTILITIES, AND IMPROVEMENTS**

- A. The Contractor shall preserve and protect all structures, equipment, and vegetation (such as trees, shrubs, and grass) on or adjacent to the work site, which is not to be removed and which does not unreasonably interfere with the work required under this contract. The Contractor shall only remove trees when specifically authorized to do so by the HIENG-DR, and shall avoid damaging vegetation that will remain in place. If any limbs or branches of trees are broken during contract performance or by the careless operation of equipment by workmen, the Contractor shall trim those limbs or branches with a clean cut, remove, and properly dispose of from the site as defined herein.

Contractor must notify HIENG-DR of tree-root-bound markers. The HIENG-DR will make the determination to reset or leave these markers in place. The Contractor must contact the HIENG-DR during adverse weather conditions as to not cause any undue tracking or rutting of turf. If these situations occur, the complete renovation of these areas will be at the expense of the Contractor.

- B. The Contractor shall protect from damage all existing improvements and utilities at or near the work site and on adjacent property of a third party. The Contractor shall immediately notify the HIENG-DR of any such occurrence and repair any damage to those facilities, including those that are the property of a third party, resulting from failure to comply with the requirements of this contract or failure to exercise reasonable care in performing the work. If the Contractor fails or refuses to repair the damage promptly, the HIENG-DR may have the necessary work performed and charge the cost to the Contractor.
- C. Refer to Articles, "Alterations", "Restoration", and "Operations and Storage Areas" for additional instructions concerning repair of damage to structures and site improvements.

#### **A.1.9 RESTORATION**

- A. Contractor shall remove, cut, alter, replace, patch and repair existing work as necessary. Except as otherwise shown or specified, Contractor shall not disturb any water, steam, gas, or electric

services without prior approval of the HIENG-DR. Existing work to be altered or extended that is found to be defective in any way, shall be reported to the HIENG-DR before it is disturbed. Materials and workmanship used in restoring work shall conform in type and quality to that of original construction, except as otherwise shown or specified.

- B. Upon completion of contract, deliver work complete and undamaged. Existing work (lawns, paving, roads, walks, etc.) disturbed or removed as a result of performing required new work, shall be patched, repaired, reinstalled, or replaced with new work, and refinished and left in as good condition as existed before commencing work. Valve boxes shall be re-bricked and not resting on piping. All restoration work shall be accomplished without undue delay.
- C. The Contractor, at its own expense, shall immediately restore to service and repair any damage caused by Contractor's workmen/sub-Contractors to existing piping, conduits, wires, cables, etc., of utility services or of fire protection systems and communications systems (including telephone - if applicable), to the work performed under this agreement, which are not scheduled for discontinuance or abandonment.
- D. Expense of repairs to such utilities and systems not shown on drawings or locations of which are unknown will be covered by adjustment to contract time and price in accordance with clause entitled "CHANGES" (FAR 52.212-4 and VAAR 852.236-88) and "DIFFERING SITE CONDITIONS" (FAR 52.236-2).

#### **A.1.10 PROFESSIONAL SURVEYING SERVICES**

A registered professional land surveyor or registered civil engineer whose services are retained and paid for by the Contractor shall be used.

#### **A.1.11 LAYOUT OF WORK**

- A. The Contractor shall layout the work and shall be responsible for all measurements in connection with the layout. The Contractor shall furnish, at Contractor's own expense, all stakes, templates, platforms, equipment, tools, materials, and labor required to layout any part of the work. The Contractor shall be responsible for executing the work to the lines and grades needed to accomplish the work.
- B. The Contractor shall also be responsible for maintaining and preserving all temporary and permanent stakes, plot/section markers (permanent and existing), and other marks until authorized by the HIENG-DR to remove them; any items removed shall be reinstalled in their original location and condition. If such marks are destroyed by the Contractor or through Contractor's negligence before their removal is authorized, the HIENG-DR may replace them and deduct the expense of the replacement from any amounts due or to become due to the Contractor.

#### **A.1.12 AS-BUILT DRAWINGS**

- A. The Contractor shall maintain one set of as-built drawings, which will be kept current during performance of the project, to include all contract changes, modifications, and indicating work progress on a section-by-section basis.
- B. Contractor shall provide photographs of all markers with 2 or a maximum of 3 in each picture before any work is started. These photographs shall be labeled as "Before" for each burial section and

catalogued to correspond with the existing layout or placement of each markers within its corresponding burial section. Contractor shall also provide photographs labeled as "After" to correspond with each "Before" photo for each burial section once work is complete. Survey data for monuments and markers must be provided along with pictures for closeout.

- C. Contractor shall deliver one set of as-built drawings to the HIENG-DR within 15 calendar days after acceptance of the project by the HIENG-DR.

#### **A.1.13 USE OF ROADWAYS**

For hauling, use only established public roads and roads on Cemetery property and, when authorized by the HIENG-DR, such temporary roads which are necessary in the performance of contract work. Temporary roads shall be constructed by the Contractor at Contractor's expense. When necessary to cross curbing, sidewalks, or similar construction, must be protected by well-constructed bridges. Mud and other debris generated by the Contractors performance on this contract shall be cleaned up and removed by C.O.B. as per specifications section A.2.4E.

#### **A.1.14 TEMPORARY TOILETS**

Provide at the Contractor staging area only, (for use of all Contractor's workmen) ample temporary sanitary toilet accommodations consisting of suitable chemical closets where directed. Keep such places clean and free from flies and all connections and appliances connected therewith are to be removed prior to completion of contract, and premises left perfectly clean.

#### **A.1.15 AVAILABILITY AND USE OF WATER**

- A. The Contractor shall regularly water the new grass areas during installation, without wasting water by overwatering, as determined by the HIENG-DR. All new grass areas established by the Contractor shall be irrigated and maintained by the Contractor until acceptance is made by the HIENG-DR.
- B. The Contractor is responsible for coordinating and paying for all water used for construction, as well as, establishment and maintenance of new grass areas. The Contractor shall install all required backflow prevention and metering devices.
- C. Requests to irrigate newly planted turf, to include amount and frequency, shall be made to and approved by the HIENG-DR. Access to and programming of the irrigation control boxes (if available) shall be performed by cemetery personnel at the direction of the HIENG-DR. The Contractor shall not manually override any electronic irrigation control system unless specifically authorized to do so by the HIENG-DR.
- D. The Contractor shall provide a temporary irrigation system for all new grass areas for the duration of the project if a no existing irrigation system is available for the Contractor's use.
- E. The Contractor will be permitted to use the hose bibs and fire hydrants that are available at this cemetery with written approval from the HIENG-DR.
- F. Water shall also be used as the primary method of dust control.

#### A.1.16 HISTORIC PRESERVATION

Where the Contractor or any of the Contractor's employees, prior to, or during the construction work, are advised of or discover any possible archeological, historical and/or cultural resources, the Contractor shall immediately stop work, verbally notify the HIENG-DR, and then follow up with a written memorandum detailing all specifics to the HIENG-DR.

#### A.1.17 REPORTING REQUIREMENTS

The Contractor shall be required to report to HIENG-DR on a daily basis by phone (or as otherwise agreed upon with the HIENG-DR). Contractor shall check-in and obtain funeral and/or special schedules from the HIENG-DR as defined herein. This daily check-in is mandatory. The Contractor shall provide an anticipated work schedule on a daily basis or as agreed upon with the HIENG-DR. The Contractor shall document services performed and provide information to the HIENG-DR as required during specific periods.

**A. Points Of Contact (EHVC2 Engineer):**

Weyland K. Bailey, HIENG - Engineer  
Engineering Office, Department of Defense, State of Hawaii  
3949 Diamond Head Road, Bldg 306A, Room 228  
Honolulu, HI 96816-4495  
**Phone:** (808) 369-3499      **EMAIL:** weyland.k.bailey@hawaii.gov

**B. Points Of Contact (for Contractor – please indicate):**

\_\_\_\_\_  
(Name & Title)      Tele # : (     ) \_\_\_\_\_ - \_\_\_\_\_

Fax # : (     ) \_\_\_\_\_ - \_\_\_\_\_

E-Mail: \_\_\_\_\_

\_\_\_\_\_  
(Name & Title – Alternate POC)      Tele # : (     ) \_\_\_\_\_ - \_\_\_\_\_

E-Mail: \_\_\_\_\_

**Note:** If work is authorized to be performed after hours or on weekends / holidays, and an emergency occurs, the Contractor shall contact the Hawaii Police Department in the absence of the HIENG-DR's or Acting Director. The Police Department Officer will then contact the Cemetery management or take appropriate action.

#### A.1.18 IDENTIFICATION, PARKING, SMOKING, AND VA REGULATIONS

A. All Contractor and his/her employees will be required to adhere to EHVC's Security Policy and meet with any Hawaii County Police Department point of contact-designated staff. It is the responsibility of

the Contractor to park in the appropriate designated parking areas. The Cemetery will not invalidate or make reimbursement for parking violations of the Contractor under any conditions.

- B. Use of all tobacco products are prohibited on County of Hawaii property and facilities. Possession of weapons is prohibited. Enclosed containers, including tool kits, shall be subject to search. Violations of VA regulations may result in citation answerable in the United States (Federal) District Court, not a local district, state, or municipal court.

#### A.1.19 INSURANCE – WORK ON A GOVERNMENT INSTALLATION

- A. The Contractor shall, at its own expense, provide and maintain during the entire performance of this contract, at least the kinds and minimum amounts of insurance required in the Schedule or elsewhere in the contract.
- B. Before commencing work under this contract, the Contractor shall notify the HIENG-DR in writing that the required insurance has been obtained. The policies evidencing required insurance shall contain an endorsement to the effect that any cancellation or any material change adversely affecting the Government's interest shall not be effective-
  - 1. For such period as the laws of the State in which this contract is to be performed prescribe; or
  - 2. Until 30 days after the insurer or the Contractor gives written notice to the HIENG-DR, whichever period is longer.
- C. The Contractor shall insert the substance of this clause, including this paragraph C., in subcontracts under this contract that require work on a Government installation and shall require sub-Contractors to provide and maintain the insurance required in the Schedule or elsewhere in the contract. The Contractor shall maintain a copy of all sub-Contractors' proofs of required insurance, and shall make copies available to the HIENG-DR upon request.
- D. Schedule of insurance coverage: The following minimum coverage shall apply to this contract –
  - 1. *Workers' compensation and employer's liability.* Contractors are required to comply with applicable Federal and State workers' compensation and occupational disease statutes. If occupational diseases are not compensable under those statutes, they shall be covered under the employer's liability section of the insurance policy, except when contract operations are so commingled with a Contractor's commercial operations that it would not be practical to require this coverage. Employer's liability coverage of at least **\$100,000** shall be required, except in States with exclusive or monopolistic funds that do not permit workers' compensation to be written by private carriers.
  - 2. *General liability.* Bodily injury liability insurance coverage written on the comprehensive form of policy of at least **\$500,000** per occurrence.
  - 3. *Automobile liability.* The policy shall provide for bodily injury and property damage liability covering the operation of all automobiles used in connection with performing the contract. Policies covering automobiles operated in the United States shall provide coverage of at least **\$250,000** per person and **\$500,000** per occurrence for bodily injury and **\$100,000** per occurrence for property damage. The amount of liability coverage on other policies shall be

commensurate with any legal requirements of the locality and sufficient to meet normal and customary claims.

#### **A.1.20 ORIENTATION FOR CONTRACTOR EMPLOYEES**

- A. Contractor will attend an orientation meeting as arranged by the HIENG-DR. The HIENG-DR will schedule this meeting and it will include discussion of the following topics (HIENG-DR will provide information to the Contractor regarding these topics and will document the meeting):
  - 1. Fire and Safety
  - 2. Project Work Schedule, Rules Pertaining To Workers, General Parameter Job Related Issues
  - 3. Disaster procedures
  - 4. Other
- B. The Contractor will be responsible to ensure that Contractor employees coming to the work site will receive the information required above.
- C. The Contractor will be responsible to ensure Contractor employees providing work on this contract are fully trained and completely competent to perform the required work.

## A.2.0 SPECIFIC REQUIREMENTS

### A.2.1 CONTRACTOR DUTIES AND RESPONSIBILITIES

- A. Project Manager: A competent and experienced "Project Manager" shall be provided by the Contractor for not less than two (2) hours per day whenever work is being performed - other than trash and debris pick-up. In the absence of the Project Manager, the Contractor will appoint a crew foreman or employee who will be responsible to insure that the work is (i) being accomplished in an expeditious manner, (ii) performed in accordance with the contract specifications, and (iii) progress is being made without undue delay. The Project Manager must have no less than two (2) years' experience as a direct supervisor of a commercial construction operation that includes surveying, soil excavation, and site construction in industrial, commercial and/or public sites. The Project Manager will ensure all specifications are being met, ensure contract work does not conflict with ceremonies and funerals, and ensure employees are adequately supervised and proper conduct is maintained. **BOTH PROJECT MANAGER AND CREW FOREMAN ARE REQUIRED TO BE FLUENT IN ENGLISH.**
- B. Period of Performance: The Contractor shall complete all work defined herein within 1 calendar year from start to finish. Construction Notice to Proceed (NTP) shall be given within the stated 1 calendar year.
- C. Turf Establishment Watering: At present, there is no active irrigation system at this site to establish turf; however there are hose bib connections available in the cemetery and current maintenance personnel may use their own irrigation equipment. Current maintenance personnel believes that the geographical location of this site is conducive with sufficient rainfall to maintain healthy turf and use lawn sprinklers when necessary during dry periods. This statement does not absolve the Contractor from his requirement to provide temporary watering as needed to produce healthy turf. The Contractor will be required to coordinate and oversee all work to ensure that his efforts are actually producing healthy turf. All existing irrigation equipment shall remain and be protected throughout construction and maintain all vegetation (including trees) until the end of the project. Contractor shall replace all irrigation equipment damaged by construction operations with exact manufacturer and model originally installed or accepted by the HIENG-DR at no additional cost. Contractor shall provide a temporary irrigation system for new planting areas. The temporary irrigation system shall consist of commercial-quality equipment and products and shall be maintained by the Contractor throughout the maintenance period. The Contractor shall pay for all water used for construction, including an approved water meter. The Contractor's irrigation system (including all pipes, connections, hoses, etc.) shall be secured and protected from vehicle and pedestrians.
- D. Work Hours: **Work may be performed between the hours of 7:00 a.m. to 4:00 p.m. PDT, Monday through Friday unless otherwise directed by the HIENG-DR.** At the Contractor's request, and with the written permission of the HIENG-DR, work may also be permitted to be scheduled for weekends and/or Holidays except Veterans Day and Memorial Day. In emergency situations caused by the Contractor, or when severe adverse weather prohibits work during the week, the Contractor shall arrange with the HIENG-DR to work on weekends and/or holidays in order to meet performance time frames. The Government shall not compensate the Contractor for any alternate work schedules needed for the Contractor to complete all contract work within the specified project duration. No work will be permitted during Memorial Day or Veteran's Day weekend activities. Notwithstanding, if any work under this contract will be required outside of the VA's normal working hours (7:00 a.m. to 4:00 p.m. PDT, Monday through Friday), the Contractor

shall request for a deviation in writing to the HIENG-DR at least 24 hours in advance. The HIENG-DR will notify the appropriate individuals regarding Contractor's anticipated schedule and will provide written approval or disapproval to the Contractor.

- E. After Normal Hours On-Call / Emergency Situations: The Contractor shall establish and maintain a point-of-contact to receive emergency calls from the HIENG-DR(s). The point-of-contact shall be available on a 24-hour basis including during weekends, Federal Holidays and after normal hours of operation. The Contractor is to provide phone, pager and cell phone numbers for emergency and/or after hour's situations.

Repairs shall be made as expeditiously as circumstances allow or within (24) hours upon initial emergency call. Contractor shall follow procedures listed in paragraph A.1.17 for emergency notifications.

- F. Daily Work Schedule: As provided under paragraph A.1.17, the Contractor shall coordinate with the HIENG-DR(s) on a daily basis a work schedule to ensure that no work is being performed at the immediate site of a scheduled interment or ceremony. These daily meetings are also an opportunity for the Contractor to ask questions and ensure he/she understands the off-limit areas, which may vary, depending on the event.

The Project Manager can thus assign tasks accordingly throughout the rest of the Cemetery - so that productive use of labor and equipment is assured, and downtime is avoided. If the Contractor fails to re-direct employees away from an event in a timely fashion, the HIENG-DR(s) may then assist in doing so. **At the Government's discretion, daily or weekly meetings shall be conducted at a time agreed upon by both the HIENG-DR and the Contractor.**

- G. Phasing Schedule: Contractor shall post his estimated phasing schedule in a visible area in the existing communal shelter, cemetery entrance, or HIENG-DR-approved location prior to starting construction and update frequently. Phasing schedule shall be posted and remain posted in an obvious, informational, legible, and non-obstructing manner approved by the HIENG-DR until the project is completed.
- H. Scheduled Ceremonies: In the event that a burial or funeral is scheduled for the cemetery, the Contractor will obtain a list of scheduled ceremonies the week prior to the event, and a list of scheduled funerals will be provided daily upon request from the Contractor. The Contractor shall ensure that no contract work causes any funeral, ceremony, procession or visitation to be delayed, altered, or otherwise impacted in such a way that the dignity or security of the event is compromised. The Contractor shall stay abreast of all such upcoming events and when in doubt, he/she shall ask the HIENG-DR(s). The Contractor shall meet with the HIENG-DR at the end of each day to determine work completed and ensure that work is on schedule. In the absence of the HIENG-DR, the Contractor shall meet with CM of this contract as provided under Paragraph A.1.17.
- I. The Contractor's performance and progress on this contract will be measured weekly based on how timely, accurately, and adequately he/she accomplishes and completes weekly work schedules necessary to systematically accomplish the contract work over the duration of the project. In instances where the HIENG-DR determines that the work is behind schedule, he will notify the Contracting Officer and the Contractor shall increase workforce and/or hours of operation at no additional cost to the Government in order to achieve completion of the contract work within the specified timeframe.

- J. Adequate warning devices, barricades, guards, flagmen or other necessary precautions shall be provided by the Contractor at all work sites to eliminate hazards and for the protection, safety, and warning of all public visitors, pedestrians, cemetery employees, and vehicular traffic within the area. All open and unattended holes in the ground must be covered with plywood and/or barricaded for pedestrian safety. All irrigation system equipment and materials shall be secured and protected from vehicles and pedestrians. **The Contractor shall place at least one 2' high x 2' wide temporary plastic placard warning sign in front of each and every burial plot or section where work is occurring stating "Burial Section Renovations in Progress, Please Pardon Our Dust". The Contractor shall also place at least one 2' high x 2' wide temporary plastic placard sign in front of each and every plot/burial section where grass is in establishment reading "Area Temporarily Closed for Grass Establishment, Caution: Wet Ground".**

#### A.2.2 REQUIRED DOCUMENTATION

The Contractor shall be responsible for obtaining all necessary and current licenses, permits, vehicular insurance and registration, Workman's Compensatory Liability Insurance, property liability insurance etc., prior to the commencement of work. The Contractor shall provide the HIENG-DR copies of these required documents with his/her proposal and at other times where the HIENG-DR deems necessary during the duration of the project.

#### A.2.3 UTILITY LINES COMPLIANCE

Where work conflicts with existing utility/service lines (above ground/below ground), the corresponding utilities company and the HIENG-DR shall be notified and the Contractor shall obtain any necessary permits/ blue prints and cooperate with the utilities company/cemetery staff to avoid any damage or liability, and provide a safe work environment for his/her employees. Contractor is responsible for damages to utilities, above and below ground.

#### A.2.4 GENERAL PARAMETERS

- A. If there exists any conflicting information, rules, regulations, standards, etc. between these Specifications and the Construction Plans, the more stringent shall govern.
- B. The Contractor is responsible to ensure that all work shall be done in a manner that safeguards all EHVC2 visitors, employees, and public. The Contractor shall be solely responsible for any and all actions initiated and/or completed by his/her employees. Furthermore, the Contractor and his/her employees shall have a clear understanding of, and be sensitive to, such environmental issues as ground water contamination, wetlands, etc., and be consistent and fully compliant with all applicable Federal, State, County laws, ordinances, Right-to-Know laws, EPA guidelines, and regulations.
- C. Damage to Government property: Contractors shall be responsible for replacement of any cemetery structure, to include: turf, curb, road pavement, marker, permanent floral vases, flag sockets, valve boxes, control markers etc., which are chipped, marred, damaged and/or ruined at the fault of the Contractor and shall bear all costs associated with replacement and reinstallation. Any such damage shall be brought to the immediate attention of the appointed HIENG-DR prior to repair, replacement, and installation.
- D. Liability: At the Government's discretion, the Contractor shall either repair or replace the property, or reimburse the Government the full amount for all property damage(s). The Contractor shall be aware that Government property - beyond standard structures and equipment - also includes

markers, monuments, trees, plant beds, and turf, i.e. wounded trees or scalped turf, etc. - as well as markers - shall be repaired or replaced.

- E. Contractors shall be responsible for cleaning cemetery structures, markers, monuments, and roadways that are soiled or stained because of Contractor's performance. The Contractor shall wash-down with water all soiled or stained structures, markers, and monuments at the end of each workday.
- F. Roadways shall be cleaned each day as needed to keep the existing roads free from dirt and mud resulting from Contractor operations. No hazardous chemicals are to be used at any time on Government property. The Contractor shall bear all costs associated with washing and cleaning. Any such washing/cleaning shall be brought to the immediate attention of the HIENG-DR prior to washing/cleaning. If any of the Contractor or Contractor employee vehicles leak lubricants, oil, hydraulic, power-steering, or transmission fluids onto the cemetery pavements, the Contractor shall clean up the spill. If the Contractor fails to police his leaks, the Government will do so at the Contractor's expense.
- G. At the end of each day, the Contractor shall remove all debris from the cemetery site resulting from the work. The Contractor shall ensure at all times that rubbish and trash generated by the Contractor is kept clear of vehicular and pedestrian traffic throughout the site. The Government shall not provide receptacle(s) for disposal of debris related to this contract. The Contractor will be permitted to place his trash receptacle dumpsters in the HIENG-DR approved "Contractor Staging Area".
- H. Adequate warning devices, barricades, guards, flagmen or other necessary precautions shall be provided by the Contractor at all work sites to eliminate hazards and for the protection, safety, and warning of all public visitors, pedestrians, cemetery employees, and vehicular traffic within the area.
- I. The Government may undertake or award other contracts for additional work at or near the site of work for this contract. The Contractor shall fully cooperate with any other Contractors and with Government employees and shall carefully adapt scheduling and performance of work, and needing any direction, it shall be provided by the HIENG-DR(s).

The Contractor is responsible for reporting to the HIENG-DR(s) any problems or questions that may arise with any other personnel on site during the period of performance of this contract. The Contractor shall not take it upon him or herself to resolve any problems or issues with other on-site Contractors or employees, but rather will leave it to the HIENG-DR(s) to resolve the issue.

- J. The Contractor (including his or her employees, sub-Contractors, consultants or the like) shall not operate trucks, tractors, and other heavy equipment on any turf area except as provided in this contract to perform work or as authorized by the HIENG-DR. For areas where gravesites are located, dump trucks or other vehicles used for hauling dirt shall not weigh more than 12,000 pounds without load; excavators or backhoes shall not weigh more than 18,000 pounds. During inclement weather conditions and until all such conditions dry out, mini excavators or comparable equipment shall not weigh more than 6,500 pounds; compact backhoes or comparable equipment shall not weigh more than 5,500 pounds; dump trucks or utility vehicles with dumping capabilities shall not weigh more than 11,000 pounds without load. The Contractor is required to repair any damages to existing underground caskets. The Contractor shall not use equipment or machinery whose weight may cause sink holes and/or buried coffins to break, unless authorized by the

HIENG-DR. The Contractor will be responsible for repairing turf damage caused by the Contractor's equipment and staff at no additional cost to the government.

#### **A.2.5 WORK ENVIRONMENT**

- A. All work under this service contract will be performed primarily out-of-doors and personnel performing these services will be exposed to wind, sun, cold, dampness, frost, fog and rain. These conditions at times may be extreme. The Contractor shall take all necessary precautions to protect his/her employees from the elements to the maximum practicable extent. The Contractor understands that it may be necessary to work throughout all weather conditions and to apply additional labor equipment as necessary to meet deadlines, at no additional cost to the Government.
- B. The Government reserves the right to order the contract work to cease once the surface conditions deteriorate to soggy or muddy conditions. Once the surface reaches this condition, it is non-productive for the Contractor to continue to fulfill the contract. When the Government orders work to stop due to surface conditions, the Contractor may request a time extension to compensate for the number of days lost due to existing conditions.
- C. Due to the sensitive mission of the cemetery, the work could occasionally involve contact with and/or exposure to grieving individuals. Contractor personnel must exercise and exhibit absolute decorum, composure and stability at all times.

#### **A.2.6 CONTRACTOR FURNISHED ITEMS**

- A. The Contractor is responsible for supplying all equipment, personnel, tools, supplies and materials necessary to perform the services required by this contract, unless otherwise stated in this contract.
- B. Contractor-furnished items necessary to perform work as required under this contract shall be furnished, maintained and operated by the Contractor and shall be consistent and fully compliant with all applicable OSHA, Federal, State, County laws, ordinances and regulations.
- C. Materials and supplies procured for the performance of the contract by the Contractor shall be consistent and fully compliant with all applicable Federal, State, and County laws, ordinances and regulations.
- D. Trash and Flower Vase Receptacle

Receptacles shall be made of galvanized steel for rust resistance. Receptacles shall be anchored with stainless steel expansion shields and bolts per manufacturer's specifications. Anodized ¼" aluminum sign panels attached to each receptacle with the curvature matching the receptacle profile. Final signs with text shall be submitted as shop drawings to HIENG-DR for approval prior to fabrication.

- a) Trash Receptacle: High strength plastic lid.
- b) Flower Vase Receptacle: Stainless steel piano-hinged lid with floral regulations decal attached and handle. Hinged side access door with handle.

Contractor shall submit manufacturer approved product to HIENG-DR for approval before purchasing.

E. Metal Pylon Section Marker

Pylon section marker shall be made of galvanized steel for rust resistance. Surface applied reflective vinyl shall be placed on pylon marker faces per Construction Plans. Surface applied reflective vinyl shall be submitted as shop drawings to HIENG-DR for approval prior to fabrication. Contractor shall submit manufacturer approved pylon markers to HIENG-DR for approval before purchasing.

- F. Contractor staging and storage areas will be located where shown on the drawings and/or where approved by the HIENG-DR. Contractor may, with HIENG-DR approval, install a 6' high chain link fence with gates around these areas for duration of the project. Contractor shall base operations out of this staging area, using it for materials and equipment storage, administration, employee toilets, trash dumpster area, employee parking, employee lunch/break area, etc. After completion of project work, Contractor is to remove fencing and restore areas back to original condition.
- G. The Contractor is responsible for the supply, maintenance and repair of all Contractor-owned equipment. This includes, minor maintenance/repair and minor operating parts for equipment such as lubrication, oil changes, spark plugs, gaskets, cotter pins/keys, electric extension cords, etc., to keep all equipment in good operational condition throughout the period of performance of this contract.
- H. The Contractor is responsible for ensuring that all of its motor vehicles and equipment meet State inspection, safety, licensing, registration, and insurance requirements.
- I. Electricity: In case the Contractor requires electricity while in performance of this contract, the Contractor shall provide and utilize portable generators as necessary to complete the work. If Contractor hookup to EHVC2's electrical distribution system is approved by HIENG-DR, Contractor is to provide all necessary connections and complete connection work in accordance with NEC requirements, and at no cost to the Government. Such connection is to be via a Contractor installed meter, with the Contractor providing monthly reimbursement to the cemetery based on metered quantity usage multiplied by the electric rate in effect during that month.
- J. The Contractor shall monitor and record rainfall occurring at this site during the contract period. The Contractor will supplement natural rainfall with temporary hoses and sprinklers and water trucks as needed to comply with all guidelines concerning watering of turf and newly seeded areas.
- K. Refuse Facilities: The Contractor shall provide his/her OWN refuse facilities of which will be located only in the HIENG-DR approved "Staging Area". Contractor shall not place dumpsters or refuse facilities in any other location at the cemetery other than the approved staging area.

The Contractor is required to dispose of all debris and other waste materials generated by his/her work at a licensed off-site landfill unless otherwise directed by the HIENG-DR. The Government shall not provide receptacles for disposal of debris as a result of the services provided under this contract. In case of Hazardous Materials, the Contractor is required to obtain required disposal permits from the State regulatory agency.

- L. Portable Chemical Toilets: The Contractor shall provide portable chemical toilets for use by workmen as necessary to comply with applicable OSHA requirements. These portable toilet facilities shall be kept clean and free of excessive odors, insects, etc. Portable toilet facilities will be

located in the HIENG-DR approved Contractor Staging Area only - it is not permissible to locate portable toilet facilities in any other locations throughout the cemetery. Use of the permanent cemetery toilet facilities by workmen is strictly prohibited throughout the duration of this contract.

- M. Only Contractor's equipment and supplies (property) required to perform work under this contract shall be stored at the Contractor's designated storage area at the end of each workday. No Contractor equipment maintenance repairs of any kind can be done on cemetery property without the prior approval of the HIENG-DR.
- N. Temporary Irrigation System: The Contractor shall supply and install a temporary irrigation system for all new grass areas. The temporary irrigation system shall consist of commercial-quality equipment and products, including a County approved backflow preventer and irrigation submeter at the point of connection. Contractor shall pay for water usage directly to the County of Hawaii. The irrigation system shall provide complete coverage of all new grass areas and irrigation equipment shall be adjustable to minimize overspray onto existing structures, walkways, or roadways. Provide adequate protection for piping from vehicular traffic at all roadway crossings. The temporary irrigation system shall be designed such that each phase of work has a separate point of connection and control valves. All irrigation equipment shall be maintained by the Contractor throughout the maintenance period. The Contractor shall remove the temporary irrigation system upon acceptance of the landscape work at the end of the maintenance period for each phase. Submit a scalable irrigation plan to the HIENG-DR for approval prior to construction.

### **A.3.0 CONTRACTOR PERSONNEL**

#### **A.3.1 CONDUCT**

Contractor personnel are required to adhere to the following standards of dress, conduct, supervision and training while performing work on Government property. Any violations shall be subject to immediate enforcement action by the HIENG-DR if these standards are not adhered to. Contractor shall be responsible for training and safety precautions prescribed by OSHA regarding safety equipment and devices. Contractor personnel shall:

- A. Be fully clothed at all times, to include short sleeve or long sleeve shirt to cover body from the waist to the neck and long pants or slacks. Garments, which have a message, slogan, or printing of any kind other than the Contractor's business attire, are prohibited. Muscle shirts or sleeveless shirts are prohibited. Uniforms are acceptable as detailed in paragraph B. below.
- B. Maintain a neat and professional appearance throughout its workforce, vehicles, equipment, and maintenance areas. Uniforms are acceptable. If uniforms are used, they must be in unison among all employees.
- C. Not engage in loud or boisterous behavior, angry outbursts or use profane or abusive language at any time on Government premises. Playing radios and/or electronic games/devices shall only be done at lunchtime and in a designated break area. Due to the sensitive mission of the cemetery, Contractor employees will come into daily contact with grieving individuals, therefore Contractor employees will exercise and exhibit absolute decorum, courtesy, and respect while within the cemetery or at its perimeter or entrances. Inquiries from cemetery visitors shall be politely referred to Government cemetery staff. Gratuities of any kind are strictly prohibited.
- D. Consume food and beverage only within areas designated by the HIENG-DR(s). Intoxication, and violence or criminal acts of any kind will not be tolerated and is cause for immediate removal from Government property. Use or sale of intoxicating beverages and/or drugs is strictly prohibited, and use of tobacco products is only allowed in specific areas designated by the HIENG-DR.
- E. Only take breaks/rest periods and lunch breaks at the Contractor Staging Area, not in the field. Workers are to utilize Contractor provided temporary chemical toilet facilities located only in the Contractor Staging Area. Misconduct shall form the basis for immediate contract enforcement action, to include immediate removal from the cemetery.

#### **A.3.2 WORKER PARKING**

All Contractor employees are to park only in the HIENG-DR approved Contractor Staging Area identified for this project. Only marked, company owned vehicles may park and operate on site. Workers are not allowed to park throughout the cemetery grounds. Personal vehicles shall be parked off site. Violation of this requirement shall form the basis for immediate contract enforcement action to include removal from the cemetery.

#### **A.3.3 RESPONSIBILITIES AND VIOLATIONS**

The Contractor is responsible to ensure that his/her employees (including Contractor Consultants, sub-Contractors, etc.) are aware of all the terms and conditions set forth in the contract regarding their

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performance and conduct. Any violation of Contractor conduct requirements may result in contract termination with possible repercussions, including costs incurred, debarment, or fines.

#### **A.4.0 LABOR FORCE, EQUIPMENT, AND SAFETY**

##### **A.4.1 TIME**

Time is of the essence. The Contractor shall be aware of the intensive labor and equipment requirements needed to meet contract specifications. Inclement weather is not an excuse for not meeting specifications. Contractor shall be responsible to provide at no additional costs, labor and equipment as necessary to meet deadlines. The Contractor shall use any additional resources necessary to meet or return to specified work requirements after special events and/or services. The Contractor shall determine the number of employees and the amount and kinds of equipment needed during the period of performance.

##### **A.4.2 LABOR**

In accordance with 52.222-41, Service Contract Act, the Contractor shall be aware of the requirements needed to meet the contract specifications. If union work force is utilized, the Contractor will insure the contract between his or her company has a no strike clause to insure the contract between the Contractor and the Cemetery is met.

If at anytime the Contractor becomes aware, anticipates or plans any changes within his/her company or personnel that might impact the performance of this contract, the Contractor shall immediately notify the HIENG-DR.

##### **A.4.3 SAFETY**

Matters related to safety, and any actions of the Contractor, must meet all safety requirements of EHVC2's Safety Officer, Department of Veterans Affairs, OSHA, and the State. It is incumbent upon the Contractor to be familiar with these requirements. "Safety" shall also include the Contractor having a safety representative who maintains regular and routine contact with the Safety Officer at EHVC2.

## **A.5.0 GOVERNMENT RESPONSIBILITIES**

### **A.5.1 PRECONSTRUCTION**

Upon award of the contract, the Government shall inform the Contractor prior to commencing the work, of any known damages to the cemetery grounds, markers or any other areas that the Contractor is unaware of and not responsible for. In addition, upon award of the contract, a walk-through of the cemetery grounds by the HIENG-DR, and Contractor will be scheduled to occur. The Contractor shall obtain a current schedule of burial and funeral services for coordination purposes and shall regularly check with the County of Hawaii and the Office of Veterans Services (OVS) for updates to the schedule.

### **A.5.2 ASSISTANCE**

The Government **shall not** provide the Contractor with any furnishings, fuel storage, equipment, materials, restrooms, or telephones. Electricity will only be provided as defined in Paragraph A.2.6(G). **Water will only be provided as defined in Paragraph A.2.6.H.**

## **A.6.0 GRAVE MARKER REALIGNMENT, RESETTING, AND BACKFILL**

### **A.6.1 OVERVIEW**

This section outlines flat marker realignment requirements. Raise, Lower, Realignment, Reset, and Backfill services consist of extracting, resetting, aligning, backfilling and tamping/compacting grave markers that are already in place which have shifted out of vertical and/or horizontal alignment and plumb, as well as inventorying and assuring accurate placement of gravesites at EHVC2. The design intent is to improve the aesthetics of the cemetery by having neatly aligned grave markers, with the goal of achieving "Shrine Status." The Contractor shall provide all supervision, professional advice/guidance, labor, parts, materials, equipment, and personnel necessary to provide the services defined herein. Special care shall be taken during the entire project to ensure no damage occurs to the markers and HIENG-DR-approved gravesite paraphernalia.

#### **TO ENSURE THE ACCURACY OF MARKER PLACEMENT DURING THE RAISE AND REALIGNMENT PROJECT, THE FOLLOWING PROCEDURES WILL BE FOLLOWED BY DEPARTMENT OF DEFENSE PERSONNEL, CEMETERY PERSONNEL AND HIENG-DR BEFORE THE RAISE & REALIGNMENT PROCESS BEGINS**

The HIENG-DR or cemetery director/designee as listed in the official contract documents shall conduct an initial gravesite verification survey prior to the Raise & Realign (R&R) of any marker in the cemetery. The HIENG-DR will obtain a copy of the Gravesite Inventory and Construction Plans from the Cemetery Director for the verification survey. The Gravesite Inventory and Construction Plans will be used to verify the section, row, grave number, first and last name of each decedent and the condition of the marker included in the scope of work (SOW). All inconsistencies will be researched, discussed and resolved with the Department of Defense Director prior to the R&R of any marker. Upon completion of the verification survey and corrective actions as necessary, the HIENG-DR shall certify the survey by signing the Marker Raise & Realign Verification Survey sheet. A copy of the signed Marker Raise & Realign Verification Survey sheet shall be incorporated into the contract files; a copy of the survey will be maintained by the cemetery. Additional copies of the survey will be retained by the HIENG-DR for the official contract files. The HIENG-DR will give the approval to begin the project.

Prior to the completion of each work day, a Daily Marker Raise & Realign Verification Survey will be completed for all markers raised & realigned. The HIENG-DR /cemetery director/designee will verify the accuracy of the placement of markers on the correct gravesite using the same Burial Register Report and gravesite layout map(s) that were used for the initial marker verification survey. Daily, the HIENG-DR will inform the Contractor of all identified inconsistencies and ensure corrective actions are completed that day. The Daily Marker Raise & Realign Verification Survey will be maintained by the HIENG-DR for certifying payments for completed work, tracking project progress and other administrative needs.

When site conditions are restrictive and it is not possible to safely operate equipment while keeping the markers on the gravesite, the contractor will prepare these sites by hand. At no time may markers be removed from the gravesites in unaffected areas.

The contractor is responsible to protect markers during the realignment & turf renovation process from damage or being discolored from contact with dirt, soil or other contaminants.

#### **MARKERS WILL NOT BE PHYSICALLY REMOVED FROM THE GRAVESITE DURING THE O&M PROJECT IN AREAS THAT ARE NOT ACTIVELY AFFECTED DURING CONSTRUCTION**

#### **A.6.2 GRAVE MARKER LOCATIONS**

Design documents for exact marker locations where adjustment, realignment, resetting and backfill begin will be provided to the Contractor by the HIENG-DR after contract award. The HIENG-DR shall determine the beginning point and ending point in each cemetery section. Grave marker information (including, but not limited to: name, date of birth, date of death) and pre-construction photographs will be included in the bid package for verification purposes in digital file format. All grave marker information shown in the design documents are accurate up to the date of the survey, indicated on the plans. During the on-site construction period, the Contractor shall assist the County in locating new burial sites and grave markers along the row alignment baselines.

#### **A.6.3 RECORD KEEPING AND REPORTING**

The Contractor's Project Manager shall provide the HIENG-DR(s) with weekly written accurate reports detailing the section and range of graves in that specific week. These lists will be provided on not less than a weekly basis, and shall identify all of the above work that took place within the previous seven calendar days. Upon request, the Project Manager shall also provide a plan of action for the upcoming week, regarding marker locations and specific areas where work is being scheduled to occur.

#### **A.6.4 WORK ACTIVITY SEQUENCE**

In burial sections where work consists of Grave Marker Raise/Realign, Cleaning, and Turf Renovation -  
- The Contractor shall submit proposed sequence of work activities to the HIENG-DR for approval prior to starting work; the proposed work sequence of activities shall detail all work including placement and handling of grave markers in accordance with the specifications and plans. Surface renovation work will typically occur either in conjunction with or prior to specified grave marker raise and realign work in order to achieve the specified requirements for flowing precision uniformity of grave markers with the leveled burial section surface terrain. When grave markers are removed from any row to complete required work, each end of row shall have a temporary control marker placed by a registered surveyor. The Contractor shall create a working drawing showing specific locations of each individual grave marker to facilitate precise grave marker reinstallation in the correct location. The contractor must use the information and photographs received in the bid package to verify the accuracy and placement of every grave marker immediately following all realignment work. HIENG-DR will verify Contractor's accuracy.

#### **A.6.5 GRAVE MARKER SPECIFICATIONS**

Raise, lower, realign, reset, backfill, and cleaning of grave markers shall be accomplished as follows:

- A. Typical NCA-standard full-casketed grave marker gravesites are 5' X 10' and cremation flat marker gravesites are 5' X 5', memorial marker sections are 3' X 3'. There is a potential for gravesites and markers to be of non-NCA standard size, as the cemetery is very old. Regardless of size, all gravesites and their respective markers at EHVC2 shall be subject to the work performed for this project. Typical NCA-standard granite flat markers are 24 inches wide and 12 inches in length. The flat markers are 4 inches thick, weighing approximately 130 pounds. Existing markers within EHVC2 may not conform to NCA standards but will be included in the project; all grave markers within EHVC2 shall be raised, lowered, realigned, reset, backfilled and cleaned according to the construction documents. The following are also considered grave markers and will be included in the project: 1" thick 12" X 24" bronze or brass flat markers affixed to 12" X 24" X 4" concrete blocks;

bronze or brass flat markers affixed to 14" X 26-28" X 4-5" concrete or granite blocks. (The Contractor shall verify any uncertainties with the HIENG-DR.

- B. The Contractor shall verify all names, dates, ranks, and other information of all grave markers with all applicable plans, records, and photographs before and after construction. The Contractor shall also verify the condition and location of all grave markers and their respective buried permanent vases before and after construction.
- C. All temporary markers, floral arrangements, and permanent floral vases (including their respective in-ground bases, housings, holsters, foundations, etc.), a.k.a. floral vases a.k.a. vases, at a grave site shall be carefully and orderly removed prior to the raising and realignment of grave markers. All HIENG-DR-approved temporary markers, floral vases, and any other HIENG-DR-approved paraphernalia shall be labeled with the information (name, rank, date of birth, date of death, and other significant identifying information) linking it to their respective markers to ensure accurate re-installation and/or return. Labels shall be water-resistant, removable, non-permanent, not subject to fading or deterioration from exposure to sunlight and not cause any damage to the vase. All packaging shall also be labeled in the same manner described in this section.

County of Hawaii shall be responsible for posting notice to floral vase owners to pick up their floral vases and/or contacting the respective floral vase owners.

All work relating to removal of the existing floral vases shall be state-funded.

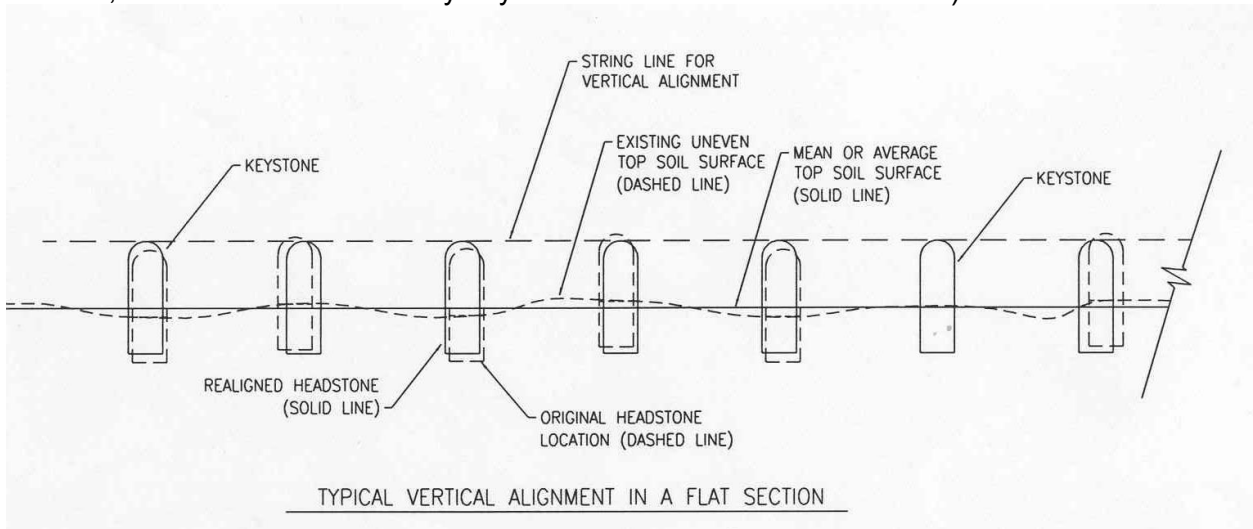
- D. Removal/Handling/Storage of Grave Markers: Markers will be removed from their existing location by using wooden, and or metal clamps. If metal clamps are used the area that contacts the marker must be protected with a rigid fabric that will prevent damage to, and marking of, the marker. Clamps may be attached to a Bob Cat or similar Machine to extract marker from socket. Extreme care will be used not to scratch or damage markers in any manner. Before grave markers are removed from any row to complete required work, each end of the row shall have a temporary control pin marker placed by a registered surveyor, and Contractor shall create an as-built map showing specific location of each individual grave marker by actual number and name in order to facilitate precise grave marker reinstallation in the correct location.
- E. The measurements between rows of grave markers within each row may differ from one section to the next, discuss with HIENG-DR where this is found to occur. These measurements shall be adhered to as closely as possible. Some variances may be allowed in order to keep a uniform appearance of grave markers being aligned. Markers shall be accurately and precisely reinstalled on the correct gravesites with the utilization of temporary grave plotting maps, and temporary Contractor installed control markers accurately and precisely installed at the ends of each gravesite row.
- F. The Contractor shall pull the grave markers from the grave marker sockets and carefully store the markers in the designated temporary grave marker storage area as indicated on the Construction Plans. A 4" deep x 1'-6" wide trench shall be dug under each grave marker row realignment base line (as shown on the site plans) beginning at the edge of the first grave marker on the row alignment baseline and continuing until reaching the last grave marker of the row alignment baseline then backfill this same area (directly below each grave marker) with 3" min thickness of moistened Crushed Limestone Base Material (graded aggregate sizes ranging from crushed powder fines up to 3/8" maximum) heavily tamped to full compaction and leveled for the required alignment of the grave markers. After heavily tamping and compacting the soil in the bottom of the

4" depth continuous trench, remaining trench areas around and between all grave markers shall be filled with 3" minimum clean topsoil compacted firmly into place so that settlement shall not occur and topped with a 1" layer of soil amendments. The Contractor shall provide materials that will allow the replacement of sections disturbed by in-fills.

- G. Flat markers shall be reset to a depth so that the top surface of the flat markers are 1" above grade in accordance with EHVC2 Master Plan. All measurements and string line set-ups shall be taken from established section control markers and/or from temporary control markers installed by the Contractor around the section and at the end of each grave row, not from previously set grave markers, unless otherwise directed by the HIENG-DR. All measurements shall be made in ascending grave number order. In rolling terrain where sloping ground conditions exist, all grave markers shall be set with top surface at proper heights and levels to provide a uniform flowing transition through the rolling terrain. Markers shall be accurately and precisely reinstalled on the correct gravesites with the utilization of temporary grave plotting maps, and temporary Contractor installed control markers accurately and precisely installed at the ends of each gravesite row. Grave markers shall be set in a line laterally, transversely, and diagonally as much as possible with grave markers of other graves. After all work has been completed, the grave markers in all soil and terrain conditions shall be held firmly in place by the compacted soil and crushed limestone base so that the grave markers are rigid with no give, play, or movement when subjected to forces by the HIENG-DR.
- H. The realign crew starts on a row of grave markers close to the center of the section to be realigned. The Contractor shall designate the "key" stones (a.k.a. keystones) for each row. Keystones are the markers that are visibly most in line with the row alignment shown on the plans. Keystones are also as close as possible to the proper measurements for that section of markers. For assistance in finding keystones, the Contractor shall follow the direction of the HIENG-DR.
- I. At the start of work in each burial section, the first row of reset/realigned grave markers in each burial section shall be inspected by HIENG-DR for appearance, spacing, depth, alignment, plumbness, height, accuracy, and smoothness in grade transition. No further setting of grave markers shall be done until this first row has been inspected and accepted by the HIENG-DR. It is the Contractors responsibility to notify the HIENG-DR 24 hours in advance of when each of these inspections will be needed.
- J. Heavy strings or lines shall run along the sides and tops of the keystones. These lines are marked with the proper measurements- (size of section) for the section being aligned. All remaining grave markers in the row are then aligned along the strings front to back and side-to-side even with the measured marks on the line. Each grave marker is adjusted front to back and side-to-side keeping the back of the grave marker along the string and the side of the grave marker along the measured mark. Maximum vertical, lateral, and transverse tolerance of any grave marker off the alignment string lines and/or marks shall be 1/8", or less. Each grave marker is also raised or lowered as necessary to be right at topsoil level subject to the top string slopes required for the markers to flow with the sloping terrain. The grave marker is then aligned along the string front to back and side-to-side even with the measured mark on the line. The grave marker is leveled and plumbed front to back and side-to-side keeping the back of marker along the string and the side of the marker along the measured mark.
- K. The alignment of the grave markers should be checked frequently during this process to ensure that the marker is not out of level or off the mark on the line. This process of raising and realigning is

repeated for each row of markers. Grave markers in all completed work areas shall be firmly set and anchored in place with no movement from forces subjected by the HIENG-DR.

- L. The following attachments shall be used as a reference (there are many types of grave markers at EHVC2, the Contractor shall verify any uncertainties with the HIENG-DR):



- M. Any grave markers broken or damaged by the Contractor shall be reported to the Cemetery Administrator or HIENG-DR by close of business each working day in order that the grave can be properly marked. The Contractor shall be responsible for the cost of the grave marker replacement. All grave marker replacements shall be coordinated with the HIENG-DR. Any grid or sectional monuments disturbed, displaced or broken shall be replaced by the Contractor at his cost. All grid or sectional monuments disturbed, shall be properly reset by a licensed land surveyor at Contractor's expense. Curbs, roads, walks, turf, trees, utilities existing above and below the ground that are damaged or disturbed by the Contractor during performance of contract work shall be repaired at the expense of the Contractor. Repairs to the above shall be corrected by the Contractor within fourteen (14) workdays, unless otherwise agreed to with the HIENG-DR.

#### **A.6.6 GRAVE MARKER CLEANING GENERAL INFORMATION**

The Contractor shall provide all labor, parts, equipment, supplies, transportation and personnel required to provide grave marker cleaning services. The cleaning shall consist of cleaning grave markers at EHVC2.

#### **A.6.7 DEFINITION**

"Clean" under this contract means: The markers shall contain NO discoloration, environmental deposits, mold, mildew, moss, algae, lichen, dirt/mud, grass clippings, grass marks, bird droppings.

#### **A.6.8 CONTRACTOR DUTIES AND RESPONSIBILITIES**

- A. All equipment and supplies maintained and operated by the Contractor shall be consistent and fully compliant with all applicable Federal, State, and County laws, ordinances and regulations and meet State inspection, safety, licensing, registration, and insurance requirements.

- B. National Cemeteries are national shrines for our nation's heroes, the veteran(s) and their family. The standards of maintenance and appearance shall reflect this nation's concern for those interred. The Contractor shall demonstrate a clear understanding of, and the sensitivity to, environmental issues during the performance of the contract.
- C. The Contractor shall be responsible for replacement of any grave markers or marker, which is chipped, marred, or damaged at the fault of the Contractor and shall bear all costs associated with replacement and reinstallation as described in section A.6.5.M. Any such damage shall be brought to the attention of the HIENG-DR prior to replacement or reinstallation.

#### **A.6.9 RECORD KEEPING AND REPORTING**

The Contractor's Superintendent shall provide the HIENG-DR(s) with weekly written accurate reports identifying the following: All grave markers cleaned shall be recorded per gravesite location. These lists shall be provided on not less than a weekly basis, and shall identify all of the above work that took place within the previous seven calendar days.

The Contractor shall keep a log of all distributed and disposed of vases. Samples of all logs shall be submitted to the HIENG-DR for approval prior to construction.

#### **A.6.10 CLEANING OF GRAVE MARKERS**

- A. All temporary markers, floral, commemorative, or other types of decorations (arrangements) causing interference with the cleaning of markers shall be carefully and orderly moved from and, upon completion of the cleaning of the markers moved back to the gravesite by the Contractor.
- B. Cleaning techniques shall demonstrate a clear understanding of and the sensitivity to, such environmental issues as ground water contamination, wetlands and shall be consistent and fully compliant with all applicable Federal, State, and County laws, ordinances and regulations. Clean water shall be used to clean grave markers. Cleaning techniques will use a water feed with a Makita 4 inch Electronic Wet Stone Polisher, Model No. PW5001C (or equivalent) and StoneMaster® plus premium quality polishing discs (diamond-impregnated) for granite 50g (or equivalent). Cleaned marker should have the same appearance as that originally received from manufacturer. Use caution to prevent damaging any bronze faceplates of the flat markers. If water used in cleaning should soften the soil around the base of the marker so that the marker is loosened, care shall be taken not to tip the marker out of plumb or alignment. Care shall be taken to protect the turf area from damage. Any turf damaged by the Contractor shall be restored at Contractor's expense. Grave markers shall be set and anchored firmly in place with no movement from forces subjected by the HIENG-DR or inspector after cleaning has been completed.
- C. After cleaning in accordance with Paragraph B. above, a chemical cleaning agent such as Sporiclean (or acceptable biodegradable and non-toxic alternate) shall be applied onto the markers and is not to be washed off. Contractor shall submit the proposed cleaning chemical and the required Material Safety Data Sheets (MSDS) to the HIENG-DR for approval prior to use of any chemicals including but not limited to Sporiclean. The Contractor shall be responsible for any turf or seeds damaged during the cleaning process.
- D. Markers that were cleaned but have become marked, discolored, dirt covered, or muddied due to subsequent contract work including but not limited to turf reestablishment shall be re-cleaned at no additional cost to the government. Markers that become discolored, dirt covered, or muddied, after

initial cleaning has been completed, but prior to overall project completion, shall be re-cleaned at no additional cost to the government. All markers shall be clean at the time of project completion and final inspection.

- E. The end result of this service is that the Contractor shall provide the Government "CLEAN" grave markers. The definition of "CLEAN" is listed above in Paragraph A.6.7.

#### **A.6.11 PHASING AND WORK SEQUENCING**

- A. All work shall be accomplished in a sequential manner. If the Contractor's method of raising and realigning the grave markers requires removal of the marker(s) from the gravesite(s) area(s), then the work shall be limited to an area of no more than 500 gravesites at any given time, in an area(s) as determined by the HIENG-DR. The Contractor shall correctly raise and realign the grave markers, and achieve the correct finished grade in the area of work to be approved by the HIENG-DR before any grass can be installed.

**The Contractor estimates \_\_\_\_\_ (for Contractor – please indicate) grave markers will be completed per day.**

- B. However, the spraying and killing of existing turf, item A.7; A. B., and C. of this contract, is not limited to this 500 gravesite area, and can be performed in advance up to one full section at a time or more if approved by the HIENG-DR. The Contractor shall submit a proposed "Project Work Schedule Sequence" to the HIENG-DR for review and approval prior to the start of work in each phase.

#### **A.6.12 MARKING OF GRAVESITES**

To allow for visitation by the public during weekends, all gravesites under this contract must be marked with either the gravesite's permanent grave marker or a temporary gravesite marker by no later than 4:00 PM every Friday and remain until the following Monday or later, when required to be removed by the Contractor in order to perform work. (If Monday is a Federal Holiday, then the markers will remain until Tuesday). The Contractor shall assemble Government provided temporary gravesite markers (stands and tags) with the names, date of birth and date of death, and install on their respective gravesites as required to insure all gravesites under this contract are marked by 4:00 PM Friday. The Contractor is responsible for identifying the quantity of temporary gravesite markers required, taking possession and storage temporary gravesite markers when not in use for the duration of this contract and return to the cemetery upon the completion of the contract.

#### **A.7.0 TURFGRASS RENOVATION**

This section outlines operational procedures to be followed in gravesites designated for grading / renovation and re-establishment of the existing turf.

- A. The Contactor shall collect and submit soil samples from each section to a certified soil-testing laboratory from the site several weeks prior to the intended operation to determine soil fertility and pH adjustment requirements. Test results shall include a summary of the soil analysis findings and recommendations to correct soil deficiencies including, but not limited to, type of amendment and fertilizers to be added to the soil, and a schedule for applying amendments and fertilizers at pre-planting, planting, and plant establishment periods. Test results and recommendations for correcting soil deficiencies shall be furnished to the HIENG-DR upon completion of the laboratory testing for review and approval prior to construction.
- B. Mow target area at the normal maintenance height as approved by the HIENG-DR and remove grass clippings.
- C. After preparatory mowing, the entire vegetated area shall be sprayed with Round-Up Pro herbicide or equal. Application rate shall be the maximum label recommended rate for the complete elimination of perennial grass species and contaminant weeds. Allow fourteen (14) calendar days after application for herbicide to fully Trans-locate throughout all plant parts. Repeat treatment as required to completely kill existing turf and weeds.
- D. Power rake or vertical-cut entire treated area to loosen and remove all residual plantdebris, rocks, twigs and thatch. Import topsoil and apply soil test recommended quantities of starter fertilizer and soil amendments achieve optimum fertility and pH. Spread evenly over entire area using any suitable broadcast application device. Roto-till area to a minimum depth of 8 inches to uniformly mix fertilizer, soil amendments, and topsoil and to uniformly loosen top surface for re-grading and leveling. Finely grade and compact surface of site to achieve desired finished appearance, which shall be smooth and uniformly level down each row and between each row, free of all surface ripples, depressions, high spots, low areas, and ridges.

Erosion control methods shall be required for this project. The contractor shall develop a plan to prevent surface sheet erosion during the performance of the contract. The contractor shall submit his erosion control plan to the HIENG-DR for approval before startup of the project. The VA reserves the right to reject the contractor's plan if the VA review indicates that the plan will result in an undesirable product.

- E. In locations where existing burial area surface has formed "ridges" between rows, these areas shall be knocked down by grading between high and low surfaces of the rows so that finished surface is uniformly flowing from row to row, and down each row. If this process does not achieve desired smooth and uniformly flowing finished grade due to numerous depressions and low or sunken areas in the existing surface grade, import, spread and compact additional high quality topsoil of similar characteristics and texture to the soil already present on site.
- F. Topsoil shall be free of foreign matter, any objects bigger than 12 mm (0.5 inch) and weed seeds. Apply and compact sufficient topsoil to eliminate all ripples, depressions, and sunken grave areas as needed to achieve the desired smooth and uniformly level finish grade and appearance. Protect finished areas from damage by vehicular or pedestrian traffic. Install and maintain erosion control material to meet local requirements. A soil analysis shall be performed on

imported topsoil as described in A.7.A. The soil analysis results with amendment and fertilizer recommendations shall be furnished to the HIENG-DR for review and approval prior to placement of imported soil.

- G. Firm finished planting bed by rolling in several directions with a standard turf grass roller filled with water.
- H. Before any grassing operations, the final grade shall be inspected and approved by the HIENG-DR.

#### **A.7.1 TURF ESTABLISHMENT BY SEED**

- A. Grass Seed: Turfgrass seed species shall be centipede grass (*Eremochloa ophiuroides*). Seeds shall comply with Hawaii Administrative Rules Title 4, Subtitle 6, Chapter 67 Seed Rules, shall be certified for compliance by a Hawaii-licensed seed distributor, and shall be purchased from that distributor. Seed shall be certified to the following properties: 95% minimum pure seed, 1% maximum crop seed, 0.5% maximum weed seed, 5% maximum inert material, 80% Minimum germination rate. Apply centipede grass seed at the minimum rate of 2 pounds per 1,000 square feet and within 12 months of the date of the certified germination test. 50 percent of the grass seed shall be sowed with the applicator moving in one uniform direction, and the remainder of the seed sowed with the applicator moving at a 90-degree angle to the first direction of travel. Seed shall be delivered to the Project in labeled and sealed containers. Seed and labels shall be subject to testing provisions of the Association of Official Seed Analysts. HIENG-DR will not accept for use seed that is more than 12 months old from the date of certified germination test. Annual rye grass (*Lolium multiflorum*) seed shall be incorporated with the centipede grass and shall be seeded at a minimum rate of 5 pounds per 1,000 square feet.
- B. Mulch: Mulch shall be specially processed fiber containing no growth or germination inhibiting components. Fibers shall form a homogeneous slurry after addition and agitation in hydro-mulch equipment with seed, pre-planting fertilizer, water, and other additives non-detrimental to plant growth. When hydraulically sprayed on the soil, fibers shall form a blotter-like ground cover that readily absorbs water and allows infiltration to the underlying soil. Contractor shall attain complete coverage of the soil. Application rate of hydromulch per acre shall meet the following: 1,700 pounds of hydromulch, 87 pounds of grass seed, the recommended type and quantity of pre-planting fertilizer per the Soil Analysis Report.
- C. Fertilizer: Proper fertilizer shall be used in the hydro-mulch mix to ensure optimum rooting. Contractor shall use type, quantity, and ratio of fertilizer recommended by the grass grower or as approved by the HIENG-DR.
- D. Hydrocolloidal Tackifier: Hydrocolloidal tackifier shall be formulated for use with hydraulically planted grass seed alone or in combination with fertilizer, wood fiber mulch, and other additives acceptable to the HIENG-DR. Tackifier shall consist of at least three different but complimentary hydrocolloids, two of which shall be Clactomannan and Plantago Ovata. Latter component shall have muciloid content of at least 85 percent. Tackifier shall be applied at a rate of 125 pounds per acre, shall be pH stable with fertilizer, and shall hydrate and disperse in the mixing tank with water and other materials to form a homogeneous slurry. Tackifier shall not inhibit plant germination or growth.
- E. Organic Tackifier: Organic tackifier shall be starch-based tackifier formulated for use with conventional mulches. Active ingredient in tackifier shall be 100 percent derived from plant

starch. Dry powder tackifier shall be blended with insolubilizer. After blending and mixing with water, tackifier shall swell, become sticky, and be suitable for use during heavy rain. Tackifier shall be applied at a rate of 125 pounds per acre. Emulsion shall cure on the surface of the soil and become insoluble. Tackifier shall not inhibit plant germination or growth.

- F. Seed Application: Planting method shall be by hydromulch seeding. Notify the HIENG-DR not less than 2 working days prior to hydroseeding operations. Do not begin hydroseed planting operations until the HIENG-DR inspects and accepts areas for planting and shall commence not more than 1 day after completion of planting area's preparation work. HIENG-DR will inspect planting areas to ensure that surface and subsurface water are properly collected and disposed of and areas to be planted are protected from erosion. Immediately prior to hydroseeding operations, ensure all planting areas have been cleared of weeds, debris, rocks over 0.5 inch diameter, and clumps of soil that do not break up. Contractor shall address all planting area preparation issues identified by the HIENG-DR prior to starting hydroseeding operations. Upon HIENG-DR's acceptance for planting, begin hydroseed application of the planting area. Acceptance for planting does not relieve the Contractor of responsibility for repair of damage to planting areas until grassed areas are acceptable to the HIENG-DR.

Place hydromulch seeding evenly and completely over the ground in one application at the minimum rate of 1,500 pounds of mulch per acre. Use HIENG-DR -accepted hydromulch equipment with built-in agitation system and operating capacity sufficient for uniform mixing and sufficient capacity to keep the hydromulch and seed in uniform distribution until slurry is pumped out of the tank. Hydro-mulch equipment shall have distribution and discharge lines installed which are large enough to prevent stoppage, and hydraulic discharge spray nozzles that provide uniform distribution of slurry. When hydraulically sprayed on the soil, the hydromulch fibers shall form a blotter-like ground cover, which readily absorbs water and allows infiltration to the underlying soil. In every application, complete and even coverage of the soil shall be attained. Use water at the rate of 25 gallons per 1,000 square feet.

- G. Watering: Water immediately after planting to moisten the soil and mulch. Install a temporary irrigation system to provide complete coverage of the planting area. Contractor shall be responsible for coordinating and establishing the water source and delivery method to the Project site. Contractor shall attain HIENG-DR approval of proposed temporary irrigation system. Soil should be moistened to a minimum depth of two inches. Repeat irrigation cycles at regular intervals to keep sprigs and soil moist to a depth of two inches. Do not allow water to pond and avoid excessive watering. Watering equipment shall not cause any erosion or runoff. Replace watering equipment that causes erosion or runoff. Cost to repair erosion and damage to hydromulch seeding areas caused by watering shall be borne by the Contractor with no additional compensation. Soil shall be kept moist but not saturated.

#### **A.7.2 TURF ESTABLISHMENT PERIOD**

The Establishment Period for turf shall begin immediately after the complete turf installation of a section(s) with the approval of the HIENG-DR or Designee, and continue until the date that the Government performs the final inspection and acceptance. The Contractor shall maintain the area for 120 consecutive calendar days. During that period the Contractor shall:

- A. Maintain and establish turf by watering, fertilizing, weeding, mowing, trimming, replanting, and performing other operations as required to establish healthy, viable turf. Roll, re-grade, apply clean and washed sand or mulch for leveling, and replant bare or eroded areas as necessary to

produce uniform and evenly finished turf. Provide materials and installation the same as those used in the original installation.

- B. Notify the HIENG-DR or Designee 1 working day before application of fertilizer. Apply fertilizer when grass is dry. Fertilizer shall be distributed uniformly over the planted area. Use fertilizer type and quantity that is recommended by the soil analysis report and does not contradict fertilizer recommended by the grass seed manufacturer. Notify the HIENG-DR or Designee of any potential contradiction of fertilizer type or rate and proceed only as directed.
- C. The initial application of fertilizer after hydromulch seeding shall be applied at the rate of 1 pound of slow-release nitrate fertilizer per 1,000 square feet approximately 2 weeks after grass germinates and shall be immediately followed by watering.
- D. Subsequent applications of fertilizer shall be applied at the rate of 1 pound of slow-release nitrate fertilizer per 1,000 square feet every 2-3 weeks until turfgrass has achieved 90% coverage.
- E. After 90% grass coverage has been attained, applications of fertilizer shall only be required after HIENG-DR or Designee accepts the grassed areas and shall be applied at a rate of 0.5 pounds of slow-release nitrate fertilizer per 1,000 square feet.
- F. Maintenance: The Contractor shall be responsible for the proper care and maintenance of all grassed areas immediately following hydroseeding operations until the site is accepted by the HIENG-DR or Designee. Maintenance shall include, but is not limited to, watering, weeding, mowing, repairing, re-grassing, and protection. Any and all efforts consistent with the intent to establish, care for, and protect the new grassing areas shall be the Contractor's responsibility and shall be considered incidental to the Project.
- G. Weeding: At a minimum, the Contractor shall review the entirety of grassed areas on a weekly basis (7 day period) and remove all established weeds. However, the contractor shall implement a weeding regimen of greater frequency and intensity should site conditions and frequency of weed establishment exceed the Contractor's ability to remove weeds on a weekly basis. Weeds shall be uprooted and removed completely from the site. In absolutely no case shall any weed within any grassed area be allowed to flower or propagate more seeds. Failure to remove weeds prior to their flowering and/or propagation of seeds shall be grounds for the HIENG-DR or designee to restart the maintenance period for the Project in its entirety, or, for a specific area of the site. Such maintenance period extension shall be incidental to the Project. Large voids in continuous grassed areas caused by weeding shall be immediately filled with screened soil, raked level, and grass seed applied. Weeding shall be accomplished so as to minimally disturb or harm adjacent grassed areas. At no time shall any of the following weed types be allowed to establish themselves on site: sleeping grass, wire grass, guinea grass, wainaku grass, kyllinga, and nutsedge. Failure to immediately address removal of such weed species shall be just cause for the HIENG-DR or Designee to restart the maintenance period for the Project in its entirety, or, for a specific area of the site. Such maintenance period extension shall be incidental to the project. The use of selective herbicides shall be preapproved by the HIENG-DR or Designee and shall be listed by the herbicide manufacturer to be compatible with the turfgrass species provided. Herbicides shall only be applied within areas of the site where access to the public is physically restricted.

- H. Mowing: Grass shall be mechanically cut using a reel mower whose blades have been sharpened immediately prior to use on the site. Scalping shall be avoided at all times and shall be grounds for a 30-day extension of the maintenance period at no additional cost to the Government. Grass shall be mowed when grass height averages 1-inch in height and shall be mowed to a 1/2-inch height. Frequency of mowing shall be determined by its growth rate at the site. At 6 weeks after germination, light verti-cutting of the grass shall be done to establish maximum turf development. Lightly top dress with well-aged compost immediately after verti-cutting operations are complete. Cutting of turfgrass using weed eaters or hand tools shall be limited to areas that cannot be effectively cut using an appropriate reel-type lawn mower. Ruts, divots, depressions or other surface irregularities caused or revealed by mowing operations shall be filled using imported screened soil and lightly compacted.
- I. Repair and Re-Grassing: When any portion of the grassed surface becomes gullied or otherwise damaged or grass has failed to grow, such areas shall be repaired with imported screened soil and replanted with grass using the same materials and installation as those used in the original installation. Grass that appears to exhibit signs of disease or decay shall be immediately removed and replaced. Provide new imported screened soil as necessary to reestablish healthy growth. Any area of one foot square or more in which grass has failed to germinate and begin to establish after 30 days of maintenance shall be re-grassed using the same materials and installation as those used in the original installation. Apply well-aged compost topdressing to address surface irregularities, to establish desired slopes and drainage patterns, and to fill-in voids, ruts or depressions inconsistent with the design intent.
- J. Protection: Protect lawns from vehicle, equipment and foot traffic to allow for healthy grass growth and establishment. Grassed areas damaged by traffic shall be restored and replanted using the same materials and installation as those used in the original installation. Grassed areas shall be adequately protected at all times against damage of any kind. Work occurs within a public park, which is utilized by numerous people. It is also potentially subject to greater incidences of vandalism, mischief and trespassing. The Contractor shall take all necessary precautions to protect its work in place. The Contractor is responsible to rectify any damage caused to its work and to report any theft, damage or criminal acts to the police and HIENG-DR or Designee immediately.
- K. Maintenance: Upon HIENG-DR acceptance of grassing areas, Contractor shall maintain grassing areas for a period of 120 consecutive calendar days. Maintenance of the grassed areas shall be considered incidental to the Project. Grassed areas may be divided into more than one section for the purposes of establishing separate corresponding maintenance periods. However, such division of grassed areas shall be requested by the Contractor and reviewed and accepted by the HIENG-DR or Designee prior to installation of grassing. Areas are required to be distinct, readily discernible and non-contiguous (separated by permanent physical site improvements such as walkways, walls, buildings, curbs, etc.) with other areas. In the situation that the Project's acceptance date occurs after the established maintenance period for grassing has expired, the contractor shall continue to maintain the grassed areas consistent with these specifications until the Project's acceptance date. The costs of such maintenance shall be incidental to the Project. The HIENG-DR or Designee reserves the right to accept any portion of grassed areas, irrespective of any artificial physical divisions established for convenience of maintenance responsibilities, in any condition and at any time. The Contractor shall refund the Government for any maintenance period time deemed unnecessary as a result of said actions.

- L. Acceptance: Maintain all grassed areas free of debris and insects. Mow, cultivate, weed, and water all areas until final acceptance of the work is made by the HIENG-DR or Designee. All punch list items shall be completed prior to formal acceptance of Project installation. Satisfactory turf shall be healthy, well-rooted, even-colored, viable, free of weeds, free of bare areas totaling more than 2 square feet in any 100 square feet of desired grass area inclusive of areas that are bare and/or populated by undesirable grasses or weeds, and surface irregularities.
- i. There shall be no contiguous areas greater than one (1) square foot that is bare and/or populated by undesirable grasses or weeds.
  - ii. There shall be no weeds with observable flowers and/or seeds/seedpods.
  - iii. There shall be no weeds observable of the species listed within this section.
  - iv. Temporary irrigation accessories need not be removed prior to acceptance review.

If it is determined that the grassed areas do not satisfy the conditions for acceptance, the Contractor shall immediately address all issues noted at the time of review and, upon completion, request another acceptance review meeting.

The Contractor shall be fully responsible for the health and appearance of the turf during the Turf Establishment period and shall perform corrective actions at no additional expense to the Government.

In areas where turf work has been completed, clear the area of all debris. Any areas damaged during establishment operations shall be restored to their original condition.

In the event that the HIENG-DR determines the Contractor is not performing in a satisfactory manner during the turf establishment period, the Government reserves the right to perform any or all of the Turf Establishment Operations. The Government shall deduct the fair cost of performing these operations from the Contractor's scheduled payment.

## **A.8.0 MATERIALS**

### **A.8.1 CONCRETE FOR EXTERIOR SITE WORK**

#### **PART 1 - GENERAL**

##### **1.01 SUMMARY**

- A. The work to be done under this section shall include performing all operations and furnishing all plant, labor, equipment, and materials of all concrete work indicated on the Civil Drawings and specified hereinafter.

##### **1.02 DEFINITION**

- 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.

##### **1.03 SUBMITTALS**

- A. Submit in accordance with Section A.0.2.5 – SUBMITTAL PROCEDURES.
- B. Manufacturer's Data: For each type of manufactured material and product indicated, for approval by the HIENG-DR.
- C. 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.
- D. Design Mixes: Submit for each concrete mix, for approval by the Contracting Officer, at least 14 days prior to its use and installation. Indicate amounts of mix water to be withheld for later addition at project site.
- E. Welding Certificates: Copies of certificates for welding procedures and personnel.
- F. Material Certificates: Signed by manufacturers certifying that each of the following items complies with requirements:
  - 1. Steel reinforcement and reinforcement accessories.
  - 2. Curing materials.
  - 3. Joint-filler strips.
  - 4. Repair materials.
- G. Steel Reinforcement Shop Drawings: Details of fabrication, bending, and placement, prepared according to ACI SP-66, "Details and Detailing of Concrete Reinforcement." Include material, grade, bar schedules, stirrup spacing, bent bar diagrams, arrangement, and supports of concrete reinforcement. Include special reinforcement required for openings through concrete structures.

##### **1.04 QUALITY ASSURANCE**

- A. Manufacturer Qualifications: A firm experienced in manufacturing ready-mixed concrete products complying with ASTM C94/C94M requirements for production facilities and equipment.

- B. Testing Agency Qualifications: An independent testing agency, acceptable to authorities having jurisdiction, qualified according to ASTM C1077 and ASTM E329 REV B to conduct the testing indicated. 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.
- C. 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.
- D. Welding: Qualify procedures and personnel according to AWS D1.4/D1.4M, "Structural Welding Code—Reinforcing Steel."
- E. ACI Publications: Comply with the following, unless more stringent provisions are indicated:
  - 1. ACI 117, "Specifications for Tolerances for Concrete Construction and Materials."
  - 2. ACI 347, "Guide to Formwork for Concrete."
- F. Pre-installation Discussion at Preconstruction Meeting
  - 1. Before submitting design mixes, review concrete mix design and examine procedures for ensuring quality of concrete materials. As part of the Preconstruction Meeting, explain and outline approach, methodology, and quality assurance/control of placement for review and approval by the HIENG-DR.
  - 2. Summarize and illustrate proposed joint locations for review and approval by the HIENG-DR.

#### **1.05 STORAGE OF MATERIALS**

- A. Store cement and aggregates so as to prevent their deterioration or the intrusion of foreign matter. Use no material which has deteriorated or which has been damaged; promptly remove same from the site.
- B. Deliver, store and handle reinforcing in a manner to prevent bending of, and damage to, them with mill tags intact. Avoid damaging the coatings on steel reinforcement.

### **PART 2 - PRODUCTS**

#### **2.01 MATERIALS**

- A. Portland Cement: Conform to requirements of ASTM C150/C150M, Type I or Type II.
- B. Concrete Aggregates:
  - 1. Fine Aggregates: Calcareous or basalt sands, or a combination thereof, meeting the grading requirements of ASTM C33/C33M. If manufactured sands are used, use a water-reducing and/or an air-entraining admixture as specified hereinafter to provide satisfactory workability. The cement content of a mix shall in no way be reduced if an admixture is used.
  - 2. Coarse Aggregates: Crushed close-grained, of grading sizes 57 or 67 or both conforming to ASTM D448, with a maximum size not larger than one-fifth of the narrowest dimensions between sides of the forms nor larger than three-fourths of the minimum clear spacing between reinforcing bars.
- C. Water: Fresh, clean and drinkable/potable conforming to ASTM C94/C94M

D. Reinforcing Steel:

1. Reinforcing Bars: Deformed bars conforming to ASTM A615/A615M, Grade 60, as shown on Drawings.
2. Galvanized Plain-Steel Welded Wire Fabric: ASTM A1064/A1064M, fabricated from galvanized steel wire into flat sheets.

E. Admixture: If used, shall conform to ASTM C494/C494M or ASTM C260/C260M REV A. Mix in proper amount in accordance with directions of manufacturer.

F. Curing Compound: ASTM C309, compatible with floor finishes to be applied.

G. Formwork: Forms shall be plywood commercial-standard Douglas Fir, moisture resistant, not less than 5-ply and at least 5/8-inch thick, metal, or other ACI 347-approved panel materials.

1. Smooth-Formed Finished Concrete: Comply with ACI 347. 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.
  - a) Plywood, metal or other ACI 347-approved panel materials.
  - b) Exterior-grade plywood panels, suitable for concrete forms, complying with DOC PS 1, and as follows:
    - 1) High-density overlay, Class 1, or better.
    - 2) Medium-density overlay, Class 1, or better, mill-release agent treated and edge sealed.
    - 3) Structural 1, B-B, or better, mill oiled and edge sealed.
    - 4) B-B (Concrete Form), Class 1, or better, mill oiled and edge sealed.
2. 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.
3. Chamfer Strips: Wood, metal, polyvinyl chloride (PVC) or rubber strips, 3/4 by 3/4 inch, minimum.
4. 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. Formulate form-release agent with rust inhibitor for steel form-facing materials.
5. Form Ties: Factory-fabricated, removable or snap-off glass-fiber-reinforced plastic form ties designed to resist lateral pressure of fresh concrete on forms and to prevent spalling of concrete on removal.
  - a) Furnish units of fiberglass form ties.
  - b) Furnish ties that, when removed, will leave holes not larger than 1-1/2 inches in diameter in concrete surface.

H. Epoxy Bonding Adhesive: ASTM C881/C881M, two-component material suitable for use on dry or damp surfaces. Provide material "Type," "Grade," and "Class" to suit project requirements.

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.
- I. Epoxy for Dowels: Sikadur Hi-Mod Gel, ITW Ramset/RedHead Epcon Ceramic 6 Epoxy or approved equal.
  - J. Fiber Reinforcement: Shall be added to ready-mixed concrete wherever the material is to be used for sidewalks and other exterior slabs on grade. Wire matt or bar reinforcement in driveways, including flares and aprons, is still considered primary reinforcement by the DOT and county requirements. Under normal condition, add to the ready-mix at the plant in the quantity recommended by the manufacturer. If job conditions warrant, fiber reinforcement may be added at the jobsite providing that fibers are evenly distributed in the mix.

## PART 3 - EXECUTION

### 3.01 MATERIALS

- A. Ingredients: Portland cement, fine and coarse aggregates and water.
- B. Design concrete to conform to ACI 211.1, "Standard Practice for Selecting Proportions for Normal, Heavyweight and Mass Concrete," and ACI 301, "Specifications for Structural Concrete," so that the materials will not segregate nor cause excessive bleeding. Slump shall be 4 inches or less if consolidation is to be by vibration, and 5 inches or less if consolidation is to be by other methods. A tolerance of 1 inch above indicated maximum will be allowed for individual batches.
- C. Concrete cement content and test results for 28-day compressive strength shall meet the following requirements:

| <u>Class</u> | <u>Min Cement<br/>Contents Per<br/>Cubic Yard Sacks</u> | <u>Min Average<br/>for 3<br/>Cylinders, psi</u> | <u>Min Average for<br/>2 Cylinders<br/>psi</u> |
|--------------|---------------------------------------------------------|-------------------------------------------------|------------------------------------------------|
| 2,500        | 5.00                                                    | 2,500                                           | 2,250                                          |

- D. Submit for approval by the HIENG-DR the mixes intended for use at least 14 days before the actual concrete-placing operation.
- E. Use only approved mixes.

### 3.02 TESTS

- A. As directed by the HIENG-DR. If required, slump tests shall conform to ASTM C143/C143M, and compressive strength tests shall conform to ASTM C39/C39M. Costs of testing, if required will be borne by the State.
- B. If the strength of any test specimens ordered by the HIENG-DR fall below the requirements stipulated above, the HIENG-DR shall have the right to require any and all defective concrete to be replaced, and all costs resulting therefrom shall be borne by the Contractor.

### **3.03 FORMWORK**

- A. Construct formwork to conform to ACI 347, "Guide to Formwork for Concrete," and ACI 301, to support 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, "Specification for Tolerances for Concrete Construction and Materials."
- C. Construct forms tight enough to prevent loss of concrete mortar.
- D. Fabricate forms for easy removal without hammering or prying against concrete surfaces. Provide crush or wrecking plates where stripping may damage cast concrete surfaces.
- E. Clean forms and adjacent surfaces to receive concrete. Remove chips, wood, sawdust, and other debris just before placing concrete.
- F. Coat contact surfaces of forms with form-release agent, according to manufacturer's written instructions, before placing reinforcement.
- G. Rough concrete finish may be used for all unexposed concrete surfaces, as obtained by using clean, straight lumber or metal forms.

### **3.04 REINFORCEMENT**

- A. General: Provide reinforcing steel bars, as indicated on Drawings, thoroughly cleaned of loose mill scale, loose flaky rust, oil, earth, and all coatings or foreign materials that will destroy or reduce the bond before placing and again before pouring of concrete. Accurately position and secure in place as indicated. Cleaning, bending and placing of reinforcement shall be done in accordance with the "Manual of Standard Practice," of the Concrete Reinforcing Steel Institute (CRSI).
- B. Minimum concrete protection for any reinforcing shall in all cases be at least equal to the diameter of bar.

### **3.05 MIXING CONCRETE**

- A. All concrete throughout shall be either job or plant mixed in an approved type of power-operated mixer that will ensure uniformity and homogeneity of the concrete produced. Provide a sufficient number of mixers to continuously carry on the work.
- B. Mixing at jobsite shall be done in accordance with ACI 304.1R and as follows:
  - 1. Concrete shall be thoroughly mixed in a batch mixer of an approved type and size which will insure a uniform distribution of materials throughout the mass. The machine shall have a control device to prevent materials from being discharged until they have been mixed for the specified minimum time.
  - 2. The entire contents of the drum shall be discharged before materials of the succeeding batch are placed therein. No mixer shall be used which has a rated capacity of less than a 1-sack batch and no mixer shall be charged in excess of its rated capacity.
  - 3. The first batch of materials placed in the mixer after the machine has been cleaned shall contain a sufficient excess of cement, sand and water to coat the inside of the drum without

reducing the required mortar content of the mix. Upon cessation of mixing, the mixer shall be thoroughly cleaned.

- C. Ready Mixed and Mixed-In-Transit Concrete shall be mixed to conform to the provisions of ASTM C94/C94M and as follows:
  - 1. The plant shall have sufficient capacity and transportation equipment to deliver concrete at the rate desired. The interval between batches for a pour shall not exceed 30 minutes.
  - 2. The time elapsed between the introduction of the mixing water to the cement and aggregates or the cement to the aggregates, and the placing of concrete in its final position shall not exceed 90 minutes. If a retarder admixture is used, the discharge time limit may be increased by the time specified for retardation by the admixture manufacturer.
- D. Mix concrete only in such quantity as is required for immediate use. No re-tempering will be permitted; discard concrete that has started to harden and promptly remove from the job.
- E. Admixtures conforming to Paragraph 2.01 may be used as recommended by the supplier and approved by the HIENG-DR.
- F. Hand mixing of concrete will not be permitted except to make up shortages for curbs.

### **3.06 PLACING CONCRETE**

- A. Place concrete to conform to ACI 304R, "Guide for Measuring, Mixing, Transporting, and Placing Concrete." Place no concrete in the absence of the HIENG-DR or his representative who shall be given one (1) day advance notice of starting time of concrete pour. Place no concrete until forms, steel, and other work required to be built into or placed ahead of concrete placing have been inspected and approved by the HIENG-DR. Concrete placed without such notice and approval shall be rejected.
- B. Preparation:
  - 1. All construction debris and extraneous matter shall be removed from interior of forms.
  - 2. Before depositing new concrete on or against concrete which has set, the surfaces of previously set concrete shall be thoroughly roughed and cleaned of all foreign matter and laitance, saturated with water and slushed with a coat of cement grout. Place new concrete before the grout obtains its initial set.
- C. Depositing: Place concrete so as to avoid segregation of the materials and the displacement of the reinforcing. As nearly as practicable, the concrete shall be dropped into final position so as to avoid separation of coarse aggregates from concrete. After the initial set of concrete, the forms shall not be jarred and no strain shall be placed on the reinforcing.
- D. Compaction: Consolidate placed concrete with mechanical vibrating equipment. Use equipment and procedures for consolidating concrete recommended by ACI 309R, "Guide for Consolidation of Concrete." Do not use vibrators to transport concrete inside forms. Consolidate all concrete by vibration or other approved means so that the concrete is thoroughly worked around the reinforcement, around embedded items, and into corners of forms, eliminating all air or stone pockets which may cause honeycombing, pitting or planes of weakness. Where a vibrator cannot be used, provide compaction by spading, rodding or forking.

### **3.07 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.
- B. Curbs: Provide monolithic finish to interior curbs by stripping forms while concrete is still green and by steel-troweling surfaces to a hard, dense finish with corners, intersections, and terminations slightly rounded.

### **3.08 CURING AND PROTECTION**

- A. General: Protect freshly placed concrete from premature drying and excessive hot temperatures. Comply with recommendations in ACI 305R for hot-weather protection during curing.
- B. Cure all concrete for a period for not less than seven (7) days by one of the methods listed below. During this curing period, maintain the concrete without drying at a relatively constant temperature. Protect fresh concrete from mechanical injury.
  - 1. Curing shall immediately follow the finishing operation.
  - 2. Water Curing: If cured with water, keep concrete wet by another method which will keep the surfaces continuously wet.
  - 3. Saturated Sand Curing: Cover surfaces to be cured with sand a minimum of 1-inch thickness of sand, kept uniformly distributed and continuously saturated during the entire curing period.
  - 4. Curing Compounds: Apply uniformly in continuous operation by power spray or roller according to manufacturer's written instructions. Maintain continuity of coating and repair damage during curing period. Apply in accordance with the manufacturer's recommendations.
  - 5. Waterproof Paper: Waterproof paper or opaque polyethylene film conforming to ASTM C171 may be used, if anchored securely and all edges sealed or applied so as to prevent moisture escaping from the concrete.

### **3.09 CLEAN-UP**

- A. Clean-up all concrete and cement materials, equipment and debris upon completion of any portion of concrete work and upon completion of entire concrete and related work.

## **A.8.2 METALS**

### **1.01 GENERAL REQUIREMENT**

- A. Finish metal fabrications after assembly.
- B. Finish exposed surfaces to remove tool and die marks and stretch lines, and to blend into surrounding surface.

### **1.02 STEEL FINISHES**

- A. Galvanizing: Hot-dip galvanize items only as indicated to comply with ASTM A153/A153M for steel and iron hardware and with ASTM A123/A123M for other steel and iron products.

1. Do not quench or apply post galvanizing treatments that might interfere with paint adhesion.
- B. Preparation for Shop Priming Galvanized Items: After galvanizing, thoroughly clean galvanized surfaces or grease, dirt, oil, flux, and other foreign matter, and treat with metallic phosphate process.
- C. Preparation for Shop Priming: Prepare surfaces to comply with SSPC-SP 16, "Brush-off Blast Cleaning of Coated and Uncoated Galvanized Steel, Stainless Steels, and Non-Ferrous Metals".
- D. Shop Priming: Apply shop primer to comply with SSPC-PA 1, "Paint Application Specification No. 1: Shop, Field, and Maintenance Painting of Steel," for shop painting.

1. Stripe paint corners, crevices, bolts, welds, and sharp edges.

### **1.03 ALUMINUM FINISHES**

- A. As-Fabricated Finish: AA-M12.
- B. Clear Anodic Finish: AAMA 611, Class I

## **A.8.3 PANEL SIGNAGE**

### **1.01 DEFINITION**

- A. Panel Sign: Sign with smooth, uniform surfaces; with message and characters having uniform faces, sharp corners, and precisely formed lines and profiles.

### **1.02 MATERIALS**

- A. Aluminum Sheet and Plate: ASTM B209, alloy temper recommended by aluminum producer and finisher for type of use and finish indicated.

### **1.03 ACCESSORIES**

- A. Fasteners and anchors: Manufacturer's standard as required for secure anchorage of signs, noncorrosive and compatible with each material joined, and complying with the following unless otherwise indicated:
  1. Use concealed fasteners and anchors unless indicated to be exposed.
  2. For exterior exposure, furnish hot-dip galvanized devices unless otherwise indicated.
- B. Sign Mounting Fasteners:
  1. Concealed Studs: Concealed (blind), threaded studs welded or brazed to back of sign material or screwed into back of sign assembly unless otherwise indicated.
  2. Projecting Studs: Threaded studs with sleeve spacer, welded or brazed to back of sign material or screwed into back of sign unless otherwise indicated.

3. Through Fasteners: Exposed metal fasteners matching sign finish, with type of head indicated, and installed in predrilled holes.

#### **1.04 FABRICATION**

- A. General: Provide manufacturer's standard sign assemblies in accordance with requirements as indicated.
  1. Preassemble signs in the shop to greatest extent possible. Disassemble signs and assemblies only as necessary for shipping and handling limitations. Clearly mark units for reassembly and installation; apply markings in locations concealed from view after final assembly.
  2. Mill joints to a tight, hairline fit. Form assemblies and joints exposed to weather to resist water penetration and retention.
  3. Provide rabbets, lugs, and tabs necessary to assemble components and to attach to existing work. Drill and tap for required fasteners. Use concealed fasteners where possible; use exposed fasteners that match sign finish.
- B. Shop and Surface Applied Vinyl: Align vinyl film in final position and apply to surface. Firmly press from the middle outward to obtain good bond without blisters or fishmouths.

#### **1.05 INSTALLATION OF PANEL SIGNS**

- A. General: Install signs using mounting methods indicated and in accordance with manufacturer's written instructions.
  1. Install signs level, plumb, true to line, and at locations and heights indicated on Construction Plans, with sign surfaces free of distortion and other defects in appearance.
  2. Install signs so they do not protrude or obstruct in accordance with accessibility standards.
  3. Before installation, verify that sign surfaces are clean and free of materials or debris that would impair installation.
  4. Corrosion Protection: Coat concealed surfaces or exterior aluminum in contact with grout, concrete, masonry, wood, or dissimilar metals, with a heavy coat of bituminous paint.

#### **A.8.4 EROSION AND SEDIMENT CONTROL**

##### **1.01 SILTATION CONTROL DEVICES**

- A. Provide filter socks consisting of a three-dimensional matrix of certified, composted material or organic matter to create a filter medium. Fill the tubular mesh sock with locally sourced organic filler material of wood chips or mulch that has been screened to remove fines, crushed stone, or gravel. Fill the sock with organic material by blowing the material into the tube with a special pneumatic blower truck or similar device. Hand filling with organic material is not an acceptable means to fill the tube as the material cannot be compacted in the sock.

1. Position filter socks as indicated on Construction Plans and as necessary to prevent off-site movement of sediment produced by construction activities as directed by the HIENG-DR.
  - a) Install erosion control measures around all existing catch basins within the project limits and in the adjacent affected areas, or as determined by the HIENG-DR.
3. Install filter socks with a minimum of 6 inches of overlap and provide necessary training for personnel who will be responsible for implementation of BMPs. Installation, inspection, maintenance and removal of compost filter socks shall be done in accordance with manufacturer's recommendations.
4. Inspect erosion control devices on a weekly basis and after each runoff event. Make necessary repairs to ensure erosion and sediment controls are in good working order.
5. When sediment accumulation in sedimentation devices has reached a point one-third depth of the sediment device, carefully remove and dispose of sediment to prevent damage to the device.
6. Remove filter socks upon completion of work.

## **A.9.0 CONTRACT MANAGEMENT**

### **A.9.1 REPRESENTATIVES OF THE CONTRACTING OFFICER**

The Contracting Officer (CO) will designate one (or more) representatives to serve as the HIENG-DR to act for him/her in furnishing technical guidance and advice or generally directing the work to be performed under the contract. Such designation will be in writing and will define the scope and limitations of the HIENG-DR's authority. A copy of the designation(s) shall be furnished to the Contractor at time of award.

- A. The HIENG-DR may direct and arrange the Contractor's work schedule in specific areas of the cemetery to coordinate with daily cemetery activities and operations. Duties and responsibilities of the HIENG-DR include day-to-day monitoring of the contract as follows:
  - 1. Providing contract oversight and technical guidance to the Contractor.
  - 2. Placing orders for services.
  - 3. Verification / certification of payments to the Contractor for services rendered.
  - 4. Assuring that any changes affecting work involved, price, terms and/or conditions under the contract are not implemented before written authorization is issued by the Contracting Officer.
- B. All administrative contract functions are the responsibility of the CO and Contracting Assistant (CA). Any modifications to the contract, including those involving no-cost changes, increases and decreases in cost or level of services provided, termination or extension of the contract (in part or in whole) and decisions concerning claims or disputes, will be authorized in writing by the Government Contracting Officer or HIENG-DR.

**A.10.0 CONSTRUCTION MANAGEMENT SERVICES**

A. The Construction Manager (CM) shall be responsible for the following:

1. Reviewing and recommending approval/disapproval of materials submittals and shop drawings, construction progress reports, providing readings and verifying that the marker alignments adhere to an acceptable standard, providing as-built drawings, and participating in a preconstruction conference.
2. Conducting weekly project field observations at the site, at least (2) technical site visits, and one final inspection at project completion to include punch list of outstanding work, and follow up action to allow final acceptance.

#### A.11.0 INSPECTION AND MONITORING PROCEDURES

- A. Weekly Progress Report: On a weekly basis, the CM shall provide a written progress report to the HIENG-DR of all work completed. If there are problems or issues adversely affecting progress of the contract, a detailed explanation shall be indicated on the report.
- B. Contract Performance & Quality Assurance: A record keeping system of Contractor work performance shall be established and implemented by the CM for the services involved. The CM will inspect all work performed and submitted by the Contractor for acceptance. To accomplish this, the CM shall develop a **Contract Performance & Quality Assurance Report** to document & monitor Contractor performance and progress, including percentage of completion of physical construction. The Government reserves the right to reject any work that does not meet contract specifications. Work rejected by the CM will be re-performed without cost to the Government. All work rejected shall be re-performed to the satisfaction of the CM before any payment shall be made for services rendered. Any and all work shall be completed in a cemetery section before work is initiated in a new section.
- C. Payment: Subject to the requirements in A.10. B. above, the Contractor shall submit a monthly invoice in arrears for all services rendered. Prior to certification of payment, invoices will be verified by the HIENG-DR for accuracy against all Weekly Progress Reports submitted by the Contractor for the billing period.
- D. Federal Holidays: All work required under this contract will be performed during normal cemetery hours of operation. With the exception of Memorial Day and Veterans Day, work is normally not conducted on State holidays. The following is a list of all State holidays:

|                                         |                                |
|-----------------------------------------|--------------------------------|
| New Year's Day                          | January 1                      |
| Martin Luther King's, Jr.'s Birthday    | Third Monday In January        |
| Washington's Birthday (Presidents' Day) | Third Monday in February       |
| Prince Kuhio Day                        | March 26                       |
| Good Friday                             | Friday Preceding Easter Sunday |
| Memorial Day                            | Last Monday in May             |
| King Kamehameha Day                     | June 11                        |
| Independence Day                        | July 4                         |
| Statehood Day                           | Third Friday in August         |
| Labor Day                               | First Monday in September      |
| Veterans Day                            | November 11                    |
| Thanksgiving Day                        | Fourth Thursday in November    |
| Christmas                               | December 25                    |

When a holiday falls on a non-work day, Saturday or Sunday, the holiday usually is observed on Monday (if the holiday falls on Sunday) or Friday (if the holiday falls on Saturday).

**(End of Work Statement)**