

## **SPECIAL PROVISIONS**

### **Washington Place Driveway Recoating**

#### **DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES CENTRAL SERVICES DIVISION**

#### **TERMS AND ACRONYMS USED HEREIN**

|                     |   |                                                                                                                                                                                                                     |
|---------------------|---|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Procurement Officer | = | DAGS/CSD Administrator or his designee                                                                                                                                                                              |
| State               | = | State of Hawaii                                                                                                                                                                                                     |
| DAGS/CSD            | = | Department of Accounting and General Services - Central Services Division, 729 Kakoi Street, Honolulu, Hawaii 96819                                                                                                 |
| CA                  | = | Contract Administrator                                                                                                                                                                                              |
| Bidder or Offeror   | = | Any individual, partnership, firm, corporation, joint venture, or other entity submitting directly or through a duly authorized representative or agent, a bid for the good, service, or construction contemplated. |
| HRS                 | = | Hawaii Revised Statutes                                                                                                                                                                                             |
| HAR                 | = | Hawaii Administrative Rules                                                                                                                                                                                         |
| HlePRO              | = | State of Hawaii eProcurement System                                                                                                                                                                                 |
| AG                  | = | Attorney General                                                                                                                                                                                                    |
| GC                  | = | General Conditions, Form AG-008, Rev. 4/15/2009 issued by the Attorney General (AG)                                                                                                                                 |
| IFB                 | = | Invitation for Bids                                                                                                                                                                                                 |
| GET                 | = | General Excise Tax                                                                                                                                                                                                  |

#### **1.0 SCOPE**

The furnishing of Washington Place Driveway Recoating, for the Department of Accounting and General Services - Central Services Division, shall be in accordance with these Special Provisions, attached Specifications, and attached AG General Conditions Form AG-008.

#### **2.0 CONTRACT ADMINISTRATOR**

For the purposes of this contract, Mr. James Kurata, DAGS/CSD, or designee, is the Contract Administrator (CA). The telephone number at which he may be reached is (808) 831-6730. Contact Dixon Park, DAGS-Central Services Division, for any questions or necessary Offeror support. Email: [dixon.j.park@hawaii.gov](mailto:dixon.j.park@hawaii.gov)  
Tel: (808) 345-0245.

### **3.0 TERM OF CONTRACT**

The term of this contract shall be for a time **ending on Tuesday, October 20, 2026**. This is the expiration date and the period of time when all work must be competed and accepted by the Contract Administrator or their representative.

### **4.0 CONTRACT EXTENSION**

Unless terminated, the contract may be extended without rebidding, upon mutual agreement in writing between the State and the Contractor, prior to the expiration date. Provided, however, the contract price for the extended period shall remain the same as indicated on Offer Form B, and subject to any price increase allowed by the Contract Administrator.

The Contractor or the State may terminate any extended contract period at any time upon ten (10) days prior written notice.

### **5.0 EXAMINATION OF SERVICE AREAS**

Pictures and video of the areas to be recoated can be found at:  
[https://drive.google.com/drive/folders/1IC5wpCEzHwNY5sOGLgF0OT0tMsUIkAQk?usp=drive\\_link](https://drive.google.com/drive/folders/1IC5wpCEzHwNY5sOGLgF0OT0tMsUIkAQk?usp=drive_link) Prospective qualified Offerors should visit the facilities and service areas listed in the Specifications and thoroughly familiarize themselves with existing conditions and the amount and kind of work to be performed. No additional compensation will be made for reason of any misunderstanding or error regarding conditions at the service areas or the amount and kind of work to be performed.

**Submission of bid shall be evidence that the Offeror understands and will comply with these specifications if awarded the contract.**

### **6.0 PRE-BID CONFERENCE**

There will be no pre-bid conference. If you have any questions please contact the Contract Administrator's representative, Dixon Park at **(808) 345-0245** or by email at **dixon.j.park@hawaii.gov**

### **7.0 WRITTEN INQUIRIES (QUESTIONS AND ANSWERS)**

**If you have any questions please contact the Contract Administrator's representative, Dixon Park at (808) 345-0245 or by email at dixon.j.park@hawaii.gov**

### **8.0 REQUIREMENTS FOR CONTRACTOR LICENSING CLASSIFICATIONS**

Offerors as a General Engineering Contractor holding an 'A' license and General Building

Contractor 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.

**Offerors are solely responsible for reviewing the project requirements, determining the appropriate licenses required, and ensuring that they possess, and that the Subcontractor(s) listed also possess, the necessary specialty licenses to perform the work for this project.**

## **9.0 OFFEROR QUALIFICATIONS**

**Experience and Qualifications.** The Offeror shall have a minimum of five (5) consecutive years' experience (immediately prior to the bid opening date), in the field of roadway paving work. All Offerors must be able to produce documented experience to substantiate their claim of experience.

**Service Facility.** The Offeror shall have a service facility on the island of Oahu from where they conduct business and can be reached during normal business hours (7:45 AM to 4:30 PM Monday through Friday), to receive telephone calls, complaints, or emergency requests. Answering machines do not qualify and are in default of these requirements. This information shall be provided upon request to the Contract Administrator or their representative.

**License.** The Offeror shall possess at the time of bid submittal, a valid State of Hawaii contractor license and the required business and tax licenses to conduct business in the State of Hawaii. Both the contractor's license and tax license must be kept in force during the duration of this contract and for any extensions that may be agreed upon. The DAGS/CSD may request Offeror to submit a valid copy of the contractor's license **within ten (10) working days from the date the request is made.**

Any inability to perform the work in accordance with these specifications, utilization of unqualified personnel, or **excessively high turnover** of personnel assigned to this project **SHALL CONSTITUTE A BREACH OF CONTRACT.**

**References.** Offeror will list on the applicable Qualification Form A at least two references in the State of Hawaii for whom Offeror has performed roadway pavement work, that will qualify Offeror to perform the project. The State reserves the right to contact the references provided and to reject any bid submitted by a Contractor whose performance on other service contracts similar to this one has been proven unsatisfactory.

**Qualification Form A.** Offeror must complete and return Qualification Form A electronically, as an attachment, with their bid submittal through HlePRO. Offerors are responsible for ensuring all forms requested are attached when submitting an offer.

If Offeror needs assistance in submitting these pages through HlePRO, they can contact HlePRO at (808) 695-4620 or go to the HlePRO website and click on Help-Chat online.

If requested by the State, the Offeror shall have three (3) business days to provide additional information/documentation. Failure to do so may result in disqualification of Offeror.

## **10.0 CERTIFICATION OF INDEPENDENT COST DETERMINATION**

By submission of a bid in response to this RFP, Offeror certifies as follows:

- a. The costs in its offer have been arrived at independently, without consultation, communication, or agreement with any other Offeror, as to any matter relating to such costs for the purpose of restricting competition.
- b. Unless otherwise required by law, the cost in its offer has not been knowingly disclosed by the Offeror prior to award, directly or indirectly, to any other Offeror or competitor prior to the award of the contract.
- c. No other attempt has been made or will be made by the Offeror to influence any other person or firm to submit or not to submit an offer for the purpose of restricting competition, bid rigging, or any other unlawful purpose.

## **11.0 BID PREPARATION**

**RFP Proposal:** See Section 3, Proposal Evaluation.

**Offer Form A.** Offeror shall submit 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 A. Failure to do so may delay proper execution of the contract.

Offer Form A may be electronically signed using Adobe Acrobat. At the offeror's option, the authorized signature shall be an original signature in ink that has been scanned and uploaded to HlePRO. If unsigned, the offer shall be automatically rejected unless accompanied by other material, containing an original signature, indicating the Offeror's intent to be bound.

**Offer Form B:** Bid price for all required services shall include **ALL COSTS** for labor, equipment, parts and materials, mileage, parking, and all applicable taxes (including the current Hawaii General Excise Tax), and any other expenses necessary as required to perform the services as specified in this bid solicitation. **The prices shall be indicated in whole tens of dollars only.** The total for each of the five contract years and a total bid price for all five years combined shall be indicated.

**Taxpayer Preference.** For evaluation purposes, pursuant to §103D-1008, HRS, the

Offeror's tax-exempt price 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.

**Unit Bid Price.** Prices shall include costs for all labor, equipment, materials, applicable taxes (**including the current Hawaii General Excise Tax**) and any other expenses incurred to provide services as specified herein.

**Offer Guaranty.** An offer security deposit is not required for this solicitation.

**Insurance.** Offeror shall provide insurance information as requested on Offer Form A.

**Wage Certificate.** The Offeror shall complete and submit a Wage Certificate with its Offer, **as an attachment on HlePRO**, by which the Offeror certifies that services required will be performed pursuant to §103-55, HRS. Refer to section 22.0 below for further information.

**Qualification Form A:** The Offeror shall complete and submit Qualification Form A and submit with its offer, **as an attachment on HlePRO**, by which the Offeror certifies its full legal business name, location, contact information, personnel, qualifications, and past work (as indicated on the form).

**Preparation of Offer.** An Offeror may submit only one offer in response to a solicitation. If an Offeror submits more than one offer in response to a solicitation, then all such offers shall be rejected. Similarly, an Offeror may submit only one offer for each line item (if any) of a solicitation. If an Offeror submits more than one offer per line item, then all offers for that line item shall be rejected.

**HlePRO Fees:** HlePRO is an unfunded initiative which means that no funds have been appropriated for the program. There is no cost for vendors to register or to submit quotes or bids. However upon award, the **awarded vendor must pay Tyler Hawaii 0.75% of the original awarded amount, capped at \$5,000, within 30 days**. Variations to the award amount will not impact the fee due to Tyler Hawaii, unless the actual award amount is less than the original award amount. In these cases, the awarded vendor may contact Tyler Hawaii and request to pay based on the amended amount.

## **12.0 SUBMISSION OF OFFER**

Offers shall be received electronically through the Hawaii State eProcurement called HlePRO. Offers received outside of the HlePRO shall be rejected and not be considered for award. To register for HlePRO, please go to <http://hiepro.hawaii.gov>. If you need assistance in registering, please call (808) 695-4620 or go to the HlePRO website and click on Help-Chat online.

Offeror's electronic response to this solicitation shall be deemed an offer to sell the specified services/construction to the State at the price(s) shown in the response and under the terms and conditions of this solicitation.

## **Offerors must complete and submit all of the following:**

- **Offer Form A**
- **Offer Form B**
- **Wage Certificate**
- **Qualification Form A**
- **Contractor's State of Hawaii License**
- **IRS W-9**

**These document(s) must be submitted electronically, as an attachment, through HlePRO.** Offerors are responsible for ensuring all forms requested are attached when submitting an offer. If assistance is needed in submitting these pages through HlePRO, please call (808) 695-4620 or go to the HlePRO website and click on Help-Chat online.

**Offeror must bid on all items specified on the Offer Form B pages to be considered for award. Failure to do so shall result in rejection of the entire Bid.**

### **13.0 RESPONSIBILITY OF OFFEROR**

Offeror is advised that in order to be awarded a contract under this solicitation, the vendor/contractor/service provider will be required to be compliant with all laws governing entities doing business in the State including the following chapters and pursuant to HRS § 103D-310(C):

1. Chapter 237, tax clearance
2. Chapter 383, unemployment insurance
3. Chapter 386, workers' compensation
4. Chapter 392, temporary disability insurance
5. Chapter 393, prepaid health care; and
6. Section 103D-310(C), Certificate of Good Standing (COGS) for entities doing business in the State.

The State will verify compliance on Hawaii Compliance Express (HCE) for awards of \$2,500 or greater.

The HCE is an electronic system that allows vendors/contractors/ services providers doing business with the State to quickly and easily demonstrate compliance with applicable laws. It is an online system that replaces the necessity of obtaining paper compliance certificates from the Department of Taxation; Federal Internal Revenue Service; Department of Labor and Industrial Relations; and Department of Commerce and Consumer Affairs.

Vendors/contractors and service providers should register online with Hawaii

Compliance Express (HCE) prior to submitting an offer at <http://vendors.ehawaii.gov>. The annual registration fee is \$12.00 payable to Hawaii Information Consortium, LLC (HIC).

If you have any questions, please call:

Hawaii Information Consortium, LLC

Phone no. (808) 695-4620

Email: [info@ehawaii.gov](mailto:info@ehawaii.gov)

The "Certificate of Vendor Compliance" is accepted for both contracting and final payment.

**Paper documents as proof of compliance are ACCEPTABLE.** Offerors are advised that the following paper compliance documents will be accepted:

- Tax Clearance Form A-6
- Certificate of Compliance, DLIR Form LIR#27
- Certificate of Good Standing, DCCA (BREG)

**Timely Submission of Compliance Document.** The "Certificate of Vendor Compliance" must be submitted to the DAGS/CSD **within ten (10) working days from the date the request is made.** If the certificate is not submitted on a timely basis, an otherwise responsive offer from the Offeror responsible may not receive the award.

**It is recommended that Offerors register with Hawaii Compliance Express (HCE) prior to responding to a solicitation, to ensure timely submittal when requested. Offerors should be aware that it may take thirty (30) working days to establish a compliant status.**

**Final Payment Requirements.** Contractors are required to submit a "Certificate Of Vendor Compliance" for final payment on the contract.

## **14.0 AWARD OF CONTRACT**

**Method of Award.** Award, if made, shall be to the responsive Offeror whose offer is the lowest as submitted in the HlePRO system. In the case of a tie, the offeror with the greatest number of years of experience shall be selected. In the case of a further tie, a coin flip will be used to determine the award.

**Timely Submission of Certificates.** The qualified Offeror with the lowest responsive offer is required to submit to the DAGS/CSD a "Certificate of Vendor Compliance" **within ten (10) working days from the date the request is made.** If the certificate is not submitted on a timely basis, an otherwise responsive offer from a responsible Offeror may not receive the award.

**Final Payment Requirements.** Contractors are required to submit a "**Certificate Of Vendor Compliance**" for final payment on the contract.

**Cancellation and Rejection of Offers.** Award shall be contingent on the availability of funds. The State reserves the right to cancel this IFB and/or reject any and all offers in whole or in part when it is determined to be in the best interest of the State.

## **15.0 EXECUTION OF CONTRACT**

The contract shall be comprised of the documents provided to offerors in the HlePRO IFB.

## **16.0 NOTICE TO PROCEED**

Work will commence on the official commencement date specified on the Award Notification or Notice to Proceed.

No work is to be undertaken by the Contractor prior to the official commencement date specified on the Award Notification or Notice to Proceed issued by the State upon execution of the contract by both parties.

The State of Hawaii is not liable for any work, contract, costs, expenses, loss of profits, or any damages whatsoever incurred by the Contractor prior to the official commencement date.

## **17.0 INVOICING**

Contractor shall submit an **original invoice and three (3) copies of the invoice**, which includes the Contract Number, RFP Number, and the month of service to:

Department of Accounting and General Services  
Central Services Division  
729 Kakoi Street Honolulu,  
Hawaii 96819  
Attn: Dixon Park

Charges shall not be included in any invoice until the work has been performed. **Final payment of all remaining contract funds shall not be approved for payment until the acceptance of all repair/replacement work for discrepancy items.**

Payment shall be made to the Contractor at the contracted price upon certification, by the State, that the Contractor has satisfactorily performed the required services each month.

Invoices billed from a mainland affiliate must be sent to the Contractor's local office for inclusion of the appropriate paperwork, before being submitted to State. Incomplete

invoices will be returned to the Contractor without processing.

**As an alternative to hard copy invoices, the Contractor may send billing invoices via e-mail to Dixon Park (dixon.j.park@hawaii.gov).**

**Final Payment Requirements.** Contractors are required to submit a "Certificate of Vendor Compliance" for final payment on the contract.

## **18.0 PAYMENT**

Section 103-10, HRS, provides the State shall have thirty (30) calendar days after receipt of invoice or satisfactory performance of the services to make payment. For this reason, the State will reject any bid submitted with a condition requiring payment within a shorter period. Further, the State will reject any bid submitted with a condition requiring interest payments greater than that allowed by Section 103-10, HRS, as amended.

The State will not recognize any requirement established by the Contractor and communicated to the State after award of the contract, which requires payment within a shorter period, or interest payment not in conformance with statute.

## **19.0 PARTIAL PAYMENT**

At the Contractor's request, the State will process partial payment(s). In the event that any part of the project scope is not satisfactorily completed, the State reserves the right to withhold payment.

## **20.0 LIQUIDATED DAMAGES**

Liquidated damages are fixed at the sum of ONE HUNDRED DOLLARS (\$100.00) for each and every calendar day, per location, per violation, the Contractor delays in the completion of the contract after the required date of said completion. Refer to Section 9 of the 103D AG General Conditions, Form AG-008.

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

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 contracts if the contractors are paid with funds appropriated by a legislative body between the execution of the contract through the completion of the contract.

## **22.0 WAGES, HOURS, AND WORKING CONDITIONS OF EMPLOYEES OF CONTRACTOR PERFORMING SERVICES**

All Offerors for service contracts shall comply with Section 103-55, Hawaii Revised Statutes, which provides as follows:

Wages, hours, and working conditions of employees of contractor supplying services: Before any Offeror is entitled to submit any offer for the performance of any contract to supply services in excess of \$25,000 to any governmental agency, Offeror shall certify that the services to be performed will be performed under the following conditions:

Wages: The services to be rendered shall be performed by employees paid at wages or salaries not less than the wages paid to public officers and employees for similar work. For contracts performed by laborers and mechanics, that at the time of their employment, the Offeror will give a copy of the wage rate schedules to each laborer and mechanic employed under this contract; the Offeror is not required to provide a copy when there is a collective bargaining agreement.

Compliance with labor laws: All applicable laws of the federal and state governments relating to worker's compensation, unemployment compensation, payment of wages, and safety will be fully complied with.

No contract to perform services for any governmental contracting agency in excess of \$25,000 shall be granted unless all the conditions of this section are met. Failure to comply with the conditions of this section during the period of the contract to perform services shall result in cancellation of the contract.

It shall be the duty of the governmental contracting agency awarding the contract to perform services in excess of \$25,000 to enforce this section.

This section shall apply to all contracts to perform services in excess of \$25,000, including contracts to supply ambulance service and janitorial service.

**Wage Certificate.** The Offeror shall complete and submit a Wage Certificate with its offer, **as an attachment, on HlePRO.**

Offeror shall be further obliged to notify his/her employees performing work under this contract of the provisions of Section 103-55, HRS, and of the current wage rates for public employees performing similar work. The Offeror may meet this obligation by posting a notice to this effect in the Offeror's place of business in an area accessible to all employees, or the Offeror may include such notice with each paycheck in the pay envelope furnished to the employee.

**Other requirements for contracts for services performed by laborers and mechanics:**

The governmental contracting agency may withhold from the Contractor so much of the accrued payments as the governmental contracting agency may consider necessary to pay the laborers and mechanics employed by the Contractor or any subcontractor involved with the execution of this project, the difference between the required wages and the wages received and not refunded by the employees.

The Contractor shall submit weekly, a certified copy of all payrolls to the governmental contracting agency for review. The Contractor shall be responsible for the submission of certified copies of the payrolls of all subcontractors. The certification shall affirm that the payrolls are correct and complete, the wage rates contained therein are not less than the applicable rates, and the classifications set forth for each laborer or mechanic conform with the work the laborer or mechanic performed. Any certification discrepancy found by the governmental contracting agency shall be reported to the Contractor and the agency director to effect compliance.

Payroll records for all laborers and mechanics working at the site of the work shall be maintained by the Contractor and the Contractor's subcontractors, if any, during the course of the work and preserved for a period of three years thereafter. The records shall contain the name of each employee, the employee's correct classification, rate of pay, daily and weekly number of hours worked, deductions made and actual wages paid. The Contractor shall make payroll records available for examination within ten days from the date of a written request by a governmental contracting agency or any authorized representatives thereof.

The governmental contracting agency shall:

- (1) Pay or cause to be paid, within sixty days of a determination made by the contracting agency, directly to laborers and mechanics, from any accrued payment withheld under the terms of the contract, any wages or overtime compensation found to be due to laborers or mechanics under the terms of the contract subject to this section; and
- (2) Order any Contractor to pay, within sixty days of a determination made by the contracting agency, any wages or overtime compensation that the Contractor, or any of the Contractor's subcontractors, should have paid to any laborer or mechanic under any contract subject to this section.

No contract to perform services for any government contracting agency in excess of \$25,000 shall be granted unless all the conditions of this section are met. Failure to comply with the conditions of this section during the period of the contract to perform services shall result in cancellation of the contract.

It shall be the duty of the governmental contracting agency awarding the contract to perform services in excess of \$25,000 to enforce this section.

This section shall apply to all contracts to perform services in excess of \$25,000 including contracts to supply ambulance service and janitorial service.

## **23.0 PERFORMANCE BOND**

Performance Bonds are not required.

## 24.0 LIABILITY INSURANCE

The Contractor shall obtain and maintain insurance described below which shall provide coverage against claims arising out of the Contractor's operations under the contracts, 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 during the life of this contract.

|                              |                                                                                                                                                                                                                                                                                                                                                                                                                   |
|------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <u>Worker's Compensation</u> | 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 law in effect on the date of the execution of this contract and as modified during the duration of the contract. |
| <u>General Liability</u>     | The Contractor shall obtain General Liability insurance with a limit of not less than <b>\$1,000,000 per occurrence and \$2,000,000 in the Aggregates.</b>                                                                                                                                                                                                                                                        |
| <u>Automobile Liability</u>  | The Contractor shall obtain Auto Liability Insurance covering all owned, non-owned and hired autos with a combined single limit of not less than <b>\$1,000,000 per occurrence.</b>                                                                                                                                                                                                                               |

The Contractor shall maintain in full force and effect during the life of this contract, liability and property damage insurance to protect the Contractor and its subcontractors, if any, 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 the contractor or by a subcontractor or anyone directly or indirectly employed by either of them, or anyone for whose acts any of them may be liable during the life of this contract. If any subcontractor is involved in the performance of the contract, the insurance policy or policies shall name the subcontractor as an additional insured.

As an alternative to the Contractor providing insurance to cover operations performed by a subcontractor and naming the subcontractor as additional insured, Contractor may require subcontractor to provide its own insurance which meets the

requirements herein. It is understood that a subcontractor's insurance policy or policies are in addition to the Contractor's own policy or policies.

The following minimum insurance coverage(s) and limit(s) shall be provided by the Contractor, including its subcontractor(s) where appropriate.

| <b><u>Coverage</u></b>                            | <b><u>Limits</u></b>                                                                                                                 |
|---------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|
| Commercial General Liability<br>(occurrence form) | \$1,000,000 combined single limit per<br>occurrence for bodily injury and<br>property damage<br>\$2,000,000 aggregate per occurrence |
| Automobile Liability Insurance                    | \$1,000,000 combined single limit per<br>occurrence                                                                                  |

**Each insurance policy required by this contract, including a subcontractor's policy, shall contain the following clauses:**

|    |                                                                                                                                                                 |
|----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. | <b>“The State of Hawaii is added as an additional insured as respects to operations performed for the State of Hawaii.”</b>                                     |
| 2. | <b>“It is agreed that any insurance maintained by the State of Hawaii will apply in excess of, and not contribute with, insurance provided by this policy.”</b> |
| 3. | <b>“State of Hawaii HlePRO Solicitation: <u>xxxxxxxxxxxx</u>”<br/>This number is indicated on the HlePRO solicitation on the website.</b>                       |

The minimum insurance required shall be in full compliance with the Hawaii Insurance Code throughout the entire term of the contract, including supplemental agreements.

Prior to issuance of the Notice to Proceed, Award Notification or Purchase Order, **Contractor must provide to DAGS Central Services Division, 729 Kakoi Street, Honolulu, Hawaii 96819 within ten (10) working days from the date the request is made a CERTIFICATE(S) OF INSURANCE** completed by a duly authorized representative of their insurer certifying that the liability coverage(s) is written on an occurrence form. The Certificate of Insurance may also be submitted via e-mail to Dixon Park (dixon.j.park@hawaii.gov).

The certificate of insurance is necessary to satisfy the State that the insurance provisions of this contract have been complied with and to keep such insurance in effect and the certificate(s) therefore on deposit with the State during the entire term of this contract, including those of its subcontractor(s), where appropriate. Upon

request by the State, Contractor shall be responsible for furnishing a completed certified copy of all required insurance policies, including endorsements effecting the coverage required at any time.

The Contractor will immediately provide written notice to the State of Hawaii, Department of Accounting and General Services, Central Services Division, Purchasing Office, 729 Kakoi Street, Honolulu, Hawaii 96819 should any of the insurance policies evident on its Certificate of Insurance form be cancelled, limited in scope, or not renewed upon expiration.

Failure of the Contractor to provide and keep in force such insurance shall be regarded as material default under this contract, entitling the State to exercise any or all of the remedies provided in this contract for a default of the Contractor.

The procuring of such required insurance shall not be construed to limit Contractor's liability hereunder nor to fulfill the indemnification provisions and requirements of this contract. Notwithstanding said policy or policies of insurance, Contractor shall be obliged for the full and total amount of any damage, injury, or loss caused by negligence or neglect connected with this contract.

**It is recommended that Offerors apply for the Certificate of Insurance as soon as possible to ensure timely submittal when requested.**

## **25.0 SERVICE REQUIREMENTS AND CONTRACT MODIFICATIONS**

It is understood and agreed that in addition to the buildings listed herein, Contractor shall be required to furnish services specified herein to any new building or any building not initially listed in this IFB, when such services are required. Contractor shall be notified of such requirements by a contract modification issued by the State.

The State reserves the right to add or delete whole buildings to the contract and will make adjustments by contract modifications.

A log for this contract will be kept by the CA and shall be used to record additions or deletions. Each entry must be signed by a representative of the Contractor and State. This log will be used to determine time of price adjustment.

## **26.0 (NOT USED)**

## **27.0 INSPECTION**

All work done and all materials furnished shall be subject to random periodic inspection and approval by the CA so as to ascertain that the services rendered are in accordance with requirements and intentions of the Specifications and Special Provisions. The CA may require additional information as necessary to maintain a record of the service

rendered and also request that the Contractor accompany the CA on field inspections to be scheduled periodically.

The Contractor shall furnish the CA one copy of a service check receipt for each unit serviced and a service checklist bearing the signature of the maintenance technician and the signature of the designated State employee certifying receipt of services. All service reports, tickets, checklists, etc. must be fully completed and signed as herein before specified and must be submitted with monthly invoices or invoices for purchase orders. Services which cannot be certified by a representative of the State may not be compensated.

## **28.0 RE-EXECUTION OF WORK**

The Contractor shall re-execute any work that fails to conform to the requirements of the contract and shall immediately remedy any defects due to faulty workmanship or execution by the Contractor. Should the Contractor fail to comply, the State reserves the right to engage the services of another company to perform the services and to deduct such costs from monies due to the Contractor.

## **29.0 COMPETENCY OF OFFEROR**

Prospective Offeror must be capable of performing the work for which offers are being called. Either before or after the deadline for an offer, the purchasing agency may require the Offeror to submit answers to questions regarding facilities, equipment, experience, personnel, financial status, or any other factors relating to the ability of the Offeror to furnish satisfactorily the goods or services being solicited by the State. Any such inquiries shall be made and replied to in writing; replies shall be submitted over the signatures of the person who signs the offer. Any Offeror who refuses to answer such inquiries will be considered non-responsive.

## **30.0 WORKMANSHIP**

All work shall be executed in a professional manner. All physical work done shall be subject to inspection and approval of the Contract Administrator; all services rendered shall be in accordance with these specifications and special provisions.

## **31.0 SERVICE AREAS**

The State shall notify the Contractor of any subsequent changes of scope or requirements listed in the Specifications and furnish any other pertinent information necessary for the proper execution of the contract.

## **32.0 (NOT USED)**

### 33.0 REMOVAL OF CONTRACTOR'S EMPLOYEES

Contractor agrees to remove any of its employees from services rendered and to be rendered to the State, upon request in writing by the Contract Administrator.

### 34.0 SUBCONTRACTORS

The Contractor shall not contract with any contractor to perform any of the duties listed in this IFB unless prior written approval is given by DAGS/CSD and the Contract Administrator. The State reserves the right to approve all subcontractors and shall require the primary contractor to replace any subcontractors found to be unacceptable. The primary contractor will be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the contract, and shall be responsible for all services whether or not the primary contractor performs them.

### 35.0 PERMITS, LICENSES, AND TAXES

The Contractor shall procure all permits and licenses, during the term of the contract and any extension, pay all charges, fees, and taxes, and give all notices necessary and incidental to the due and lawful prosecution of the work.

Failure to procure and maintain valid permits and licenses required by law and these specifications may be cause for the State to terminate the contract.

Contractors, subcontractors, and equipment service companies doing business within the Hawaii Capitol District will be assessed appropriate parking fees. **The contractor shall be solely responsible for all parking fees.** Parking stalls will be assigned only to company vehicles and subject to **availability only. Assignment of parking stalls is NOT guaranteed.** Check with the **Automotive Management Division (telephone 808-586-0351)** to request the number and cost of stalls for the duration of this contract. Each stall will be assessed at the current rate per month as established by the Department's Rules Governing Parking on State Lands. If the Work involved is less than five working days, check with the Automotive Management Division to coordinate specific parking requirements. Subject to availability, the Contract Administrator or their Representative will designate areas to be used by the Contractor other than assigned stalls.

### 36.0 RIGHTS AND REMEDIES FOR DEFAULT

In the event the Contractor fails, refuses, or neglects to perform the services in accordance with the requirements of these Special Provisions, the Specifications, and the General Conditions herein, the addition to the recourse stated in Section 13 of the General Conditions, the State reserves the right to purchase in the open market, a corresponding quantity of the services specified herein and to deduct from any moneys dues or that may thereafter become due the Contractor, the difference

between the price named in the contract and the actual cost thereof to the State. In case any money due the Contractor is insufficient for said purpose, the Contractor shall pay the difference upon demand by the State. The State may utilize all other remedies provided by law.

### **37.0 APPROVALS**

Any agreement arising out of this offer may be subject to the approval of the Department of the Attorney General as to form, and is subject to all further approvals, including the approval of the Governor, required by statute, regulation, rule, order, or other directive.

### **38.0 CANCELLATION OF SOLICITATIONS AND REJECTION OF OFFERS**

The solicitation may be cancelled, or the offers may be rejected, in whole or in part, when in the best interest of the purchasing agency, as provided in §3-122-95 through §3-122-97, HAR.

### **39.0 CONFIDENTIALITY OF MATERIAL**

All material given to or made available to the Contractor by virtue of this contract, which is identified as proprietary or confidential information, will be safeguarded by the Contractor, and shall not be disclosed to any individual or organization without the prior written approval of the State.

All information, data, or other material provided by the Offeror or the Contractor to the State shall be subject to the Uniform Information Practices Act, chapter 92F, HRS. The Offeror shall designate in writing to the Procurement Officer those portions of its unpriced offer or any subsequent submittal that are trade secrets or other proprietary data that the Offeror desires to remain confidential, subject to §3-122-58, HAR, in the case of an RFP, or §3-122-30, HAR, in the case of an IFB. The Offeror shall state in its written communication to the Procurement Officer, the reason(s) for designating the material as confidential, for example, trade secrets. The Offeror shall submit the material designated as confidential in such manner that the material is readily separable from the offer in order to facilitate inspection of the non-confidential portion of the offer.

Price is not confidential and will not be withheld. In addition, in the case of an IFB, makes and models, catalogue numbers of items offered, deliveries, and terms of payment shall be publicly available at the time of opening regardless of any designation to the contrary.

If a request is made to inspect the confidential material, the inspection shall be subject to written determination by the Office of the Attorney General in accordance with chapter 92F, HRS. If it is determined that the material designated as confidential is subject to disclosure, the material shall be open to public inspection,

unless the Offeror protests under chapter 3-126, HAR. If the request to inspect the confidential material is denied, the decision may be appealed to the Office of Information Practices in accordance with §92F-15.5, HRS.

#### **40.0 NONDISCRIMINATION**

No person performing work under this Agreement, including any subcontractor, employee, or agency of the Contractor, shall engage in any discrimination that is prohibited by any applicable federal, state, or county law.

#### **41.0 RECORDS RETENTION**

The Contractor and any subcontractors shall maintain the books and records that relate to the Agreement and any cost or pricing data for three (3) years from the date of final payment under the Agreement.

#### **42.0 COMPLIANCE WITH LAWS**

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.

#### **43.0 INDEMNIFICATION AND DEFENSE**

The Contractor shall defend, indemnify, and hold harmless the State of Hawaii, the contracting agency, and their officers, employees, and agents from and against all liability, loss, damage, costs, and expense including attorney's fees, and all claims, suits, and demands therefore, arising out of or resulting from the acts or omissions of the Contractor or the Contractor's employees, officers, agents, or subcontractors under this Contract. The provisions of this paragraph shall remain in full force and effect notwithstanding the expiration or early termination of this Contract.

#### **44.0 TERMINATION FOR CONVENIENCE**

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

#### **45.0 ASBESTOS PROHIBITION**

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.

#### **46.0 GUARANTEE OF WORK**

Except as otherwise specified, all work and equipment shall be guaranteed by the Contractor against defects in materials, equipment, or workmanship for one (1) year from the date of final payment or final acceptance of the contract whichever is earlier. All guarantee of work shall be transmitted in writing.

#### **47.0 MANUFACTURER'S GUARANTEE**

Whenever a manufacturer's or installer's guarantee on any product hereinafter specified, exceeds one (1) year, this guarantee shall become part of this contract in addition to the Contractor's guarantee.

#### **48.0 FINAL ACCEPTANCE**

The contract will be considered accepted when all work has been fully completed and all required documents have been submitted and written notice provided by the Contract Administrator or their representative.

#### **49.0 PROTEST**

Pursuant to HRS § 103D-701, an actual or prospective Offeror who is aggrieved in connection with the solicitation or award of a contract may submit a protest. Any protest shall be submitted in writing to the Procurement Officer (PO) James Kurata, Central Services Administrator, 729 Kakoi Street, Honolulu, Hawaii 96819.

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

Award(s), if any, resulting from this solicitation shall be posted to the State procurement Office (SPO) website: <http://www.hawaii.gov/spo>.