

**STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
HIGHWAYS DIVISION**

**ADDENDUM NO. 1  
for  
Pavement Repair at Various Locations  
Island of Kauai  
PROJECT NO. HWY-K-01-18M**

The following amendments shall be made to the Bid Documents:

**A. NOTICE TO BIDDERS**

1. Replace Notice to Bidders dated 12/8/17 with the attached Notice to Bidders dated r01/09/18.

**B. SPECIFICATIONS**

1. Replace Section 102 — Bidding Requirements and Conditions dated 9/12/17 with the attached Section 102 — Bidding Requirements and Conditions dated r01/09/18.
2. Replace Section 103 — Award and Execution of Contract dated 9/12/17 with the attached Section 103 — Award and Execution of Contract dated r01/09/18.
3. Replace Section 671 — Protection of Seabirds dated 03/23/16 with the attached Section 671 — Protection of Seabirds dated r01/09/18.

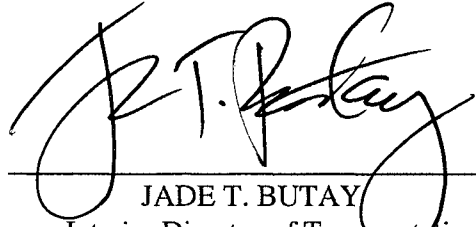
**C. PROPOSAL**

1. Replace proposal page P-1 dated 12/8/17, with the attached proposal page P-1 dated r01/09/18.

**D. PRE-BID MEETING MINUTES**

1. Attached are the January 3, 2018 Pre-Bid Meeting Minutes and Attendance Sheet for your Information.

Please acknowledge receipt of this Addendum No. 1 by recording the date of its receipt in the space provided on page P-4 of the Proposal.



---

JADE T. BUTAY  
Interim Director of Transportation

## **NOTICE TO BIDDERS**

(Chapter 103D, HRS)

SEALED BIDS for:

**PAVEMENT REPAIR AT VARIOUS LOCATIONS  
Project No. HWY-K-01-18M  
Island of Kauai**

will be received at the:

✓ Contracts Office, Department of Transportation  
869 Punchbowl Street, Honolulu, Hawaii 96813

✓ Office of the District Engineer – Kauai  
1720 Haleukana Street, Lihue, Hawaii 96766

until 2:00 P.M., January 25, 2018, at which time and place they will be publicly opened and read.

A compact disc containing the specifications, proposal, and contract forms may be obtained from the above offices. Bids (hard copies) shall be submitted in a sealed envelope, and shall be on the Proposal Form provided on the compact disc furnished by said Department. Bids received after the established due date and time will not be considered.

**The project includes pavement reconstruction, cold planing and resurfacing on the island of Kauai on an “as-needed” basis.**

To be eligible to bid, bidders must possess a valid State of Hawaii General Engineering Contractor’s “A” license or Specialty Contractor’s “C-3” or “C-3a” license, prior to bidding.

The Hawaii Products Preference pursuant to Act 175, SLH 2009, is applicable to this project. Persons wishing to certify and qualify a product as a Hawaii Product shall submit a Certification for Hawaii Product Preference (SPO

Form 38) to the DOT Contracts office no later than 4:30 P.M., fourteen (14) calendar days prior to the bid opening date. Late submittals for this project will not be reviewed by the DOT. A separate SPO-Form 38 shall be completed and submitted for each product. Forms are available at <http://spo.hawaii.gov/wp-content/uploads/2013/12/spo-038.doc>.

A 5% bid adjustment for bidders that are parties to apprenticeship agreements pursuant to Section 103-55.6, Hawaii Revised Statutes (HRS), is applicable to this project.

Compliance with Act 192, SLH 2011 is a requirement whereby a minimum of 80% of the bidder's work force on this project **must** consist of Hawaii residents.

A pre-bid conference is set for 9:00 a.m. on January 3, 2018, at the Department of Transportation, Highways Division, Kauai District Office Conference Room, 1720 Haleukana Street, Lihue, Hawaii. The pre-bid conference is for clarification purposes only. Any changes to the bid documents will be made by addendum. All prospective bidders or their representatives (employees) are encouraged to attend, but attendance is not mandatory. Persons needing special accommodations at the pre-bid conference due to a disability may contact Lawrence Dill, Project Manager, by phone at (808) 241-3006 or Jeff Aguinaldo, Project Engineer at (808)241-3018 or by facsimile at (808) 241-3011.

Campaign contributions by State and County Contractors. Contractors are hereby notified of the applicability of Section 11-355, HRS, which states that

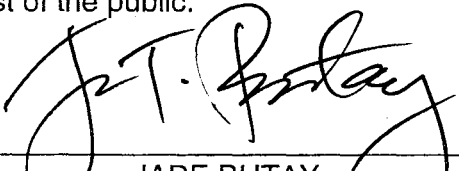
campaign contributions are prohibited from specified State or county government contractors during the term of the contract if the contractors are paid with funds appropriated by the legislative body. For more information, contact the Campaign Spending Commission at (808) 586-0285.

The Equal Employment Opportunity Regulations of the Secretary of Labor implementing Executive Order 11246, as amended, shall be complied with on this project.

The U.S. Department of Transportation Regulation entitled "Nondiscrimination in Federally-Assisted Programs of the U.S. Department of Transportation," Title 49, Code of Federal Regulations (CFR), Part 21 is applicable to this project. Bidders are hereby notified that the Department of Transportation will affirmatively ensure that the contract entered into pursuant to this advertisement will be awarded to the lowest responsible bidder without discrimination on the grounds of race, color, national origin or sex (as directed by 23 CFR Part 200).

For additional information on this project, contact Lawrence Dill, Project Manager at (808) 241-3015 or Jeff Aguinaldo, Project Engineer at (808) 241-3018, or by mail at 1720 Haleukana Street, Lihue, Hawaii 96766.

The State reserves the right to reject any or all proposals and to waive any defects in said proposals for the best interest of the public.

  
\_\_\_\_\_  
JADE BUTAY  
Interim Director of Transportation

1 Make this section a part of the Standard Specifications:

2  
3 **"SECTION 102 - BIDDING REQUIREMENTS AND CONDITIONS**

4  
5 **102.01 Prequalification of Bidders.** Prospective bidders shall be  
6 capable of performing the work for which they are bidding.

7  
8 In accordance with HRS Chapter 103D-310, the Department may require  
9 any prospective bidder to submit answers to questions contained in the  
10 'Standard Qualification Questionnaire For Prospective Bidders On Public Works  
11 Contracts' furnished by the Department, properly executed and notarized,  
12 setting forth a complete statement of the experience of such prospective bidder  
13 and its organization in performing similar work and a statement of the equipment  
14 proposed to be used, together with adequate proof of the availability of such  
15 equipment. Whenever it appears to the Department, from answers to the  
16 questionnaire or otherwise, that the prospective bidder is not fully qualified and  
17 able to perform the intended work, the Department will, after affording the  
18 prospective bidder an opportunity to be heard and if still of the opinion that the  
19 bidder is not fully qualified to perform the work, refuse to receive or consider any  
20 bid offered by the prospective bidder. All information contained in the answers  
21 to the questionnaire shall be kept confidential. Questionnaire so submitted  
22 shall be returned to the bidders after serving their purpose.

23  
24 No person, firm or corporation may bid where (1) the person, firm, or  
25 corporation, or (2) a corporation owned substantially by the person, firm, or  
26 corporation, or (3) a substantial stockholder or an officer of the corporation, or  
27 (4) a partner or substantial investor in the firm is in arrears in payments owed to  
28 the State or its political subdivisions or is in default as a surety or failure to do  
29 faithfully and diligently previous contracts with the State.

30  
31 **102.02 Contents of Proposal Forms.** The Department will furnish  
32 prospective bidders with proposal forms stating:

- 33  
34 (1) The location,  
35  
36 (2) Description of the proposed work,  
37  
38 (3) The approximate quantities,  
39  
40 (4) Items of work to be done or materials to be furnished,  
41  
42 (5) A schedule of items, and  
43  
44 (6) The time in which the work shall be completed.  
45

Papers bound with or attached to the proposal form are part of the proposal. The bidder shall not detach or alter the papers bound with or attached to the proposal when the bidder submits its proposal.

Also, the bidder shall consider other documents including the plans and specifications a part of the proposal form whether attached or not.

**102.03 Issuance of Proposal Forms.** The Department reserves the right to refuse to issue proposal forms to prospective bidders, which refusal may be based on the following:

- (1) Lack of competency or adequate machinery, plant, and other equipment (which determination may be based on the financial statement and experience questionnaires required under Subsection 102.01 - Prequalification of Bidders);
- (2) Uncompleted work that might hinder or prevent the prompt completion of additional work if awarded;
- (3) Failure to pay or settle bills due for labor and material on former contracts in force at the time of issuance of the project proposal forms;
- (4) Failure to comply with qualification regulations of the Department;
- (5) Default under previous contracts; or
- (6) Lack of responsibility and cooperation from past work.

**102.04 Estimated Quantities.** The quantities shown in the contract are approximate and are for the comparison of bids only. The actual quantity of work may not correspond with the quantities shown in the contract. The Department will make payment to the Contractor for unit price items in accordance with the contract for only the following:

- (1) Actual quantities of work done and accepted, not the estimated quantities; or
- (2) Actual quantities of materials furnished, not the estimated quantities.

The Department may increase, decrease, or omit each scheduled quantities of work to be done and materials to be furnished. When the Department increases or decreases the estimated quantity of a contract item by more than 15% the Department will make payment for such items in accordance with Subsection 104.06 - Methods of Price Adjustment.

**102.05 Examination of Contract and Site of Work.** The bidder shall examine carefully the site of the proposed work and contract before submitting a proposal.

By the act of submitting a bid for the proposed contract, the bidder warrants that:

(1) The bidder and its Subcontractors have reviewed the contract documents and found them free from ambiguities and sufficient for the purpose intended;

(2) The bidder and its workers, employees and subcontractors have the skills and experience in the type of work required by the contract documents bid upon;

(3) Neither the bidder nor its employees, agents, suppliers or subcontractors have relied upon verbal representations from the Department, its employees or agents, including architects, engineers or consultants, in assembling the bid figure; and

(4) The bases for the bid figure are solely on the construction contract documents.

Also, the bidder warrants that the bidder has examined the site of the work. From its investigations, the bidder acknowledges satisfaction on:

(1) The nature and location of the work;

(2) The character, quality, and quantity of materials;

(3) The difficulties to be encountered; and

(4) The kind and amount of equipment and other facilities needed;

Subsurface information or hydrographic survey data furnished are for the bidders' convenience only. The data and information furnished are the product of the Department's interpretation gathered in investigations made at the specific locations. These conditions may not be typical of conditions at other locations within the project area or that such conditions remain unchanged. Also, conditions found at the time of the subsurface explorations may not be the same conditions when work starts. The bidder shall be solely responsible for assumptions, deductions, or conclusions the bidder may derive from the subsurface information or data furnished.

If the Engineer determines that the natural conditions differ from that originally anticipated or contemplated by the Contractor in the items of



excavation, the State may treat the difference in natural conditions, as falling within the meaning of Subsection 104.02 – Changes.

**102.06 Preparation of Proposal.** The submittal of its proposal shall be on forms furnished by the Department. The bidder shall specify in words or figures:

- (1) A unit price for each pay item with a quantity given;
- (2) The products of the respective unit prices and quantities
- (3) The lump sum amount; and
- (4) The total amount of the proposal obtained by adding the amounts of the several items.

The words and figures shall be in ink or typed. If a discrepancy occurs between the prices written in words and those written in figures, the prices written in words shall govern.

When an item in the proposal contains an option to be made, the bidder shall choose in accordance with the contract for that particular item. Determination of an option will not permit the Contractor to choose again.

The bidder shall sign the proposal properly in ink. A duly authorized representatives of the bidder or by an agent of the bidder legally qualified and acceptable to the Department shall sign, including one or more partners of the bidder and one or more representatives of each entity comprising a joint venture.

When an agent, other than the officer(s) of a corporation authorized to sign contracts for the corporation or a partner of a partnership, signs the proposals, a 'Power of Attorney' shall be on file with the Department or submitted with the proposal. Otherwise, the Department will reject the proposal as irregular and unauthorized.

The bidder shall submit acceptable evidence of the authority of the partner, member(s) or officer(s) to sign for the partnership, joint venture, or corporation respectively with the proposal. Otherwise, the Department will reject the proposal as irregular and unauthorized.

**102.07 Irregular Proposals.** The Department may consider proposals irregular and may reject the proposals for the following reasons:

- (1) The proposal is a form not furnished by the Department, altered, or detached;

- 184 (2) The proposal contains unauthorized additions, conditions, or  
185 alternates. Also, the proposal contains irregularities that may tend to  
186 make the proposal incomplete, indefinite, or ambiguous to its meaning;  
187  
188 (3) The bidder adds provisions reserving the right to accept or reject an  
189 award. Also, the bidder adds provisions into a contract before an  
190 award;  
191  
192 (4) The proposal does not contain a unit price for each pay item listed  
193 except authorized optional pay items; and  
194  
195 (5) Prices for some items are out of proportion to the prices for other  
196 items.  
197  
198 (6) If in the opinion of the Director, the bidder and its listed  
199 subcontractors do not have the Contractor's licenses or combination of  
200 Contractor's licenses necessary to complete the work.  
201

202 Where the prospective bidder is bidding on multiple projects  
203 simultaneously and the proposal limits the maximum gross amount of awards  
204 that the bidder can accept at one bid letting, the proposal is not irregular if the  
205 limit on the gross amount of awards is clear and the Department selects the  
206 awards that can be given.  
207

208 **102.08 Proposal Guaranty.** In as much as the contract to be executed is a  
209 price-term, open end, or requirements contract under which the contract price,  
210 or total amount to be paid the Contractor cannot be determined at the time the  
211 contract is executed, the proposal guaranty required shall be in the following  
212 amount:  
213

<u>Proposal</u>	<u>Security Amount</u>
Area 1, 2, 3	\$18,750.00

217  
218  
219 The Department will not consider a proposal of \$25,000 or more unless  
220 accompanied by:  
221

- 222 (1) A deposit of legal tender; or  
223  
224 (2) A valid surety bid bond, underwritten by a company licensed to  
225 issue bonds in the State of Hawaii, in the form and composed,  
226 substantially, with the same language as provided herewith and signed by  
227 both parties; or  
228

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

(a) The bidder may use these instruments 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 acceptable.

(c) The instrument shall be made payable at sight to the Department.

**102.09 Delivery of Proposal.** The bidder shall submit the proposal in a sealed envelope, bearing on the outside the identity of the project and the its name and address. The Department will reject and return a proposal unopened if received after the time set for the opening of bids.

**102.10 Withdrawal or Revision of Proposals.** A bidder may withdraw or revise a proposal after the bidder deposits the proposal with the Department, provided the Department receives such withdrawal or revision request in writing before the time set for the opening of bids.

**102.11 Public Opening of Proposals.** The Department will open and read the proposals publicly at the time and place shown in the Notice to Bidders. Invited are bidders, their authorized agents, and other interested parties to be present.

**102.12 Disqualification of Bidders.** The Department may disqualify a bidder and reject its proposal for the following reasons:

(1) Submittal of more than one proposal whether under the same or different name.

(2) Evidence of collusion among bidders. The Department will not recognize participants in collusion as bidders for any future work of the Department until such participants are reinstated as qualified bidders.

(3) Lack of proposal guaranty.

(4) Submittal of an unsigned or improperly signed proposal.

(5) Submittal of a proposal without a listing of subcontractors or containing only a partial or incomplete listing of subcontractors.

(6) Submittal of an irregular proposal in accordance with Subsection 102.07 - Irregular Proposals.

(7) Evidence of assistance from a person who has been an employee of the agency within the preceding two years and who participated while in State office or employment in the matter with which the contract is directly concerned, pursuant to HRS Chapter 84-15.

(8) Suspended or debarred in accordance with HRS Chapter 104-25.

(9) Failure to complete the prequalification questionnaire.

(10) Failure to attend the mandatory pre-bid meeting, if applicable.

**102.13 Material Guaranty.** The successful bidder may be required to furnish a statement of the composition, origin, manufacture of materials, and samples.

**102.14 Substitution of Materials and Equipment Before Bid Opening.** See Subsection 106.13 for Substitution Of Materials and Equipment After Bid Opening.

**(A) General.** When brand names of materials or equipment are specified in the contract documents, they are 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. Qualification of such proposed alternate brands shall be submitted in writing and addressed to the Contracts Officer. The face of the envelope containing the request must be clearly marked 'SUBSTITUTION REQUEST'. The request may be hand-carried or mailed to the DOT Contracts Office, Room 105, 869 Punchbowl Street, Honolulu, Hawaii 96813. In either case, the written request must be received by the DOT Contracts Office no later than 14 calendar days before the bid opening date, not including the bid opening date. The written request will be time stamped by the DOT Contracts Office. For the purpose of this section, the time designated by the time stamping device in the DOT Contracts 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 DOT Contracts Office.

Submit 5 sets of the written request, technical brochures, and a statement of variances.

321  
322 An addendum will be issued to inform all prospective bidders of any  
323 accepted substitution in accordance with Subsection 102.17 – Addenda .  
324

325 **(B) Statement of Variances.** The statement of variances must list  
326 all features of the proposed substitution that differ from the contract  
327 documents and must further certify that the substitution has no other  
328 variant features. The brochure and information submitted shall be  
329 clearly marked showing make, model, size, options, and any other  
330 features requested by the Engineer and must include sufficient evidence  
331 to evaluate each feature listed as a variance. A request will be denied if  
332 submitted without sufficient evidence. If after installing the substituted  
333 product, an unlisted variance is discovered, the Contractor shall  
334 immediately replace the product with a specified product at no increase in  
335 contract price and contract time.  
336

337 **(C) Substitution Denial.** Any substitution request not complying  
338 with the above requirements will be denied.  
339

340 **102.15 Preferences.**

341  
342 **(A) Preference for Hawaii Products.** The bidder's attention is  
343 directed to Sections 103D-1001 and 103D-1002, HRS and Subchapter 1,  
344 Chapter 124, Subtitle 11 of Title 3, HAR which provide preferences for  
345 Hawaii Products. According to Section 103D-1002, HRS, the bidder may  
346 examine the Hawaii Products List at the State Procurement Office, State  
347 Office Building, 1151 Punchbowl Street, Honolulu, Hawaii 96813.  
348

349 If a product listed in the Hawaii Products List is available and meets  
350 project specifications, such product will be designated in the contract  
351 documents as a qualified product which may be used in the performance  
352 of the project.  
353

354 If the bidder intends to claim preference for products on the Hawaii  
355 Product List and such is not listed, the bidder shall immediately notify the  
356 Contracts Office, Department of Transportation, so the Engineer may  
357 take corrective or other appropriate actions.  
358

359 It is further understood by the bidder that if the bidder elects to  
360 furnish qualified Hawaii Products, and is awarded the contract, then fails  
361 to use such products or meet the requirements of such preference, the  
362 bidder shall be subject to the statutory penalties, provided in HRS  
363 Chapter 103D-1002, and such other remedies as may be available to the  
364 State.  
365

For the purpose of determining the lowest bid price only, the provisions of HRS Chapter 103D-1002 shall apply. Any contract awarded or executed in violation of HRS Chapter 103D-1002 shall be void and no payment shall be made on account of such contract.

**(B) Preferences for Apprenticeship Programs.** In accordance with ACT 17, SLH 2009 – Apprenticeship Program, a 5% bid adjustment for bidders that are parties to apprenticeship agreements pursuant to Hawaii Revised Statutes (HRS) Section 103-55.6 may be applied to the bidder's price for evaluation purposes. These procedures apply to public works projects with estimated cost of \$250,000 or more and entered into under the provisions of HRS Chapter 103.

The following provisions apply to this Apprenticeship Program.

**(1) Definitions**

**(a)** "Apprenticeable trade", HRS Section 103-55.6 (c), shall have the same meaning as 'apprenticeable occupation' pursuant to Hawaii Administrative Rules (HAR) Section 30-1-5.

**(b)** "Department" means the department of labor and industrial relations.

**(c)** "Director" means the director of labor and industrial relations.

**(d)** "Employ" means the employment of a person in an employer-employee relations.

**(e)** "Governmental body" means as defined in HRS Section 103D-104.

**(f)** "Party to an apprenticeship agreement" means party to a registered apprenticeship program with the department of labor and industrial relations.

**(g)** "Preference" means the 5% by which the qualified bidder's offer amount would be decreased for evaluation purposes.

**(h)** "Public work" shall be as defined in HRS Section 104-2 and HAR Section 12-22-1.

**(i)** "Registered apprenticeship program" means a construction trade program approved by the department pursuant to HAR Section 12-30-1 and Section 12-30-4.

**(j)** "Sponsor" means an operator of an apprenticeship program and in whose name the program is approved and registered with the department of labor and industrial relations pursuant to HAR Section 12-30-1.

**(k)** Offeror – Entity/bidder submitting a proposal to undertake a

**HWY-K-01-18M**

**102-9a**

**r01/09/18**

project.

(I) Procurement Officer – Director of Transportation or his authorized representative.

(2) Qualification Procedures

(a) Any bidder seeking the preference must be a party to an apprenticeship agreement registered with the department at the time the offer is made for each apprenticeable trade the bidder will employ to construct the public works projects for which the offer is being made.

1. The apprenticeship agreement shall be registered and conform to the requirements of HRS Chapter 372.

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

3. The bidder is not required to have apprentices in its employ at the time of submittal of an offer to qualify for the preference.

(b) The department shall:

1. Develop and maintain a list of construction trades in registered apprenticeship programs which conform to HRS Chapter 372; and

2. Electronically post the list; including any amendments, on the department website (<http://hawaii.gov/labor/wdd>).

(c) Bidder is responsible to comply with all submission requirements for registration of its apprenticeship program before requesting a preference.

(d) Bidder shall provide a certification by the sponsor of the respective registered apprenticeship programs covering the relevant trade(s) for the public works project.

(e) *Certification Form 1* issued by the department shall include:

1. Contractor information;

2. Solicitation reference;

3. Trade(s);

4. Date and name of apprenticeship program;

472 5. Signature of authorized training coordinator or training  
473 trust fund administrator certifying that the contractor is a  
474 participant in the program, and that the program is  
475 registered with the department;

476  
477 6. Contract information for sponsor's authorized  
478 representative signing the form;

479  
480 7. Number of apprentices enrolled in the program, number  
481 who successfully completed the apprenticeship program in  
482 the past 12 months, including whether the contractor is  
483 signatory to a collective bargaining agreement for that  
484 trade, or if not, provide for attachment of a copy of the  
485 agreement between the contractor and the program.  
486

487 **(3) Solicitation Procedures**  
488

489 **(a)** If the NTB indicates that this project is covered by this  
490 preference, and the offer is less than \$250,000 this preference  
491 will still be applicable in determining the lowest bidder.  
492

493 **(b)** A claim for this preference must include the following:  
494

495 1. Allow bidder seeking to claim the preference to state  
496 the trades the bidder will employ to perform the work;  
497

498 2. For each trade to be employed to perform the work,  
499 the bidder shall submit a completed signed original  
500 *Certification Form 1* verifying participation in an  
501 apprenticeship program registered with the department.  
502

503 3. The *Certification Form 1* shall be authorized by an  
504 apprenticeship sponsor of the department's list of  
505 registered apprenticeship programs. The authorization  
506 shall be an original signature by an authorized official of  
507 the apprenticeship sponsor; and  
508

509 4. The completed *Certification Form 1* for each trade  
510 must be submitted by the bidder with the offer. Previous  
511 certifications shall not apply unless allowed by the  
512 solicitation.  
513

514 **(c)** Upon receiving *Certification Form 1*, the procurement  
515 officer will verify with the department that the apprenticeship  
516 program is on the list of apprenticeship programs registered  
517 with the department. If the programs are not confirmed by the  
518 department, the bidder will not qualify for the preference.  
519

520 **(4) Evaluation and Contract Award**  
521

522 **(a)** If the bidder certifies participation in an apprenticeship  
523 program for each trade which will be employed by the bidder for  
524 the project, the procurement officer shall apply the preference



525 and decrease the bidder's total bid amount by five per cent (5%)  
526 for evaluation purposes.

527  
528 (b) Should the bidder qualify for other statutory preferences  
529 (for example, Hawaii products), all applicable preferences shall  
530 be applied to the bidder's price.

531  
532 (c) The contract amount shall be the original offer amount,  
533 exclusive of any preference; the preference is only for  
534 evaluation purposes.

535  
536 (d) Any claims challenging a bidder's representation that the  
537 bidder is a participant in an apprenticeship program(s) as  
538 claimed, shall be submitted to the procurement officer. The  
539 procurement officer will refer the challenge to the department of  
540 labor and industrial relations who shall investigate any such  
541 claims and shall make a determination.

542  
543 (5) Contract Administration  
544

545 (a) For the duration of a contract awarded utilizing the  
546 apprenticeship preference, the contractor shall certify each  
547 month that work is being conducted on the project, that it  
548 continues to be a participant in the relevant apprenticeship  
549 program for each trade it employs.

550  
551 (b) Monthly certification shall be made on *Monthly Certification*  
552 *Form 2* prepared and made available by the department, be a  
553 signed original by the respective apprenticeship program  
554 sponsors authorized official, and submitted by the contractor  
555 with its monthly payment requests.

556  
557 (c) Should the contractor fail or refuse to submit its monthly  
558 certification forms, or at any time during the construction of the  
559 project, cease to be a part to a registered apprenticeship  
560 agreement for each apprenticeable trades the contractor  
561 employs, or will employ, the contractor will be subject to the  
562 following sanctions:

563  
564 1. Withholding of the requested payment until the  
565 required form(s) are submitted;

566  
567 2. Temporary or permanent cessation of work on the  
568 project, without recourse to breach of contract claims by  
569 the contractor; provided the agency shall be entitled to  
570 restitution for nonperformance or liquidated damages  
571 claims; or

572  
573 3. Proceed to debar or suspend pursuant to HRS  
574 Section 103D-702.

575  
576 (d) If events such as "acts of God," acts of a public enemy,  
577 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 certification forms, 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.

This subsection shall not apply when its application will disqualify the State from receiving federal funds or aid.

**(C) Preference for Recycled Products.** Recycled Products shall not apply to this project.

**(D) Evaluation Procedures and Contract Award.** For bid evaluation, the Engineer will evaluate the bids by applying the applicable preferences selected by the bidders according to the contract. The Engineer will base the calculations for adjustments upon the original bid prices offered. If more than one preference applies, the evaluated bid price shall be the sum of the original bid price plus applicable preference adjustments.

If a bidder has designated use of a Hawaii Product and fails to provide the product, the contract will become void and no payments will be made.

The Engineer will award the contract to the responsible bidder submitting the responsive bid with the lowest evaluated bid price. The contract amount of the contract awarded shall be the original bid price offered exclusive of any preference.

**102.16 Certification for Safety and Health Program for Bids in excess of \$100,000.** In accordance with HRS Chapter 396-18, the bidder or offeror, by signing and submitting this proposal, certifies that a written safety and health plan for this project will be available and implemented by the notice to proceed date for this project. Details of the requirements of this plan may be obtained from the State Department of Labor and Industrial Relations, Occupational Safety and Health Division (HIOSH).

**102.17 Addenda.** Addenda issued shall become part of the contract documents. 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. 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 addendum."

## **END OF SECTION 102**

1 Make this section a part of the Standard Specifications:

2  
3 **"SECTION 103 - AWARD AND EXECUTION OF CONTRACT**

4  
5 **103.01 Consideration of Proposals.** The Department will compare the  
6 proposals in terms of the summation of the products of the approximate  
7 quantities and the unit bid prices after the Contracts Officer opens and reads the  
8 proposals. The Department will make the results immediately available to the  
9 public. If a discrepancy occurs between the unit bid price and the bid price,  
10 the unit bid price shall govern.

11  
12 The Department reserves the right to reject proposals, waive  
13 technicalities or advertise for new proposals, if the rejection, waiver, or new  
14 advertisement favors the Department.

15  
16 **103.02 Award of Contract.** The award of contract, if it be awarded, will  
17 be made within 60 calendar days after the opening of bids, to the lowest  
18 responsible bidder whose proposal complies with all the requirements. The  
19 successful bidder will be notified by letter mailed to the address shown in its  
20 proposal, that its proposal has been accepted, and that it has been awarded  
21 the contract.

22  
23 **(1) Requirement for Award.** To be eligible for award, the  
24 apparent low bidder will be contacted to submit copies of the  
25 documents listed below to demonstrate compliance with HRS  
26 Section 103D-310(c). The documents should be submitted to the  
27 Department as soon as possible. If a valid certificate/clearance is  
28 not submitted on a timely basis for award of a contract, a bidder  
29 otherwise responsive and responsible may not receive the award.  
30 See also Subsection 108.03 – Preconstruction Data Submittal.

31  
32 **(A) Tax Clearance.** Pursuant to HRS Sections 103D-310(c), 103-53  
33 and 103D-328, the successful bidder shall be required to submit a  
34 certified copy of its tax clearance issued by the Hawaii State Department  
35 of Taxation (DOTAX) and the Internal Revenue Service (IRS) to  
36 demonstrate its compliance with HRS Chapter 237. A tax clearance is  
37 valid for six (6) months from the most recent approval stamp date on the  
38 tax clearance and must be valid on the bid's first legal advertisement date  
39 or any date thereafter up to the bid opening date.

40  
41 FORM A6, TAX CLEARANCE CERTIFICATE, is available at  
42 the following website:

43  
44 <http://www.hawaii.gov/tax/>

45  
46 To receive DOTAX Forms by fax or mail, phone  
47 (808) 587-7572 or 1-800-222-7572.

48  
49 The application for the Tax Clearance Certificate is the  
50 responsibility of the bidder and must be submitted directly to the DOTAX

51 or IRS. The approved certificate may then be submitted to the  
52 Department.  
53

54 **(B) DLIR Certificate of Compliance.** Pursuant to HRS Section  
55 103D-310(c), the successful bidder shall be required to submit a copy  
56 (faxed copies are acceptable) of its approved certificate of compliance  
57 issued by the Hawaii State Department of Labor and Industrial Relations  
58 (DLIR) to demonstrate its compliance with unemployment insurance (HRS  
59 Chapter 383), workers' compensation (HRS Chapter 386), temporary  
60 disability insurance (HRS Chapter 392), and prepaid health care (HRS  
61 Chapter 393). The certificate is valid for six (6) months from the most  
62 recent approval stamp date on the certificate and must be valid on the  
63 bid's first legal advertisement date or any date thereafter up to the bid  
64 opening date. For certificates which receive a "pending" approval  
65 stamp, a DLIR approval stamp is required prior to the issuance of the  
66 Notice to Proceed.  
67

68 FORM LIR#27, APPLICATION FOR CERTIFICATE OF  
69 COMPLIANCE WITH SECTION 3-122-112, HAR, is available at the  
70 following website:  
71

72 [www.hawaii.gov/labor](http://www.hawaii.gov/labor)  
73

74 More information is available by calling the DLIR Unemployment  
75 Insurance Division at (808) 586-8926.  
76

77 Inquiries regarding the status of a LIR#27 Form may be made by  
78 calling the DLIR Disability Compensation Division at (808) 586-9200.  
79

80 The application for the Certificate of Compliance is the  
81 responsibility of the bidder and must be submitted directly to the DLIR.  
82 The approved certificate may then be submitted to the Department.  
83

84 **(C) DCCA Certificate of Good Standing.** Pursuant to HRS Section  
85 103D-310(c), the successful bidder shall be required to submit a copy  
86 (faxed copies are acceptable) of its approved Certificate of Good Standing  
87 issued by the Hawaii State Department of Commerce and Consumer  
88 Affairs (DCCA), Business Registration Division (BREG) to demonstrate  
89 that it is either:  
90

- 91 (1) Incorporated or organized under the laws of the State; or  
92  
93 (2) Registered to do business in the State as a separate branch  
94 or division that is capable of fully performing under the contract.  
95

96 The Certificate of Good Standing is valid for six (6) months from the  
97 approval date on the certificate and must be valid on the bid's first legal  
98 advertisement date or any date thereafter up to the bid opening date. A  
99 Hawaii business that is a sole proprietorship, however, is not required to  
100 register with the BREG, and therefore not required to submit a Certificate

of Good Standing. Bidders are advised that there are costs associated with registering and obtaining a Certificate of Good Standing from the DCCA.

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

[www.hawaii.gov/dcca/](http://www.hawaii.gov/dcca/)

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

Prospective bidders may submit a bid for any or all groups on the basic proposal schedule. The awarding of the contract(s) will be made to the lowest responsible bidder for each group.

This contract to be awarded is considered a requirement contract, as the pavement repair by the Contractor will be made on an "as-needed" basis during the 12-month contract period. The State gives no assurance as to the number of services it will purchase.

The bidder must maintain an office on the Island of Kauai to be awarded the contract.

**(D) Hawaii Compliance Express (HCE).** In lieu of certificate reference above, the bidder may make available proof of compliance through the Hawaii Compliance Express or any other designated certification process. Bidders may apply and register at the "Hawaii Compliance Express" website:

<https://vendors.ehawaii.gov/hce/splash/welcome.html>

**103.03 Cancellation of Award.** The Department reserves the right to cancel the award of contracts before the execution of said contract by the parties. There will be no liability to the awardee and to other bidders.

**103.04 Return of Proposal Guaranty.** The Department will return the proposal guaranties, except those of the three lowest bidders, after the Department checks the proposals. The Department will return the proposal guaranties of the remaining two lowest bidders not awarded the contract within five working days following the execution of the contract. The Department will return the successful bidder's proposal guaranty after the successful bidder furnishes a bond and executes the contract.

**103.05 Requirement of Contract Bond.** At the time of execution of the contract, the successful bidder shall file a good and sufficient performance bond and a payment bond on the forms furnished by the Department conditioned for

149 the full and faithful performance of the contract in accordance with the terms and  
150 intent thereof and for the prompt payment to all others for all labor and material  
151 furnished by them to the bidder and used in the prosecution of the work provided  
152 for in the contract.

153

154 The contract bond required shall be furnished by the Contractor for the  
155 term of the contract (12 months). The bond of the contract shall be submitted  
156 to the State, or such additional time as may be granted by the State. Such  
157 bond for each extended year may be extensions of the original bond by  
158 endorsements thereto. The bidder shall limit the acceptable performance and  
159 payment bonds to the following:

160

161 (a) Legal tender;

162

163 (b) Surety bond underwritten by a company licensed to issue bonds  
164 in the State of Hawaii; or

165

166 (c) A certificate of deposit; share certificate; cashier's check;  
167 treasurer's check, teller's check drawn by or a certified check  
168 accepted by and payable on demand to the State by a bank savings  
169 institution or credit union insured by the Federal Deposit Insurance  
170 Corporation (FDIC) or the National Credit Union Administration  
171 (NCUA).

172

173 1. The bidder may use these instruments only to a maximum of  
174 \$100,000.

175

176 2. If the required security or bond amount totals over \$100,000  
177 more than one instrument not exceeding \$100,000 each and  
178 issued by different financial institutions shall be acceptable.

179

180 Such bonds shall also by the terms inure to the benefit of any and all  
181 persons entitled to file claims for labor done or material furnished in the work so  
182 as to give them a right of action as contemplated by HRS Section 103D-324.

183

184 In as much as the contract to be executed is a price-term, open end, or  
185 requirements contract under which the contract price, or total amount to be paid  
186 the Contractor cannot be determined at the time the contract is executed, the  
187 performance and payment bond amount required for the work at all Areas shall  
188 be as follows:

189

190	<u>Proposal</u>	<u>Security Amount</u>
191		
192	Area 1, 2, 3	\$200,000.00

193

194

195 **103.06 Execution of the Contract.** The contract bond and HRS Chapter  
196 104 - Compliance Certificate, similar to a copy of the same annexed hereto,  
197 shall be executed by the successful bidder and returned within ten days after the  
198 award of the contract or within such further time as the Director may allow after  
199 the bidder has received the contract for execution.

200  
201 The contract shall not bind the Department unless said parties execute  
202 the contract and the Director of Finance endorses the bidder's certificate in  
203 accordance with HRS Section 103-39.

204  
205 **103.07 Failure to Execute Contract.** Failure to execute the contract and  
206 file acceptable bonds shall be cause for the cancellation of the award in  
207 accordance with Subsection 103.06 - Execution of the Contract. Also, the  
208 Contractor forfeits the proposal guaranty which becomes the property of the  
209 Department. This is not a penalty, but liquidated damages sustained by the  
210 State. The Department may then make award to the next lowest responsible  
211 bidder or the Department may readvertise and construct the work under  
212 contract."

213  
214  
215 **END OF SECTION 103**

1 Make the following Section a part of the Standard Specifications:  
2

3 **"SECTION 671 – PROTECTION OF SEABIRDS**  
4

5 **671.01 Description.** The project site is located in a known flight corridor  
6 for the threatened Newell's shearwater (*Puffinus auricularis newelli*), Band-  
7 Rumped Storm-Petrel (*Oceanodroma castro*) and the endangered Hawaiian  
8 petrel (*Pterodroma phaeopygia sandwichensis*), hereinafter referred to as  
9 seabirds. There is a high rate of Newell's shearwater fallout in the area.  
10 Additional or increased lighting exacerbates the problem of Newell's shearwater  
11 fallout.  
12

13 Fallout shall be defined as the occurrence of seabirds being harmed,  
14 injured or killed and falling to the ground due to: 1) collision with structures such  
15 as wires, poles, or other objects; 2) light attraction and the resulting collision with  
16 structure associated with or near the light source; or, 3) the exhaustion from  
17 circling the light source.  
18

19 **671.02 Materials.** None.  
20

21 **671.03 Construction.**  
22

23 **(A) Preconstruction Requirements.** Comply to the following  
24 conditions:  
25

26 **(1)** Before beginning any work at the worksite, the Contractor  
27 shall:  
28

29 **(a)** Collect information regarding the protection of  
30 seabirds and seabird fallout.  
31

32 **(b)** Submit to the Engineer for acceptance a protection of  
33 seabirds training plan including a detailed description of  
34 information and materials the Contractor intends to use in  
35 the training classes. The training plan shall be submitted to  
36 the Engineer for acceptance at least 15 calendar days in  
37 advance of the class. If the Engineer rejects the training  
38 plan, the Contractor shall revise and promptly propose  
39 another training plan.  
40

41 **(c)** Disseminate information regarding the protection of  
42 seabirds and seabird fallout by conducting training classes  
43 for all employees, subcontractors, suppliers and other  
44 personnel working on the project, including HDOT  
45 personnel, on such topics as the Save Our Shearwater  
46 program, proper use of temporary lighting, procedures to  
47 store and report downed seabirds, and the consequences of  
48 non-compliance with the laws regarding threatened and  
49 endangered seabirds. The Engineer may request for  
50 additional topics related to seabirds to be included in the  
51 training classes.



52  
53 Training classes shall be taught by authorized  
54 representatives of the U.S. Fish and Wildlife Service, the  
55 Department of Land and Natural Resources, the Save Our  
56 Shearwater program or other qualified personnel accepted  
57 by the Engineer.  
58

59 (d) Furnish the Engineer with evidence that the  
60 Contractor has held training classes, including the dates of  
61 the classes, identify who conducted the training, and the  
62 content and nature of the training.  
63

64 **(B) Construction Requirements.**  
65

66 (1) As directed by the Engineer, the Contractor shall conduct  
67 additional training classes during the project to update all  
68 employees, subcontractors, suppliers, HDOT personnel and other  
69 personnel on new and/or updated information regarding the  
70 protection of seabirds and seabird fallout.  
71

72 (2) All temporary lights used for night work (between sunset and  
73 sunrise) shall be downward-facing and shielded. Temporary lights  
74 shall include but are not limited to flood lights, light towers, lights for  
75 construction equipment and other lights as determined by the  
76 Engineer. All traffic control devices, including warning lights, arrow  
77 boards, portable changeable message signs and other lighting  
78 device as determined by the Engineer shall be shielded.  
79

80 (3) Night work and the use of all temporary lights shall cease  
81 during the peak fallout period from September 15 through  
82 December 15.  
83

84 (4) The Contractor shall furnish and maintain a small  
85 (approximately 10" x 12" x 19"), portable cat kennel on site to  
86 temporarily hold a downed seabird. The Contractor shall obtain  
87 acceptance of the cat kennel from the Engineer prior to use. Line  
88 floor of the kennel with a cloth or towel.  
89

90 (5) If a downed seabird is found, dead or alive, the Contractor  
91 shall contact the Save Our Shearwater program at 808-632-0610 or  
92 808-635-5117 as soon as possible. Do not move a carcass unless  
93 it presents a safety issue. If the downed seabird is alive, the  
94 Contractor shall:  
95

96 (a) Pick up the seabird from behind as soon as possible  
97 using a clean towel, t-shirt or cloth by gently wrapping it  
98 around its back and wings. The cloth should cover the head  
99 to minimize the bird's stress response.  
100

101 (b) Place the seabird in the cat kennel and contact the  
102 Save Our Shearwater program at 808-632-0610 and/or

103  
104  
105  
106  
107  
108  
109  
110  
111  
112  
113  
114  
115  
116  
117  
118  
119  
120  
121  
122  
123  
124  
125  
126  
127  
128  
129  
130  
131  
132  
133  
134  
135  
136  
137  
138  
139  
140  
141  
142  
143  
144  
145  
146  
147

808-635-5117 for further instructions on where to deliver the seabird.

(c) Deliver the seabird to the location determined by the coordinator of the Save Our Shearwater program and as directed by the Engineer.

(d) Keep the seabird in a cool, quiet location and out of direct sunlight with adequate ventilation.

The Contractor shall not feed, provide water, handle or release the seabird.

(6) The Contractor shall maintain records of all downed seabirds for the duration of the project. The records shall include the date, time, location and condition (dead or alive) the seabird was found and delivered. Submit a copy of the records to the Engineer after finding each and every downed seabird.

**671.04 Measurement.** The Engineer will measure the work required for the protection of seabirds on a force account basis in accordance with Subsection 109.06 – Force Account Provisions and Compensation and as ordered by the Engineer.

**671.05 Payment.** The Engineer will pay for the accepted protection of seabirds on a force account basis in accordance with Subsection 109.06 – Force Account Provisions and Compensation. Payment will be full compensation for the work prescribed in this section, by the Engineer, and in the contract documents.

The Engineer will pay for the following pay item when included in the proposal schedule:

Pay Item	Pay Unit
Protection of Seabirds	Force Account

An estimated amount may be allocated in the proposal schedule under "Protection of Seabirds", but the actual amount to be paid will be the sum shown on the accepted force account records, whether this sum be more or less than the estimated amount allocated in the proposal schedule."

## END OF SECTION 671

**PROPOSAL TO THE  
STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION**

**PROJECT:           PAVEMENT REPAIR AT VARIOUS LOCATIONS  
ISLAND OF KAUAI**

**PROJECT NO.:     HWY-K-01-18M**

**COMPLETION TIME:   TWELVE (12) MONTHS from the date indicated in  
the Notice to Proceed from the Department with  
an option to extend for two (2) additional twelve  
(12) month periods upon mutual agreement.**

**DESIGN PROJECT MANAGER:**

<b>NAME:</b>	Lawrence J. Dill
<b>ADDRESS:</b>	1720 Haleukana Street, Lihue, HI 96766
<b>PHONE NO.:</b>	(808) 241-3006
<b>EMAIL:</b>	lawrence.j.dill@hawaii.gov
<b>FAX NO.:</b>	(808) 241-3011

## MINUTES OF THE PRE-BID MEETING

**PROJECT:** Pavement Repair at Various Locations  
Island of Kauai

**PROJECT NO.:** HWY-K-01-18M

**LOCATION:** 1720 Haleukana Street  
Lihue, Kauai Hawaii

**DATE & TIME:** January 3, 2018 at 9:00 A.M.

**IN ATTENDANCE:**

Jeff Aguinaldo	HDOT-HWY-K
Bernie Vargas	HDOT-HWY-K
Janil Ke	HDOT-HWY-K
Fred Reyes	HDOT-HWY-K
Kevin Yamabayashi	Maui Kupon Builders LLC
Mike Lingaton	Maui Kupon Builders LLC

The meeting started at 9:00 A.M. Project Engineer, Jeff Aguinaldo began the meeting with an introduction and gave a brief overview of the project.

Anything said at this meeting is for clarification purposes only, the bid documents shall govern over anything said today and discrepancies shall be clarified by addendum.

The following questions were raised at the meeting:

**Question #1:** Are there the limits shown for each Area? For example, which routes?

**Response:** Yes, the limits for each Area is described on Section 110.03 on the Special Provisions.

**Question #2:** Is there currently any list containing the specific places that need pavement repairs?

**Response:** No, there is no list.

**Question #3:** Is there a budget on this contract?

**Response:** No budget was labeled within this contract.

**Question #4:** When was the last Pavement Repairs at Various Locations contract?

**Response:** The last contract was awarded about 4 years ago.

**Question #5:** Are there are a set of bid tabulations for the last Pavement Repair at Various Locations contract?

**Response:** Yes, we can locate them in via our As-built database.

A Request to Access a Government Record form was filled out by Kevin Yamabayashi. A hard copy of the bid tabulations was each given to Kevin Yamabayashi and Mike Lingaton.

The following question (RFI) was received by HDOT after the meeting:

**Question #1:** Do you happen to know if the Reconstruction Areas on that last bid was the same 8" thickness?

**Response:** Yes, the depth of excavation for the last contract was also 8".

With no further questions or comments, the pre-bid meeting was adjourned at 9:30 A.M.

The minutes of the meeting will be distributed in Addendum No. 1 on the Contract Plans. Contractors will be notified when the addendum will be available for pick up.