



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

**SPECIAL PROVISIONS
PROPOSAL
CONTRACT AND BOND**

FOR

**ROUTE 360 HANA HIGHWAY
IMPROVEMENTS
UAKEA ROAD TO KEAWA PLACE**

PROJECT NO. 360B-01-03

DISTRICT OF HANA

ISLAND OF MAUI

FY 2012

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2/24/12

NOTICE TO BIDDERS

(Chapter 103D, HRS)

SEALED BIDS for:

**Route 360 Hana Highway Improvements
Uakea Road to Keawa Place
Project No. 360B-01-03
District of Hana
Island of Maui**

will be received at the:

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

 X Office of the District Engineer – Maui
650 Palapala Drive, Kahului, Hawaii 96732

until 2:00 P.M., May 24, 2012 at which time and place(s) they will be publicly opened and read.

A compact disc containing the plans, 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 widening of an existing one-lane bridge/box culvert and related road widening on both approaches. Estimated construction cost is 1 million to 5 million dollars.

To be eligible to bid, bidders must possess a valid State of Hawaii General Engineering Contractor's "A" 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://www4.hawaii.gov/StateForms/ShowForm.cfm>.

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 68, SLH 2010 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 May 4, 2012, 8:00 a.m., at the Department of Transportation Highways Division, Maui District Office, 650 Palapala Drive, Kahului, Maui. 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, Ms. Charlene Shibuya, Project Manager, by phone at (808) 873-3535 or by facsimile at (808) 873-3544.

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 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 Ms. Charlene Shibuya, Project Manager at (808) 873-3535 or by facsimile at (808) 873-3544.

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.



GLENN M. OKIMOTO, Ph.D.
Director of Transportation

Internet Posting: April 27, 2012

INSTRUCTIONS FOR CONTRACTOR'S LICENSING

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

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
HIGHWAYS DIVISION
HONOLULU, HAWAII

SPECIAL PROVISIONS

These Special Provisions shall supplement and/or amend the applicable provisions of the Hawaii Standard Specifications for Road and Bridge Construction, 2005, hereinafter referred to as the "Standard Specifications".

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.

92 **102.05 Examination of Contract and Site of Work.** The bidder shall
93 examine carefully the site of the proposed work and contract before submitting a
94 proposal.

95
96 By the act of submitting a bid for the proposed contract, the bidder
97 warrants that:

98
99 (1) The bidder and its Subcontractors have reviewed the contract
100 documents and found them free from ambiguities and sufficient for the
101 purpose intended;

102
103 (2) The bidder and its workers, employees and subcontractors have
104 the skills and experience in the type of work required by the contract
105 documents bid upon;

106
107 (3) Neither the bidder nor its employees, agents, suppliers or
108 subcontractors have relied upon verbal representations from the
109 Department, its employees or agents, including architects, engineers or
110 consultants, in assembling the bid figure; and

111
112 (4) The bases for the bid figure are solely on the construction contract
113 documents.

114
115 Also, the bidder warrants that the bidder has examined the site of the
116 work. From its investigations, the bidder acknowledges satisfaction on:

117
118 (1) The nature and location of the work;

119
120 (2) The character, quality, and quantity of materials;

121
122 (3) The difficulties to be encountered; and

123
124 (4) The kind and amount of equipment and other facilities needed;

125
126 Subsurface information or hydrographic survey data furnished are for the
127 bidders' convenience only. The data and information furnished are the product
128 of the Department's interpretation gathered in investigations made at the specific
129 locations. These conditions may not be typical of conditions at other locations
130 within the project area or that such conditions remain unchanged. Also,
131 conditions found at the time of the subsurface explorations may not be the same
132 conditions when work starts. The bidder shall be solely responsible for
133 assumptions, deductions, or conclusions the bidder may derive from the
134 subsurface information or data furnished.

135
136 If the Engineer determines that the natural conditions differ from that
137 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;

(2) The proposal contains unauthorized additions, conditions, or alternates. Also, the proposal contains irregularities that may tend to make the proposal incomplete, indefinite, or ambiguous to its meaning;

(3) The bidder adds provisions reserving the right to accept or reject an award. Also, the bidder adds provisions into a contract before an award;

(4) The proposal does not contain a unit price for each pay item listed except authorized optional pay items; and

(5) Prices for some items are out of proportion to the prices for other items.

(6) If in the opinion of the Director, the bidder and its listed subcontractors do not have the Contractor's licenses or combination of Contractor's licenses necessary to complete the work.

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

102.08 Proposal Guaranty. The Department will not consider a proposal of \$25,000 or more unless accompanied by:

(1) A deposit of legal tender; or

(2) A valid surety bid bond, underwritten by a company licensed to issue bonds in the State of Hawaii, in the form and composed, substantially, with the same language as provided herewith and signed by both parties; or

(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.

In accordance with HRS Chapter 103D-323, the above shall be in a sum not less than 5% of the amount bid.

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.

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

(B) Statement of Variances. The statement of variances must list all features of the proposed substitution that differ from the contract

documents and must further certify that the substitution has no other variant features. The brochure and information submitted shall be clearly marked showing make, model, size, options, and any other features requested by the Engineer and must include sufficient evidence to evaluate each feature listed as a variance. A request will be denied if submitted without sufficient evidence. If after installing the substituted product, an unlisted variance is discovered, the Contractor shall immediately replace the product with a specified product at no increase in contract price and contract time.

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

102.15 Preferences.

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

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

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

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

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 project.

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

(2) Qualification Procedures

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

423
424 1. The apprenticeship agreement shall be registered
425 and conform to the requirements of HRS Chapter 372.

426
427 2. Subcontractors do not have to be a party to an
428 apprenticeship agreement for the bidder to obtain the
429 preference.

430
431 3. The bidder is not required to have apprentices in its
432 employ at the time of submittal of an offer to qualify for the
433 preference.

434
435 (b) The department shall:

436
437 1. Develop and maintain a list of construction trades in
438 registered apprenticeship programs which conform to HRS
439 Chapter 372; and

440
441 2. Electronically post the list; including any
442 amendments, on the department website
443 (<http://hawaii.gov/labor/wdd>).
444

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

448
449 (d) Bidder shall provide a certification by the sponsor of the
450 respective registered apprenticeship programs covering the
451 relevant trade(s) for the public works project.

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

454
455 1. Contractor information;

456
457 2. Solicitation reference;

458
459 3. Trade(s);

460
461 4. Date and name of apprenticeship program;

462
463 5. Signature of authorized training coordinator or training
464 trust fund administrator certifying that the contractor is a
465 participant in the program, and that the program is
466 registered with the department;

467
468
469 6. Contract information for sponsor's authorized
470

representative signing the form;

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

(3) Solicitation Procedures

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

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

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

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

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

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

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

(4) Evaluation and Contract Award

(a) If the bidder certifies participation in an apprenticeship program for each trade which will be employed by the bidder for the project, the procurement officer shall apply the preference and decrease the bidder's total bid amount by five per cent (5%) for evaluation purposes.

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

524
525 (c) The contract amount shall be the original offer amount,
526 exclusive of any preference; the preference is only for
527 evaluation purposes.
528

529 (d) Any claims challenging a bidder's representation that the
530 bidder is a participant in an apprenticeship program(s) as
531 claimed, shall be submitted to the procurement officer. The
532 procurement officer will refer the challenge to the department of
533 labor and industrial relations who shall investigate any such
534 claims and shall make a determination.
535

536 (5) Contract Administration
537

538 (a) For the duration of a contract awarded utilizing the
539 apprenticeship preference, the contractor shall certify each
540 month that work is being conducted on the project, that it
541 continues to be a participant in the relevant apprenticeship
542 program for each trade it employs.
543

544 (b) Monthly certification shall be made on *Monthly Certification*
545 *Form 2* prepared and made available by the department, be a
546 signed original by the respective apprenticeship program
547 sponsors authorized official, and submitted by the contractor
548 with its monthly payment requests.
549

550 (c) Should the contractor fail or refuse to submit its monthly
551 certification forms, or at any time during the construction of the
552 project, cease to be a part to a registered apprenticeship
553 agreement for each apprenticeable trades the contractor
554 employs, or will employ, the contractor will be subject to the
555 following sanctions:
556

557 1. Withholding of the requested payment until the
558 required form(s) are submitted;
559

560 2. Temporary or permanent cessation of work on the
561 project, without recourse to breach of contract claims by
562 the contractor; provided the agency shall be entitled to
563 restitution for nonperformance or liquidated damages
564 claims; or
565

566 3. Proceed to debar or suspend pursuant to HRS
567 Section 103D-702.
568

569 (d) If events such as "acts of God," acts of a public enemy,
570 acts of the State or any other governmental body in its
571 sovereign or contractual capacity, fires, floods, epidemics,
572 freight embargoes, unusually severe weather, or strikes or other
573 labor disputes prevent the contractor from submitting the
574 certification forms, the contractor shall not be penalized as
575 provided herein, provided the contractor completely and
576 expeditiously complies with the certification process when the

577 event is over.

578 This subsection shall not apply when its application will disqualify
579 the State from receiving federal funds or aid.
580

581
582 **(C) Preference for Recycled Products.** Recycled Products shall
583 not apply to this project.
584

585 **(D) Evaluation Procedures and Contract Award.** For bid
586 evaluation, the Engineer will evaluate the bids by applying the applicable
587 preferences selected by the bidders according to the contract. The
588 Engineer will base the calculations for adjustments upon the original bid
589 prices offered. If more than one preference applies, the evaluated bid
590 price shall be the sum of the original bid price plus applicable preference
591 adjustments.
592

593 If a bidder has designated use of a Hawaii Product and fails to
594 provide the product, the contract will become void and no payments will
595 be made.
596

597 The Engineer will award the contract to the responsible bidder
598 submitting the responsive bid with the lowest evaluated bid price. The
599 contract amount of the contract awarded shall be the original bid price
600 offered exclusive of any preference.
601

602 **102.16 Certification for Safety and Health Program for Bids in excess**
603 **of \$100,000.** In accordance with HRS Chapter 396-18, the bidder or offeror,
604 by signing and submitting this proposal, certifies that a written safety and health
605 plan for this project will be available and implemented by the notice to proceed
606 date for this project. Details of the requirements of this plan may be obtained
607 from the State Department of Labor and Industrial Relations, Occupational
608 Safety and Health Division (HIOSH).
609

610 **102.17 Addenda.** Addenda issued shall become part of the contract
611 documents. Addenda to the bid documents will be provided to all prospective
612 bidders at the respective offices furnished for such purposes. Each addendum
613 shall be an addition to the contract documents. The terms and requirements of
614 the bid documents (i.e. drawings, specifications and other bid and contract
615 documents) cannot be changed prior to the bid opening except by a duly issued
616 addendum."
617

618
619
620
621
622 **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. The award of contract is pending Right-of-Entry to the affected
22 properties and approval of Conservative District Use Application.
23

24 **(1) Requirement for Award.** To be eligible for award, the
25 apparent low bidder will be contacted to submit copies of the
26 documents listed below to demonstrate compliance with HRS
27 Section 103D-310(c). The documents should be submitted to the
28 Department as soon as possible. If a valid certificate/clearance is
29 not submitted on a timely basis for award of a contract, a bidder
30 otherwise responsive and responsible may not receive the award.
31 See also Subsection 108.03 – Preconstruction Data Submittal.
32

33 **(A) Tax Clearance.** Pursuant to HRS Sections 103D-310(c), 103-53
34 and 103D-328, the successful bidder shall be required to submit a
35 certified copy of its tax clearance issued by the Hawaii State Department
36 of Taxation (DOTAX) and the Internal Revenue Service (IRS) to
37 demonstrate its compliance with HRS Chapter 237. A tax clearance is
38 valid for six (6) months from the most recent approval stamp date on the
39 tax clearance and must be valid on the bid's first legal advertisement date
40 or any date thereafter up to the bid opening date.
41

42 FORM A6, TAX CLEARANCE CERTIFICATE, is available at
43 the following website:
44

45 <http://www.hawaii.gov/tax/>
46

47 To receive DOTAX Forms by fax or mail, phone
48 (808)_587-7572 or 1-800-222-7572.
49

50 The application for the Tax Clearance Certificate is the
51 responsibility of the bidder and must be submitted directly to the DOTAX
52 or IRS. The approved certificate may then be submitted to the
53 Department.
54

55 **(B) DLIR Certificate of Compliance.** Pursuant to HRS Section
56 103D-310(c), the successful bidder shall be required to submit a copy
57 (faxed copies are acceptable) of its approved certificate of compliance
58 issued by the Hawaii State Department of Labor and Industrial Relations
59 (DLIR) to demonstrate its compliance with unemployment insurance (HRS
60 Chapter 383), workers' compensation (HRS Chapter 386), temporary
61 disability insurance (HRS Chapter 392), and prepaid health care (HRS
62 Chapter 393). The certificate is valid for six (6) months from the most
63 recent approval stamp date on the certificate and must be valid on the
64 bid's first legal advertisement date or any date thereafter up to the bid
65 opening date. For certificates which receive a "pending" approval
66 stamp, a DLIR approval stamp is required prior to the issuance of the
67 Notice to Proceed.
68

69 FORM LIR#27, APPLICATION FOR CERTIFICATE OF
70 COMPLIANCE WITH SECTION 3-122-112, HAR, is available at
71 the following website:
72

73 <http://www/hawaii.gov/labor>
74

75 More information is available by calling the DLIR Unemployment
76 Insurance Division at (808) 586-8926.
77

78 Inquiries regarding the status of a LIR#27 Form may be made by
79 calling the DLIR Disability Compensation Division at
80 (808) 586-9200.
81

82 The application for the Certificate of Compliance is the
83 responsibility of the bidder and must be submitted directly to the DLIR.
84 The approved certificate may then be submitted to the Department.
85

86 **(C) DCCA Certificate of Good Standing.** Pursuant to HRS Section
87 103D-310(c), the successful bidder shall be required to submit a copy
88 (faxed copies are acceptable) of its approved Certificate of Good Standing
89 issued by the Hawaii State Department of Commerce and Consumer
90 Affairs (DCCA), Business Registration Division (BREG) to demonstrate
91 that it is either:
92

93 **(1)** Incorporated or organized under the laws of the State; or
94

95 **(2)** Registered to do business in the State as a separate branch
96 or division that is capable of fully performing under the contract.
97

98 The Certificate of Good Standing is valid for six (6) months from the
99 approval date on the certificate and must be valid on the bid's first legal
100 advertisement date or any date thereafter up to the bid opening date. A

Hawaii business that is a sole proprietorship, however, is not required to 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/

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.

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 the full and faithful performance of the contract in accordance with the terms and intent thereof and for the prompt payment to all others for all labor and material furnished by them to the bidder and used in the prosecution of the work provided for in the contract. The bonds shall be of an amount equal to 100 percent of the amount of the contract price and include 5 percent of the contract amount estimated to be required for extra work. The bidder shall limit the acceptable performance and payment bonds to the following:

(a) Legal tender;

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

(c) A certificate of deposit; share certificate; cashier's check; treasurer's check, teller's 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).

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

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

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

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

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

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

END OF SECTION 103

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(I) Amend Section 104.11(B) Contractor's Duty to Locate and Protect Utility by adding the following after line 291:

(II) Amend **Section 104.06 Methods of Price Adjustment** as follows:

(A) For change orders with value not exceeding \$50,000 by documented actual costs of the work, allowing for overhead and profit as set forth in Section 109.05 - Allowances for Overhead and Profit. A change order shall be issued within fifteen days of

48 submission by the contractor of proper documentation of
49 completed force account work, whether periodic (conforming to the
50 applicable billing cycle) or final. The Engineer shall return any
51 documentation that is defective, to the contractor within fifteen days
52 after receipt, with a statement identifying the defect; or
53

54 **(B)** For change orders with value exceeding \$50,000 by a
55 unilateral determination by the Engineer of the costs attributable to
56 the events or situations with adjustment of profit and fee, all as
57 computed by the Engineer in accordance with applicable sections
58 of HAR Chapters 3-123 and 3-126, and Section 109.05 -
59 Allowances for Overhead and Profit. When a unilateral
60 determination has been made, a unilateral change order shall be
61 issued within ten days. Upon receipt of the unilateral change
62 order, if the contractor does not agree with any of the terms or
63 conditions, or the adjustment or nonadjustment of the contract time
64 or contract price, the contractor shall file a notice of intent to claim
65 within thirty days after the receipt of the written unilateral change
66 order. Failure to file a protest within the time specified shall
67 constitute agreement on the part of the contractor with the terms,
68 conditions, amounts, and adjustment or nonadjustment of the
69 contract time or the contract price set forth in the unilateral change
70 order.
71

72 A contractor shall be required to submit cost or pricing data if any
73 adjustment in contract price is subject to the provisions of HAR Chapter 3-122,
74 Subchapter 15. A fully executed change order or other document permitting
75 billing for the adjustment in price under any method listed in Subsections
76 104.06(1) through 104.06(7) shall be issued within ten days after agreement on
77 the method of adjustment."
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END OF SECTION 104

SECTION 105 – CONTROL OF WORK

Make the following amendments to said Section:

(I) Amend **105.01 – Authority** to read as follows:

"105.01 Authority.

(A) Authority of the Engineer. The Engineer is the representative of the Director and has all the authority of the Director with respect to the contract. The Engineer will make decisions on all questions that may arise regarding the contract, such as, but not limited to:

- (1) Interpretation of the contract documents.
- (2) Acceptability of the materials furnished and work performed.
- (3) Manner of performance and rate of progress of the work.
- (4) Acceptable fulfillment of the contract on the part of the Contractor.
- (5) Compensation under the contract.

The Engineer's decisions on questions, claims, and disputes will be final and conclusive subject to Subsection 107.15 – Disputes and Claims.

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

(B) Authority of the Inspectors. Inspectors, as a representative of the Engineer or other agencies, will inspect the work done and materials furnished. Such inspection may extend to the preparation, fabrication or manufacture of the materials to be used. The Inspector does not have authority vested in the Engineer unless specifically delegated in writing. The Inspector may not alter or waive the provisions of the contract, issue instructions contrary to the contract, or act as agent or representative of the Contractor.

Failure of an Inspector at any time to reject non-conforming work shall not be considered a waiver of the State's right to require work in strict conformity with the contract documents as a condition of final acceptance.

47 **(C) Authority of the Consultant and Construction Management.**

48 The State may engage consultants and construction managements to
49 perform duties in connection with the work. Unless otherwise specified
50 in writing to the Contractor, such retained consultants and construction
51 managements shall have no greater authority than an Inspector.”
52

53 **(II) Amend Subsection 105.02 – Submittals** by revising the first paragraph
54 from lines 52 to 61 to read as follows:
55

56 **“105.02 Submittals.** The contract contains the description of various
57 items that the Contractor must submit to the Engineer for review and acceptance.
58 The Contractor shall review all submittals for correctness, conformance with the
59 requirements of the contract documents and completeness before submitting
60 them to the Engineer. The submittal shall indicate the contract items and
61 specifications subsections for which the submittal is provided. The submittal
62 shall be legible and clearly indicate what portion of the submittal is being
63 submitted for review. The Contractor shall provide six copies of the required
64 submissions at the earliest possible date.”
65

66 **(III) Amend Subsection 105.08 (A) – Furnishing Drawings and Special**
67 **Provisions** to read as follows:
68

69 **“(A) Furnishing Drawings and Special Provisions.** The State will
70 furnish the Contractor 12 sets of the project plans and special provisions.
71 The project plans furnished will be the same size as that issued for bidding
72 purposes except as noted in Section 648 – Field-Posted Drawings. The
73 Contractor shall have and maintain at least one set of plans and
74 specifications on the work site, at all times.”
75

76 **(IV) Amend Subsection 105.14(D) – No Designated Storage Area** from lines
77 421 to 432 to read as follows:
78

79 **“(D) No Designated Storage Area.** If no storage area is designated
80 within the contract documents, materials and equipment may be stored
81 anywhere within the State highway right-of-way, provided such storage
82 and access to and from such site, within the sole discretion of the
83 Engineer, does not create a public or traffic hazard or an impediment to
84 the movement of traffic.”
85

86 **(V) Amend 105.16(A) – Subcontract Requirements** by adding the following
87 paragraph after line 483:
88

89 The 'Specialty Items' of work for this project are as follows:
90

91 Section	Description
92 No.	

94	631	All Contract Items under Section 631 - Traffic Control
95		Regulatory, Warning, and Miscellaneous Signs

97	645	Contract Item No. 645.0100 under Section 645 – Work Zone
98		Traffic Control

100 **(VI) Amend Subsection 105.16(B) – Substituting Subcontractors by**
101 **revising the second sentence from line 490 to line 493 to read:**

102
103 “Contractors may enter into subcontracts only with subcontractors listed in the
104 proposal or with non-listed joint contractors/subcontractors permitted under
105 Subsection 102.06 – Preparation of Proposal.”

106

107

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111

END OF SECTION 105

1 **SECTION 106 – MATERIAL RESTRICTIONS AND REQUIREMENTS**

2
3 Make the following amendments to said Section:

4
5 **(I)** Amend **106.05(B) – Deviation** by revising the third sentence from line 106
6 to 108 to read as follows:

7
8 “Any deviations will be subject to Subsection 102.14 – Substitution of Materials
9 and Equipment Before Bid Opening.”

10
11 **(II)** Amend **106.11 – Steel and Iron Construction Material** from line 238 to
12 line 277 to read as follows:

13
14 **“106.11 Steel and Iron Construction Material. (Not Applicable)”**

15
16
17
18
19
20 **END OF SECTION 106**

1 **SECTION 107 - LEGAL RELATIONS AND RESPONSIBILITY TO PUBLIC**

2
3 Make the following amendments to said Section:

4
5 **(I) Amend 107.01(B)(1) – Commercial General Liability (Occurrence**
6 **form)** from lines 61 to 62 to read as follows:

7
8 **“(c) Bodily Injury & Property Damage Insurance.”**

9
10 **(II) Amend 107.01(B) – Types of Insurance** by adding the following after line
11 82.

12
13 **“(4) Builder’s Risk:**

14
15 **(a) New Buildings or Bridges.** The Contractor shall
16 take out a policy of builder’s risk insurance, for the full
17 replacement value of the insurable improvements of the
18 project from a company licensed to do business in the State
19 of Hawaii, covering all work, labor and materials furnished by
20 such Contractor and all its subcontractors against loss by
21 fire, windstorm, lightning, explosion and other perils covered
22 by the standard Extended Coverage Endorsement, and
23 vandalism and malicious mischief.

24
25 The State of Hawaii, its officers and employees,
26 shall be as additional insureds under these coverages.

27
28 **(b) Building or Bridge Renovation Contract.** The
29 Contractor shall take out a policy of builder’s risk insurance
30 in the amount equivalent to the contract amount, covering
31 all work, labor and materials furnished by such Contractor
32 and all its Subcontractors against loss by fire, windstorm,
33 lightning, explosion and other perils covered by the
34 Extended Coverage Endorsement, and vandalism and
35 malicious mischief.

36
37 The State of Hawaii, its officers and employees,
38 shall be as additional insureds under these coverages.”

39 **(III) Add 107.18 – Citizen and Residential Labor Force** after line 745.

40
41 **“107.18 – Citizen and Residential Labor Force.**

42
43 **(1) Citizen Labor -** No person shall be employed as a laborer or
44 mechanic unless such person is a citizen of the United States or eligible to
45 become one; provided that persons without such qualifications may be

employed with the approval of the Governor until persons who are citizens and are competent for such services are available for hire.

(2) Residential Labor Force - In accordance with Act 68; SLH 2010, not less than eighty (80) percent of the bidder's work force working on the contract shall be provided by Hawaii residents. This act applies to all construction procurements under HRS Chapter 103D; however this act does not apply to procurements for professional services under Section 103D-304 and small purchases under Section 103D-305. This act is also applicable to any subcontract of \$50,000.00 or more in connection with this contract. Residency shall be as defined by HRS Section 78-1.

(3) Percentage of workforce shall be determined by dividing the labor hours (including subcontractors) provided by residents working on the project divided by the total number of hours worked by all employees of the contractor in the performance of the contract. Hours worked by employees within shortage trades as determined by the department of labor and industrial relations, shall not be included in the calculation of this percentage.

(4) Certification of compliance with the forgoing provisions shall be made by the contractor in the form of a written oath to the procurement officer on a monthly basis for the duration of the contract.

(5) Sanctions for non compliance with these provisions are as follows:

(a) Temporary suspension of work on the project until the contractor or subcontractor complies with these provisions.

(b) Withholding of payment on the contract until compliance is attained.

(c) Permanent suspension of work on the contract.

(d) Recovery of any moneys expended on the contract.

(e) Debarment or suspension of the contractor under Section 103D-702.

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

END OF 107

1 **SECTION 108 - PROSECUTION AND PROGRESS**

2
3 Make the following amendments to said Section:

4
5 **I** Amend **Subsection 108.05(B)(2) – Delay for Permits** by revising lines
6 149 to 156 to read as follows:

7
8 **(2) Delay for Permits.** For delays in the routine application
9 and processing time required to obtain necessary permits,
10 including permits to be obtained from State agencies, the Engineer
11 may grant an extension provided that the delay is not caused by
12 the Contractor, and provided that as soon as the delay occurs, the
13 Contractor notifies the Engineer in writing that the permits are not
14 available. Time extensions will be the exclusive relief granted on
15 account of such delays.

16
17 **II** Amend **Subsection 108.06(A)(1) – For Contracts \$2,000,000 or less or**
18 **for Contract Time 100 Working Days or 140 Calendar Days or less**
19 from lines 290 to 295 to read as follows:

20
21 **“(1) For Contracts \$2,000,000 or less or For Contract Time**
22 **100 Working Days or 140 Calendar Days or Less.** For contracts
23 of \$2,000,000 or less or for contract time of 100 working days or
24 140 calendar days or less, the progress schedule will be a Time
25 Scaled Logic Diagram (TSLD). The Contractor shall submit a
26 TSLD submittal package meeting the following requirements and
27 having these essential and distinctive elements:”

28
29 **III** Amend **Subsection 108.06(A)(2) – For Contracts Which Have a**
30 **Contract Amount More Than \$2,000,000 or Having a Contract Time of**
31 **More Than 100 Working Days or 140 Calendar Days** from lines 351 to
32 358 to read as follows:

33
34 **“(2) For Contracts Which Have A Contract Amount More**
35 **Than \$2,000,000 Or Having A Contract Time Of More Than 100**
36 **Working Days Or 140 Calendar Days.** For contracts which
37 have a contract amount more than \$2,000,000 or contract time of
38 more than 100 working days or 140 calendar days, the Contractor
39 shall submit a Timed-Scaled Logic Diagram (TSLD) meeting the
40 following requirements and having these essential and distinctive
41 elements:”

42
43 **IV** Amend **Subsection 108.06(A)(2)(a)** line 360 to read as follows:

44
45 **“(a) The information and requirements listed in**
46 **Subsection 108.06(A)(1) – For Contracts \$2,000,000 or Less**

or For Contract Time 100 Working Days or 140 Calendar Days or Less.”

- V Amend Subsection 108.08 – Liquidated Damages for Failure to Complete the Work or Portions of the Work on Time** by revising line 599 to read as follows:

“to the State, in the amount of \$1,900 per working day.”

- VI Amend Subsection 108.09 – Rental Fees for Unauthorized Lane Closure or Occupancy** from lines 635 to 644 to read as follows:

“108.09 Rental Fees for Unauthorized Lane Closure or Occupancy. In addition to all other remedies available to the State for Contractor’s breach of the terms of the contract, the Engineer will assess the rental fees in the amount of \$500 for every one-to fifteen-minute increment for each roadway lane closed to the public use or occupied beyond the time periods authorized in the contract or by the Engineer. The maximum amount assessed per day shall be \$4,000. The State may, at its discretion, deduct the amount from monies due or that may become due under the contract. The rental fee may be waived in whole or part if the Engineer determines that the unauthorized period of lane closure or occupancy was due to factors beyond the control of the Contractor. Equipment breakdown is not a cause to waive liquidated damages.”

- VII Amend Subsection 108.14 – Final Acceptance** from lines 984 to 991 to read as follows:

“108.14 Final Acceptance. When the Engineer finds that the project has been satisfactorily completed in compliance with the contract, the Engineer will notify the Contractor in writing of the project’s completion and acceptance effective as of the date of the final inspection. The final acceptance date shall determine end of contract time, liquidated damages for failure to complete the punchlist and commencement of all guaranty periods subject to Subsection 108.16 – Contractor’s Responsibility for Work; Risk of Loss or Damage.”

END OF SECTION 108

1 **SECTION 109 - MEASUREMENT AND PAYMENT**

2
3 Make the following amendment to said Section:

4
5 **(I) Amend Subsection 109.05 Allowances for Overhead and Profit** by
6 revising lines 101 to 110 to read as follows:

7
8 **"(1) 20 percent of the direct cost for any work performed by the**
9 **Contractor's own labor force.**

10
11 **(2) 20 percent of the direct cost for any work performed by each**
12 **subcontractor's own labor force.**

13
14 **(3) For the Contractor or any subcontractor for work performed**
15 **by their respective subcontractor or tier subcontractor, 10 percent**
16 **of the amount due to the performing subcontractor or tier**
17 **subcontractor."**

18
19 **(II) Amend 109.08(A) Monthly Payment** by adding the following after line
20 411:

21
22 **"(1) Retainage.** If the Engineer finds that the Contractor is
23 progressing satisfactorily in completing the project work and:

24
25 **a.** Less than 50% of the whole contract cost is complete,
26 the Engineer shall retain 5% of the value of the work done
27 until the Engineer makes final payment;

28
29 **b.** More than 50% of the whole contract cost is
30 complete, the Engineer may make the remaining progress
31 payments in full.

32
33 **c.** After satisfactory completion of work other than
34 landscaping items, the Engineer may adjust the amount of
35 retainage to 15% of the landscaping items or 2½% of the
36 total contract amount whichever is less. Do not use this
37 subsection if the contract is only landscaping."

38
39 **(III) Amend Subsection 109.08(B) Payment for Material On Hand** by
40 revising lines 421 to 423 to read as follows:

41
42 **"(2) The materials shall be stored and handled in accordance**
43 **with Subsection 105.14 – Storage and Handling of Materials and**
44 **Equipment."**

45
46
47 **END OF SECTION 109**

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 109-1a

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(I) Amend 202.04 – Measurement to read as follows:

202.05 Payment. The Engineer will pay for the accepted pay items listed below at the contract price per pay unit, as shown in the proposal schedule.

Pay Item	Pay Unit
Removal of Guardrail	Lump Sum
Removal of Existing Striping	Lump Sum
Removal of Existing Pavement	Square Yard
Removal of Partial Existing Bridge	Lump Sum
Removal of Partial CRM Wingwall	Lump Sum"

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1 **SECTION 203 – EXCAVATION AND EMBANKMENT**
2

3 Make the following amendment to said Section:
4

5 **(I)** Amend **203.03(C)(2)(a) – Maximum Dry Unit Weight** from line 245 to line
6 255 to read as follows:
7

8 **“(a) Maximum Dry Unit Weight.** Test for maximum dry
9 unit weight according to AASHTO T 180, and apply the
10 correction for fraction larger than ¾ inch. Use Hawaii Test
11 Method HDOT TM 5 for sample preparation of sensitive soils
12 when so designated by the Engineer.”
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18 **END OF SECTION 203**

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1 **SECTION 209 – TEMPORARY WATER POLLUTION, DUST, AND EROSION**
2 **CONTROL**

3
4 Make the following amendment to said Section:

5
6 **(I)** Amend Subsection **209.03 (A)(2)(e)**, by revising the second paragraph from
7 line 158 to 163 to read as follows:

8
9 “Effective October 1, 2008, follow guidelines in the “Construction Best
10 Management Practices Field Manual” dated January 2008, in developing,
11 installing, and maintaining BMPs for all projects. Follow Honolulu’s City and
12 County “Rules for Soil Erosion Standards and Guidelines” for all projects on
13 Oahu. Use respective Soil Erosion Guidelines for Maui, Kauai and Hawaii
14 projects.”

15
16
17 **(II)** Amend Subsection **209.03(B)(3)**, line 244, to read as follows:

18
19 **“(3)”** installing check dams and siltation control devices.”
20
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25

END OF SECTION 209

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

2
3 **SECTION 212 – ARCHAEOLOGICAL MONITORING**
4

5 **212.01 Description.** This work includes archaeological monitoring of
6 construction activities to identify, and provide mitigation for, archaeological
7 resources and/or human burials that may be located in the project area.
8

9 **212.02 Materials.** None specified.
10

11 **213.03 Construction.** In addition to the requirements of Section 107.13(B) –
12 Archaeological, Historical, and Burial Sites, the Contractor shall obtain the
13 services of a qualified archaeological firm to provide archaeological monitoring to
14 satisfy recommendations detailed in the “Archaeological Inventory Survey of a
15 Hana Highway Widening Area at Mile Marker 33.88, Culvert #9” by SCS, Inc.
16 dated June 2009 (AIS)
17

18 **212.04 Responsibilities of the Archaeological Monitor.**
19

20 Typical work will consist of on-site observation of subsurface disturbance during
21 construction activities.
22

23 Archaeological monitors will report to and coordinate with the Engineer.
24 Scheduling requirements, reporting, and recommendations will be submitted to
25 the Engineer.
26

27 Prior to beginning of fieldwork, the archaeological monitor will have a
28 coordination meeting with the construction team to make them aware of the AIS
29 and its stipulations.
30

31 Recording and sampling if necessary will be conducted in a manner that
32 maximizes data on characteristics, location, and age of features and their
33 depositional environments. Recording and sampling will also be conducted in a
34 manner that minimizes impact to ongoing excavation work. Protection measures
35 such as physical barriers will be installed in coordination with the archaeologist
36 for sites threatened by the undertaking.
37

38 Archaeological monitors will be familiar with and comply with requirements of the
39 Site Safety and Health Plan for the project.
40

41 **212.05 Communications.**
42

43 Communications between the archaeological monitor, the engineer and the
44 construction contractor will be maintained throughout construction activities in
45 order to determine where intrusive activities are being undertaken, if those
46 activities are in culturally sensitive areas, and whether or not cultural materials or
47 features are identified in the excavations

The archaeological monitor shall maintain close communication with the Engineer regarding progress of the monitoring. Communication with these parties will include:

- 1 Verbal reports to each party on a weekly basis, depending on the nature of clearance activities and field findings;
- 2 In-field meetings at the contractor's field office upon request by the Engineer.

212.06 Excavation and Sampling.

Test excavation, if necessary, will be conducted according to the following specifications. All excavated material will be passed through a minimum 1/4-inch mesh screen; however, 1/8-inch mesh will be used whenever possible. Any non-retained portion of the excavated material will be visually inspected for general compositional characteristics, artifacts, and/or significant cultural remains. All observations including depth of excavation from datum, plan view maps, and in situ location data will be recorded on standard excavation forms. If appropriate, redundant sets of archaeological materials will be retained.

Regarding specific excavation methodology (arbitrary levels or stratigraphic layers), decisions will be made by the Principal Investigator and Field Director based on the stratigraphic context of the unit. Soil, pollen, charcoal, and other sample types will be collected as deemed appropriate by supervisory personnel.

212.07 Documentation.

All stages of the project will be fully documented in daily log and photographic form. The daily log will contain data indicating time spent monitoring, sampling, and testing, the amount of sediment removed and its location, the presence of absence of cultural remains and/or significant soil strata, and the locations of all sampled areas.

212.08 Measurement. The Engineer will measure archaeological monitoring, including remedial measures, on a force account basis according to Subsection 109.06 – Force Account Provisions and compensation and as ordered by the Engineer.

212.09 Payment. The Engineer will pay for the accepted pay items listed below at the contract price per pay unit. Payment will be full compensation for the work prescribed in this section and the contract documents.

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

95	Pay Item	Pay Unit
96		
97	Archaeological Monitoring	Force Account
98		
99	An estimated amount for the force account is allocated as shown in	
100	the proposal schedule under 'Archaeological Monitoring' but the actual amount to	
101	be paid will be the sum shown on the accepted force account records, whether	
102	this sum be more or less than the estimated amount allocated in the proposal	
103	schedule.	
104		
105	The Engineer will not pay for work required that is due to the	
106	contractor's convenience, negligence, carelessness or failure to properly monitor	
107	excavation activity."	
108		
109		
110	END OF SECTION 212	

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(I) Amend 304.04 – Measurement to read as follows:

304.05 Payment. The Engineer will pay for the accepted pay items listed below at the contract price per pay unit, as shown in the proposal schedule.

Pay Item	Pay Unit
Aggregate Base	Cubic Yard"

360B-01-03
304-1a

4/21/06

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(I) Amend 305.04 – Measurement to read as follows:

305.05 Payment. The Engineer will pay for the accepted pay items listed below at the contract price per pay unit, as shown in the proposal schedule.

Pay Item	Pay Unit
Aggregate Subbase	Cubic Yard"

360B-01-03
305-1a

4/21/06

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(I) Amend **Section 401.02 Materials**, by adding the following after line 14:

(II) Amend **Section 401.02(A) General**, by adding the following paragraph after line 24:

(III) Amend Section 401.02(A) General, by replacing lines 36 - 37 to read as follows:

(IV) Amend Section 401.02(C) Submittals, by adding the following paragraph after line 89:

(V) Amend Section 401.03(B)(3) Asphalt Pavers, from line 200 to include the following:

The following specific requirements shall apply to the identified bituminous pavers:

- 46 (1) Blaw-Knox bituminous pavers shall be
47 equipped with the Blaw-Knox Materials
48 Management Kit (MMK).
49
50 (2) Cedarapids bituminous pavers shall be those
51 that were manufactured in 1989 or later.
52
53 (3) Barber-Green/Caterpillar bituminous pavers
54 shall be equipped with deflector plates as
55 identified in the December 2000 Service
56 Magazine entitled "New Asphalt Deflector Kit
57 {6630, 6631, 6640}".

58
59 Prior to the start of using the paver for placing plant
60 mix, the Contractor shall submit for approval a full
61 description in writing of the means and methodologies that
62 will be used to prevent bituminous paver segregation. Use of
63 the paver shall not commence prior to receiving approval
64 from the Engineer.
65

66 The Contractor shall supply a Certificate of
67 Compliance that verifies that the approved means and
68 methods used to prevent bituminous paver segregation have
69 been implemented on all pavers used on the project and is
70 working in accordance with the manufacturer's
71 requirements."
72

73 **(VI) Amend Section 401.03(F)(1) HMA Pavement Courses One and a**
74 **Half Inches Thick Or Greater, from lines 499 to 505 to read as follows:**
75

76 **"(1) HMA Pavement Courses One and a Half Inches Thick Or**
77 **Greater.** Where HMA pavement compacted thickness indicated
78 in the contract documents is 1-1/2 inches or greater, compact to not
79 less than 92.0 percent nor greater than 97.0 percent of the
80 maximum specific gravity determined in accordance with AASHTO
81 T 209, modified by deletion of Supplemental Procedure for Mixtures
82 Containing Porous Aggregate."
83

84
85 **(VII) Amend Section 401.03(F)(3) HMA Pavement Courses One and a**
86 **Half Inches Thick or Greater In Special Areas Not Designated For Vehicular**
87 **Traffic, from lines 530 to 538 to read as follows:**
88

89 **"(3) HMA Pavement Courses One and a Half Inches Thick or**
90 **Greater In Special Areas Not Designated For Vehicular Traffic.**
91 For areas such as bikeways that are not part of roadway and other

areas not subjected to vehicular traffic, compact to not less than 90.0 percent of maximum specific gravity determined in accordance with AASHTO T 209, modified by deletion of Supplemental Procedure for Mixtures Containing Porous Aggregate. Increase asphalt content by at least 0.5 percent above that used for HMA pavements designed for vehicular traffic."

(VIII) Amend Section 401.04 Measurement, from lines 597 to 603 to read as follows:

"401.04 Measurement.

(A) Asphalt concrete pavement will be paid on a lump sum basis. Measurement for payment will not apply.

(B) The Engineer will measure asphalt concrete pavement per ton in accordance with the contract documents.

(C) The Engineer will measure leveling course per ton in accordance with the contract documents."

(IX) Amend Section 401.05 Payment, from lines 605 to 635, to read as follows:

"401.05 Payment. The Engineer will pay for the accepted pay items listed below at the contract price per pay unit, as shown in the proposal schedule. Payment will be full compensation for the work prescribed in this section and the contract documents.

The Engineer will pay for each of the following pay items when included in the proposal schedule:

Pay Item	Pay Unit
----------	----------

(A) HMA Pavement, Mix No. IV	Square Yard
-------------------------------------	-------------

(B) HMA Pavement, Mix No. _____	Ton
--	-----

(1) 80% of the contract unit price upon completion of submitting a job-mix formula acceptable to the Engineer; preparing the surface, spreading, and finishing the mixture; and compacting the mixture;

(2) 20% of the contract unit price upon completion of cutting samples from the compacted pavement for testing; placing and compacting the sampled area with new material conforming to the surrounding area; protecting the pavement; and final analysis.

(C) Leveling Course Ton

(1) 80% of the contract unit price upon completion of submitting a job-mix formula acceptable to the Engineer; preparing the surface, spreading, and finishing the mixture; and compacting the mixture;

(2) 20% of the contract unit price upon completion of cutting samples from the compacted pavement for testing; placing and compacting the sampled area with new material conforming to the surrounding area; protecting the pavement; and final analysis.

The Engineer will pay for cold planing in accordance with and under Section 415 – Cold Planing of Existing Pavement.

The Engineer will pay for adjusting existing frames and covers and valve boxes in accordance with and under Section 604 – Manholes, Inlets and Catch Basins and Section 626 – Manholes and Valve Boxes for Water and Sewer Systems.”

END OF SECTION 401

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(I) Amend **Section 415.04 Measurement**, from line 67 to 68 to read as follows:

(A) Cold Planing will be paid on a lump sum basis. Measurement for payment will not apply.

(II) Amend Section 415.05 Payment, from line 70 to 79 to read as follows:

The Engineer will pay for one of the following pay items when included in the proposal schedule:

- (1) 80 percent of the contract bid price upon completion of removing the indicated thickness and clean and sweep before opening to public traffic;
- (2) 20 percent of the contract bid price upon completion of removing the material and disposing of the removed material."

360B-01-03
415-1a

07/01/08

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(I) Amend 507.04 – Measurement to read as follows:

507.05 Payment. The Engineer will pay for the accepted pay items listed below at the contract price per pay unit, as shown in the proposal schedule.

Pay Item	Pay Unit
Concrete Bridge Railing	Linear Feet"

END OF SECTION 507

1 **SECTION 508 - CEMENT RUBBLE MASONRY**
2

3 Make the following amendments to said Section:
4

5 **(I) Amend 508.01 Description** to read as follows:
6

7 **"508.01 Description.** This section describes constructing cement rubble
8 masonry and repairing existing cement rubble masonry."
9

10 **(II) Amend 508.05 Payment** to read as follows:
11

12 **"508.05 Payment.** The Engineer will pay for accepted cement rubble masonry on
13 a contract lump sum basis. Payment will be full compensation for work prescribed
14 in this section and the contract documents.
15

16 The Engineer will pay for the following pay item when included in the
17 proposal schedule:
18

19 Pay Item	20 Pay Unit
21 Cement Rubble Masonry	Lump Sum
22	
23 Repair of CRM Channel Wall/Abutment Interface	Lump Sum
24	

25 The Engineer will pay for excavation and backfill in accordance with and
26 under Section 206 - Excavation and Backfill for Drainage Facilities."
27

28 **END OF SECTION 508**
29

SECTION 509 - EXISTING DECK SLAB REPAIRS

509.01 Description. This section describes the repair of spalls and other deterioration found in the existing bridge deck after removing the AC wear surface.

509.02 Materials.

- (A) Epoxy Bonding Adhesive: ASTM C 881 two-component structural epoxy resin, capable of humid curing and bonding to vertical surfaces, of class and grade to suit requirements. Minimum bond strength provided by the bonding agent shall be 2,400 psi after 14 days (ASTM C-882).
- (B) Patching Material: ASTM C 881 two component, polymer modified, Portland cement, trowel grade mortar, have high abrasion resistance, suitable for vertical and overhead surfaces, of a class and grade to suit requirements. Refer to manufacturer's specifications for preparation and application guidance. Patching material and bonding adhesive shall be supplied by the same manufacturer and shall be fully compatible with each other.
- (C) Crack Injection Repair: ASTM C 881, high solids, low viscosity, high strength epoxy resin adhesive.
- (D) Joint Material: ASTM C 920 two-component, non-sag, polyurethane-based, elastomeric sealant of a class and grade to suit requirements. Joint material shall be compatible with coating to be applied to building exterior surfaces. Color of joint material shall match, as closely as possible, the coating topcoat color

509.03 Construction.

- (A) All patching will include sawcutting around the entire perimeter of the repair. Sawcut $\frac{3}{4}$ " deep around perimeter of the repair area. Do not cut existing rebar, unless otherwise noted in contract plans. No feathering of patching material is allowed.
- (B) Remove all unsound and loose concrete from within the repair area down to sound substrate, or to the specified depth as noted in the spall repairs details, whichever is greater. The upper layer of existing rebars shall be fully exposed within the entire repair area. The concrete shall be removed to a depth that is sufficient to create a $\frac{3}{4}$ " annular space around all rebars within the repair area. No spall repair shall be performed without fully exposing the rebars. Surface preparation shall be in strict accordance with manufacturer's

recommendations. Remove all loose concrete, dust, and all other bond-inhibiting materials from the repair.

- (C) Inspect the condition of the newly exposed rebars. When corrosion has caused section loss in a given rebar of 25% or more, a new length of rebar shall be installed (either welded or lapped).
- (D) For all vertical and overhead spalls, apply epoxy bonding agent to the substrate before adding the patching material. For all horizontal spall repairs, no bonding agent is required.
- (E) Where existing components are removed, the contractor shall repair, patch and finish all flooring, wall and ceiling surfaces to match existing condition.
- (F) Compatibility: Before patching, verify compatibility with and suitability of substrates, including compatibility with patching materials.

509.04 Measurement. The Engineer will measure concrete cutting and patching on a force account basis according to Subsection 109.06 – Force Account Provisions and Compensation and as ordered by the Engineer.

The Engineer will consider wingwalls to be a part of the structure.

509.05 Payment. Payment will be full compensation for the work prescribed in this section and the contract documents.

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

Pay Item	Pay Unit
Existing Deck Slab Repairs	Force Account

END OF SECTION 509

1 **SECTION 602 - REINFORCING STEEL**
2

3 Make the following amendments to said Section:
4

5 **(I)** Amend **602.04 Measurement** and **602.05 Payment** to read as follows:
6

7 **"602.04 Measurement.** The Engineer will not measure reinforcing steel
8 for payment.
9

10 **602.05 Payment.** The Engineer will not pay for the accepted reinforcing
11 steel separately. The Engineer shall consider the cost for the accepted
12 reinforcing steel as included in the contract price of the various contract items.
13 The cost is for the work prescribed in this section and the contract documents."
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19 **END OF SECTION 602**
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(I) Amend 606.04 – Measurement to read as follows:

606.05 Payment. The Engineer will pay for the accepted pay items listed below at the contract price per pay unit, as shown in the proposal schedule.

Pay Item	Pay Unit
Guardrail Type W-Beam	Lump Sum
Terminal Section Type G1d TL-2	Each

END OF SECTION 606

SECTION 629 - PAVEMENT MARKINGS

Make the following amendments to said Section:

(I) Amend **Subsection 629.03(B) – Temporary Pavement Markings** by revising the third paragraph from line 62 to 63 to read:

“Maintain and replace temporary pavement markings, flexible delineators, and barricades.”

(II) Amend **Table 629.03 – 1 – Temporary Pavement Markings** to read as follows:

“TABLE 629.03-1 TEMPORARY PAVEMENT MARKINGS	
TYPE	PAVEMENT MARKINGS
Passing Permitted - Both Sides	Single 4-inch yellow stripe 5 feet in length spaced 20 feet on center with Type D markers spaced 40 feet on center and located on center of 5-foot length of stripe.
Passing Prohibited - Both Sides	Double solid 4-inch yellow stripes with Type D markers placed 20 feet on center on one of 4-inch yellow stripes selected by the Engineer.
Passing Permitted - One Side Only	Single continuous 4-inch yellow stripe with Type D markers placed on stripe 20 feet on center on no-passing side and single 4-inch yellow stripes 5 feet in length spaced 20 feet on center on passing side.
Lane Lines - Lane Changing Permitted	Single 4-inch yellow or white stripe 5 feet in length spaced 20 feet on center with Type C or Type D markers spaced 40 feet on center.
Lane Lines - Lane Changing Prohibited	Double solid 4-inch white stripes with Type C markers placed 20 feet on center on one of the 4-inch white stripes selected by the Engineer.
Crosswalk	Two 12-inch white transverse lines spaced 8 feet on center or as ordered by the Engineer.
Stop Line	Single 12-inch white transverse line.
Note: Paint may be used for temporary markings in areas where final paving is not complete.”	

(III) Amend **629.04 – Measurement** to read as follows:

“629.04 Measurement. Pavement striping will be measure by each unit.

629.05 Payment. The Engineer will pay for the accepted pay items listed below at the contract price per pay unit, as shown in the proposal schedule.

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

Pay Item	Pay Unit
Double 4-Inch Pavement Striping (Thermoplastic Extrusion)	Linear Feet
4-Inch Pavement Striping (Thermoplastic Extrusion)	Linear Feet
Type C Pavement Marker	Each
Type D Pavement Marker	Each"

END OF SECTION 629

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(I) Amend 632.04 - Measurement to read as follows:

632.05 Payment. The Engineer will pay for the accepted pay items listed below at the contract price per pay unit, as shown in the proposal schedule.

Pay Item

Pay Unit

Each”

END OF SECTION 632

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(I) Amend 699.03 Applicability by revising from lines 21 to 24 to read as follows:

(II) Amend **699.05 Payment** by revising from lines 44 to 47 to read as follows:

“Mobilization (Not to exceed 6 percent of the sum of all items excluding the bid price of this item) Lump Sum”

END OF SECTION 699

Requirement of Chapter 104, HRS
Wages and Hours of Employees on Public Works Law

Chapter 104, HRS, applies to every public works construction project over \$2,000, regardless of the method of procurement or financing (purchase order, voucher, bid, contract, lease arrangement, warranty).

Rate of Wages for Laborers and Mechanics

- Minimum prevailing wages (basic hourly rate plus fringe benefits), as determined by the Director of Labor and Industrial Relations and published in wage rate schedules, shall be paid to the various classes of laborers and mechanics working on the job site. [§104-2(a) and (b), Hawaii Revised Statutes (HRS)]
- If the Director of Labor determines that prevailing wages have increased during the performance of a public works contract, the rate of pay of laborers and mechanics shall be raised accordingly. [§104-2(a) and (b), HRS; §12-22-3(d) Hawaii Administrative Rules (HAR)]

Overtime

- Laborers and mechanics working on a Saturday, Sunday, or a legal holiday of the State or more than eight hours a day on any other day shall be paid overtime compensation at one and one-half times the basic hourly rate plus the cost of fringe benefits for all hours worked. [§§104-1(5), 104-2(c), HRS]

Weekly Pay

- Laborers and mechanics employed on the job site shall be paid their full wages at least once a week, without deduction or rebate, except for legal deductions, within five working days after the cutoff date. [§104-2(d), HRS]

Posting of Wage Rate Schedules

- Wage rate schedules shall be posted by the contractor in a prominent and easily accessible place at the job site. A copy of the entire wage rate schedule shall be given to each laborer and mechanic employed under the contract, except when the employee is covered by a collective bargaining agreement. [§104-2(d), HRS]

Withholding of Accrued Payments

- If necessary, the contracting agency may withhold accrued payments to the contractor to pay to laborers and mechanics employed by the contractor or subcontractor on the job site any difference between the wages required by the public works contract or specifications and the wages received. [§104-2(e), HRS]

Certified Weekly Payrolls and Payroll Records

- A certified copy of all payrolls shall be submitted weekly to the contracting agency.
- The contractor is responsible for the submission of certified copies of the payrolls of all subcontractors. The certification shall affirm that the payrolls are correct and complete, that the wage rates listed are not less than the applicable rates contained in the applicable wage rate schedule, and that the classifications for each laborer or mechanic conform with the work the laborer or mechanic performed. [§104-3(a), HRS]
- Payroll records shall be maintained by the contractor and subcontractors for three years after completion of construction. The records shall contain:
 - the name and home address of each employee
 - the employee's correct classification
 - rate of pay (basic hourly rate + fringe benefits)
 - daily and weekly hours worked
 - weekly straight time and overtime earnings
 - amount and type of deductions
 - actual wages paid
 - date of payment
- Records shall be made available for inspection by the contracting agency, the Department of Labor and Industrial Relations, and any of its authorized representatives, who may also interview employees during working hours on the job. [§104-3(b), HRS]

Termination of Work on Failure to Pay Wages

- If the contracting agency finds that any laborer or mechanic employed on the job site by the contractor or any subcontractor has not been paid prevailing wages or overtime, the contracting agency may, by written notice to the contractor, terminate the contractor's or subcontractor's right to proceed with the work or with the part of the work in which the required wages or overtime compensation have not been paid. The contracting agency may complete this work by contract or otherwise, and the contractor or contractor's sureties shall be liable to the contracting agency for any excess costs incurred. [§104-4, HRS]

Apprentices and Trainees

- In order to be paid apprentice or trainee rates, apprentices and trainees must be parties to an agreement either registered with or recognized as a USDOL nationally approved apprenticeship program by the Department of Labor and Industrial Relations, Workforce Development Division. [§12-22-6(1), HAR]
- The number of apprentices or trainees on any public work in relation to the number of journey workers in the same craft classification as the apprentices or trainees employed by the same employer on the same public work may not exceed the ratio allowed under the apprenticeship or trainee standards registered with or recognized by the Department of Labor and Industrial Relations. A registered or recognized apprentice receiving the journey worker rate will not be considered a journey worker for the purpose of meeting the ratio requirement. [§12-22-6(2), HAR]

Enforcement

- To ensure compliance with the law, DLIR and the contracting agency will conduct investigations of contractors and subcontractors. If a contractor or subcontractor violates the law, the penalties are:
 - First Violation: Equal to 10% of back wages found due or \$25 per offense, whichever is greater.
 - Second Violation: Equal to amount of back wages found due or \$100 per each offense, whichever is greater.
 - Third Violation: Equal to two times the amount of back wages found due or \$200 for each offense, whichever is greater; and Suspension from doing any new work on any public work of a governmental contracting agency for three years.
- A violation would be deemed a second violation if it occurs within two years of the **first notification of violation**, and a third violation if it occurs within two years of the **second notification of violation**.
- Suspension. For a first or second violation, the department shall immediately suspend a contractor who fails to pay wages or penalties until all wages and penalties are paid in full. For a third violation, the department shall penalize and suspend the contractor as described above, **except that if the contractor continues to violate the law, then the department shall immediately suspend the contractor for a mandatory three years. The contractor shall remain suspended until all wages and penalties are paid in full.** [§§104-24, 104-25]
- Any contractor who fails to make payroll records accessible or provide requested information within 10 days, or fails to keep or falsifies any required record, shall be assessed a penalty as provided in Section 104-22(b), HRS. [§104-3(c)]
- If any contractor interferes with or delays any investigation, the contracting agency shall withhold further payments until the delay has ceased. Interference or delay includes failure to provide requested records or information within ten days, failure to allow employees to be interviewed during working hours on the job, and falsification of payroll records. The department shall assess a penalty of \$1,000 per project, and \$100 per day thereafter, for interference or delay. [§104-22(b)]
- Failure by the contracting agency to include in the provisions of the contract or specifications the requirements of Chapter 104, HRS, relating to coverage and the payment of prevailing wages and overtime, is not a defense of the contractor or subcontractor for noncompliance with the requirements of this chapter. [§104-2(f)]

For additional information, visit the department's website at <http://dlir.state.hi.us/> or contact any of the following DLIR offices:

Oahu (Wage Standards Division)	586-8777
Maui	243-5322
Hilo	974-6464
West Hawaii.....	322-4808
Kauai.....	274-3351

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
HIGHWAYS DIVISION
HONOLULU, HAWAII

P R O P O S A L

6/02/98

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

PROJECT: ROUTE 360 HANA HIGHWAY IMPROVEMENTS
UAKEA ROAD TO KEAWA PLACE
DISTRICT OF HANA
ISLAND OF MAUI

PROJECT NO.: 360B-01-03

COMPLETION TIME: 140 Working days from the date indicated in the
Notice to Proceed from the Department.

DESIGN PROJECT MANAGER:

NAME: Charlene Shibuya
ADDRESS: 650 Palapala Drive
Kahului, Hawaii 96732
PHONE NO.: (808) 873-3535
EMAIL: Charlene.Shibuya@hawaii.gov
FAX NO.: (808) 873-3544

Director of Transportation
869 Punchbowl Street
Honolulu, Hawaii 96813

Dear Sir:

The undersigned bidder declares the following:

1. It has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with this proposal.
2. It has not been assisted or represented on this matter by any individual who has, in a State capacity, been involved in the subject matter of this contract within the past two years.
3. It has not and will not, either directly or indirectly offered or given a gratuity (i.e., an entertainment or gift) to any State or County employee to obtain a contract or favorable treatment under a contract.

The undersigned bidder further agrees to the following:

1. If this proposal is accepted, it shall execute a contract with the Department to provide all necessary labor, machinery, tools, equipment, apparatus and any other means of construction, to do all the work and to furnish all the materials specified in the contract in the manner and within the time therein prescribed in the contract, and that it shall accept in full payment therefore the sum of the unit and/or lump sum prices as set forth in the attached proposal schedule for the actual quantities of work performed and materials furnished and furnish satisfactory security in accordance with Section 103D-324, Hawaii Revised Statutes, within 10 days after the award of the contract or within such time as the Director of Transportation may allow after the undersigned has received the contract documents for execution, and is fully aware that non-compliance with the aforementioned terms will result in the forfeiture of the full amount of the bid guarantee required under Section 103D-323, Hawaii Revised Statutes.
2. That the quantities given in the attached proposal schedule are approximate only and are intended principally to serve as a guide in determining and comparing the bids.
3. That the Department does not either expressly or by implication, agree that the actual amount of work will correspond therewith, but reserves the right to increase or decrease the amount of any class or portion of the work, or to omit portions of the work, as may be deemed necessary or advisable by the Director of Transportation, and that all increased or decreased quantities of work shall be performed at the unit prices set forth in the attached proposal schedule except as provided for in the specifications.

4. In case of a discrepancy between unit prices and the totals in said Proposal Schedule, the unit prices shall prevail.
5. Agrees to begin work within 10 working days after the date of notification to commence with the work, which date is in the notice to proceed, and shall finish the entire project within the time prescribed.
6. The Director of Transportation reserves the right to reject any or all bids and to waive any defects when in the Director's opinion such rejections or waiver will be for the best interest of the public.

The bidder acknowledges receipt of and certifies that it has completely examined the following listed items: Hawaii Standard Specifications for Road and Bridge Construction, 2005, the Notice to Bidders, the Special Provisions, the Technical Provisions, the Proposal, the Contract and Bond Forms, and the Project Plans.

The undersigned further agrees that if this proposal is accepted and the contract awarded, the bidder shall, prior to payment of the final estimate, execute the attached Certification of Compliance for Final Payment form (SPO Form-22).

In accordance with Section 103D-323, Hawaii Revised Statutes, this proposal is accompanied with a bid security in the amount of 5% of the total amount bid, in the form checked below. (Check applicable bid security submitted with bid.)

_____ Surety Bid Bond (Use standard form),

_____ Cash,

_____ Cashier's Check,

_____ Certified Check, or

_____ (Fill in other acceptable security.)

The undersigned bidder acknowledges receipt of any addendum issued by the Department by recording in the space below the date of receipt.

Addendum No. 1 _____

Addendum No. 3 _____

Addendum No. 2 _____

Addendum No. 4 _____

In accordance with Section 103D-302, Hawaii Revised Statutes, the undersigned as bidder has listed the name of each person or firm, who will be engaged by the bidder on the project as Joint Contractor or Subcontractor and the nature of work to be done by each. It is understood that failure to comply with the aforementioned requirements may be cause for rejection of the bid submitted.

<u>Name of Subcontractor</u>	<u>Nature and Scope of Work</u>
1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____
6. _____	_____
7. _____	_____
8. _____	_____
9. _____	_____

<u>Name of Joint Contractor</u>	<u>Nature and Scope of Work</u>
1. _____	_____
2. _____	_____
3. _____	_____

("None" or if left blank indicates no Subcontractor or Joint Contractor; if more space is needed, attach additional sheets.)

The undersigned hereby certifies that the bid prices contained in the attached proposal schedule have been carefully checked and are submitted as correct and final.

This declaration is made with the understanding that the undersigned is subject to the penalty of perjury under the laws of the United States and is in violation of the Hawaii Penal Code, Section 710-1063, unsworn falsification to authorities, of the Hawaii Revised Statutes, for knowingly rendering a false declaration.

Bidder

By _____
Authorized Signature

Title

Business Address

Business Telephone

Date

Contact Person and Phone Number
(If different from above.)

NOTE:

If bidder is a CORPORATION, the legal name of the corporation shall be set forth above, the corporate seal affixed, together with the signature(s) of the officer(s) authorized to sign contracts for the corporation. Please attach to this page current (not more than six months old) evidence of the authority of the officer(s) to sign for the corporation.

If bidder is a PARTNERSHIP, the true name of the partnership shall be set forth above, with the signature(s) of the general partner(s). Please attach to this page current (not more than six months old) evidence of the authority of the partner authorized to sign for the partnership.

If bidder is an INDIVIDUAL, the bidder's signature shall be placed above.

If signature is by an agent, other than an officer of a corporation or a partner of a partnership, a **POWER OF ATTORNEY** must be on file with the Department before opening bids or submitted with the bid. Otherwise, the Department may reject the bid as irregular and unauthorized.

PREFERENCES

Bidders agree that preferences shall be taken into consideration to determine the low bidder in accordance with said Sections and the rules promulgated, however, the award of contract will be in the amount of the bid offered exclusive of any preferences.

A. HAWAII PRODUCTS PREFERENCE

It is understood that certain Hawaii Products may be acceptable for use in this project and that, pursuant to Sections 103D-1002, HRS, which provides preference for Hawaii Products, a bidder proposing to use such Hawaii products shall so designate in the schedule provided below.

If a bidder proposes to use Hawaii Products, the bidder must so designate in said schedule by entering the cost of such product in the appropriate space provided. Failure on the part of the bidder to designate the use of Hawaii products will automatically void any preference for that product.

Persons desiring to qualify product(s) not currently on the list, shall complete form SPO-38, *Certification for Hawaii Product Preference* in accordance with the Special Provisions of these specifications.

It is understood by the bidder that if the bidder elects to furnish qualified Hawaii Products, and is awarded the contract, then fails to use such products or meet the requirements of such preference, the bidder shall be subject to the statutory penalties, provided in Section 103D-1002, Hawaii Revised Statute, and such other remedies as may be available to the State.

() Yes, I propose to use Hawaii Products and claim the Hawaii Products Preference. I have filled in the table on the following pages as applicable.

B. APPRENTICESHIP PROGRAMS PREFERENCE

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

Any bidder seeking this preference must be a party to an apprenticeship agreement registered with the Department of Labor and Industrial Relations 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.

The bidder is responsible for complying with all submission requirements for registration of its apprenticeship program before requesting the preference.

() Yes, I wish to be considered for the Apprenticeship Programs Preference. I have included Certification Form(s) 1 with my bid.

C. RECYCLED PRODUCT PREFERENCE

Recycled product preference shall not apply to this proposal.

DESIGNATION OF APPROVED HAWAII PRODUCTS* TO BE USED
***CONSTRUCTION PRODUCTS AND SOIL AMENDMENTS/PRODUCTS**

Product Category	Product Subcategory as applicable	Manufacturer	Cost FOB Jobsite, Unloaded Including Applicable General Excise & Use Taxes (a)	10% (b)		Credit (a) x (b)
Aggregates – Basaltic Termitite Barrier		Ameron International Corporation	\$			\$
		Ameron International Corporation (Maui)	\$			\$
		CTS Earthmoving, Inc.	\$			\$
		Delta Construction Corporation	\$			\$
		Edwin Deluz Trucking & Gravel LLC	\$			\$
		Goodfellow Bros, Inc.				\$
		Grace Pacific (Oahu2)	\$			\$
		GW Construction (Hawaii)	\$			\$
		Hawaiian Cement	\$			\$
		Jas. W. Glover, Ltd. (Hawaii) (Kauai)	\$			\$
		Kauai Aggregates	\$			\$
		Sanford's Service Center, Inc.	\$			\$
		Tileco, Inc.	\$			\$
		West Hawaii Concrete	\$			\$
Aggregates – Recycled Asphalt and Concrete		Yamada and Sons, Inc.	\$			\$
		Glover Honsador	\$			\$
		Grace Pacific (Oahu2)	\$			\$
Asphalt and Paving Materials		Jas. W. Glover, Ltd. (Hawaii) (Kauai)	\$			\$
		Black Maui Rose LLC	\$			\$
		Black Plumeria LLC	\$			\$
		Grace Pacific Corporation (Hawaii)	\$			\$

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		(Oahu) (Kauai)			
		Jas. W. Glover, Ltd. (Hawaii) (Kauai)		\$	\$
		Maui Asphalt X-IV, LLC (Maui)		\$	\$
		Maui Paving LLC		\$	\$
		Road and Highway Builders (Oahu)		\$	\$
		Walker-Moody Pavement Products & Equipment		\$	\$
		Yamada and Sons, Inc. dba YS		\$	\$
		Rock and Con-Agg of Hawaii		\$	\$
Coatings – Cementitious Waterproofing				\$	\$
Cement and Concrete Products		Ameron International Corporation		\$	\$
		BOMAT, Ltd.		\$	\$
		Glover Honsador		\$	\$
		Hawaiian Cement		\$	\$
		Jas. W. Glover, Ltd. (Hawaii) (Kauai)		\$	\$
		Kohala Coast Concrete & Precast LLC		\$	\$
		O. Thronas, Inc.		\$	\$
		Tileco, Inc.		\$	\$
		West Hawaii Concrete		\$	\$
		Aloha Precast, Inc.		\$	\$
Precast Concrete Products		Ameron International Corporation		\$	\$
		GPRM Prestress LLC		\$	\$
		Hawaii Concrete Products, Inc.		\$	\$
		Kohala Coast Concrete & Precast LLC		\$	\$
		Ramtek Fabrication Co., Inc.		\$	\$
		Walker Industries, Ltd.		\$	\$
				\$	\$
Environmental Sewage – Treatment Innovative System (ESIS)		Environmental Waste Management Systems, Inc.		\$	\$
Septic Tanks		Ameron International Corporation (Oahu)		\$	\$
		Walker Industries, Ltd.		\$	\$

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Hot Dip Galvanizing			Universal Associates, Inc.	\$	\$
Insulation – Expanded Polystyrene Products				\$	\$
Grouts and Adhesives – Ceramic Tile				\$	\$
Metal Roofing and Flashing – Preformed				\$	\$
Pipes – Aluminum and Galvanized				\$	\$
		Pipes - Miscellaneous	Ameron International Corporation	\$	\$
Aluminum Floating Dock – Misc.			Bluewater Marine and Dock Specialties	\$	\$
Playground Surfaces, etc.			Innovative Playgrounds and Recreation, Inc.	\$	\$
Signs – Traffic, Regulatory & Construction			GP Roadway Solutions, Inc.	\$	\$
Veneer			Safety Systems Hawaii, Inc.	\$	\$
Soil Amendments, Mulch, Compost			Big Rock Manufacturing	\$	\$
			Kauai Nursery & Landscaping, Inc.	\$	\$
			Sanford's Service Center, Inc.	\$	\$
Compost Filter			EnviroTech BioSolutions Hawaii, Inc.	\$	\$
			Certified Erosion Control Hawaii LLC	\$	\$
Windows and Doors – Rigid Vinyl Framed				\$	\$
Wood – Furniture, Casework and Millwork (natural wood finish)				\$	\$
TOTAL				\$	\$

PROPOSAL SCHEDULE					
ITEM NO.	ITEM	APPROX. QUANTITY	UNIT	UNIT PRICE	AMOUNT
202.0100	Removal of Guardrail	L.S.	L.S.		\$ _____
202.0200	Removal of Existing Striping	L.S.	L.S.		\$ _____
202.0400	Removal of Existing Pavement	162	SY		\$ _____
202.0500	Removal of Partial Existing Bridge	L.S.	L.S.		\$ _____
202.0600	Removal of Partial CRM Wingwall	L.S.	L.S.		\$ _____
205.2000	Structure Excavation for Bridge Abutments	L.S.	L.S.		\$ _____
205.6000	Structure Backfill for Bridge Abutments	116	CY		\$ _____
205.7202	Filter Material	2	CY		\$ _____
209.0100	Installation, Maintenance, Monitoring, and Removal of BMP	L.S.	L.S.		\$ _____
209.0200	Additional Water Pollution, Dust, and Erosion Control	F.A.	F.A.		\$ <u>15,000.00</u>
212.0010	Archaeological Monitoring	F.A.	F.A.		\$ <u>30,000.00</u>
304.0100	Aggregate Base	23	CY		\$ _____
305.0100	Aggregate Subbase	69	CY		\$ _____

PROPOSAL SCHEDULE					
ITEM NO.	ITEM	APPROX. QUANTITY	UNIT	UNIT PRICE	AMOUNT
401.0100	HMA Pavement, Mix No. IV	62	TON		\$ _____
415.0100	Cold Planing of Existing Pavement	626	SY		\$ _____
503.1090	Concrete for Bridge Abutments	L.S.	L.S.		\$ _____
503.1092	Concrete for Bridge Deck (Cast-In-Place)	L.S.	L.S.		\$ _____
507.7100	Concrete Bridge Railing	30	LF		\$ _____
508.0100	Cement Rubble Masonry	L.S.	L.S.		\$ _____
508.0200	Repair of CRM Channel Wall/Abutment Interface	L.S.	L.S.		\$ _____
509.0100	Existing Deck Slab Repairs	F.A.	F.A.		\$ <u>20,000.00</u>
606.0100	Guardrail Type W-Beam	L.S.	L.S.		\$ _____
606.0200	Terminal Section Type G1d TL-2	1	EA		\$ _____
629.0100	Double 4-Inch Pavement Striping (Thermoplastic Extrusion)	441	LF		\$ _____
629.0200	4-Inch Pavement Striping (Thermoplastic Extrusion)	441	LF		\$ _____

PROPOSAL SCHEDULE					
ITEM NO.	ITEM	APPROX. QUANTITY	UNIT	UNIT PRICE	AMOUNT
629.3030	Type C Pavement Marker	14	EA		\$ _____
629.3040	Type D Pavement Marker	13	EA		\$ _____
632.0100	Type III Object Marker	2	EA		\$ _____
645.0100	Traffic Control	L.S.	L.S.		\$ _____
645.0200	Additional Police Officers, Additional Traffic Control Devices, And Advertisement	F.A.	F.A.		\$ <u>20,000.00</u>
648.0100	Field Posted Drawings	L.S.	L.S.		\$ _____
696.0100	Field Office Trailer (Not to Exceed \$32,000.00)	L.S.	L.S.		\$ _____
696.0200	Project Site Laboratory Trailer (Not to Exceed \$22,000.00)	L.S.	L.S.		\$ _____
696.0300	Maintenance of Trailers	F.A.	F.A.		\$ <u>50,000.00</u>
699.0100	Mobilization (Not to Exceed 6 Percent of the Sum of All Items Excluding the Bid Price of this Item)	L.S.	L.S.		\$ _____
Sum of All Items					\$ _____
NOTE: Bidders must complete all unit prices and amounts. Failure to do so may be grounds for rejection of bid.					

1 **PROPOSAL SCHEDULE**

2
3 The bidder is directed to Subsection 105.16 – Subcontracts.

4
5 The bidder's attention is directed to Sections 696 - Field Office and
6 Project Site Laboratory and 699 - Mobilization for the limitation of the amount
7 bidders are allowed to bid.

8
9 If the bid price for any proposal item having a maximum allowable bid
10 indicated therefore in any of the contract documents is in excess of such a
11 maximum amount, the bid price for such proposal item shall be adjusted to
12 reflect the limitation thereon. The comparison of bids to determine the
13 successful bidder and the amount of contract to be awarded shall be determined
14 after such adjustments are made, and such adjustments shall be binding upon
15 the bidder.

16
17 The bidder is directed to Section 717 – Cullet and Cullet-Made Materials
18 regarding recycling of waste glass.
19
20

SUPPLEMENT TO PROPOSAL SCHEDULE

The Department recognizes that certain items of material to be incorporated into the project and/or consumed in the prosecution of the project have historically experienced large fluctuations in price due to local and/or global shortages in supply of the material and/or product used to create such material and that such price fluctuations are beyond the control and without the fault of the Contractor. The effect of such large price fluctuations in such short supply materials makes it difficult for the Contractor to bid with confidence.

Materials that the Department recognizes as historically experiencing such price fluctuations due to short supply are asphalt cement, portland cement, reinforcing steel, structural steel, galvanized steel, and prestress/post-tension strands.

Each bidder shall submit with the proposal a written statement from the supplier of each short supply material indicating the supplier's current posted price, effective date of that price and the location of the material at that posted price (by island).

If the price of such short supply material is increased or decreased by more than 5% by the supplier prior to the completion of that contract item requiring the short supply material, the Contractor shall submit to the Department a written statement from the supplier indicating the effective date and changed price the Contractor will thereafter be charged for such short supply material. The Contractor shall also obtain whenever possible, quotations for furnishing the material from other available local suppliers. The quotations shall be obtained sufficiently in advance of the need for the material to allow review by the Department so as not to delay the work. The Contractor's request to the Department for adjusted compensation due to such changed prices will be computed only with prices in effect at the time of delivery. Only the lowest quotation obtained will be accepted by the Department. Transportation, handling, loading, processing and other similar costs will not be subject to adjusted compensation.

No adjustment to the unit bid prices will be made when the increase or decrease in the price of the short material is less than 5% of the original posted price.

If the adjustment to the unit bid price is decreased in the price of the short supply material by more than 5% of the original posted price, the State will be credited.

When an adjustment in price is made in accordance with this section, the adjustment will be allowed only so long as the purchase price remains more or less than 5% of the original posted price.

If an increase in the price of any short supply material exceeds or is scheduled to exceed 35% of the original posted price, the Contractor must notify the State within five working days before using the short supply material. Upon receipt of such notification from the Contractor, the State will direct the Contractor to either (1) authorize work to proceed as usual with the assurance that the indicated incremental price increase above the 35% will be compensable, (2) issue such change orders as the State may deem necessary to reduce further requirements of the short supply material which is to be paid at the increased price, or (3) if the material is considered to have priced itself beyond reason or beyond what the State can pay, the State may order cessation of further use of such short supply material on the project. Such notification by the Contractor will be required at each instance of incremental price increase above the 35% limit. If the Contractor fails to notify the State of any such incremental price increase within five working days before using the short supply material and continues to utilize the short supply material on the project, the State will not be responsible for payment for the incremental cost increase of which the State was not forewarned.

Computation for the adjusted compensation will be as follows:

(A) Portland Cement

If X = Adjustment per cubic yard of concrete,

P = Portland cement content of the approved mix design expressed in hundredweight per cubic yard of concrete,

Q = Increase or decrease in the price of portland cement in dollars per hundredweight,

Then $X = QP$

Example: Posted price of portland cement increases from \$1.40 to \$1.70 per cwt. and the hundredweight (cwt) of concrete is 5.6 cwt per c.y., then the adjustment shall be:

$$\$1.70 - \$1.40 = \$0.30$$

$$(\$1.40)(5\%) = \$0.07$$

$$\$0.30 - \$0.07 = \$0.23$$

$$X = (\$0.23)(5.6) = \$1.29 \text{ per c.y. of concrete}$$

(B) Asphalt Cement

If X = adjustment per ton of mix,

P = asphalt cement content, expressed in percent of dry weight of the aggregates, as determined and accepted by the Department for each of the design plant mixes,

Q = increase or decrease in the price of asphalt cement, in dollars per ton,

$$\text{Then } X = \frac{Q(P)}{100+P}$$

Example: Posted price of asphalt cement increases from \$70 to \$80 per ton and the asphalt content of the A.C. mix was accepted at 6.0%, then the adjustment shall be:

$$\begin{aligned} \$80.00 - \$70.00 &= \$10.00 \\ (\$70.00)(5\%) &= \$3.50 \\ \$10.00 - \$3.50 &= \$6.50 \\ X &= \$6.50 \left(\frac{6}{100+6} \right) = \$0.37 \text{ per ton A.C. mix} \end{aligned}$$

(C) Reinforcing Steel

If X = Adjustment for reinforcing steel,

P = Weight of reinforcing steel, expressed in hundredweight

Q = Increase or decrease in the price of reinforcing steel in dollars per hundred weight,

$$\text{Then } X = QP$$

Example: Posted price of grade 40 reinforcing steel increases from \$14.00 to \$15.00 per cwt and the weight of the grade 40 reinforcing steel is 80,000 pounds, then the adjustment shall be:

$$\begin{aligned} \$15.00 - \$14.00 &= \$1.00 \\ (\$14.00)(5\%) &= \$0.70 \\ \$1.00 - \$0.70 &= \$0.30 \\ X &= (\$0.30)(800) = \$240 \text{ for grade 40 reinforcing steel} \end{aligned}$$

The Contractor shall submit to the Department original receipted bills covering the short supply material used on the project as soon as practicable after shipments are completed. The bills shall be accompanied by a tabulation on which the bills are listed in chronological order showing for each bill the quantity, the date shipped from the supplier's terminal and the price per unit at the place indicated in the posted price (reflecting any deduction for quantity shipments). These bills shall be subject to audit verification.

The Department reserves the right to alter the quantities of material to be furnished in accordance with the provisions of Subsection 104.02.

The Department also reserves the right, during construction, to decrease or

increase the scope of work, because of limitations of funds, with no adjustment in unit prices other than that specified hereinabove.

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
HONOLULU, HAWAII

FORMS

CONTRACT

THIS AGREEMENT, made this _____ day _____ 20_____, by and between the STATE OF HAWAII, by its Director of Transportation, hereinafter referred to as "STATE," and _____ whose business and/or post office address is _____

_____ hereafter referred to as "CONTRACTOR":

WITNESSETH: That for and in consideration of the payments hereinafter mentioned, the CONTRACTOR hereby covenants and agrees with the STATE to complete in place, furnish and pay for all labor and materials necessary for

or such a part thereof as shall be required by the STATE, the total amount of which labor, material and construction shall be computed at the unit and/or lump sum prices set forth in the attached proposal schedule and shall be the sum of _____ DOLLARS (\$ _____) as follows:

which sum shall be provided from the following fund(s):

all in accordance with the specifications, the special provisions, if any, the notice to bidders, the instructions to bidders, the proposal, and plans for _____, on file in the office of the Director of Transportation. These documents, together with all alterations, amendments, and additions thereto and deductions therefrom, are attached hereto or incorporated herein by reference and made a part of this contract.

The CONTRACTOR hereby covenants and agrees to complete such construction within _____ (_____) working days from the date indicated in the notice to proceed from the STATE subject, however, to such extensions as may be provided for under the specifications.

For and in consideration of the covenants, undertaking and agreements of the CONTRACTOR herein set forth and upon the full and faithful performance thereof by the CONTRACTOR, the STATE hereby agrees to pay the CONTRACTOR the sum of _____ DOLLARS (\$ _____) in lawful money, but not more than such part of the same as is actually earned according to the STATE'S determination of the actual quantities of work performed and materials furnished by the CONTRACTOR at the unit or lump sum prices set forth in the attached proposal schedule. Such payment, including any extras, shall be made, subject to such additions or deductions hereto or hereafter made in the manner and at the time prescribed in the specifications and this contract. In any event, extras shall not exceed _____ DOLLARS (\$ _____) in lawful money and shall be provided from the following fund(s):

Where Federal funds are involved, it is covenanted and agreed by and between the parties hereto that the sums of

shall be paid out of the applicable Federal funds, and that this contract shall be construed to be an agreement to pay said sums to the Contractor only out of the aforesaid Federal funds if and when such Federal funds shall be received from the Federal Government, and that this contract shall not be construed to be a general agreement to pay said portions at all events out of any funds other than those which may be so received from the Federal Government; provided, that if the Federal share of the cost of the project is not immediately forthcoming from the Federal Government, the STATE may advance the CONTRACTOR the anticipated Federal reimbursement of the cost of the completed portions of the work from funds which have been appropriated by the STATE for its pro rata share.

The CONTRACTOR further agrees to execute the attached non-gratuity affidavit form prior to payment of the final estimate by the STATE.

All words used herein in the singular number shall extend to and include the plural. All words used in the plural number shall extend to and include the singular. The use of any gender shall extend to and include all genders.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed the day and year first above written.

STATE OF HAWAII

By _____
Director of Transportation

By _____

By _____

APPROVED AS TO FORM

Deputy Attorney General

PERFORMANCE BOND (SURETY)

KNOW TO ALL BY THESE PRESENTS:

That

(full legal name and street address of Contractor)

as Contractor, hereinafter called Principal, and

(full legal name and street address of bonding company)

as Surety, hereinafter called Surety, a corporation(s) authorized to transact business as a surety in the State of Hawaii, are held and firmly bound unto the _____
(State/County entity)

its successors and assigns, hereinafter called Obligor, in the amount of _____
DOLLARS (\$ _____), to which payment Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the above-bound Principal has entered into a Contract with Obligor dated _____
for _____

hereinafter called Contract, which Contract is incorporated herein by reference and made a part hereof.

NOW THEREFORE, the condition of this obligation is such that:

If the Principal shall promptly and faithfully perform, and fully complete the Contract in strict accordance with the terms of the Contract as said Contract may be modified or amended from time to time; then this obligation shall be void; otherwise to remain in full force and effect.

Surety to this Bond hereby stipulates and agrees that no changes, extensions of time, alterations, or additions to the terms of the Contract, including the work to be performed thereunder, and the specifications or drawings accompanying same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such changes, extensions of time, alterations, or additions, and agrees that they shall become part of the Contract.

In the event of Default by the Principal, of the obligations under the Contract, then after written Notice of Default from the Obligor to the Surety and the Principal and subject to the limitation of the penal sum of this bond, Surety shall remedy the Default, or take over the work to be performed under the Contract and complete such work, or pay moneys to the Obligor in satisfaction of the surety's performance obligation on this bond.

Signed this _____ day of _____, _____.

(Seal)

Name of Principal (Offeror)

*

Signature

Title

(Seal)

Name of Surety

*

Signature

Title

*ALL SIGNATURES MUST BE
ACKNOWLEDGED BY A NOTARY PUBLIC

PERFORMANCE BOND

KNOW ALL BY THESE PRESENTS:

That we, _____
(full legal name and street address of Contractor)

as Contractor, hereinafter called Contractor, is held and firmly bound unto the

(State/County entity)

its successors and assigns, as Obligee, hereinafter called Obligee, in the amount

_____ DOLLARS (\$ _____),
(Dollar amount of Contract)

lawful money of the United States of America, for the payment of which to the said Obligee, well and truly to be made, Contractor binds itself, its heir, executors, administrators, successors and assigns, firmly by these presents. Said amount is evidenced by:

- ☐ **Legal Tender;**
- ☐ **Share Certificate** unconditionally assigned to or made payable at sight to _____
Description: _____;
- ☐ **Certificate of Deposit, No.** _____, dated _____
issued by _____
drawn on _____
a bank, savings institution or credit union insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, payable at sight or unconditionally assigned to _____;
- ☐ **Cashier's Check No.** _____, dated _____
drawn on _____
a bank, savings institution or credit union insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, payable at sight or unconditionally assigned to _____;
- ☐ **Teller's Check No.** _____, dated _____
drawn on _____
a bank, savings institution or credit union insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, payable at sight or unconditionally assigned to _____;
- ☐ **Treasurer's Check No.** _____, dated _____
drawn on _____
a bank, savings institution or credit union insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, payable at sight or unconditionally assigned to _____;
- ☐ **Official Check No.** _____, dated _____
drawn on _____
a bank, savings institution or credit union insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, payable at sight or unconditionally assigned to _____;
- ☐ **Certified Check No.** _____, dated _____
accepted by a bank, savings institution or credit union insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, payable at sight or unconditionally assigned to _____;

WHEREAS:

The Contractor has by written agreement dated _____ entered into a contract with Obligees for the following Project: _____

hereinafter called Contract, which Contract is incorporated herein by reference and made a part hereof.

NOW THEREFORE,

The Condition of this obligation is such that, if Contractor shall promptly and faithfully perform the Contract in accordance with, in all respects, the stipulations, agreements, covenants and conditions of the Contract as it now exists or may be modified according to its terms, and shall deliver the Project to the Obligees, or to its successors or assigns, fully completed as in the Contract specified and free from all liens and claims and without further cost, expense or charge to the Obligees, its officers, agents, successors or assigns, free and harmless from all suits or actions of every nature and kind which may be brought for or on account of any injury or damage, direct or indirect, arising or growing out of the doing of said work or the repair or maintenance thereof or the manner of doing the same or the neglect of the Contractor or its agents or servants or the improper performance of the Contract by the Contractor or its agents or servants or from any other cause, then this obligation shall be void; otherwise it shall be and remain in full force and effect.

AND IT IS HEREBY STIPULATED AND AGREED that suit on this bond may be brought before a court of competent jurisdiction without a jury, and that the sum or sums specified in the said Contract as liquidated damages, if any, shall be forfeited to the Obligees, its successors or assigns, in the event of a breach of any, or all, or any part of, covenants, agreements, conditions, or stipulations contained in the Contract or in this bond in accordance with the terms thereof.

The amount of this bond may be reduced by and to the extent of any payment or payments made in good faith hereunder.

Signed and sealed this _____ day of _____, _____.

(Seal)

Name of Contractor

*

Signature

Title

*ALL SIGNATURES MUST BE
ACKNOWLEDGED BY A NOTARY PUBLIC

LABOR AND MATERIAL PAYMENT BOND (SURETY)

KNOW ALL BY THESE PRESENTS:

That _____
(Full legal name and street address of Contractor)
as Contractor, (hereinafter called Principal), and _____
(Name and street address of bonding company)
as Surety, hereinafter called Surety, a corporation(s) authorized to transact business as a surety
in the State of Hawaii, are held and firmly bound unto the _____
(State/County entity)
its successors and assigns, hereinafter called Oblige, in the amount of _____
Dollars (\$ _____),
to which payment Principal and Surety bind themselves, their heirs, executors, administrators,
successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the above-bound Principal has entered into a Contract with Oblige dated _____
for _____
hereinafter called Contract, which Contract is incorporated herein by reference and made a part
hereof.

NOW THEREFORE, the condition of this obligation is such that if the Principal shall promptly
make payment to any Claimant, as hereinafter defined, for all labor and materials supplied to the
Principal for use in the performance of the Contract, then this obligation shall be void; otherwise to
remain in full force and effect.

1. Surety to this Bond hereby stipulates and agrees that no changes, extensions of time,
alterations, or additions to the terms of the Contract, including the work to be performed
thereunder, and the specifications or drawings accompanying same, shall in any way affect its
obligation on this bond, and it does hereby waive notice of any such changes, extensions of time,
alterations, or additions, and agrees that they shall become part of the Contract.

2. A "Claimant" shall be defined herein as any person who has furnished labor or materials
to the Principal for the work provided in the Contract.

Every Claimant who has not been paid amounts due for labor and material furnished for work
provided in the Contract may institute an action against the Principal and its Surety on this bond at
the time and in the manner prescribed in Section 103D-324, Hawaii Revised Statutes, and have
the rights and claims adjudicated in the action, and judgment rendered thereon; subject to the
Oblige's priority on the bond. If the full amount of the liability of the Surety on the bond is
insufficient to pay the full amount of the claims, then after paying the full amount due to the
Oblige, the remainder shall be distributed pro rata among the Claimants.

Signed and sealed this _____ day of _____, _____.

(Seal) _____
Name of Principal (Offeror)

* _____
Signature

Title

(Seal) _____
Name of Surety

* _____
Signature

Title

*ALL SIGNATURES MUST BE
ACKNOWLEDGED BY A NOTARY PUBLIC

LABOR AND MATERIAL PAYMENT BOND

KNOW ALL BY THESE PRESENTS:

That we, _____
(full legal name and street address of Contractor)
as Contractor, hereinafter called Contractor, is held and firmly bound unto _____
(State/County entity)
its successors and assigns, as Obligee, hereinafter called Obligee, in the amount
_____ DOLLARS (\$ _____),
(Dollar amount of Contract)

lawful money of the United States of America, for the payment of which to the said Obligee, well and truly to be made, Contractor binds itself, its heir, executors, administrators, successors and assigns, firmly by these presents. Said amount is evidenced by:

- ☐ **Legal Tender;**
- ☐ **Share Certificate** unconditionally assigned to or made payable at sight to _____
Description: _____
- ☐ **Certificate of Deposit, No.** _____, dated _____
issued by _____
drawn on _____
a bank, savings institution or credit union insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, payable at sight or unconditionally assigned to _____;
- ☐ **Cashier's Check No.** _____, dated _____
drawn on _____
a bank, savings institution or credit union insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, payable at sight or unconditionally assigned to _____;
- ☐ **Teller's Check No.** _____, dated _____
drawn on _____
a bank, savings institution or credit union insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, payable at sight or unconditionally assigned to _____;
- ☐ **Treasurer's Check No.** _____, dated _____
drawn on _____
a bank, savings institution or credit union insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, payable at sight or unconditionally assigned to _____;
- ☐ **Official Check No.** _____, dated _____
drawn on _____
a bank, savings institution or credit union insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, payable at sight or unconditionally assigned to _____;
- ☐ **Certified Check No.** _____, dated _____
accepted by a bank, savings institution or credit union insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, payable at sight or unconditionally assigned to _____;

WHEREAS:

The Contractor has by written agreement dated _____
entered into a contract with Oblige for the following Project: _____

hereinafter called Contract, which Contract is incorporated herein by reference and made a part hereof.

NOW THEREFORE,

The condition of this obligation is such that, if Contractor shall promptly and faithfully perform the Contract in accordance with, in all respects, the stipulations, agreements, covenants and conditions of the Contract as it now exists or may be modified according to its terms, free from all liens and claims and without further cost, expense or charge to the Oblige, its officers, agents, successors or assigns, free and harmless from all suits or actions of every nature and kind which may be brought for or on account of any injury or damage, direct or indirect, arising or growing out of the doing of said work or the repair or maintenance thereof or the manner of doing the same or the neglect of the Contractor or its agents or servants or the improper performance of the Contract by the Contractor or its agents or servants or from any other cause, then this obligation shall be void; otherwise it shall be and remain in full force and effect.

AND IT IS HEREBY STIPULATED AND AGREED that suit on this bond may be brought before a court of competent jurisdiction without a jury, and that the sum or sums specified in the said Contract as liquidated damages, if any, shall be forfeited to the Oblige, its successors or assigns, in the event of a breach of any, or all, or any part of, covenants, agreements, conditions, or stipulations contained in the Contract or in this bond in accordance with the terms thereof.

AND IT IS HEREBY STIPULATED AND AGREED that this bond shall inure to the benefit of any and all persons entitled to file claims for labor performed or materials furnished in said work so as to give any and all such persons a right of action as contemplated by Sections 103D-324(d) and 103D-324(e), Hawaii Revised Statutes.

The amount of this bond may be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payments of mechanics' liens which may be filed of record against the Project, whether or not claim for the amount of such lien be presented under and against this bond.

Signed this _____ day of _____, _____.

(Seal)

Name of Contractor

*

Signature

Title

***ALL SIGNATURES MUST BE
ACKNOWLEDGED BY A NOTARY PUBLIC**

CHAPTER 104, HRS COMPLIANCE CERTIFICATE

The undersigned bidder does hereby certify to the following:

1. Individuals engaged in the performance of the contract on the job site shall be paid:

A. Not less than the wages that the director of labor and industrial relations shall have determined to be prevailing for corresponding classes of laborers and mechanics employed on public works projects; and

B. Overtime compensation at one and one-half times the basic hourly rate plus fringe benefits for hours worked on Saturday, Sunday, or a legal holiday of the State or in excess of eight hours on any other day.

2. All applicable laws of the federal and state governments relating to workers' compensation, unemployment compensation, payment of wages, and safety shall be fully complied with.

DATED at Honolulu, Hawaii, this _____ day of _____.

Name of Corporation, Partnership, or Individual

Signature and Title of Signer

Subscribed and sworn before me
this _____ day of _____.

Notary Public, _____ Judicial
Circuit, State of Hawaii
My Commission Expires: _____

Reference: _____
(Contract Number) (IFB/RFP Number)

1. Chapter 383, HRS, Hawaii Employment Security Law – Unemployment Insurance;
2. Chapter 386, HRS, Worker’s Compensation Law;
3. Chapter 392, HRS, Temporary Disability Insurance;
4. Chapter 393, HRS, Prepaid Health Care Act; and

Moreover, _____
(Company Name)
acknowledges that making a false statement shall cause its suspension and may cause its debarment from future awards of contracts.

Date: _____

**CERTIFICATION OF COMPLIANCE
FOR
EMPLOYMENT OF STATE RESIDENTS
ACT 68, SESSION LAWS OF HAWAII 2010**

Project Title: _____

Agency Project No: _____

Contract No.: _____

As required by Act 68, Session Laws of Hawaii 2010 – Employment of State Residents on Construction Procurement Contracts, I hereby certify under oath, that I am an officer of _____ and for the month of _____, 20____, _____ is in compliance with Act 68, SLH 2010, by employing a workforce of whom not less than eighty percent are Hawaii residents, as calculated according to the formula in the solicitation, to perform this Contract.

CORPORATE SEAL

☐ I am an officer of the **Contractor** for this contract.

☐ I am an officer of a **Subcontractor** for this contract.

(Name of Company)

(Signature)

(Print Name)

(Print Title)

Subscribed and sworn to me before this
_____ day of _____, 2010.

Notary Public, _____ Circuit, State of Hawaii
My commission expires: _____

Doc. Date: _____ # of Pages _____ Circuit

Notary Name: _____

Doc. Description: _____

Notary Signature Date
NOTARY CERTIFICATION

**INSTRUCTIONS FOR COMPLIANCE WITH
ACT 68, SLH 2010
EMPLOYMENT OF STATE RESIDENTS ON CONSTRUCTION
PROCUREMENT CONTRACTS**

1. Definitions for terms used in Act 68, SLH 2010:

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

2. Employment of State Residents Requirements - Act 68, SLH 2010:

- a. A Contractor awarded a contract shall ensure that Hawai'i residents compose not less than eighty percent of the workforce employed to perform the contract work on the project. The eighty percent requirement shall be determined by dividing the total number of hours worked on the contract by Hawaii residents, by the total number of hours worked on the contract by all employees of the contractor in the performance of the contract. The hours worked by any Subcontractor of the Contractor shall count towards the calculation for this section. The hours worked by employees within shortage trades, as determined by the Department of Labor and Industrial Relations (DLIR), shall not be included in the calculation for this section.
- b. Prior to starting any construction work, the Contractor shall submit the subcontract dollar amount for each of its Subcontractors.

- c. The requirements of this section shall apply to any subcontract of \$50,000 or more in connection with the Contractor, that is, such Subcontractors must also ensure that Hawai'i residents compose not less than eighty percent of the Subcontractor's workforce used to perform the subcontract.
- d. The Contractor and any Subcontractor whose subcontract is \$50,000 or more shall comply with the requirements of Act 68 for the entire duration of the contract.
 - 1. Certification of compliance shall be made on a monthly basis. If no progress payments are made for any month, the Contractor, and any Subcontractor as applicable, shall still be required to submit the certification on monthly basis to the Contracting Officer.
 - 2. The certification of compliance shall be made under oath by an officer of the company by completing a Certification of Compliance for Employment of State Residents form and executing the Certificate before a licensed notary public.
 - 3. In addition to the monthly certification as indicated above, the Contractor and Subcontractors shall maintain records such as certified payrolls for laborers and mechanics who performed work at the site and time sheets for all other employees who performed work on the project. These records shall include the names, addresses and number of hours worked on the project by all employees of the Contractor and Subcontractor who performed work on the project to validate compliance with Act 68. The Contractor and Subcontractors shall retain these records and provide access to the State for a minimum period of four (4) years after the final payment, except that if any litigation, claim, negotiation, investigation, audit or other action involving the records has been started before the expiration of the four (4) year period, the Contractor and Subcontractors shall retain the records until completion of the action and resolution of all issues that arise from it, or until the end of the four (4) year period, whichever occurs later. Furthermore, it shall be the Contractor's responsibility to enforce compliance with this provision by any Subcontractor.
- e. A Contractor who fails to comply with this section shall be subject to any of the following sanctions:

1. Temporary suspension of work on the project until the Contractor or its Subcontractor complies with Act 68;
2. Withholding of payment on the contract until the Contractor or its Subcontractor complies with Act 68;
3. Permanent termination of the Contractor or Subcontractor from any further work on the project;
4. Recovery by the State, as applicable, of any moneys expended on the contract or subcontract as applicable; or
5. Proceedings for debarment or suspension of the Contractor or Subcontractor under Hawai'i Revised Statutes §103D-702.

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