

## STATE OF HAWAII

## SPECIAL CONDITIONS

**Project:** Makuu Offsite Water System Phase 2: Production Well, Reservoir and Supporting Facilities  
**Location:** Halona, Puna, Island of Hawaii  
**Contractor:** TBD

**SC-01: INTERCHANGEABLE TERMS**

The following terms are one and the same:

- a. “Contract” and “Agreement”.
- b. “Department of Hawaiian Home Lands” “DHHL” and “STATE”.
- c. “CONTRACTOR” and “Consultant”.

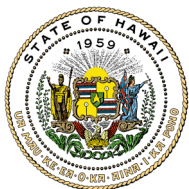
**SC-02 INSURANCE COVERAGE**

The Contractor shall obtain separate insurance coverage for this project that complies with the requirements set forth in the DHHL Interim General Conditions, Article 7, Section 7.3, as amended. Payment for all work required to comply with this item will not be paid for separately but shall be considered incidental to the various contract items.

INSURANCE REQUIREMENTS are as follows:

CONTRACTOR shall maintain insurance acceptable to the STATE in full force and effect throughout the term of this Contract. The policies of insurance maintained by CONTRACTOR shall provide the following minimum coverage:

<u>Coverage</u>	<u>Limit</u>
<b>General Liability Insurance</b> (occurrence form)	Bodily Injury and Property Damage (combined single limit): <u>\$1,000,000</u> per occurrence and <u>\$2,000,000</u> aggregate  Personal Injury: <u>\$1,000,000</u> per occurrence and <u>\$2,000,000</u> aggregate
<b>Automobile Insurance</b> (covering all owned, non-owned and hired automobiles)	Bodily Injury: <u>\$1,000,000</u> per person and <u>\$1,000,000</u> per occurrence.  Property Damage: <u>\$1,000,000</u> per accident or combined single limit of <u>\$2,000,000</u> .
<b>Workers Compensation</b> (statutory limit is required by laws of the State of Hawaii)	Insurance to include Employer’s Liability. Both such coverages shall apply to all employees of the CONTRACTOR and, in case any sub-Contractor fails to provide adequate similar protection for all his employees, to all employees



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of sub- Contractors.

**Builder's Risk covering the  
CONTRACTOR and all  
subcontractors**

100% Replacement Value

**Fire and extended coverage**

100% Replacement Value

**Malicious Mischief**

100% Replacement Value

- a. The State of Hawaii, Department of Hawaiian Home Lands, its elected and appointed officials, officers, employees, and agents shall be named as additional insured with respect to operations, services or products provided to the State of Hawaii. CONTRACTOR agrees to provide to the DHHL, before the effective date of the Contract, certificate(s) of insurance necessary to evidence compliance with insurance provisions of this Contract. CONTRACTOR shall keep such insurance in effect and the certificate(s) on deposit with DHHL during the entire term of this Contract. Upon request by the STATE, CONTRACTOR shall furnish a copy of the policy or policies.
- b. Failure of CONTRACTOR to provide and keep in force such insurance shall be regarded as a material default under this Contract. The STATE shall be entitled to exercise any or all of the remedies provided in this Contract for default of CONTRACTOR.
- c. The procuring of such required policy or policies of insurance shall not be construed to limit CONTRACTOR's liability under this Contract or to fulfill the indemnification provisions and requirements of this Contract. Notwithstanding said policy or policies of insurance, CONTRACTOR shall be obliged for the full and total amount of any damage, injury, or loss caused by negligence or neglect connected with this Contract.
- d. CONTRACTOR shall immediately provide written notice to the contracting department or agency should any of the insurance policies evidenced on its Certificate of Insurance form be cancelled, limited in scope, or not renewed upon expiration.
- e. DHHL is a self insured State agency. CONTRACTOR's insurance shall be primary. Any insurance maintained by the State of Hawaii shall apply in excess of, and shall not contribute with, insurance provided by CONTRACTOR.
- f. The CONTRACTOR shall require all Subcontractors to have in full force and effect the same insurance coverage as required of the CONTRACTOR. Such insurance shall name the State of Hawaii, Department of Hawaiian Home Lands, its elected and appointed officials, officers, employees, and agents as additional insured with respect to operations, services or products provided to the State of Hawaii. The CONTRACTOR shall be



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responsible to enforce its Subcontractors' compliance with these insurance requirements and CONTRACTOR shall, upon request, provide the STATE a copy of the policy or policies of insurance for any Subcontractor.

#### **SC-03: COMPLETION SCHEDULE AND LIQUIDATED DAMAGES**

The Contractor shall complete all work as specified or indicated in the Contract Documents, on or before five hundred forty-eight (548) calendar days after receiving a written notice to proceed, subject to extensions, as may be granted.

In case of failure on the part of the Contractor to complete the work within the time specified, the Contractor shall pay to DHHL as liquidated damages, and not as a penalty, \$1000.00 per calendar day for each day that the project, in its entirety, remains incomplete.

#### **SC-04: PROCESS THROUGH CONSULTANT OF DHHL**

Until Notice to Proceed is issued, any and all submittals, reports, requests, claims and notices under the contract pertaining to work for this project, shall be processed through the Consultant of the Department, namely Engineers Surveyors Hawaii, Inc. (attention: Eric Hee), 1320 North School Street, Suite 1, Honolulu, HI 96817, Phone No. 591-8116 ext.219, Fax No. 593-8101.

After notice to proceed has been issued, any and all submittals, reports, requests, claims and notices under the contract that pertain to this project shall be processed through the Construction Manager (CM) with copies submitted to DHHL and the above Consultant as applicable. The CM contact person and number will be identified at the pre-construction meeting.

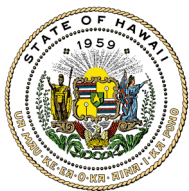
#### **SC-05: SURVEYING SERVICES**

Refer to DHHL Interim General Condition 5.9.3.

The Contractor shall submit the name of the surveyor, who shall be licensed in the State of Hawaii and will be doing this work for it throughout the course of the project, to DHHL prior to beginning work at the site.

Upon request, DHHL shall provide subdivision plat maps to the contractor to enable its surveyor to stake out the various work.

The contractor shall not disturb any existing property pins and is solely responsible for their replacement. The contractor shall accurately replace any existing property pins



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disturbed or removed by it and shall certify that they have been re-installed in the correct locations at no cost to DHHL.

The Contractor and Contractor's Licensed Professional Land Surveyor shall provide a letter jointly certifying that all work, including the grading, were built to the lines and grades shown on the record drawings.

Except where specifically provided for in the proposal, all work necessary for, or related to surveying services shall be considered incidental to the various contract items.

#### **SC-06: ALLOWANCES**

The proposal may contain payment items designated as allowances. Funds listed in allowance items are to be spent at the direction of DHHL. The allowance is an estimate only and is subject to increase or decrease depending on the actual cost of the item. The funds are for the direct costs of an item and all pricing, submittal and review, overhead, installation, profit, insurance, surety, processing of the issuance of checks for payment to other parties, and all other costs will be included. No payment will be made for incidental costs.

Allowances specifically set aside for construction work and materials will be negotiated when the scope of work is determined. Any unspent allowance costs will be deducted from the contract by change order prior to final payment.

#### **SC-07: PERMITS AND FEES**

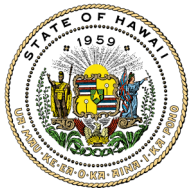
Contractor shall apply and pay for all permits, inspection and other fees. The Contractor shall obtain separate work permits, including but not limited to building and grading permits, and make separate payment of fees,

All work necessary to comply with this item will not be paid for separately but shall be considered incidental to the various contract items. No separate payment will be made.

#### **SC-08: COORDINATION WITH OTHER PARTIES**

The Contractor shall coordinate all the necessary work for temporary utility services, permanent service and appurtenances with the appropriate agencies, including but not limited to the Department of Water Supply (DWS), Hawaii Electric Light Company (HELCO), and Hawaii County Department of Public Works (DPW).

The Contractor shall request, coordinate and schedule all inspections during construction,



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including but not limited to preliminary, pre-final, and final inspections, by all necessary government agencies having jurisdiction or vested interests over or in any and all elements of the project.

All work necessary to comply with this item shall be considered incidental to the various contract items. No separate payment will be made.

#### **SC-09: CONTRACTOR'S LICENSING**

It is each Contractor's sole responsibility to review the requirements of this project and determine the appropriate contractor's licenses that are required to complete the project. If the Contractor does not hold all of the licenses required to perform a particular item of work on this project with its own workers, the bidder must list subcontractors that hold the appropriate licenses in its proposal.

Proposals from Contractors that fail to comply with these requirements shall be rejected per DHHL Interim General Condition 3.2.

#### **SC-10: WATER CHARGES AND REQUIREMENTS**

The Contractor shall be solely responsible for obtaining water to meet any requirements of the contract. Unless otherwise indicated or provided for, any work, costs, charges and fees necessary to obtain water for this contract shall not be paid for separately but shall be considered incidental to the various contract items; no separate or additional payment will be made therefore.

#### **SC-11: SOIL AND DUST CONTROL**

To control the dust during construction, the Contractor shall have an adequate supply of water for dust control and if necessary, moisture conditioning of fill material at all times. The Contractor shall institute an erosion control program and dust control program to minimize soil erosion and wind erosion and airborne fugitive dust nuisance, respectively for the entire duration of this project.

#### **SC-12: COMPLIANCE WITH COPELAND "ANTI-KICKBACK" ACT**

The Contractor shall comply with the requirements of 29 CFR Part 3, which are hereby incorporated by reference in this contract.

#### **SC-13: ENERGY EFFICIENCY**



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The Contractor shall comply with all standards and policies relating to energy efficiency which are contained in the energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L 94-163) for the State of Hawaii.

**SC-14: REVISIONS TO DHHL INTERIM GENERAL CONDITIONS (DATED AUGUST 16, 2005)**

Throughout the DHHL Interim General Conditions, replace the address: “1099 Alakea Street, Suite 2000, Honolulu, Hawaii 96813” with “Hale Kalanianaʻole, 91-5420 Kapolei Parkway, Kapolei, Hawaii, 96707.”

In addition, the following changes to the DHHL Interim General Conditions shall be in effect:

**ARTICLE 2: PROPOSAL REQUIREMENTS AND CONDITIONS**

In section 2.1.1.2, delete the second sentence, “*The words, ‘INTENTION TO BID’ must be clearly written or typed on the face of the envelope containing the written notice of intention to bid.*”

Replace section 2.1.1.7 on page 11 in its entirety with the following:

2.1.1.7 The Chairman may, in accordance with Section 103D-310 Hawaii Revised Statutes, require the prospective Bidder to submit answers to questions contained in the STANDARD QUALIFICATION QUESTIONNAIRE FOR PROSPECTIVE BIDDERS ON PUBLIC WORKS CONTRACTS, on the form provided by the Department, properly executed and notarized, setting forth a complete statement of the experience of such prospective Bidder and its organization in performing similar work and a statement of the equipment proposed to be used, together with adequate proof of the availability of such equipment, no later than 2:00 p.m. on the 10th calendar day prior to the day designated for opening bids. If the 10th calendar day prior to the day designated for opening bids is a Saturday, Sunday, or legal State holiday, then the questionnaire must be received by the Department no later than 2:00 p.m. on the last working day immediately prior to said Saturday, Sunday, or legal State holiday. The questionnaire will be time stamped when received by said office. The time designated by the time stamping device in said office shall be official. If the questionnaire is hand carried, then the bearer is responsible to ensure that the notice is time stamped by said office. E-mail and facsimile (FAX) transmissions are not acceptable in whole or in part, under any circumstances. If the information in the questionnaire proves satisfactory, the



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Bidder's proposal will be received. All information contained in the answers to the questionnaire shall be kept confidential. The questionnaire will be returned to the Bidder after it has served its purpose.

In section 2.6.1, delete the third sentence, "*The face of the envelope containing the request must be clearly marked 'SUBSTITUTION REQUEST'*".

Revise section 2.10 as follows:

**DELIVERY OF PROPOSALS.** The entire proposal shall be placed together with the bid security, in a sealed envelope ~~no smaller than 9-1/2" x 12" so marked as to indicate the identity of the project, the project number, the date of bid opening and the name and address of the Bidder and then delivered as indicated in the Notice to Contractors.~~ Bids which do not comply with this requirement may not be considered. Proposals will be received up to the time fixed in the public notice for opening of bids and must be in the hands of the official by the time indicated. ~~The words "SEALED BID" must be clearly written or typed on the face of the sealed envelope containing the proposal and bid security.~~ The time designated by the time stamping device in DHHL shall be official.

Replace section 2.14, titled "PROTESTS," on page 18 in its entirety with the following:

### 2.14 PROTESTS

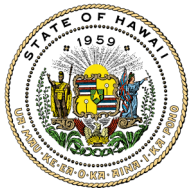
- 2.14.1 Protests shall be governed by Section 103D-701, Hawaii Revised Statutes, and amended hereafter, and its implementing rules set forth in Title 3, Chapter 126, Subchapter 1, of the Hawaii Administrative Rules, and as amended hereafter.
- 2.14.2 The Chairman is the Department's chief procurement officer to whom protests shall be addressed unless specified otherwise in the solicitation.

### ARTICLE 3: AWARD AND EXECUTION OF CONTRACT

After Section 3.4.4 on page 21, insert the following new sections:

- 3.4.5 Prior to award of the contract, the Department shall verify compliance with Sections 103D-310 and 103D-328 HRS via Hawaii Compliance Express (HCE) for the general contractor and all subcontractors. Failure by the general contractor and/or any subcontractor to rectify a non-compliant status within





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ten business days of notification will be considered sufficient for the disqualification of the bidder and rejection of its proposal.

### ARTICLE 4: SCOPE OF WORK

#### 4.5 - ALLOWANCES FOR OVERHEAD AND PROFIT (3-125-13-HAR)

In both Sections 4.5.1.1 and Section 4.5.1.2, replace: “fifteen percent (15%)” with “twenty percent (20%)”]

In Section 4.5.1.3, replace: “seven percent (7%)” with “ten percent (10 %)”

In Section 4.5.1.4, replace: “Managing” with “engineering”

### ARTICLE 5: CONTROL OF WORK

#### 5.2 – AUTHORITY OF THE PROJECT MANAGER

Under Section 5.2, Authority of the Project Manager, add the following sentence at the end of the paragraph:

“The Administrator of the Land Development Division of the Department, or his designee, shall also have authority to act on behalf of the Department on all matters regarding the contract that are not reserved for the Chairman.”

#### 5.5 - SHOP DRAWINGS AND OTHER SUBMITTALS

In the second and fourth sentences of Section 5.5.1(c), replace “licensed professional Manager” with “licensed professional Engineer.”

#### 5.6 – COORDINATION OF CONTRACT DOCUMENTS

After Section 5.6.4.1, insert the following new section:

5.6.4.2: In the event of a conflict between Form AG-008 (4/15/09) (the “General Conditions”) and the DHHL Interim General Conditions (August 16, 2005), the requirements of the “DHHL Interim General Conditions (August 16, 2005)” will apply to the extent provided by and as allowed under law.

#### 5.9.3 – MANAGERING WORK

- Replace the word: “Managing” in this section title with “Engineering.”





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- In the first, second, and fourth sentences of this section, replace the words “Managing” with “engineering.”
- In Section 5.9.3.4 – Replace the phrase "Civil Manager" with "Civil Engineer."

### 5.12 – VALUE MANAGERING INCENTIVE

- Replace the word: “Managing” in this section title with “Engineering.”
- In Sections 5.12.1 and 5.12.2, replace the word “Managing” with “Engineering.”
- In Section 5.12.4, replace the word "Manager" in this section title with "Engineer" and replace the phrase "professional architect or Manager" with "professional architect or engineer."

### 5.13 – SUBCONTRACTS

In Section 5.13.6 SUBCONTRACTING, add the following at the end: "For the purposes of this section, the Contractor's work is defined as: direct cost labor for contractor's forces; direct cost materials installed by the contractor's direct cost labor force; direct cost equipment, either owned or leased, used by the contractor's direct cost labor force; and field overhead cost to include: field supervision, field office trailer (if any), field office equipment and supplies, etc."

## ARTICLE 7: PROSECUTION AND PROGRESS

Modify the following subsection on page 45 under:

### 7.2 - COMMENCEMENT REQUIREMENTS

After Section 7.2.1 on page 45, add the following new section:

7.2.1.1 Identification of the surveyor who shall be licensed in the State of Hawaii and will work for it throughout the course of the project per DHHL Interim General Condition 5.9.3.4.

### 7.3 - INSURANCE REQUIREMENTS

Delete the limits of liability insurance specified in items 7.3.7.2. and insert the following section:



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“General Liability and Automobile Insurance. CONTRACTOR shall maintain, at its own expense, the minimum insurance coverage specified below throughout the term of this Contract.

- a. General Liability insurance providing coverage of no less than ONE MILLION DOLLARS (\$1,000,000.00) per occurrence and TWO MILLION DOLLARS (\$2,000,000.00) in the aggregate.
- b. Automobile insurance providing coverage of no less than ONE MILLION DOLLARS (\$1,000,000.00) per accident.”

#### 7.4 – PERMITS AND LICENSES

Edit the first sentence in section 7.4.1 as follows: The Department or its representatives may process Federal (e.g. Corps of ~~Managers~~ Engineers), State and county permit applications.

#### ARTICLE 8: MEASUREMENT AND PAYMENT

Modify the following subsections:

##### 8.1 - MEASUREMENT OF QUANTITIES

Under Section 8.1.2 on page 74, delete the following phrase: "except where slope exceeds ten percent (10%)."

##### 8.4 - PROGRESS AND/OR PARTIAL PAYMENTS

After Section 8.4.5 on page 79, insert the following new section:

- 8.4.6 Final Payment Requirements (§3-122-112, HAR). Contractor will submit the following with its invoice for final payment on the contract:
- (a) An original tax clearance certificate, not over two months old.
  - (b) An original “Certification of Compliance for Final Payment” (SPO Form-22).

##### 8.6 - RETAINAGE

In Section 8.6.1. delete the second and third sentences and replace with the following new sentences:



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“After fifty percent (50%) of the work is completed and progress is satisfactory, no additional sum will be withheld. If progress is not satisfactory, the Department may continue to withhold retainage sums not exceeding five percent (5%) of the amount due the Contractor.”

After Section 8.6.1, add the following new sections:

8.6.1.1. Contractor may withhold from amounts due its subcontractors, only the same percentage of retainage as that of the Contractor, and only if its subcontractors have provided valid performance and payments bonds or other bond or collateral acceptable to the Contractor.

8.6.1.2. Contractor or Subcontractor may negotiate with, and retain from its respective subcontractors, a different retainage percentage which cannot exceed ten percent (10%).

Insert at the beginning of Section 8.6.3 on page 80: “Subject to approval by the Chairman, and at the Chairman’s sole discretion.”

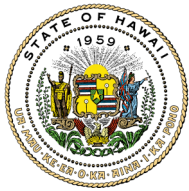
### SC-15: FINAL INSPECTION

Throughout the construction period, the work may be subject to periodic inspection by the Department of Hawaiian Home Lands (Department), designated Construction Inspector, the County of Hawaii Department of Water Supply, Hawaii County Department of Public Works, and other applicable government agencies. Once work has been satisfactorily completed, the County, accompanied by the Department and Construction Inspector, will make the final inspection of the work to determine whether all work has been done in complete compliance with the requirements of the plans and these specifications.

The Contractor shall therefore schedule the final inspection with the Department of Water Supply and Department of Public Works of the County of Hawaii and notify the Department’s Project Manager one week prior to said inspection.

Neither the scheduling nor the conduct of the aforementioned final inspection shall be deemed a waiver of the Department’s right to subsequently require Contractor to complete all unfinished or defective work to the satisfaction of the Department.

### SC-16: COMPLIANCE WITH HAWAII REVISED STATUTES (HRS) CHAPTER 103B AS AMENDED BY ACT 192, SLH 2011 - EMPLOYMENT OF STATE RESIDENTS ON CONSTRUCTION PROCUREMENT CONTRACTS



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The CONTRACTOR shall comply with the requirements of Hawaii Revised Statutes (HRS) Chapter 103B as amended by Act 192, SLH 2011, Employment of State Residents on Construction Procurement Contracts, as follows:

1. Definitions for terms used in HRS Chapter 103B as amended by Act 192, SLH 2011:
  - a. “Contract” means contracts for construction under chapter 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. “General Contractor” means any person having a construction contract with a governmental body.
  - e. “Procurement Officer” has the same meaning as in section 103D-104, HRS.
  - f. “Resident” means a person who is physically present in the State of Hawaii at the time the person claims to have established the person’s domicile in the State of Hawaii and shows the person’s intent is to make Hawaii the person’s primary residence.
  - g. “Shortage trade” means a construction trade in which there is a shortage of Hawaii residents qualified to work in the trade as determined by the Department of Labor and Industrial Relations.
2. HRS Chapter 103B as amended by Act 192, SLH 2011 – Employment of State Residents Requirements:
  - a. A contractor awarded a contract shall ensure that Hawaii residents comprise not less than eighty per cent of the workforce employed to perform the contract work on the project. The 80% 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 award of a contract, an Offeror/Bidder may withdraw an offer/bid without



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penalty if the Offeror/Bidder finds that it is unable to comply with HRS Chapter 103B as amended by Act 192, SLH 2011.

- c. Prior to starting any construction work, the Contractor shall submit the subcontract dollar amount for each of its Subcontractors.
- d. The requirements of this section shall apply to any subcontract of \$50,000 or more in connection with the Contractor; that is, such Subcontractors must also ensure that Hawaii residents comprise not less than 80% of the Subcontractor's workforce used to perform the subcontract.
- e. The Contractor and any Subcontractor whose subcontract is \$50,000 or more shall comply with the requirements of HRS Chapter 103B as amended by Act 192, SLH 2011.
  - 1) Certification of compliance shall be made in writing under oath by an officer of the General Contractor and applicable Subcontractors and submitted with the final payment.
  - 2) The certification of compliance shall be made in writing under oath by an officer of the company by completing a "Certification of Compliance for Employment of State Residents" form and executing the Certificate before a licensed notary public.
  - 3) In addition to the certification of compliance 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 numbers of hours worked on the project by all employees of the Contractor and Subcontractor who performed work on the project to validate compliance with HRS Chapter 103B as amended by Act 192, SLH 2011. 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-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 year period, whichever occurs later. Furthermore, it shall be the Contractor's responsibility to enforce compliance with this provision by any Subcontractor.



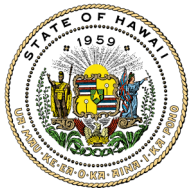
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- f. A General Contractor or applicable Subcontractor who fails to comply with this section shall be subject to any of the following sanctions:
- 1) With respect to the General Contractor, withholding of payment on the contract until the Contractor or its Subcontractor complies with HRS Chapter 103B as amended by Act 192, SLH 2011.
  - 2) Proceedings for debarment or suspension of the Contractor or Subcontractor under Hawaii Revised Statutes §103D-702.
  3. Conflict with Federal Law: This section shall not apply if the application of this chapter is in conflict with any federal law, or if the application of this chapter will disqualify any state or county agency from receiving federal funds or aid.

#### SC-17: **APPRENTICESHIP AGREEMENT PREFERENCE – CONTRACTOR'S RESPONSIBILITY**

1. For the duration of the contract awarded utilizing the Hawai'i Apprenticeship Preference, the CONTRACTOR shall certify each month that work is being conducted on the project, that it continues to be a participant in the relevant apprenticeship program for each trade it employs.
2. Monthly certification shall be made on *MONTHLY REPORT OF CONTRACTOR'S PARTICIPATION IN APPROVED APPRENTICESHIP PROGRAM UNDER ACT 17 (Monthly Certification Form 2)* prepared and made available by the DLIR. *Monthly Certification Form 2* shall be a signed original by the respective apprenticeship program sponsor's authorized official, and submitted by the Contractor with its monthly payment requests. *Monthly Certification Form 2* is available on the DLIR website at: <http://hawaii.gov/labor/wdd>
3. Should the Contractor fail or refuse to submit its monthly certification forms, or at any time during the construction of the project, cease to be a party to a registered apprenticeship agreement for each apprenticeable trade the Contractor employs, the Contractor will be subject to the following sanctions:
  - a. Withholding of the requested payment until the required form(s) are submitted;
  - b. Temporary or permanent cessation of work on the project, without recourse to breach of contract claims by the Contractor; provided the DHHL shall be entitled to restitution for nonperformance or liquidated damages claims; or



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- c. Proceed to debar pursuant to HRS §103D-702.
4. If events such as “acts of God,” acts of a public enemy, acts of the State or any other governmental body in its sovereign or contractual capacity, fires, floods, epidemics, freight embargoes, unusually severe weather, or strikes or other labor disputes prevent the Contractor from submitting the certification forms, the Contractor shall not be penalized as provided herein, provided the Contractor completely and expeditiously complies with the certification process when the event is over.

**SC-18 GEOTECHNICAL ENGINEERING**

Subsurface soil investigations have been made at specific selected locations within the project. A copy of the complete soils report is included with the bid documents. The soils report is titled “Subsurface Investigation Report, Makuu 844’ 1.0 M.G. Reservoir, Makuu Offsite Water System, Phase 2, Pahoa, Hawaii, Hawaii, dated November 2, 2004. All subsurface data provided for the project are for general information only and shall not be deemed to represent the precise nature of the subsurface condition.

The services of a geotechnical engineering firm will be retained by the DHHL. A representative of the geotechnical engineer shall be present at the site to observe site grading, road construction, trenching and backfilling work, and other work, and to take field density tests. Also, the geotechnical engineer will perform laboratory testing of Contractor-submitted soils to determine their acceptability for use as base course, subbase and fill materials. The geotechnical engineer shall also perform compaction tests for embankments, subbase, base course and trench and structural backfill. The Geotechnical Engineer’s authority shall be as described in DHHL Interim General Condition 5.4.

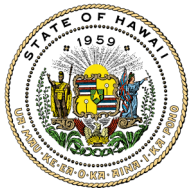
The Contractor shall request compaction tests a minimum of 48-hours in advance. Sufficient time shall be allotted to perform field and laboratory tests prior to the placement of material. Resultant delays shall be governed by Section 7.21 of the DHHL Interim General Conditions.

The Contractor shall be held responsible for the following geotechnical testing costs:

1. All compaction tests performed in the same area where a test has previously been performed.
2. Delay(s) to the Geotechnical Engineer caused by missing or delaying a scheduled soils test.

The Contractor shall compensate DHHL for all costs associated with any or all of the above situations.





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The Geotechnical Engineer will keep a record of the associated cost impacts. These cost impacts will be deducted from the contract price by change order(s).

The density test results will be transmitted to the Contractor and to the Project Manager. Where low density test results are noted, the area shall be reworked by the Contractor and retested by the geotechnical engineer. No additional material shall be placed until the required compaction is attained.

If the field observations and test results, in the opinion of the geotechnical engineer, indicate that the earthwork, road construction, trenching and backfilling work, and other work are not in general conformance to the intent of the plans and geotechnical engineering report (if available), the discrepancy will be reported to the Contractor and the Project Manager for corrective action. The Contractor shall remove and replace the material at the Contractor's own expense and no additional compensation shall be made to the Contractor by the Department.

**SC-19 ARCHEOLOGICAL SITES**

An archeological assessment of the project areas was completed and no archeological sites were found within the project limits. The Contractor should be aware that archeological sites may be encountered during the construction of this project. If the Contractor encounters a potential archeological site during construction, he shall immediately cease all operations in the area and contact the Project Manager.

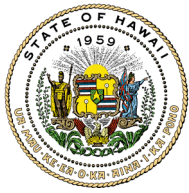
**SC-20 INADVERTENT DISCOVERY OF HUMAN BURIALS**

Although not expected, in the event human burials are inadvertently discovered, the Contractor shall immediately stop work in the vicinity of the burial and contact the following parties and agencies immediately: State Historic Preservation Division, the Project Manager, the Consultant, the Office of Hawaiian Affairs, Hui Malama I Na Kupuna 'O Hawaii Nei, and the Hawaii Island Burial Council.

The burial and the area in its vicinity shall be protected until **DHHL** has been advised of the proper Native American Graves Protection and Repatriation Act of 1990 (NAGPRA) process for burial treatment to undertake and until the selected NAGPRA process has been concluded.

**SC-21 DELETED ITEMS**

Depending on the site and soil conditions and other factors, the Project Manager may decide to delete a portion or all of a Proposal item in its entirety. A change order shall be issued to delete the work and the contract amount shall be reduced by subtracting the corresponding proposal item amount.



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No claim shall be filed for anticipated profit or loss resulting from the deletion of all or part of the proposal item except as indicated in DHHL Interim General Condition 4.6. Refer also to DHHL Interim General Condition 2.2.

**SC-22 AS-BUILT DRAWINGS/RECORD DRAWINGS**

**As-Built Drawings:**

The Contractor shall provide as-Built drawings. The As-Built drawings shall show the actual construction so that any future renovations or tie-ins can be anticipated accurately.

The Contractor shall record all deviations from the drawings that were authorized by the Project Manager onto the copy of the field plans. The changes shall be recorded immediately after they have been constructed in place to assure they are recorded before they are forgotten.

The Contractor shall record the changes onto the field office plans using a red pencil. The Contractor shall stamp, sign and date each sheet of the field office plans. The stamp shall contain the words "As-Built Drawings" and include a statement signed by the Contractor certifying that the drawings on the sheet accurately and completely reflect and show the actual as-built construction. The stamp format and wording shall be submitted to the Project Manager for prior approval.

The Contractor shall submit the marked up field office plans for the project, stamped, signed and dated, to the Project Manager after the improvements for each respective portion of the project have been completed.

**Record Drawings:**

All changes shown on the As-Built drawings will be recorded on the original tracings, which will then become the record drawings. The Consultant(s) shall be responsible for preparing the record drawings. The Consultant(s) shall stamp, sign and date the title sheet tracing of the record drawings. The stamp shall contain the words "Record Drawings."

The Contractor shall review the changes made and certify the record drawings by signing and dating the record drawing title sheet tracing where indicated. Any deviations from the plans determined by the Project Manager to be missing from, incomplete, or inaccurately drawn on the As-Built drawings shall be corrected on the record drawing tracings by the State and the Contractor shall be charged for the services. The State will keep a record of the associated cost impacts and



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deduct them from the contract price.

Payment for all work required to comply with this item will not be paid for separately but shall be considered incidental to the various contract items.

#### **SC-23 FINAL SETTLEMENT OF CONTRACT**

The following shall be made additional conditions of compliance with **DHHL** Interim General Condition 7.33:

1. The contractor shall coordinate with all government agencies and utility companies on behalf of **DHHL** to obtain letter(s) from each respective government agency or utility company indicating that acceptance of the contract work for the project has been granted to **DHHL**. Copies of the letters shall be submitted to **DHHL**.
2. Signature, execution, and return of the "Record Drawing" Title tracings.

Payment for all work required to comply with the above items will not be paid for separately but shall be considered incidental to the various contract items.

#### **SC-24 GENERAL CONDITIONS**

In the event of conflicts and/or discrepancies, the **DHHL** Interim General Conditions shall govern over Form AG2-GC (12/04)

#### **SC-25 CAMPAIGN CONTRIBUTIONS BY STATE AND COUNTY CONTRACTORS**

Contractors are hereby notified of the applicability of Section 11-205.5, HRS, which states that campaign contributions are prohibited from specified State of County government contractors during the term of the contract if the contractors are paid with funds appropriated by a legislative body.

#### **SC-26 CONSTRUCTION MANAGER AND ENGINEER INSPECTION**

The **DHHL** will engage the Engineer and a Construction Manager (CM) for limited construction or full observation to supplement the inspections performed by the State and respective Counties.

CM's and Engineer's authority shall be as described in **DHHL** Interim General Condition 5.4.

#### **SC-27 PROJECT SIGN**

The Contractor shall furnish, erect, maintain and remove project signs at a location to be designated by the Project Manager or as shown on the plans.



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The project signboards shall be 3/4" thick, "AC" exterior grade fir plywood, 4 feet in height and 7 feet long for the DHHL sign; and 4 feet in height and 8 feet long for the USDA sign. All lettering type and size and color selection shall be as specified by DHHL.

All paints used shall be exterior enamel paints manufactured either by Ameritone-Devoe, Boysen, DuPont, Dutch Boy, Fuller-O'Brien, Glidden, Pittsburg, Sherwin-Williams, Sinclair, or approved equal, and made primarily for the purpose for which they are used, and shall be prepared and applied strictly in accordance with the manufacturer's directions. Signs shall be painted with one prime coat and two finish coats.

For bidding purposes only, samples of the project sign are included in the plans. Final layouts shall be based upon sign plans submitted by the Contractor and approved by the DHHL.

The Project Signs shall be erected at locations directed by the DHHL and shall be adequately braced in such a way that does not interfere with the viewing of the signs. The signs shall be maintained in good condition, throughout the progress of the work until final completion of the respective portions of the project. The project signs shall be erected within five (5) days after approval of the sign layout. After the final approval of the construction work by the DHHL, the project signs shall be removed from the site and shall become the property of the Contractor.

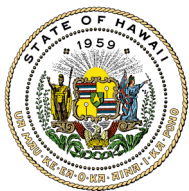
The project signs shall not be removed without prior approval from DHHL. Payment will be made for the number of signs indicated in the proposal, painted, with lettering specified by DHHL, in place complete and payment for sign removal shall be incidental to these items.

#### **SC-28 CONTRACTOR'S BONDS**

The Contractor shall obtain bonds for the work pertaining to the project in accordance with DHHL Interim General Conditions, Section 3.7. Payment for all work required to comply with this item will not be paid for separately but shall be considered incidental to the various contract items.

#### **SC-29 NPDES PERMITS**

DHHL will submit an NPDES Permit application to the Department of Health for the project. Authorization to proceed with clearing, grubbing or grading work will not be granted until the permit is approved.



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The contractor agrees to schedule and sequence his operations to take all of the foregoing into account and that DHHL Interim General Condition 7.21.5 shall govern in the event of any delay(s) in DHHL obtaining approvals for these NPDES permits.

Contractor shall provide the Consultant with the additional pertinent information required for preparation of the site-specific Best Management Practices (BMPs) Plan, and the Solid Waste Disclosure Form for Construction Sites for this project.

**SC-30 STANDARD SPECIFICATIONS**

The "STANDARD SPECIFICATIONS FOR ROAD, BRIDGE AND PUBLIC WORKS CONSTRUCTION, 1986" of the Departments of Public Works, County of Kauai, County of Maui, County of Hawaii and City and County of Honolulu, of the State of Hawaii, is by reference incorporated herein and made a part of these specifications. The term "Standard Specifications" used hereinafter refers to this "STANDARD SPECIFICATIONS FOR ROAD, BRIDGE AND PUBLIC WORKS CONSTRUCTION, 1994." Copies of the Standard Specifications are on file and may be inspected at the Division of Purchasing during regular business hours of the City and County of Honolulu.

**SC-31 STANDARD DETAILS**

The "STANDARD DETAILS FOR PUBLIC WORKS CONSTRUCTION, September 1984", as amended of the Departments of Public Works, County of Kauai, County of Maui, County of Hawaii and City and County of Honolulu, of the State of Hawaii, is by reference incorporated herein and made a part of these specifications. The term "Standard Details" used hereinafter refers to this "STANDARD DETAILS FOR PUBLIC WORKS CONSTRUCTION, September 1984." Copies of the Standard Details are on file and may be inspected at the Division of Purchasing during regular business hours of the City and County of Honolulu.

The work embraced herein shall be done in accordance with the Standard Details insofar as they may apply.

**SC-32 WATER SYSTEM STANDARDS**

The "WATER SYSTEM STANDARDS" of the Department of Water Supply, County of Hawaii dated 2002 and all subsequent amendments and additions, are by reference incorporated herein and made a part of these contract documents. The work embraced herein shall be performed by the Contractor in accordance with the "WATER SYSTEM STANDARDS", and the various sections of the Technical Specifications and Special Provisions for the Water System Standards.

The term "Water System Standards" used in these contract documents refers to the



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"WATER SYSTEM STANDARDS" of the Department of Water Supply, County of Hawaii dated 2002 and all subsequent amendments and additions.

The Contractor shall notify the Department of Water Supply and the Engineer in writing one week prior to commencing work on the water system.

**SC-33 FIELD OFFICE**

The Contractor shall provide a field office with desk and chair for DHHL and Consultant use. The office may be part of the Contractor's field office.

The field office shall be trailer mounted with air conditioning and proper lighting and shall be ready for use prior to commencement of work. After approval by the DHHL, the field office shall be removed from the site and shall become the property of the Contractor.

Payment will be made for one (1) field office in place complete. Payment for field office removal shall be incidental to said item.

**SC-34 TESTING AND CHLORINATION AT MAKUU FARM AND AGRICULTURAL LOTS SUBDIVISION, PHASE I WATERLINES, HIGH SERVICE SYSTEM ONLY**

This project is specifically funded to provide a potable source of water for DHHL's Makuu Farm and Agricultural Lots Subdivision. Waterlines in the subdivision were tested and the Department of Water Supply (DWS) found that all work was satisfactorily completed pursuant to the project plans and the Department of Water Supply's specifications, reference DWS letter dated June 17, 1997. However, prior to acceptance and before the water system is dedicated, a re-inspection and re-pressure testing of pipelines and chlorination shall be conducted. This is to be paid for under proposal Item 17: "Testing and Chlorination at Makuu Farm and Agricultural Lots Subdivision, Phase I Waterlines." Work will also include High Service waterlines in Keaau-Pahoa Road (within the State Right-of-Way) as shown in the Plans.

All work shall conform to the Department of Water Supply's "Water System Standards" dated 2002, as amended. If pressure test fails, the corrective work to waterlines and appurtenances will be paid for from the allowance Item 18: "Corrective work on waterlines and appurtenances at Makuu Farm and Agricultural Lots Subdivision, Phase I and additional work as determined by the Engineer (A contingency item)." Expenditures shall be authorized by DHHL by issuing field orders as needed. The contractor can mark up the amount following the guidelines of the State of Hawaii General Conditions.



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As-built plans for Makuu Farm and Agricultural Lots Subdivision, Phase I, are available for inspection during normal business hours at the office of the Consultant of DHHL. It is not necessary to test and chlorinate the low service waterlines, which are currently pressurized and in use.