



CONTRACT CERTIFICATION

I, **DANILO F. AGSALOG**, Director of Finance of the County of Maui, State of Hawaii, do certify that there is available appropriation or balance of an appropriation over and above all outstanding contracts, sufficient to cover the amount required by the foregoing contract, i.e.

<u>Appropriation Index</u>		<u>Amount Required</u>
156450	FFY14 KULAMALI AH PROJ (7008)	\$ 2,263,415.00
101013	AFFORDABLE HOUSING-KULAMALU (7008)	\$ 10,400,320.00
	Total	\$ 12,663,735.00

CONTRACT NO. C5839 CENTRAL CONSTRUCTION INCORPORATED

Dated this 2 day of SEPTEMBER 2015
Time of Performance: 365 calendar days

DANILO F. AGSALOG
Director of Finance

Kulamalu affordable housing project for DHHC, IFB NO. 14-15/P-84
ORDINANCE NO. 4231

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CONTRACT NO. C5839

CONTRACT FOR CONSTRUCTION

Department: Housing and Human Concerns
Project Title: Kulamalu Affordable Housing Project
IFB No.: 14-15/P-84
Certification Requested from County: \$12,663,735.00
Contingency (included in above): \$603,035.00 (5%)

This CONTRACT is made and entered into by and between the COUNTY OF MAUI, a political subdivision of the State of Hawaii, whose business address is 200 South High Street, Wailuku, Maui, Hawaii 96793, hereinafter referred to as the "County", and CENTRAL CONSTRUCTION INCORPORATED, a Hawaii corporation, whose mailing address is 353 Hanamau Street, Suite 2, Kahului, Maui, Hawaii 96732, hereinafter referred to as the "Contractor." County and Contractor shall hereinafter be referred to collectively as the "Parties".

Source of Funds. The source(s) and availability of the funds for this Contract shall be as set forth in the Contract Certification signed by the Director of Finance of the County of Maui on or before the effective date of this Contract. Contract Certification shall be on file in the office of the Director of Finance of the County of Maui.

R E C I T A L S:

WHEREAS, the County has issued an invitation for competitive sealed bidding ("IFB"), and has received and reviewed bids submitted in response to the IFB.

WHEREAS, the Contractor has been identified as the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the IFB.

CONTRACT NO. C5839

WHEREAS, the County desires to retain and engage the Contractor to provide the services described in this Contract and its attachments, and the Contractor desires to render such services for, and on behalf of, the County; and

WHEREAS, the Contract is for construction as defined in Section 103D-104, Hawaii Revised Statutes ("HRS"); and

WHEREAS, pursuant to Section 46-1.5(4), HRS, the County is authorized to enter into this Contract.

NOW, THEREFORE, in consideration of the following mutual promises and agreements set forth, the Parties agree as follows:

1. Scope of Work. The Contractor shall supply, furnish, and pay for all labor, transportation, materials, tools, and equipment necessary to construct in place complete all work as shown and called for in the Contract Documents (as defined in Paragraph 1.04 of the General Conditions). Contract Documents are maintained and on file in the office of the Director of Finance of the County of Maui, and all of the documents are hereby incorporated by reference as if fully repeated herein and made a part of this Contract.

2. Time of Performance. The Contractor shall commence performance under this Contract upon issuance of the Notice to Proceed, and shall complete performance within 365 calendar days therefrom, unless sooner terminated or extended in compliance with the terms of this Contract.

3. Compensation and Payment Schedule. In full compensation for Contractor's performance under this Contract, County agrees to pay Contractor, subject to appropriation, a total amount not to exceed the amount of \$12,663,735.00, certification requested as set forth above, inclusive of all taxes, which amount includes the contingency in the amount of \$603,035.00, also as set forth above. Payments shall be made in accordance with the terms and schedule(s) set forth in the Contract Documents. Monthly progress payments shall be made to

CONTRACT NO. C5839

Contractor in arrears and subject to compensation retention, all in accordance with Section 7.3 of the General Conditions. Payments shall be subject to the prior receipt of the Contractor's monthly progress payment request by the Officer in Charge, no later than on the fifth (5th) day of each month for work performed during the previous calendar month. Requests for monthly progress payment shall set forth and include all the information, documentation, and certification required under Section 7.3 of the General Conditions, and any other information reasonably requested from time to time by the Officer in Charge. Final Payment shall be made in accordance with Section 7.7 of the General Conditions.

4. General Terms and Conditions. The Contractor shall comply with the General Terms and Conditions of this Contract (also referred to as the "General Conditions"), which are attached hereto and is hereby made a part of this Contract.

5. Bonds. The Contractor is required to deliver to the County a performance bond in a form provided by the County, executed by a surety company authorized to do business in this County or otherwise secured in a manner satisfactory to the County, in an amount equal to one hundred per cent of the price specified in the Contract. The Contractor is required to deliver to the County a payment bond in a form provided by the County, executed by a surety company authorized to do business in this County or otherwise secured in a manner satisfactory to the County, for the protection of all persons all persons supplying labor and material to the Contractor for the performance of the work provided for in the Contract. The payment bond shall be in an amount equal to one hundred percent of the price specified in the Contract.

6. Standards of Conduct Declaration. The Standards of Conduct Declaration of the Contractor is attached hereto and is made a part of this Contract.

7. Other Terms and Conditions. Any Special Conditions are attached hereto and made a part of this Contract. In the event of a conflict between the General Terms and Conditions and the Special Conditions, the Special Conditions shall control.

CONTRACT NO. C5839

8. Liquidated Damages. The Contractor recognizes and agrees that time is of the essence under this Contract and, due to the speculative character and difficulty of ascertaining damages to the County of Maui resulting from any delay beyond the date set herein for completion, the Parties hereto, for the purpose of putting the question of damages beyond controversy and dispute, hereby agree that the Contractor shall pay to the County the sum of \$500.00 per day as set forth in the Contract Documents as liquidated damages, and not as a penalty, for each and every work day that work or any portion of work contemplated under this Contract remains uncompleted beyond the time set herein for completion; provided, however, that the remedy of liquidated damages shall be in addition to any other rights and remedies otherwise available to the County of Maui and not expressly waived herein.

The Contractor agrees that the aforesaid sum is a reasonable estimate of, and reasonably proportionate to, the damages which will probably be sustained by the County as a result of any delay.

9. Conflict. In the event of any conflict between or among this Contract and other documents that are attached hereto or incorporated herein by reference or both, the terms of this Contract shall control first, the County's General Conditions second, other documents prepared by the County third, and documents prepared or submitted, or both, by the Contractor last.

10. Notices. Any written notice required to be given by a party to this Contract shall be (a) delivered personally, or (b) sent by United States first class mail, postage prepaid. Notice required to be given to the County shall be sent to:

CONTRACT NO. C5839

Procurement Officer
Department of Finance
County of Maui
200 South High Street
Wailuku, Maui, Hawaii 96793

Notice to the Contractor shall be sent to the Contractor's address as indicated in this Contract. A notice shall be deemed to have been received three (3) days after mailing or at the time of actual receipt, whichever is earlier. The Contractor is responsible for notifying the County in writing of any change of address.

11. Officer-in-Charge. The Director of Housing and Human Concerns, or an authorized representative, shall be the Officer-in-Charge for all services provided herein, and shall have the right to oversee the successful completion of contract requirements, including monitoring, coordinating and assessing Contractor's performance and approving completed work/services with verification of same for Contractor's invoices or requests for payment. The Officer-in-Charge also serves as the point of contact for the Contractor from award to contract completion.

IN WITNESS WHEREOF, the Parties execute this Contract by their signatures, on the dates below, to be effective as of the date of last signature hereto.

[EXECUTION PAGES TO FOLLOW]

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CONTRACT NO. C5839

CONTRACTOR EXECUTION PAGE

I hereby represent and warrant that I have the legal right and authority to execute this Contract on behalf of the Contractor.

CONTRACTOR:

CENTRAL CONSTRUCTION, INCORPORATED

By Stanley K Matsumoto
(Signature)

Stanley K Matsumoto
(Print Name)

Its President
(Title)

Date August 10, 2015

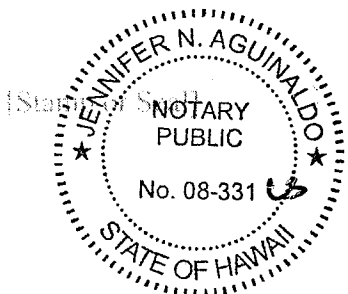
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CONTRACT NO. C5839

STATE OF Hawaii)
COUNTY OF Maui) SS.

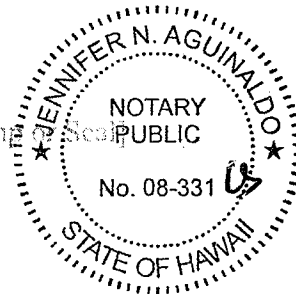
On this 10th day of August, 2015, before me personally appeared Stanley K Matsumoto, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



Jennifer N. Aguinaldo
Notary Public, State of Hawaii
Print Name: JENNIFER N. AGUINALDO
My Commission Expires: 08/10/2016
My commission expires: _____

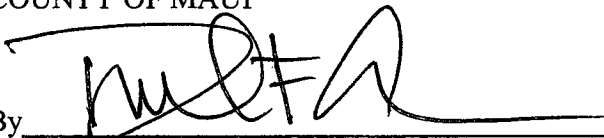
NOTARY PUBLIC CERTIFICATION			
Doc. Date:	<u>AUG 10 2015</u>	# Pages:	<u>9</u>
Notary Name:	<u>JENNIFER N. AGUINALDO</u>	Judicial Circuit:	<u>2ND</u>
Doc. Description:	<u>Contract no. C5839</u> <u>contract for construction</u>		
Notary Signature:	<u>Jennifer N. Aguinaldo</u>		
Date:	<u>AUG 10 2015</u>		



CONTRACT NO. C5839


COUNTY EXECUTION PAGE

COUNTY OF MAUI


By 
DANILO F. AGSALOG
Its Director of Finance

Date SEP - 9 2015

APPROVAL RECOMMENDED:


JANICE Y. SUSHIDO
Deputy Director, Department of
Date 08/20/2015

APPROVED AS TO FORM
AND LEGALITY:


Deputy Corporation Counsel
SAALL\CONTRACTS\central construction c5839\primary & bonds.wpd
Date 8/25/15

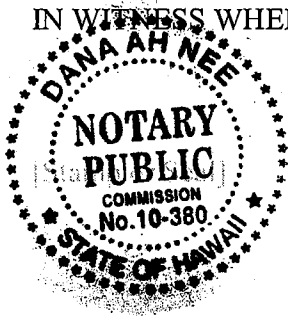
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CONTRACT NO. C5839

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this 9th day of September, 2015, before me appeared DANILO F. AGSALOG, to me personally known, who being by me duly sworn, did say that he is the Director of Finance of the County of Maui, a political subdivision of the State of Hawaii, and that the seal affixed to the foregoing instrument is the lawful seal of the said County of Maui, and that the said instrument was signed and sealed on behalf of said County of Maui pursuant to Section 9-18 of the Charter of the County of Maui; and the said DANILO F. AGSALOG acknowledged the said instrument to be the free act and deed of said County of Maui.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



Dana Ah Nee

Notary Public, State of Hawaii

Print Name: DANA AH NEE

My commission expires: NOV 14 2018

NOTARY PUBLIC CERTIFICATION	
Doc. Date: <u>SEP - 9 2015</u>	# Pages: <u>111</u>
Notary Name: <u>DANA AH NEE</u>	Judicial Circuit: <u>2nd</u>
Doc. Description: <u>Contract No. C5839 - Contract for Construction - Kulamalu Affordable Housing Project, IFB No. 14-15/P-84</u>	
Notary Signature: <u>Dana Ah Nee</u>	
Date: <u>SEP - 9 2015</u>	

SPECIAL CONDITIONS

1. The following are attached hereto and made a part of this Contract:
 - A. Form 1 – Prime Contractor Certification of Subcontractor Eligibility
 - B. Form 1-A – Attachment to Contractor Certification of Subcontractor Eligibility
 - C. Form 2 – U.S. Department of Housing and Urban Development, Federal Housing Administration, Certification of Bidder Regarding Equal Employment Opportunity
 - D. Form 3 – Certification of Bidder or Subcontractor Regarding Section 3 and Segregated Facilities
 - E. Form 3-A – Section 3 Affirmative Action Plan
 - F. Form 4 – Certification of Nonsegregated Facilities
 - G. Form 5 – Certification Regarding Lobbying
 - H. Form HUD -4010, relating to Federal Labor Standards Provisions
 - I. General Decision HI150001 05/19/2015 HI1
2. Contractor shall indemnify, defend and hold harmless, Hawaii Housing Finance and Development Corporation, the County and their respective officers, employees and agents from any liability, actions, claims, suits, damages or costs arising out of or resulting from the acts or omissions of Contractor, and its officers, employees and agents in connection with the activities that may be funded in whole or in part from HOME Program funds provided to the County under the FY 2014 HOME Investment Partnerships Program State Recipient Agreement dated May 7, 2015.
3. Contractor shall comply with all applicable federal requirements of the HOME program.

CONTRACT NO. C5839

PERFORMANCE BOND WITH SURETY

BOND NO. 106316411

KNOW TO ALL BY THESE PRESENTS:

That CENTRAL CONSTRUCTION INCORPORATED, a Hawaii corporation, whose mailing address is 353 Hanamau Street, Suite 2, Kahului, Maui, Hawaii 96732, as Contractor, hereinafter called "Principal," and Travelers Casualty and Surety Company of America
1501 Fourth Avenue, Suite 1000, Seattle, WA 98101, as surety, hereinafter called "Surety," a corporation authorized to transact business as a surety in the State of Hawaii, are held and firmly bound unto the COUNTY OF MAUI, a political subdivision of the State of Hawaii, Wailuku, Maui, Hawaii, its successors and assigns, hereinafter called "Obligee," in the amount of \$12,663,735.00 as performance bond, (being \$12,663,735.00 in the amount of one hundred percent of the contract price as required by section 103D-324, Hawaii Revised Statutes), lawful money of the United States, for the payment of which to the said Obligee, well and truly made, Principal and Surety bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the above-bound Principal has signed a Contract with Obligee dated August 10, 2015, for the following project: Kulamalu Affordable Housing Project, IFB No. 14-15/P-84, 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.

CONTRACT NO. C5839

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 Oblige 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 Oblige in satisfaction of the surety's performance obligation on this bond.

Signed this 10th day of August, 2015.

[EXECUTION PAGES TO FOLLOW]

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CONTRACT NO. C5839

PRINCIPAL:

CENTRAL CONSTRUCTION, INCORPORATED

By Stanley K Matsumoto
(Signature)

Stanley K Matsumoto
(Print Name)

Its President
(Title)

Date August 10, 2015

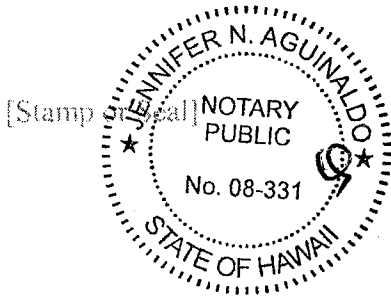
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CONTRACT NO. C5839

STATE OF Hawaii)
County of Maui) SS.

On this 10th day of August, 2015, before me personally appeared Stanley K. Matsumoto, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



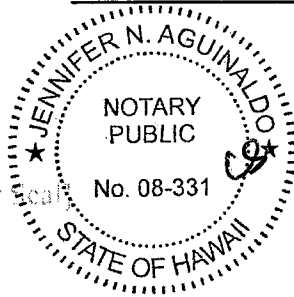
Jennifer N. Aguinaldo
Notary Public, State of Hawaii
Print Name: JENNIFER N. AGUINALDO
My Commission Expires: 08/10/2016

NOTARY PUBLIC CERTIFICATION

Doc. Date: AUG 10 2015 # Pages: 6

Notary Name: JENNIFER N. AGUINALDO Judicial Circuit: 2ND

Doc. Description: Contract no C5839
Performance Bond with Surety



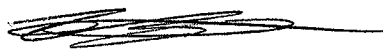
Notary Signature: Jennifer N. Aguinaldo

Date: AUG 10 2015

CONTRACT NO. C5839

SURETY:

Travelers Casualty and Surety Company of America

By  _____
(Signature)

Mitchell Noguchi

(Print Name)

Its Attorney-In-Fact

(Title)

Date August 10, 2015

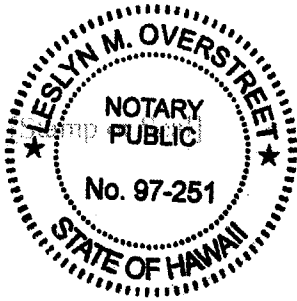
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CONTRACT NO. C5839

STATE OF HAWAII)
CITY & COUNTY OF HONOLULU) SS.

On this 10th day of August, 2015, before me personally appeared Mitchell Noguchi, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



Leslyn M. Overstreet

Notary Public, State of Hawaii, First Circuit

Print Name: Leslyn M. Overstreet

My commission expires: 5/20/2017

NOTARY PUBLIC CERTIFICATION

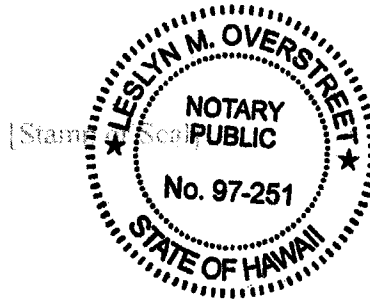
Doc. Date: August 10, 2015 # Pages: 6

Notary Name: Leslyn M. Overstreet Judicial Circuit: First

Doc. Description: Performance Bond with Surety
Contract No. C5839 IFB No. 14-15/P-84

Notary Signature: *Leslyn M. Overstreet*

Date: August 10, 2015



CONTRACT NO. C5839

PAYMENT BOND WITH SURETY

BOND NO. 106316411

KNOW TO ALL BY THESE PRESENTS:

That CENTRAL CONSTRUCTION INCORPORATED, a Hawaii corporation, whose mailing address is 353 Hanamau Street, Suite 2, Kahului, Maui, Hawaii 96732, as Contractor, hereinafter called "Principal," and Travelers Casualty and Surety Company of America
1501 Fourth Avenue, Suite 1000, Seattle, WA 98101,
as surety, hereinafter called "Surety," a corporation authorized to transact business as a surety in the State of Hawaii, are held and firmly bound unto the COUNTY OF MAUI, a political subdivision of the State of Hawaii, Wailuku, Hawaii, its successors and assigns, as Obligee, hereinafter called "Obligee," in the amount of \$12,663,735.00 as payment bond (being \$12,663,735.00 in the amount of one hundred percent of the contract price as required by section 103D-324, Hawaii Revised Statutes), lawful money of the United States of America, for the payment of which to the said Obligee, well and truly to be made, Principal and Surety bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the above-bound Principal has signed a Contract with the Obligee dated August 10, 2015 for the following project: Kulamalu Affordable Housing Project, IFB No. 14-15/P-84, 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.

CONTRACT NO. C5839

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 materials 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 Obligee's priority on this bond. If the full amount of the liability of the Surety on this bond is insufficient to pay the full amount of the claims, then after paying the full amount due the Obligee, the remainder shall be distributed pro rata among the claimants.

Signed this 10th day of August, 20 15.

EXECUTION PAGES TO FOLLOW

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CONTRACT NO. C5839

PRINCIPAL:

CENTRAL CONSTRUCTION, INCORPORATED

By Stanley K Matsumoto
(Signature)

Stanley K Matsumoto
(Print Name)

Its President
(Title)

Date August 10, 2015

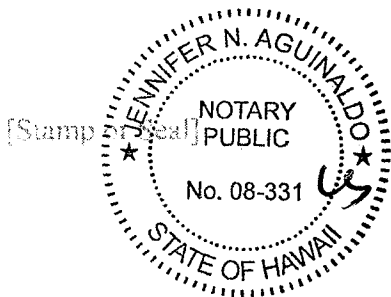
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CONTRACT NO. C5839

STATE OF Hawaii)
County of Maui) SS.

On this 10th day of August, 2015, before me personally appeared Stanley K. Matsumoto to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

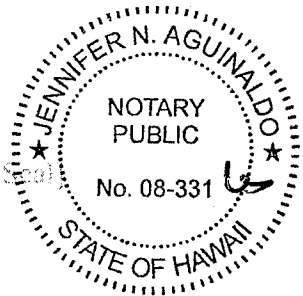
IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



Jennifer N. Aguinaldo
Notary Public, State of Hawaii
Print Name: JENNIFER N. AGUINALDO
My Commission Expires: 08/10/2016
My commission expires: _____

NOTARY PUBLIC CERTIFICATION

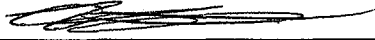
Doc. Date:	<u>AUG 10 2015</u>	# Pages:	<u>6</u>
Notary Name:	<u>JENNIFER N. AGUINALDO</u>	Judicial Circuit:	<u>2ND</u>
Doc. Description:	<u>Contract no C5839</u> <u>Payment Bond with surety</u>		
Notary Signature:	<u>Jennifer N. Aguinaldo</u>		
Date:	<u>AUG 10 2015</u>		



CONTRACT NO. C5839

SURETY:

Travelers Casualty and Surety Company of America

By 
(Signature)

Mitchell Noguchi
(Print Name)

Its Attorney-In-Fact
(Title)

Date August 10, 2015

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POWER OF ATTORNEY

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
St. Paul Fire and Marine Insurance Company
St. Paul Guardian Insurance Company

St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company

Attorney-In Fact No. 229722

Certificate No. 006427532

KNOW ALL MEN BY THESE PRESENTS: That Farmington Casualty Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company are corporations duly organized under the laws of the State of Connecticut, that Fidelity and Guaranty Insurance Company is a corporation duly organized under the laws of the State of Iowa, and that Fidelity and Guaranty Insurance Underwriters, Inc., is a corporation duly organized under the laws of the State of Wisconsin (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint

Hideo Noguchi, Leslyn M. Overstreet, Pamela J. Kirk, Richard Nakayama, Mitchell Noguchi, and Steven Shinohara

of the City of Honolulu, State of Hawaii, their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 29th day of July, 2015.

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
St. Paul Fire and Marine Insurance Company
St. Paul Guardian Insurance Company

St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company



State of Connecticut
City of Hartford ss.

By: [Signature]
Robert L. Raney, Senior Vice President

On this the 29th day of July, 2015, before me personally appeared Robert L. Raney, who acknowledged himself to be the Senior Vice President of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

In Witness Whereof, I hereunto set my hand and official seal.
My Commission expires the 30th day of June, 2016.



[Signature]
Marie C. Tetreault, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, Kevin E. Hughes, the undersigned, Assistant Secretary, of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 10th day of August, 20 15.

WARNING: THIS POWER OF ATTORNEY IS INVALID WITHOUT THE RED BORDER

Kevin E. Hughes
Kevin E. Hughes, Assistant Secretary



To verify the authenticity of this Power of Attorney, call 1-800-421-3880 or contact us at www.travelersbond.com. Please refer to the Attorney-In-Fact number, the above-named individuals and the details of the bond to which the power is attached.

CONTRACT NO. C5839

**CONTRACTOR'S
STANDARDS OF CONDUCT DECLARATION**

For the purposes of this declaration:

"Substantial interest" means an interest in a business or other undertaking which is sufficient in fact to control, whether the interest is greater or less than fifty per cent (50%).

"Employee" means any nominated, appointed, or elected officer or employee of the County, including members of boards, commissions, and committees, and employees under contract to the County, but excluding members of the County Council ("County Council Members").

On behalf of CENTRAL CONSTRUCTION, INCORPORATED, Contractor, the undersigned does declare as follows:

1. Contractor is is not a County Council Member or an Employee or a business in which a County Council Member or an Employee has a substantial interest.
2. Contractor has not been represented or assisted personally in the matter by an individual who has been an Employee of the County department awarding this Contract within the preceding year and who participated while so employed in the matter with which the Contract is directly concerned.
3. Contractor has not been assisted or represented by a County Council Member or Employee for a fee or other compensation to obtain this Contract and will not be assisted or represented by a County Council Member or Employee for a fee or other compensation in the performance of this Contract, if the County Council Member or Employee has been involved in the development or award of the Contract.
4. Contractor has not been represented on matters related to this Contract, for a fee or other consideration by an individual who, within the past twelve (12) months, has been an Employee, or in the case of the County Council, a County Council Member, and participated while an Employee or a County Council Member on matters related to this Contract.

*Reminder to agency: If the "is" block is checked and if the Contract involves goods or services of a value in excess of \$500, the Contract may not be awarded unless the Contract is made after competitive bidding.

CONTRACT NO. C5839

Contractor understands that the Contract to which this document is attached is voidable on behalf of the County if this Contract was entered into in violation of any provision of Article 10 of the Revised Charter of the County of Maui ("Code of Ethics"), including the provisions which are the source of the declarations above. Additionally, any fee, compensation, gift, or profit received by any person as a result of a violation of the Code of Ethics may be recovered by the County.

Contractor:

CENTRAL CONSTRUCTION, INCORPORATED

By Stanley K Matsumoto
(Signature)

Stanley K Matsumoto
(Print Name)

Its President
(Title)

Date August 10, 2015

PRIME CONTRACTOR CERTIFICATION OF SUBCONTRACTOR ELIGIBILITY

Name of Project: Kulamalu Affordable Housing Project

Location: Pukalani, Maui, Hawaii

Contract No.: _____

This is to certify that the subcontractors/lower-tier subcontractors listed in the attached *Exhibit 1* are all eligible for award of a Federally-assisted or insured subcontract for the above captioned project and I have verified their eligibility by reviewing the current *System for Award Management* at <https://www.sam.gov/portal/SAM/#1#1#1>.

This certification covers only those subcontractors/lower-tier subcontractors listed in the attached *Exhibit 1*. I understand that a separate certification is required for any subcontractor/lower-tier subcontractor awarded contracts subsequent to the initial certification. I further understand that should any subcontractor/lower-tier subcontractor be found ineligible after award of a contract, HUD will require the contract be terminated and will refer the matter to the Department of Labor for appropriate action.

Central Construction, Inc. August 10, 2015
Name of Prime Contractor (Please Type) Date

Stanley K. Matsumoto President
Signature of Authorized Officer/Owner/Partner: Title:

Concur-HOME Coordinator Date
County of Maui

ATTACHMENT TO PRIME CONTRACTOR CERTIFICATION OF
SUBCONTRACTOR ELIGIBILITY

EXHIBIT 1

(List company name, address, and name of owner in full)

COMPANY NAME & ADDRESS	OWNER
1. ACOUSTICAL DRYWALL SYSTEMS 385 EAST KUIAHA RD HAIKU, HI 96708	JEFFREY MULLER
2. CLEAN SEWER LINES HAWAII INCORPORATED 207C NORTH CANE ST. WAHIAWA, HI 96786	KELLY ZEEK
3. JADE PAINTING, INC. 94-1410 MOANIANI ST. WAIPAHAU, HI 96797	JOHN WYMAN
4. JOHN A WEBER COMPANY LLC 3124 A WOODLAWN DR. HONOLULU, HI 96822	JOHN WEBER
5. KIHEI GARDENS & LANDSCAPING CO. LLP WAIALE RD. WAILUKU, HI 96793	JOHN OKAMURA
6. LITE ELECTRIC INC. 275 MANEA PLACE WAILUKU, HI 96793	RICHARD OLSON
7. MAEDA SHEETMETAL & AIR CONDITIONING INC 261 LALO, N-2 KAHULUI, HI 96732	NEIL MAEDA
8. MAUI CARPET & DRAPERY INC. 25 S. KAHULUI BEACH RD KAHULUI, HI 96732	WARREN ORIKASA
9. MAUI KUPONO BUILDERS LLC 309 KAMALEI CIRCLE KAHULUI, HI 96732	DUANE TING
10. MR T'S PEST CONTROL INC 4520 KUKUI ST. #203 KAPAA, HI 96746	ROBERT W TODD

FORM 1-A

ATTACHMENT TO PRIME CONTRACTOR CERTIFICATION OF
SUBCONTRACTOR ELIGIBILITY

EXHIBIT 1

(List company name, address, and name of owner in full)

	COMPANY NAME & ADDRESS	OWNER
11.	NORTH SHORE FIRE PROTECTION 160 KEONEKAI RD. #16-203 KIHEI, HI 96753	BRIAN MUNIER
12.	PACIFIC ROOFING & REPAIR LLC 430 HOOKAHI ST. SUITE #26 WAILUKU, HI 96793	IKAIKA LEE
13.	REEF DEVELOPMENT OF HAWAII INC. 99-930 IWAENA ST. #107B AIEA, HI 96701	SAMUEL ACCURRI
14.	STRUCTURAL CONCRETE BONDING & RESTORATION 250 ALAMAHA ST STE 2NB KAHULUI, HI 96732	BRAD WELLS
15.	TILE CRAFT INC. 3660 WAIALAE AVE STE 207 HONOLULU, HI 96816	RUSS KATTENGAL
16.	ZOE BUILDERS INC. 781 KOLU ST #A1 WAILUKU, HI 96793	JESSE PONTANILLA
17.		
18.		
19.		
-10- 20.		

FORM 1-A

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION
CERTIFICATION OF BIDDER REGARDING
EQUAL EMPLOYMENT OPPORTUNITY

INSTRUCTIONS

This certification is required pursuant to Executive Order 11246 (30 F.R. 12319-25). The implementing rules and regulations provide that any bidder or prospective contractor, or any of their proposed subcontractors, shall state as an initial part of the bid or negotiations of the contract whether it has participated in any contract or subcontract subject to the equal opportunity clause; and, if so, whether it has filed all compliance reports due under applicable instructions.

Where the certification indicates that the bidder has not filed a compliance report due under applicable instructions, such bidder shall be required to submit a compliance report within seven calendar days after bid opening. No contract shall be awarded unless such report is submitted.

CERTIFICATION BY BIDDER

Bidder's Name: Central Construction, Inc.
Address and Zip Code: 353 Hanamau St. Suite 2
Kahului, HI 96732

1. Bidder has participated in a previous contract or subcontract subject to the Equal opportunity Clause.
Yes No
2. Compliance reports were required to be filed in connection with such contract or subcontract.
Yes No
3. Bidder has filed all compliance reports due under applicable instructions, including SF-100.
Yes No None Required
4. If answer to item 3 is "No", please explain in detail on reverse side of this certification.
5. Bidder certifies that he will, if required, furnish a written Affirmative Action Program; and that he will, if required, obtain and submit written Affirmative Action Programs from subcontractors within a specified time after award of contract.

CERTIFICATION - The information above is true and complete to the best of my knowledge and belief.

Stanley K Matsumoto August 10, 2015
Signature Date

Stanley K Matsumoto President
Print Name Title

CERTIFICATION OF BIDDER OR SUBCONTRACTOR REGARDING
SECTION 3 AND SEGREGATED FACILITIES

Central Construction, Inc.
Name of Bidder or Subcontractor

Kulamalu Affordable Housing Project
Project Name & Number

The undersigned hereby certifies that:

- (a) Section 3 provisions are included in the Contract (attached).
- (b) A written Section 3 plan was prepared and submitted as part of the bid proceedings (*if bid equals or exceeds \$100,000*) (attached).
- (c) No segregated facilities will be maintained as required by *Title VI* of the Civil Rights Act of 1964 (attached).

The undersigned further agrees that at the completion of the project, the General Contractor and every subcontractor will submit a Section 3 Project Completion Report detailing project completion accomplishments and good faith efforts toward meeting Section 3 hiring and contracting goals. Reports are due within 30 days after the completion of the project.

Stanley K. Matsumoto
Signature

August 10, 2015
Date

Stanley K Matsumoto
Name of Signer (Please Type or Print)

President
Title

Office of Asst. Secy., Equal Opportunity, HUD

§ 135.40

perform successfully under the terms and conditions of the proposed contract. (The ability to perform successfully under the terms and conditions of the proposed contract is required of all contractors and subcontractors subject to the procurement standards of 24 CFR 85.36 (see 24 CFR 85.36(b)(8)).) This regulation requires consideration of, among other factors, the potential contractor's record in complying with public policy requirements. Section 3 compliance is a matter properly considered as part of this determination.

~~§ 135.38~~ Section 3 clause

All section 3 covered contracts shall include the following clause (referred to as the section 3 clause):

A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause,

upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

G. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

§ 135.40 Providing other economic opportunities.

(a) *General.* In accordance with the findings of the Congress, as stated in section 3, that other economic opportunities offer an effective means of empowering low-income persons, a recipient is encouraged to undertake efforts to provide to low-income persons economic opportunities other than training, employment, and contract awards, in connection with section 3 covered assistance.

(b) *Other training and employment related opportunities.* Other economic opportunities to train and employ section 3 residents include, but need not be limited to, use of "upward mobility", "bridge" and trainee positions to fill vacancies; hiring section 3 residents in

SECTION 3 AFFIRMATIVE ACTION PLAN

Kulamalu Affordable Housing Project
Project Name


Pukalani, Maui, Hawaii
Location

Central Construction, Inc. agrees to implement the following specific affirmative
(Name of Contractor/Subcontractor)
action steps directed at increasing the utilization of lower income residents and businesses within the County of Maui.

- A. To ascertain from the HUD Honolulu Office the exact boundaries of the Section 3 covered project area and where advantageous, seek the assistance of local officials of the Department in preparing and implementing the affirmative action plan.
- B. To attempt to recruit from within the city the necessary number of lower income residents through: local advertising media, signs placed at the proposed site for the project, and community organizations and public or private institutions operating within or serving the project area.
- C. To maintain a list of all lower income area residents who have applied either on their own or on referral from any source, and to employ such persons, if otherwise eligible and if a vacancy exists.
- D. To insure that contracts which are typically let on a negotiated rather than a bid basis in areas other than Section 3 covered project areas, are also let on a negotiated basis, whenever feasible, when let in a Section 3 covered project area.
- E. To formally contact unions, subcontractors, and trade associations to secure their cooperation for this program.
- F. To insure that all appropriate project area business concerns are notified of pending contractual opportunities.
- G. To maintain records, including copies of correspondence, memoranda, etc., which document that all of the above affirmative action steps have been taken.
- H. To appoint or recruit an executive official of the company or agency as Equal Opportunity Officer to coordinate the implementation of this Section 3 plan.

As officers and representatives of Central Construction, Inc.,
(Name of Contractor/Subcontractor)

we the undersigned have read and fully agree to this Affirmative Action Plan, and become a party to the full implementation of this program.

	President	August 10, 2015
Signature	Title	Date

Signature	Title	Date

CERTIFICATION OF NONSEGREGATED FACILITIES

(Applicable to federally assisted construction contracts and related subcontracts exceeding \$10,000 which are not exempt from the Equal Opportunity clause.)

The federally assisted construction contractor certifies that he does not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The federally assisted construction contractor certifies further that he will not maintain or provide for his employees any segregated facilities at any of his establishments, and that he will not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The federally assisted construction contractor agrees that a breach of this certification is a violation of the Equal Opportunity clause in this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms and other storage or dressing areas, parking lots, drinking foundations, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directives or are in fact segregated on the basis of race, creed, color, or national origin, because of habit, local custom, or otherwise. The federally assisted construction contractor agrees that (except where he has obtained identical certifications from proposed subcontractors for specific time periods) he will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause, and he will retain such certifications in his files.

Stanley K Matsumoto
Signature

August 10, 2015
Date

Stanley K Matsumoto
Name of Signer (Please Type)

President
Title

NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that;

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontractors, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

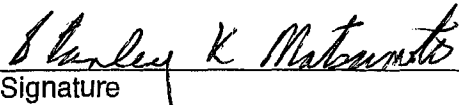
This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to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

Central Construction, Inc.

Name of Contractor/Subcontractor/Subgrantee/Borrower

Kulamalu Affordable Housing Project

Project Name or Contract Number



Signature

August 10, 2015

Date

Stanley K Matsumoto

Name of Signer (Please Type)

President

Title

Federal Labor Standards Provisions

U.S. Department of Housing and Urban Development Office of Labor Relations

Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

A. 1. (i) Minimum Wages. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein. Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

(ii) (a) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination

(b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

(c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140)

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part

of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program. Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. Withholding. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract in the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract. HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

3. (i) Payrolls and basic records. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been

communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5 (a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(ii)(b).

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and Trainees.

(i) **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who

is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by

the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved

(iii) **Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract

6. Subcontracts. The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 in this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

7. Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

10. (i) Certification of Eligibility. By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be

awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1010, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part "Whoever, for the purpose of ... influencing in any way the action of such Administration... makes, utters or publishes any statement knowing the same to be false... shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

11. Complaints, Proceedings, or Testimony by Employees. No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

B. Contract Work Hours and Safety Standards Act. The provisions of this paragraph B are applicable where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

(3) **Withholding for unpaid wages and liquidated damages.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

(4) **Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

C. Health and Safety. The provisions of this paragraph C are applicable where the amount of the prime contract exceeds \$100,000.

(1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation

(2) The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act. (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.

(3) The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

General Decision Number: HI150001 05/29/2015 HI1

Superseded General Decision Number: HI20140001

State: Hawaii

Construction Types: Building, Heavy (Heavy and Dredging), Highway and Residential

Counties: Hawaii Statewide.

BUILDING CONSTRUCTION PROJECTS; RESIDENTIAL CONSTRUCTION PROJECTS (consisting of single family homes and apartments up to and including 4 stories); HEAVY AND HIGHWAY CONSTRUCTION PROJECTS AND DREDGING

Note: Executive Order (EO) 13658 establishes an hourly minimum wage of \$10.10 for 2015 that applies to all contracts subject to the Davis-Bacon Act for which the solicitation is issued on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.10 (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
0	01/02/2015
1	01/16/2015
2	01/23/2015
3	02/06/2015
4	02/27/2015
5	03/06/2015
6	03/13/2015
7	03/27/2015
8	05/29/2015

ASBE0132-001 08/29/2010

	Rates	Fringes
Asbestos Workers/Insulator		
Includes application of all insulating materials, protective coverings, coatings and finishes to all types of mechanical systems. Also the application of firestopping material for wall openings and penetrations in walls, floors, ceilings and curtain walls.....	\$ 36.65	22.24

BOIL0627-005 01/01/2013

	Rates	Fringes
BOILERMAKER.....	\$ 35.20	27.35

BRHI0001-001 09/03/2012

	Rates	Fringes
BRICKLAYER		
Bricklayers and Stonemasons.....	\$ 35.35	22.92
Pointers, Caulkers and Weatherproofers.....	\$ 35.60	22.92

BRHI0001-002 09/02/2013

	Rates	Fringes
Tile, Marble & Terrazzo Worker		
Terrazzo Base Grinders.....	\$ 35.29	23.22
Terrazzo Floor Grinders and Tenders.....	\$ 32.24	23.22
Tile, Marble and Terrazzo Workers.....	\$ 37.10	23.22

CARP0745-001 09/01/2014

	Rates	Fringes
Carpenters:		
Carpenters; Hardwood Floor Layers; Patent Scaffold Erectors (14 ft. and over); Piledrivers; Pneumatic Nailers; Wood Shinglers and Transit and/or Layout Man.....	\$ 42.25	20.71
Millwrights and Machine Erectors.....	\$ 42.50	20.71
Power Saw Operators (2 h.p. and over).....	\$ 42.40	20.71

CARP0745-002 09/01/2014

	Rates	Fringes
Drywall and Acoustical Workers and Lathers.....	\$ 42.50	20.71

ELEC1186-001 02/22/2015

	Rates	Fringes
Electricians:		
Cable Splicers.....	\$ 46.92	28.11
Electricians.....	\$ 42.65	26.81
Telecommunication worker....	\$ 23.20	17%+6.35

ELEC1186-002 02/22/2015

	Rates	Fringes
Line Construction:		
Cable Splicers.....	\$ 46.92	28.11
Groundmen/Truck Drivers.....	\$ 31.99	23.54
Heavy Equipment Operators...	\$ 38.39	25.50
Linemen.....	\$ 42.65	26.81
Telecommunication worker....	\$ 23.20	17%+\$6.35

 ELEV0126-001 01/01/2015

	Rates	Fringes
ELEVATOR MECHANIC.....	\$ 53.07	28.38

a. VACATION: Employer contributes 8% of basic hourly rate for 5 years service and 6% of basic hourly rate for 6 months to 5 years service as vacation pay credit.

b. PAID HOLIDAYS: New Year's Day, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day, the Friday after Thanksgiving Day and Christmas Day.

 ENGI0003-002 09/01/2014

	Rates	Fringes
Diver (Aqua Lung) (Scuba)		
Diver (Aqua Lung) (Scuba) (over a depth of 30 feet)...	\$ 61.50	27.06
Diver (Aqua Lung) (Scuba) (up to a depth of 30 feet)..	\$ 52.13	27.06
Stand-by Diver (Aqua Lung) (Scuba).....	\$ 42.75	27.06
Diver (Other than Aqua Lung)		
Diver (Other than Aqua Lung).....	\$ 61.50	27.06
Diver Tender (Other than Aqua Lung).....	\$ 39.72	27.06
Stand-by Diver (Other than Aqua Lung).....	\$ 42.75	27.06
Helicopter Work		
Airborne Hoist Operator for Helicopter.....	\$ 41.30	27.06
Co-Pilot of Helicopter.....	\$ 41.44	27.06
Pilot of Helicopter.....	\$ 41.61	27.06
Power equipment operator - tunnel work		
GROUP 1.....	\$ 37.74	27.06
GROUP 2.....	\$ 37.85	27.06
GROUP 3.....	\$ 38.02	27.06
GROUP 4.....	\$ 38.29	27.06
GROUP 5.....	\$ 38.60	27.06
GROUP 6.....	\$ 39.25	27.06
GROUP 7.....	\$ 39.57	27.06
GROUP 8.....	\$ 39.68	27.06
GROUP 9.....	\$ 39.79	27.06
GROUP 9A.....	\$ 40.02	27.06

GROUP 10.....	\$ 40.08	27.06
GROUP 10A.....	\$ 40.23	27.06
GROUP 11.....	\$ 40.38	27.06
GROUP 12.....	\$ 40.74	27.06
GROUP 12A.....	\$ 41.10	27.06
Power equipment operators:		
GROUP 1.....	\$ 37.44	27.06
GROUP 2.....	\$ 37.55	27.06
GROUP 3.....	\$ 37.72	27.06
GROUP 4.....	\$ 37.99	27.06
GROUP 5.....	\$ 38.30	27.06
GROUP 6.....	\$ 38.95	27.06
GROUP 7.....	\$ 39.27	27.06
GROUP 8.....	\$ 39.38	27.06
GROUP 9.....	\$ 39.49	27.06
GROUP 9A.....	\$ 39.72	27.06
GROUP 10.....	\$ 39.78	27.06
GROUP 10A.....	\$ 39.93	27.06
GROUP 11.....	\$ 40.08	27.06
GROUP 12.....	\$ 40.44	27.06
GROUP 12A.....	\$ 40.80	27.06
GROUP 13.....	\$ 37.72	27.06
GROUP 13A.....	\$ 37.99	27.06
GROUP 13B.....	\$ 38.30	27.06
GROUP 13C.....	\$ 38.95	27.06
GROUP 13D.....	\$ 39.27	27.06
GROUP 13E.....	\$ 39.38	27.06

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP 1: Fork Lift (up to and including 10 tons); Partsman (heavy duty repair shop parts room when needed).

GROUP 2: Conveyor Operator (Handling building material); Hydraulic Monitor; Mixer Box Operator (Concrete Plant).

GROUP 3: Brakeman; Deckhand; Fireman; Oiler; Oiler/Gradechecker; Signalman; Switchman; Highline Cableway Signalman; Bargeman; Bunkerman; Concrete Curing Machine (self-propelled, automatically applied unit on streets, highways, airports and canals); Leveeman; Roller (5 tons and under); Tugger Hoist.

GROUP 4: Boom Truck or dual purpose "A" Frame Truck (5 tons or less); Concrete Placing Boom (Building Construction); Dinky Operator; Elevator Operator; Hoist and/or Winch (one drum); Straddle Truck (Ross Carrier, Hyster and similar).

GROUP 5: Asphalt Plant Fireman; Compressors, Pumps, Generators and Welding Machines ("Bank" of 9 or more, individually or collectively); Concrete Pumps or Pumpcrete Guns; Lubrication and Service Engineer (Grease Rack); Screedman.

GROUP 6: Boom Truck or Dual Purpose "A"Frame Truck (over 5 tons); Combination Loader/Backhoe (up to and including 3/4 cu. yd.); Concrete Batch Plants (wet or dry); Concrete Cutter, Groover and/or Grinder (self-propelled unit on streets, highways, airports, and canals); Conveyor or Concrete Pump (Truck or Equipment Mounted); Drilling

Machinery (not to apply to waterliners, wagon drills or jack hammers); Fork Lift (over 10 tons); Loader (up to and including 3 and 1/2 cu. yds); Lull High Lift (under 40 feet); Lubrication and Service Engineer (Mobile); Maginnis Internal Full Slab Vibrator (on airports, highways, canals and warehouses); Man or Material Hoist; Mechanical Concrete Finisher (Large Clary, Johnson Bidwell, Bridge Deck and similar); Mobile Truck Crane Driver; Portable Shotblast Concrete Cleaning Machine; Portable Boring Machine (under streets, highways, etc.); Portable Crusher; Power Jumbo Operator (setting slip forms, etc., in tunnels); Rollers (over 5 tons); Self-propelled Compactor (single engine); Self-propelled Pavement Breaker; Skidsteer Loader with attachments; Slip Form Pumps (Power driven by hydraulic, electric, air, gas, etc., lifting device for concrete forms); Small Rubber Tired Tractors; Trencher (up to and including 6 feet); Underbridge Personnel Aerial Platform (50 feet of platform or less).

GROUP 7: Crusher Plant Engineer, Dozer (D-4, Case 450, John Deere 450, and similar); Dual Drum Mixer, Extend Lift; Hoist and/or Winch (2 drums); Loader (over 3 and 1/2 cu. yds. up to and including 6 yards.); Mechanical Finisher or Spreader Machine (asphalt), (Barber Greene and similar) (Screedman required); Mine or Shaft Hoist; Mobile Concrete Mixer (over 5 tons); Pipe Bending Machine (pipelines only); Pipe Cleaning Machine (tractor propelled and supported); Pipe Wrapping Machine (tractor propelled and supported); Roller Operator (Asphalt); Self-Propelled Elevating Grade Plane; Slusher Operator; Tractor (with boom) (D-6, or similar); Trencher (over 6 feet and less than 200 h.p.); Water Tanker (pulled by Euclids, T-Pulls, DW-10, 20 or 21, or similar); Winchman (Stern Winch on Dredge).

GROUP 8: Asphalt Plant Operator; Barge Mate (Seagoing); Cast-in-Place Pipe Laying Machine; Concrete Batch Plant (multiple units); Conveyor Operator (tunnel); Deckmate; Dozer (D-6 and similar); Finishing Machine Operator (airports and highways); Gradesetter; Kolman Loader (and similar); Mucking Machine (Crawler-type); Mucking Machine (Conveyor-type); No-Joint Pipe Laying Machine; Portable Crushing and Screening Plant; Power Blade Operator (under 12); Saurman Type Dragline (up to and including 5 yds.); Stationary Pipe Wrapping, Cleaning and Bending Machine; Surface Heater and Planer Operator, Tractor (D-6 and similar); Tri-Batch Paver; Tunnel Badger; Tunnel Mole and/or Boring Machine Operator Underbridge Personnel Aerial Platform (over 50 feet of platform).

GROUP 9: Combination Mixer and Compressor (gunite); Do-Mor Loader and Adams Elegrader; Dozer (D-7 or equal); Wheel and/or Ladder Trencher (over 6 feet and 200 to 749 h.p.).

GROUP 9A: Dozer (D-8 and similar); Gradesetter (when required by the Contractor to work from drawings, plans or specifications without the direct supervision of a foreman or superintendent); Push Cat; Scrapers (up to and including 20 cu. yds); Self-propelled Compactor with Dozer; Self-Propelled, Rubber-Tired Earthmoving Equipment (up to and including 20 cu. yds) (621 Band and similar); Sheep's

Foot; Tractor (D-8 and similar); Tractors with boom (larger than D-6, and similar).

GROUP 10: Chicago Boom; Cold Planers; Heavy Duty Repairman or Welder; Hoist and/or Winch (3 drums); Hydraulic Skooper (Koehring and similar); Loader (over 6 cu. yds. up to and including 12 cu. yds.); Saurman type Dragline (over 5 cu. yds.); Self-propelled, rubber-tired Earthmoving Equipment (over 20 cu. yds. up to and including 31 cu. yds.) (637D and similar); Soil Stabilizer (P & H or equal); Sub-Grader (Gurries or other automatic type); Tractors (D-9 or equivalent, all attachments); Tractor (Tandem Scraper); Watch Engineer.

GROUP 10A: Boat Operator; Cable-operated Crawler Crane (up to and including 25 tons); Cable-operated Power Shovel, Clamshell, Dragline and Backhoe (up to and including 1 cu. yd.); Dozer D9-L; Dozer (D-10, HD41 and similar) (all attachments); Gradall (up to and including 1 cu. yd.); Hydraulic Backhoe (over 3/4 cu. yds. up to and including 2 cu. yds.); Mobile Truck Crane Operator (up to and including 25 tons) (Mobile Truck Crane Driver Required); Self-propelled Boom Type Lifting Device (Center Mount) (up to and including 25 tons) (Grove, Drott, P&H, Pettibone and similar); Trencher (over 6 feet and 750 h.p. or more); Watch Engineer (steam or electric).

GROUP 11: Automatic Slip Form Paver (concrete or asphalt); Band Wagon (in conjunction with Wheel Excavator); Cable-operated Crawler Cranes (over 25 tons but less than 50 tons); Cable-operated Power Shovel, Clamshell, Dragline and Backhoe (over 1 cu. yd. up to 7 cu. yds.); Gradall (over 1 cu. yds. up to 7 cu. yds.); DW-10, 20, etc. (Tandem); Earthmoving Machines (multiple propulsion power units and 2 or more Scrapers) (up to and including 35 cu. yds., "struck" m.r.c.); Highline Cableway; Hydraulic Backhoe (over 2 cu. yds. up to and including 4 cu. yds.); Leverman; Lift Slab Machine; Loader (over 12 cu. yds); Master Boat Operator; Mobile Truck Crane Operator (over 25 tons but less than 50 tons); (Mobile Truck Crane Driver required); Pre-stress Wire Wrapping Machine; Self-propelled Boom-type Lifting Device (Center Mount) (over 25 tons m.r.c); Self-propelled Compactor (with multiple-propulsion power units); Single Engine Rubber Tired Earthmoving Machine (with Tandem Scraper); Tandem Cats; Trencher (pulling attached shield).

GROUP 12: Clamshell or Dipper Operator; Derricks; Drill Rigs; Multi-Propulsion Earthmoving Machines (2 or more Scrapers) (over 35 cu. yds "struck"m.r.c.); Operators (Derricks, Piledrivers and Cranes); Power Shovels and Draglines (7 cu. yds. m.r.c. and over); Self-propelled rubber-tired Earthmoving equipment (over 31 cu. yds.) (657B and similar); Wheel Excavator (up to and including 750 cu. yds. per hour); Wheel Excavator (over 750 cu. yds. per hour).

GROUP 12A: Dozer (D-11 or similar or larger); Hydraulic Excavators (over 4 cu. yds.); Lifting cranes (50 tons and over); Pioneering Dozer/Backhoe (initial clearing and excavation for the purpose of providing access for other

equipment where the terrain worked involves 1-to-1 slopes that are 50 feet in height or depth, the scope of this work does not include normal clearing and grubbing on usual hilly terrain nor the excavation work once the access is provided); Power Blade Operator (Cat 12 or equivalent or over); Straddle Lifts (over 50 tons); Tower Crane, Mobile; Traveling Truss Cranes; Universal, Liebherr, Linden, and similar types of Tower Cranes (in the erection, dismantling, and moving of equipment there shall be an additional Operating Engineer or Heavy Duty Repairman); Yo-Yo Cat or Dozer.

GROUP 13: Truck Driver (Utility, Flatbed, etc.)

GROUP 13A: Dump Truck, 8 cu.yds. and under (water level); Water Truck (up to and including 2,000 gallons).

GROUP 13B: Water Truck (over 2,000 gallons); Tandem Dump Truck, over 8 cu. yds. (water level).

GROUP 13C: Truck Driver (Semi-trailer. Rock Cans, Semi-Dump or Roll-Offs).

GROUP 13D: Truck Driver (Slip-In or Pup).

GROUP 13E: End Dumps, Unlicensed (Euclid, Mack, Caterpillar or similar); Tractor Trailer (Hauling Equipment); Tandem Trucks hooked up to Trailer (Hauling Equipment)

BOOMS AND/OR LEADS (HOURLY PREMIUMS):

The Operator of a crane (under 50 tons) with a boom of 80 feet or more (including jib), or of a crane (under 50 tons) with leads of 100 feet or more, shall receive a per hour premium for each hour worked on said crane (under 50 tons) in accordance with the following schedule:

Booms of 80 feet up to but not including 130 feet or Leads of 100 feet up to but not including 130 feet	0.50
Booms and/or Leads of 130 feet up to but not including 180 feet	0.75
Booms and/or Leads of 180 feet up to and including 250 feet	1.15
Booms and/or Leads over 250 feet	1.50

The Operator of a crane (50 tons and over) with a boom of 180 feet or more (including jib) shall receive a per hour premium for each hour worked on said crane (50 tons and over) in accordance with the following schedule:

Booms of 180 feet up to and including 250 feet	1.25
Booms over 250 feet	1.75

 ENGI0003-004 09/01/2014

	Rates	Fringes
Dredging: (Boat Operators)		
Boat Deckhand.....	\$ 37.72	27.06
Boat Operator.....	\$ 39.93	27.06
Master Boat Operator.....	\$ 40.08	27.06
Dredging: (Clamshell or Dipper Dredging)		
GROUP 1.....	\$ 40.44	27.06
GROUP 2.....	\$ 39.78	27.06
GROUP 3.....	\$ 39.38	27.06
GROUP 4.....	\$ 37.72	27.06
Dredging: (Derricks)		
GROUP 1.....	\$ 40.44	27.06
GROUP 2.....	\$ 39.78	27.06
GROUP 3.....	\$ 39.38	27.06
GROUP 4.....	\$ 37.72	27.06
Dredging: (Hydraulic Suction Dredges)		
GROUP 1.....	\$ 40.08	27.06
GROUP 2.....	\$ 39.93	27.06
GROUP 3.....	\$ 39.78	27.06
GROUP 4.....	\$ 39.72	27.06
GROUP 5.....	\$ 37.88	26.76
Group 5.....	\$ 39.38	27.06
GROUP 6.....	\$ 37.77	26.76
Group 6.....	\$ 39.27	27.06
GROUP 7.....	\$ 36.22	26.76
Group 7.....	\$ 37.72	27.06

CLAMSHELL OR DIPPER DREDGING CLASSIFICATIONS

- GROUP 1: Clamshell or Dipper Operator.
- GROUP 2: Mechanic or Welder; Watch Engineer.
- GROUP 3: Barge Mate; Deckmate.
- GROUP 4: Bargeman; Deckhand; Fireman; Oiler.

HYDRAULIC SUCTION DREDGING CLASSIFICATIONS

- GROUP 1: Leverman.
- GROUP 2: Watch Engineer (steam or electric).
- GROUP 3: Mechanic or Welder.
- GROUP 4: Dozer Operator.
- GROUP 5: Deckmate.
- GROUP 6: Winchman (Stern Winch on Dredge)
- GROUP 7: Deckhand (can operate anchor scow under direction of Deckmate); Fireman; Leveeman; Oiler.

DERRICK CLASSIFICATIONS

- GROUP 1: Operators (Derricks, Piledrivers and Cranes).
- GROUP 2: Saurman Type Dragline (over 5 cubic yards).
- GROUP 3: Deckmate; Saurman Type Dragline (up to and including 5 yards).
- GROUP 4: Deckhand, Fireman, Oiler.

 ENGI0003-044 09/02/2013

Rates Fringes

Power Equipment Operators
(PAVING)

(10) Cold Planer.....	\$ 38.25	26.98
(10) Loader (2 1/2 cu. yds. and under).....	\$ 37.42	26.98
(10) Soil Stabilizer.....	\$ 38.25	26.98
(11) Loader (over 2 1/2 cu. yds. to and including 5 cu. yds.).....	\$ 37.74	26.98
(3) Roller Operator (five tons and under).....	\$ 36.19	26.98
(5) Screed Person.....	\$ 37.42	26.98
(6) Combination Loader/Backhoe (up to 3/4 cu.yd.).....	\$ 35.48	26.98
(6) Concrete Saws and/or Grinder (self-propelled unit on streets, highways, airports and canals).....	\$ 37.42	26.98
(6) Roller Operator (over five tons).....	\$ 37.62	26.98
(7) Combination Loader/Backhoe (over 3/4 cu.yd.).....	\$ 36.46	26.98
(8) Asphalt Plant Operator..	\$ 37.89	26.98
Asphalt Concrete Material Transfer.....	\$ 37.42	26.98
Asphalt Raker.....	\$ 36.46	26.98
Asphalt Spreader Operator...	\$ 37.94	26.98
Grader.....	\$ 38.25	26.98
Laborer, Hand Roller.....	\$ 35.96	26.98

IRON0625-001 09/01/2013

	Rates	Fringes
Ironworkers:.....	\$ 34.75	28.41
a. Employees will be paid \$.50 per hour more while working in tunnels and coffer dams; \$1.00 per hour more when required to work under or are covered with water (submerged) and when they are required to work on the summit of Mauna Kea, Mauna Loa or Haleakala.		

LABO0368-001 09/01/2014

	Rates	Fringes
Laborers:		
Driller.....	\$ 34.30	16.71
Final Clean Up.....	\$ 24.70	12.54
Gunite/Shotcrete Operator and High Scaler.....	\$ 33.80	16.71
Laborer I.....	\$ 33.30	16.71
Laborer II.....	\$ 30.70	16.71
Mason Tender/Hod Carrier....	\$ 33.80	16.71
Powderman.....	\$ 34.30	16.71
Window Washer (bosun chair)...	\$ 32.80	16.71

LABORERS CLASSIFICATIONS

Laborer I: Air Blasting run by electric or pneumatic compressor; Asphalt Laborer, Ironer, Raker, Luteman, and Handroller, and all types of Asphalt Spreader Boxes; Asphalt Shoveler; Assembly and Installation of Multiplates, Liner Plates, Rings, Mesh, Mats; Batching Plant (portable and temporary); Boring Machine Operator (under streets and sidewalks); Buggymobile; Burning and Welding; Chainsaw, Faller, Logloader, and Bucker; Compactors (Jackson Jumping Jack and similar); Concrete Bucket Dumpman; Concrete Chipping; Concrete Chuteman/Hoseman (pouring concrete) (the handling of the chute from ready-mix trucks for such jobs as walls, slabs, decks, floors, foundations, footings, curbs, gutters, and sidewalks); Concrete Core Cutter (Walls, Floors, and Ceiling); Concrete Grinding or Sanding; Concrete: Hooking on, signaling, dumping of concrete for treme work over water on caissons, pilings, abutments, etc.; Concrete: Mixing, handling, conveying, pouring, vibrating, otherwise placing of concrete or aggregates or by any other process; Concrete: Operation of motorized wheelbarrows or buggies or machines of similar character, whether run by gas, diesel, or electric power; Concrete Placement Machine Operator: operation of Somero Hammerhead, Copperheads, or similar machines; Concrete Pump Machine (laying, coupling, uncoupling of all connections and cleaning of equipment); Concrete and/or Asphalt Saw (Walking or Handtype) (cutting walls or flatwork) (scoring old or new concrete and/or asphalt) (cutting for expansion joints) (streets and ways for laying of pipe, cable or conduit for all purposes); Concrete Shovelers/Laborers (Wet or Dry); Concrete Screeding for Rough Strike-Off: Rodding or striking-off, by hand or mechanical means prior to finishing; Concrete Vibrator Operator; Coring Holes: Walls, footings, piers or other obstructions for passage of pipes or conduits for any purpose and the pouring of concrete to secure the hole; Cribbers, Shorer, Lagging, Sheeting, and Trench Jacking and Bracing, Hand-Guided Lagging Hammer Whaling Bracing; Curbing (Concrete and Asphalt); Curing of Concrete (impervious membrane and form oiler) mortar and other materials by any mode or method; Cut Granite Curb Setter (setting, leveling and grouting of all precast concrete or stone curbs); Cutting and Burning Torch (demolition); Dri Pak-It Machine; Environmental Abatement: removal of asbestos, lead, and bio hazardous materials (EPA and/or OSHA certified); Falling, bucking, yarding, loading or burning of all trees or timber on construction site; Forklift (9 ft. and under); Gas, Pneumatic, and Electric tools; Grating and Grill work for drains or other purposes; Green Cutter of concrete or aggregate in any form, by hand, mechanical means, grindstone or air and/or water; Grout: Spreading for any purpose; Guinea Chaser (Grade Checker) for general utility trenches, sitework, and excavation; Headerboard Man (Asphalt or Concrete); Heat Welder of Plastic (Laborers' AGC certified workers) (when work involves waterproofing for waterponds, artificial lakes and reservoir) heat welding for sewer pipes and fusion of HDPE pipes; Heavy Highway Laborer (Rigging, signaling, handling, and installation of pre-cast catch basins, manholes, curbs and gutters); High Pressure Nozzleman - Hydraulic Monitor (over 100# pressure); Jackhammer Operator; Jacking of slip

forms: All semi and unskilled work connected therewithin; Laying of all multi-cell conduit or multi-purpose pipe; Magnesite and Mastic Workers (Wet or Dry) (including mixer operator); Mortar Man; Mortar Mixer (Block, Brick, Masonry, and Plastering); Nozzleman (Sandblasting and/or Water Blasting): handling, placing and operation of nozzle; Operation, Manual or Hydraulic jacking of shields and the use of such other mechanical equipment as may be necessary; Pavement Breakers; Paving, curbing and surfacing of streets, ways, courts, under and overpasses, bridges, approaches, slope walls, and all other labor connected therewith; Pilecutters; Pipe Accessment in place, bolting and lining up of sectional metal or other pipe including corrugated pipe; Pipelayer performing all services in the laying and installation of pipe from the point of receiving pipe in the ditch until completion of operation, including any and all forms of tubular material, whether pipe, HDPE, metallic or non-metallic, conduit, and any other stationary-type of tubular device used for conveying of any substance or element, whether water, sewage, solid, gas, air, or other product whatsoever and without regard to the nature of material from which tubular material is fabricated; No-joint pipe and stripping of same, Pipewrapper, Caulker, Bander, Kettlemen, and men applying asphalt, Laykold, treating Creosote and similar-type materials (6-inch) pipe and over); Piping: resurfacing and paving of all ditches in preparation for laying of all pipes; Pipe laying of lateral sewer pipe from main or side sewer to buildings or structure (except Contactor may direct work be done under proper supervision); Pipe laying, leveling and marking of the joint used for main or side sewers and storm sewers; Laying of all clay, terra cotta, ironstone, vitrified concrete, HDPE or other pipe for drainage; Placing and setting of water mains, gas mains and all pipe including removal of skids; Plaster Mortar Mixer/Pump; Pneumatic Impact Wrench; Portable Sawmill Operation: Choker setters, off bearers, and lumber handlers connected with clearing; Posthole Digger (Hand Held, Gas, Air and Electric); Powderman's Tender; Power Broom Sweepers (Small); Preparation and Compaction of roadbeds for railroad track laying, highway construction, and the preparation of trenches, footings, etc., for cross-country transmission by pipelines, electrical transmission or underground lines or cables (by mechanical means); Raising of structure by manual or hydraulic jacks or other methods and resetting of structure in new locations, including all concrete work; Ramming or compaction; Rigging in connection with Laborers' work (except demolition), Signaling (including the use of walkie talkie) Choke Setting, tag line usage; Tagging and Signaling of building materials into high rise units; Riprap, Stonepaver, and Rock Slinger (includes placement of stacked concrete, wet or dry and loading, unloading, signaling, slinging and setting of other similar materials); Rotary Scarifier (including multiple head concrete chipping Scarifier); Salamander Heater, Drying of plaster, concrete mortar or other aggregate; Scaffold Erector Leadman; Scaffolds: (Swing and hanging) including maintenance thereof; Scaler; Septic Tank/Cesspool and Drain Fields Digger and Installer; Shredder/Chipper (tree branches, brush, etc.); Stripping

and Setting Forms; Stripping of Forms: Other than panel forms which are to be re-used in their original form, and stripping of forms on all flat arch work; Tampers (Barko, Wacker, and similar type); Tank Scaler and Cleaners; Tarman; Tree Climbers and Trimmers; Trencher (includes hand-held, Davis T-66 and similar type); Trucks (flatbed up to and including 2 1/2 tons when used in connection with on-site Laborers' work; Trucks (Refuse and Garbage Disposal) (from job site to dump); Vibra-Screed (Bull Float in connection with Laborers' work); Well Points, Installation of or any other dewatering system.

Laborer II: Asphalt Plant Laborer; Boring Machine Tender; Bridge Laborer; Burning of all debris (crates, boxes, packaging waste materials); Chainman, Rodmen, and Grade Markers; Cleaning, clearing, grading and/or removal for streets, highways, roadways, aprons, runways, sidewalks, parking areas, airports, approaches, and other similar installations; Cleaning or reconditioning of streets, ways, sewers and waterlines, all maintenance work and work of an unskilled and semi-skilled nature; Concrete Bucket Tender (Groundman) hooking and unhooking of bucket; Concrete Forms; moving, cleaning, oiling and carrying to the next point of erection of all forms; Concrete Products Plant Laborers; Conveyor Tender (conveying of building materials); Crushed Stone Yards and Gravel and Sand Pit Laborers and all other similar plants; Demolition, Wrecking and Salvage Laborers: Wrecking and dismantling of buildings and all structures, with use of cutting or wrecking tools, breaking away, cleaning and removal of all fixtures, All hooking, unhooking, signaling of materials for salvage or scrap removed by crane or derrick; Digging under streets, roadways, aprons or other paved surfaces; Driller's Tender; Chuck Tender, Outside Nipper; Dry-packing of concrete (plugging and filling of she-bolt holes); Fence and/or Guardrail Erector: Dismantling and/or re-installation of all fence; Finegrader; Firewatcher; Flagman (Coning, preparing, stablishing and removing portable roadway barricade devices); Signal Men on all construction work defined herein, including Traffic Control Signal Men at construction site; General Excavation; Backfilling, Grading and all other labor connected therewith; Digging of trenches, ditches and manholes and the leveling, grading and other preparation prior to laying pipe or conduit for any purpose; Excavations and foundations for buildings, piers, foundations and holes, and all other construction. Preparation of street ways and bridges; General Laborer: Cleaning and Clearing of all debris and surplus material. Clean-up of right-of-way. Clearing and slashing of brush or trees by hand or mechanical cutting. General Clean up: sweeping, cleaning, wash-down, wiping of construction facility and equipment (other than "Light Clean up (Janitorial) Laborer. Garbage and Debris Handlers and Cleaners. Appliance Handling (job site) (after delivery unloading in storage area); Ground and Soil Treatment Work (Pest Control); Gunite/Shotcrete Operator Tender; Junk Yard Laborers (same as Salvage Yard); Laser Beam "Target Man" in connection with Laborers' work; Layout Person for Plastic (when work involves waterproofing for waterponds, artificial lakes and reservoirs); Limbers, Brush Loaders,

and Pilers; Loading, Unloading, carrying, distributing and handling of all rods and material for use in reinforcing concrete construction (except when a derrick or outrigger operated by other than hand power is used); Loading, unloading, sorting, stockpiling, handling and distribution of water mains, gas mains and all pipes; Loading and unloading of all materials, fixtures, furnishings and appliances from point of delivery to stockpile to point of installation; hooking and signaling from truck, conveyance or stockpile; Material Yard Laborers; Pipelayer Tender; Pipewrapper, Caulker, Bander, Kettlemen, and men applying asphalt, Laykold, Creosote, and similar-type materials (pipe under 6 inches); Plasterer Laborer; Preparation, construction and maintenance of roadbeds and sub-grade for all paving, including excavation, dumping, and spreading of sub-grade material; Prestressed or precast concrete slabs, walls, or sections: all loading, unloading, stockpiling, hooking on of such slabs, walls or sections; Quarry Laborers; Railroad, Streetcar, and Rail Transit Maintenance and Repair; Roustabout; Rubbish Trucks in connection with Building Construction Projects (excluding clearing, grubbing, and excavating); Salvage Yard: All work connected with cutting, cleaning, storing, stockpiling or handling of materials, all cleanup, removal of debris, burning, back-filling and landscaping of the site; Sandblasting Tender (Pot Tender): Hoses and pots or markers; Scaffolds: Erection, planking and removal of all scaffolds used for support for lathers, plasters, brick layers, masons, and other construction trades crafts; Scaffolds: (Specially designed by carpenters) laborers shall tend said carpenter on erection and dismantling thereof, preparation for foundation or mudsills, maintenance; Scraping of floors; Screeds: Handling of all screeds to be reused; handling, dismantling and conveyance of screeds; Setting, leveling and securing or bracing of metal or other road forms and expansion joints; Sheeting Piling/trench shoring (handling and placing of skip sheet or wood plank trench shoring); Ship Scalers; Shipwright Tender; Sign Erector (subdivision traffic, regulatory, and street-name signs); Sloper; Slurry Seal Crews (Mixer Operator, Applicator, Squeegee Man, Shuttle Man, Top Man); Snapping of wall ties and removal of tie rods; Soil Test operations of semi and unskilled labor such as filling sand bags; Stripper (Asphalt, Concrete or other Paved Surfaces); Tool Room Attendant (Job Site); Traffic Delineating Device Applicator; Underpinning, lagging, bracing, propping and shoring, loading, signaling, right-of-way clearance along the route of movement, The clearance of new site, excavation of foundation when moving a house or structure from old site to new site; Utilities employees; Water Man; Waterscape/Hardscape Laborers; Wire Mesh Pulling (all concrete pouring operations); Wrecking, stripping, dismantling and handling concrete forms an false work.

LAB00368-002 09/01/2014

Rates

Fringes

Landscape & Irrigation

Laborers

GROUP 1.....	\$ 23.20	10.11
GROUP 2.....	\$ 23.70	10.11
GROUP 3.....	\$ 19.70	10.11

LABORERS CLASSIFICATIONS

GROUP 1: Installation of non-potable permanent or temporary irrigation water systems performed for the purposes of Landscaping and Irrigation architectural horticultural work; the installation of drinking fountains and permanent or temporary irrigation systems using potable water for Landscaping and Irrigation architectural horticultural purposes only. This work includes (a) the installation of all heads, risers, valves, valve boxes, vacuum breakers (pressure and non-pressure), low voltage electrical lines and, provided such work involves electrical wiring that will carry 24 volts or less, the installation of sensors, master control panels, display boards, junction boxes, conductors, including all other components for controllers, (b) and metallic (copper, brass, galvanized, or similar) pipe, as well as PVC or other plastic pipe including all work incidental thereto, i.e., unloading, handling and distribution of all pipes fittings, tools, materials and equipment, (c) all soldering work in connection with the above whether done by torch, soldering iron, or other means; (d) tie-in to main lines, thrust blocks (both precast and poured in place), pipe hangers and supports incidental to installation of the entire irrigation system, (e) making of pressure tests, start-up testing, flushing, purging, water balancing, placing into operation all irrigation equipment, fixtures and appurtenances installed under this agreement, and (f) the fabrication, replacement, repair and servicing of landscaping and irrigation systems. Operation of hand-held gas, air, electric, or self-powered tools and equipment used in the performance of Landscape and Irrigation work in connection with architectural horticulture; Choke-setting, signaling, and rigging for equipment operators on job-site in the performance of such Landscaping and Irrigation work; Concrete work (wet or dry) performed in connection with such Landscaping and Irrigation work. This work shall also include the setting of rock, stone, or riprap in connection with such Landscape, Waterscape, Rockscape, and Irrigation work; Grubbing, pick and shovel excavation, and hand rolling or tamping in connection with the performance of such Landscaping and Irrigation work; Sprigging, handseeding, and planting of trees, shrubs, ground covers, and other plantings and the performance of all types of gardening and horticultural work relating to said planting; Operation of flat bed trucks (up to and including 2 1/2 tons)..:

GROUP 2. Layout of irrigation and other non-potable irrigation water systems and the layout of drinking fountains and other potable irrigation water systems in connection with such Landscaping and Irrigation work. This includes the layout of all heads, risers, valves, valve boxes, vacuum breakers, low voltage electrical lines, hydraulic and electrical controllers, and metallic (coppers, brass, galvanized, or similar) pipe, as well as

PVC or other plastic pipe. This work also includes the reading and interpretation of plans and specifications in connection with the layout of Landscaping, Rockscape, Waterscape, and Irrigation work; Operation of Hydro-Mulching machines (sprayman and driver), Drillers, Trenchers (riding type, Davis T-66, and similar) and fork lifts used in connection with the performance of such Landscaping and Irrigation work; Tree climbers and chain saw tree trimmers, Sporadic operation (when used in connection with Landscaping, Rockscape, Waterscape, and Irrigation work) of Skid-Steer Loaders (Bobcat and similar), Cranes (Bantam, Grove, and similar), Hoptos, Backhoes, Loaders, Rollers, and Dozers (Case, John Deere, and similar), Water Trucks, Trucks requiring a State of Hawaii Public Utilities Commission Type 5 and/or type 7 license, sit-down type and "gang" mowers, and other self-propelled, sit-down operated machines not listed under Landscape & Irrigation Maintenance Laborer; Chemical spraying using self-propelled power spraying equipment (200 gallon capacity or more).

GROUP 3: Maintenance of trees, shrubs, ground covers, lawns and other planted areas, including the replanting of trees, shrubs, ground covers, and other plantings that did not "take" or which are damaged; provided, however, that re-planting that requires the use of equipment, machinery, or power tools shall be paid for at the rate of pay specified under Landscape and Irrigation Laborer, Group 1; Raking, mowing, trimming, and runing, including the use of "weed eaters", hedge trimmers, vacuums, blowers, and other hand-held gas, air, electric, or self-powered tools, and the operation of lawn mowers (Note: The operation of sit-down type and "gang" mowers shall be paid for at the rate of pay specified under Landscape & Irrigation Laborer, Group 2); Guywiring, staking, propping, and supporting trees; Fertilizing, Chemical spraying using spray equipment with less than 200 gallon capacity, Maintaining irrigation and sprinkler systems, including the staking, clamping, and adjustment of risers, and the adjustment and/or replacement of sprinkler heads, (Note: the cleaning and gluing of pipe and fittings shall be paid for at the rate of pay specified under Landscape & Irrigation Laborer(Group 1); Watering by hand or sprinkler system and the performance of other types of gardening, yardman, and horticultural-related work.

LABO0368-003 09/01/2014

	Rates	Fringes
Underground Laborer		
GROUP 1.....	\$ 33.90	16.71
GROUP 2.....	\$ 35.40	16.71
GROUP 3.....	\$ 35.90	16.71
GROUP 4.....	\$ 36.90	16.71
GROUP 5.....	\$ 37.25	16.71
GROUP 6.....	\$ 37.50	16.71
GROUP 7.....	\$ 37.95	16.71

GROUP 1: Watchmen; Change House Attendant.

GROUP 2: Swamper; Brakeman; Bull Gang-Muckers, Trackmen; Dumpmen (any method); Concrete Crew (includes rodding and spreading); Grout Crew; Reboundmen

GROUP 3: Chucktenders and Cabletenders; Powderman (Prime House); Vibratorman, Pavement Breakers

GROUP 4: Miners - Tunnel (including top and bottom man on shaft and raise work); Timberman, Retimberman (wood or steel or substitute materials thereof); Blasters, Drillers, Powderman (in heading); Microtunnel Laborer; Headman; Cherry Pickerman (where car is lifted); Nipper; Grout Gunmen; Grout Pumpman & Potman; Gunite, Shotcrete Gunmen & Potmen; Concrete Finisher (in tunnel); Concrete Screed Man; Bit Grinder; Steel Form Raisers & Setters; High Pressure Nozzleman; Nozzleman (on slick line); Sandblaster-Potman (combination work assignment interchangeable); Tugger

GROUP 5: Shaft Work & Raise (below actual or excavated ground level); Diamond Driller; Gunite or Shotcrete Nozzleman; Rodman; Groundman

GROUP 6: Shifter

GROUP 7: Shifter (Shaft Work & Raiser)

PAIN1791-001 01/01/2015

	Rates	Fringes
Painters:		
Brush.....	\$ 34.60	26.45
Sandblaster; Spray.....	\$ 34.60	26.45

PAIN1889-001 07/01/2014

	Rates	Fringes
Glaziers.....	\$ 34.10	27.29

PAIN1926-001 03/01/2015

	Rates	Fringes
Soft Floor Layers.....	\$ 31.15	25.75

PAIN1944-001 01/01/2015

	Rates	Fringes
Taper.....	\$ 41.00	20.50

PLAS0630-001 09/02/2013

	Rates	Fringes
PLASTERER.....	\$ 37.64	23.22

PLAS0630-002 09/02/2013

	Rates	Fringes
Cement Masons:		
Cement Masons.....	\$ 36.80	23.22
Trowel Machine Operators....	\$ 36.95	23.22

 PLUM0675-001 01/04/2015

	Rates	Fringes
Plumber, Pipefitter, Steamfitter & Sprinkler Fitter...	\$ 39.35	24.21

 ROOF0221-001 09/07/2014

	Rates	Fringes
Roofers (Including Built Up, Composition and Single Ply).....	\$ 38.10	17.13

 * SHEE0293-001 03/01/2015

	Rates	Fringes
Sheet metal worker.....	\$ 45.82	20.26

 SUHI1997-002 09/15/1997

	Rates	Fringes
Drapery Installer.....	\$ 13.60	1.20
FENCE ERECTOR (Chain Link Fence).....	\$ 9.33	1.65

 WELDERS - Receive rate prescribed for craft performing
 operation to which welding is incidental.

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Unlisted classifications needed for work not included within
 the scope of the classifications listed may be added after
 award only as provided in the labor standards contract clauses
 (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification
 and wage rates that have been found to be prevailing for the
 cited type(s) of construction in the area covered by the wage
 determination. The classifications are listed in alphabetical
 order of "identifiers" that indicate whether the particular
 rate is a union rate (current union negotiated rate for local),
 a survey rate (weighted average rate) or a union average rate

(weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

=====

END OF GENERAL DECISION

CONTRACT NO. C5839

COUNTY OF MAUI

GENERAL TERMS AND CONDITIONS

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**COUNTY OF MAUI
GENERAL TERMS AND CONDITIONS
CONSTRUCTION CONTRACTS**

Preface

Section numbers of the Hawaii Revised Statutes are referenced at the end of some paragraphs in brackets. The purpose for the inclusion of such references is to indicate that the paragraphs are derived from Hawaii Revised Statutes. The language of the statutes has been retained for the most part, but in some instances the statutes may have been reworded. All Parties should review the referenced statutes.

In the event of a conflict between contract terms, any special provisions shall control first; technical specifications or construction plans second; State of Hawaii, Department of Transportation, Highway Division Standard Specifications & Special Provisions, if applicable, third; and these General Terms and Conditions last.

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Section 1 - Definitions

When used in these General Terms and Conditions or elsewhere in the Contract, the following terms, or pronouns used in place of them, shall have the meaning ascribed to them in this section, unless it is apparent from the context that a different meaning is intended:

1.01 "Addendum (plural-Addenda)" means a written or graphic document, including drawings and specifications, issued by the Procurement Officer during the bidding period which modifies or interprets the bidding documents by additions, deletions, clarifications, or corrections which document shall be considered and made a part of the contract when executed.

1.02 "Bid Documents" mean the composition of the notice to bidders, instructions to bidders, bid proposal form, general terms and conditions, special provisions, construction plans, specifications, and all addenda issued prior to opening of bids.

1.03 "Calendar Day" means any day shown on the calendar, beginning at midnight and ending at midnight of the following day. If no designation of calendar or working day is made, "day" shall mean calendar day.

1.04 "Contract Documents" mean the composition of general terms and conditions, special provisions, construction plans, specifications, addenda, Contractor's bid proposal, notice of award, executed contract, contract amendments, Contractor's performance and payment bonds, Notice to Proceed, and change orders.

1.05 "Contract Time" means the number of calendar days or working days provided in the contract for the completion of the work. The contract time shall commence on the effective date of the Notice to Proceed.

1.06 "County" means the County of Maui.

1.07 "Equipment" means all machinery, tools, and apparatus necessary to complete the work under the contract.

1.08 "HAR" means Hawaii Administrative Rules, as amended.

1.09 "HRS" means Hawaii Revised Statutes, as amended.

1.10 "Inspector" means the County's authorized representative assigned to make detailed inspections of contract performance, prescribed work, and materials supplied.

1.11 "Liquidated Damages" mean the amount set forth in the contract to be paid by the Contractor to the County for each and every day the work remains uncompleted beyond the contract time.

1.12 "Lowest Responsive, Responsible Bidder" means the bidder who has the capability in all respects to perform fully the contract requirements, the integrity and reliability which will assure good faith performance and who has submitted the lowest bid which conforms in all material respects to the invitation for bids.

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1.13 "Notice to Bidders" means the public advertisement inviting bids for the work contemplated. Such advertisement indicates the location of the work to be done and/or the character of the material to be furnished and the time and place for opening of bids.

1.14 "Notice to Proceed" means the written notice given by the Officer-in-Charge to the Contractor establishing the date on which the contract time will commence.

1.15 "Payment Bond" means the security executed by the Contractor and the Contractor's sureties and furnished to the County to guarantee payment by the Contractor to laborers, materials suppliers, and subcontractors according to the terms of the contract.

1.16 "Performance Bond" means the security executed by the Contractor and the Contractor's securities and furnished to the County to guarantee the completion of the work according to the terms of the contract.

1.17 "Plans or Drawings" means any and all designs, plans, construction drawings, specifications, cost estimates, work schedules, proposals, studies, reports, notes, tables, notations and other similar items which show the location, character, dimension, and details of the work to be completed under the contract, including the current and applicable portions of the *Water System Standards 2002, as amended*, for Department of Water Supply contracts.

1.18 "Procurement Officer" means the Director of the Department of Finance of the County of Maui, acting directly or through the Director's duly authorized representative.

1.19 "Shop Drawings" mean the drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by the Contractor and submitted by the Contractor to illustrate some portion of the work.

1.20 "Special Provisions" are the means by which the general terms and conditions are amended.

1.21 "State" means the State of Hawaii.

1.22 "Surety" means the qualified individual or entity, other than the Contractor, that insures the Contractor's acceptable performance of the contract.

1.23 "Total Sum Bid" means the total bid price submitted by the bidder for performing all work in accordance with the contract.

1.24 "Work" means the furnishing of all labor, materials, equipment, and other incidentals necessary or convenient for the successful completion of the construction project and the execution of all duties and obligations imposed by the contract on the Contractor.

1.25 "Working Day" means a calendar day in which the Contractor is capable of working four (4) or more hours with its normal work force, exclusive of:

- (a) Saturdays, Sundays, and State/County recognized legal holidays;
- (b) Days in which work is suspended by the County for four (4) or more hours through

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no fault of the Contractor; and

- (c) Days prevented by or resulting from inclement weather to permit the normal work force to proceed with construction operations for at least four (4) hours. Also, the Contractor shall be performing the current controlling item or items of work.

Section 2 - Bidding Instructions

2.01 Obtaining Bid Documents. Bidders shall refer to the notice to bidders for instructions in obtaining bid documents.

2.02 Proposal Forms. The County will furnish prospective bidders with proposal forms. Papers bound with or attached to the proposal form are part of the proposal. The bidder shall not detach or alter these papers when submitting its bid. The bidder shall also consider other documents, including the plans and specifications, a part of the proposal form whether attached or not.

2.03 Contractor's License Required. All bidders and all their subcontractors shall be licensed in accordance with chapter 444, HRS, and as required in the notice to bidders. It is the sole responsibility of the bidder to review the requirements of the project and determine the appropriate licenses that are required to complete the project.

2.04 Qualification of Bidders. (a) The Procurement Officer shall determine whether the prospective bidder has the financial ability, resources, skills, capability, and business integrity necessary to perform the work. For this purpose, the Procurement Officer, in the Procurement Officer's discretion, may require any prospective bidder to submit answers, under oath, to questions contained in a standard form of questionnaire. Whenever it appears from the answers to the questionnaire or otherwise, that the prospective bidder is not fully qualified and able to perform the work, a written determination of non-responsibility of a bidder shall be made by the Procurement Officer. The reasonable failure of a bidder to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for a determination of non-responsibility with respect to such bidder. The decision of the Procurement Officer shall be final unless the bidder applies for administrative review pursuant to section 103D-709, HRS. [§103D-310, HRS]

(b) Questionnaires, when required by the Procurement Officer, shall be submitted not less than forty-eight (48) hours prior to the time designated for opening of bids.

(c) All bidders shall be incorporated or organized under the laws of the State of Hawaii, or be registered to do business in the State as a separate branch or division that is capable of fully performing under the contract. The bidder shall be in compliance with all laws governing entities doing business in the State. [§103D-310, HRS]

2.05 Preparation of Bids. (a) Bids shall be submitted on the proposal form furnished by the County. The bidder shall complete the proposal using words and figures, which shall be in ink or typed. If a discrepancy occurs between the prices written in words and the those written in figures, the prices written in words shall govern.

(b) Bids must be signed in ink by a duly authorized representative of the bidder on the spaces provided for signatures.

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(c) If the bidder is a corporation, the title or titles of the person or persons signing must be stated and the corporate seal affixed thereto. If the corporation does not have a corporate seal, it should be indicated in the form of acknowledgment attached thereto. A copy of a resolution of the Board of Directors of the corporation, or other written evidence of authority signed by an officer of the corporation, authorizing the person or persons to execute bids, contracts, and other necessary documents in connection therewith shall be attached.

(d) Where the bidder is an association or group, the title or titles of the person or persons signing must be stated and an affidavit which acknowledges the authority of the signer or signers to sign bids and all other necessary documents in connection therewith for the association or group must be attached.

(e) Bids must be submitted in a sealed envelope, bearing on the outside the identity of the project and the bidder's name and address. Bids will be received only at the office designated in the notice to bidders. All bid envelopes will be stamped with the time and date received by the County. The County will reject and return a bid unopened if received after the time set for opening of bids.

2.06 Listing of Joint and Subcontractors. (a) The names of each person or entity to be engaged by the bidder as a joint Contractor or subcontractor and the nature and scope of work to be performed by each shall be submitted with the bidder's proposal. Bids that do not comply with this requirement may be accepted if acceptance is in the best interest of the County and the value of work to be performed by the joint Contractor or subcontractor is equal to or less than one percent (1%) of the total bid amount. [§103D-302, HRS]

(b) If no joint Contractor or subcontractor is to be engaged the bidder must complete the form by writing "NONE." If left blank, the County will interpret the blank as no joint Contractor or subcontractor will be used.

2.07 Examination of the Bid Documents and Project Site, and Conducting Investigations. (a) Before submitting a bid, bidders shall examine the bid documents and the project site, make inquiries at the appropriate offices of the County, State, and Federal governments, and the offices of persons and entities owning, controlling, or operating underground improvements, and conduct investigations to satisfy themselves as to the conditions to be encountered and to determine the correctness of the information contained in the bid documents.

(b) The submission of a bid shall be considered verification that the bidder:

- (1) Has made such examinations and inquiries;
- (2) Is satisfied with the conditions to be encountered in performing the work;
- (3) Acknowledges and understands the terms and conditions contained in the bid documents; and
- (4) Agrees to abide by such terms and conditions if awarded the contract.

2.08 Subsurface Investigations. (a) If the County has conducted subsurface investigations, bidders may inspect the data obtained from such investigations and examine samples,

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if available.

(b) Any subsurface information made available are for the bidders' convenience only. The information may have been obtained at specific locations, and no assurance is given that these conditions are necessarily typical of conditions at other locations. In addition, no assurance is given that conditions found at the time of the subsurface explorations, such as the presence or absence of water, will be the conditions that will prevail at the time of construction. The bidder shall be responsible for all assumptions, deductions, or conclusions made or derived from the subsurface information made available.

(c) Making available to bidders information from the subsurface explorations is not to be construed as a waiver of subsection 2.07 - Examination of Bid Documents and Project Site, and Conducting of Investigations.

2.09 Pre-bid Conferences. At least fifteen days prior to submission of bids pursuant to an invitation for bids (§ 103D-302) for a construction or design-build project with a total estimated contract value of \$500,000 or more, and at least fifteen days prior to submission of proposals pursuant to a request for proposals (§ 103D-303) for a construction or design-build project with a total estimated contract value of \$100,000 or more, the head of the purchasing agency shall hold a pre-bid conference and shall invite all potential interested bidders, offerors, subcontractors, and union representatives to attend.

The County may, for projects that have special or unusual requirements, [e.g., requiring physical inspection,] make attendance at a pre-bid conference a condition for submitting a bid. Pre-bid conferences shall be announced to all prospective bidders in the notice to bidders. Nothing stated at the pre-bid conference shall change the solicitation unless a change is made by written addendum as provided in subsection 2.11 - Addenda.

2.10 Clarification of Bid Documents. (a) If it appears to a bidder that the performance of the work or any matter relating thereto is not sufficiently described or explained in the bid documents, or that a discrepancy exists between different parts thereof, or that the full intent of the bid documents is not clear, the bidder shall submit a written request to the Procurement Officer for clarification not less than ten (10) calendar days prior to the day designated for opening of bids.

(b) The written request may be faxed pursuant to subsection 2.19 - Use of Facsimiles.

(c) If the Procurement Officer deems that a clarification is in order, it shall be issued in the form of an addendum.

2.11 Addenda. (a) Any addendum issued prior to the opening of bids shall be binding upon the bidder and shall be made a part of the contract.

(b) No addendum will be issued during the 5 days immediately preceding the day designated for the opening of bids, unless the purpose of the addendum is to postpone the date of bid opening.

(c) Failure by the bidder to receive any addendum shall not relieve the bidder from any obligation under its bid as submitted.

(d) No oral interpretation, instruction, or information regarding the bid documents given

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by any officer or employee of the County shall be binding.

2.12 Determination of Intended Bid. (a) If the proposal form contains a list of unit price or lump sum items, or both, they do not necessarily describe all of the work involved in the performance of the contract, but merely indicate that the compensation for the performance of the contract will be based upon and limited to such items. If a bidder is in doubt as to the proper bid item to which the anticipated cost of any incidental item is to be allocated, the bidder shall include such cost in the bid item which the bidder deems most appropriate.

(b) If the proposal calls for unit price items, and the bidder's unit price bid multiplied by the number of units in any item is not equal to the total amount bid for that item, it will be assumed that the unit price bid represents the bidder's intention and an error was made in the multiplication. The Procurement Officer will correct the total amount bid for the item and total sum bid of the bidder's proposal.

(c) If the figure obtained by adding the individual bid items listed in the proposal does not equal to the total figure written in the proposal, it will be assumed that an error was made in the addition and the Procurement Officer will correct the total sum bid.

(d) The bid price shall include all applicable taxes, including the State of Hawaii General Excise Tax, and shall include delivery charges F.O.B. job site.

(e) The bid price shall be firm for a minimum of sixty (60) days from the bid opening date to allow for contract execution.

2.13 Disqualification of Bids. The County may disqualify a bidder and reject its bid for reasons including but not limited to:

- (a) The bidder is non-responsible;
- (b) The bid is not responsive;
- (c) The bid does not include a listing of subcontractors and joint Contractors or contains only a partial or incomplete listing;
- (d) The bid is unsigned or is not signed by an authorized representative of the bidder;
- (e) Evidence indicating that unit price or lump sum price items are unbalanced in a bid;
- (f) Evidence indicating that bidders are in collusion;
- (g) Submission of more than one bid whether under the same name or a different name.

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Without limiting the generality of the foregoing, a bidder shall be considered to have submitted more than one bid if the bidder submits more than one bid under the bidder's name, through bidder's agents, through joint ventures, partnerships, or corporations or which the bidder has more than twenty-five percent (25%) ownership in each of them, or through any combination of any of them;

(h) The bidder is suspended under chapter 104 or chapter 444, HRS;

(I) The bid is not accompanied by an acceptable form of bid security, or the bid security is in an amount less than five percent (5%) of the amount of the base bid, including additives;

(j) The bidder fails to submit a valid and timely certificate of good standing from the Department of Commerce and Consumer Affairs Business Registration Division and/or the bidder fails to submit a valid and timely certificate of compliance from the Department of Labor and Industrial Relations.

(k) The bidder failed to submit the standard form of questionnaire or failed to submit said questionnaire within the due time, when required by the County; or

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

2.14 Bid Security. (a) The County will not consider a bid proposal unless accompanied by bid security in an amount not less than five percent (5%) of the amount bid. [§ 103D-323, HRS]

(b) Acceptable bid security shall be limited to the following:

(1) Surety bond underwritten by a company licensed to issue bonds in the State of Hawaii, which shall be substantially in the form provided in the project specifications;

(2) Legal tender;

(3) A certificate of deposit; credit union share certificate; or cashier's, treasurer's, teller's, or official check drawn by, or a certified check accepted by a bank, a savings institution, or credit union insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, and payable at sight or unconditionally assigned to the County. These instruments may be utilized only to a maximum of \$100,000. If the required security or bond amount totals over \$100,000, more than one instrument not exceeding \$100,000 each and issued by different financial institutions shall be accepted.

(c) The County will return bid security to bidders within ten (10) working days following execution of the contract by all Parties and after the successful bidder furnishes acceptable performance and payment bonds and certificates of insurances.

2.15 Mandatory Purchase of Hawaii Products. Bidders are instructed to refer to section 103D-1002, HRS and chapter 3-124, HAR.

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2.16 Substitution of Materials and Equipment. (a) Bids shall be based on materials and equipment specified in the bid documents, unless the Procurement Officer approves substitution of material or equipment by addendum.

(b) A bidder may make a written request for a material or equipment substitution for the Procurement Officer's determination. The written request shall be submitted to the Procurement Officer not less than ten (10) calendar days prior to the day designated for opening of bids. The substitution request shall be accompanied by four (4) copies of any pertinent information for the Procurement Officer's determination. If the Procurement Officer is unable to determine the quality and suitability of the substitution based on the information provided by the bidder, the request shall be rejected. The burden of proof as to the comparative quality and suitability of the substitution shall be the bidder's responsibility. The Procurement Officer shall be the sole judge as to the comparative quality and suitability of the substitution, and the Procurement Officer's decision shall be final. If the information provided to the Procurement Officer is determined incomplete or insufficient, whereas the Procurement Officer is unable to determine the quality and suitability of the substitution, the request shall be rejected.

(c) If the Procurement Officer approves a material or equipment substitution, an addendum shall be issued by the Procurement Officer.

(d) Bids based on a material or equipment substitution approved by the Procurement Officer, shall include the additional cost required for all modifications, including the cost of revising the construction plans and technical specifications required to accommodate the approved substitution.

2.17 Pre-Opening Modification and Withdrawal of Bids. (a) Bids may be modified prior to the bid submission deadline provided the Procurement Officer receives a written notice stating that a modification to the bid is submitted accompanied by the actual modified bid. The written notice may be faxed pursuant to subsection 2.19 - Use of Facsimiles, provided the bidder submits the actual written notice and actual modified bid prior to the bid submission deadline and within two (2) working days following the faxed notice.

(b) Bids may be withdrawn provided the Procurement Officer receives a written notice stating the bidder's bid is withdrawn prior to the deadline for opening of bids. The written notice may be faxed pursuant to subsection 2.19 - Use of Facsimiles. Bids may not be withdrawn after the bid opening.

2.18 Public Opening of Bids. Bids shall be opened publicly in the presence of one or more witnesses, at the time and place designated in the notice to bidders. The amount of each bid and other relevant information, together with the name of each bidder shall be recorded. The record and each bid shall be open to public inspection. [§103D-302, HRS]

2.19 Use of Facsimiles. Copies of documents transmitted by bidders via facsimile machine shall be limited to the following:

- (a) The request for clarification of bid documents pursuant to subsection 2.10 - Clarification of Bid Documents;
- (b) The request for material or equipment substitution pursuant to subsection 2.16 -

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Substitution of Materials and Equipment which includes four (4) copies of any pertinent information; and

- (c) The request for modification or withdrawal of bids pursuant to subsection 2.17 - Pre-Opening Modification or Withdrawal of Bids.

Documents will be received by facsimile machine at the number designated by the County. It is the bidder's responsibility to assure the faxed documents are received by the Procurement Officer in a timely manner.

Section 3 - Award and Execution of Contract

3.1 Award of Contract. The award of the contract, if it be awarded, will be made by written notice by the Officer-in-Charge to the lowest responsive, responsible bidder. Said notice shall not be construed to be authorization to proceed with the performance of services under the Contract. Any services performed by the Contractor prior to the date indicated in the Notice to Proceed from the Officer-in-Charge shall be at the Contractor's own risk. The contract will be awarded within sixty (60) days after the opening of the bids. If it appears that the contract cannot be awarded within such time, the award may be made after the specified time as mutually agreed upon between the County and the lowest responsive, responsible bidder. The County may cancel the award of the contract at any time before the execution of the contract.

3.2 Execution of Contract. Prior to the drafting of the Contract, discussions may be held between the Parties relative to the extent of the services to be performed by the Contractor and other pertinent matters. The Procurement Officer will submit the contract to the Contractor for review and signature. The Contractor shall enter into a contract with the County and provide sufficient performance and payment bonds and certificates of insurance within ten (10) calendar days after the execution of the contract or within such further time as the County may allow. The contract must be signed in ink by persons duly authorized to enter into contracts with the County. If the Contractor is an individual or partnership, the Contractor shall sign the contract before a notary public. If the Contractor is a corporation, the Contractor shall cause the contract to be signed before a notary public by an officer authorized to do so and shall affix to the contract its corporate seal, together with a certificate, resolution or other instrument vesting such officer with authority to sign the contract on the corporation's behalf. If the Contractor is an association or group, the title or titles of the person or persons signing must be stated and an affidavit which acknowledges the authority of the signer or signers to sign the contract and other necessary documents in connection therewith for the association or group must be attached. The signed contract shall be returned to the Procurement Officer for signature and further processing.

3.3 Performance and Payment Bonds. Within ten (10) calendar days after the execution of the contract or within such further time as the County may allow, the Contractor shall submit sufficient performance and payment bonds for the full and faithful performance of the contract in accordance with the terms and intent thereof and also for the prompt payment to all others for all labor and materials furnished by them to the successful bidder and used in the prosecution of the work provided for in the contract. Performance and payment bonds shall each be in an amount equal to one hundred percent (100%) of the contract price and shall be limited to:

- (a) Surety bond underwritten by a company licensed to issue bonds in the State of

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Hawaii, which shall be substantially in the form provided in the project specifications;

(b) Legal tender; or

(c) A certificate of deposit; credit union share certificate; or cashier's, treasurer's, teller's, or official check drawn by, or a certified check accepted by a bank, a savings institution, or credit union insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, and payable at sight or unconditionally assigned to the County. These instruments may be utilized only to a maximum of \$100,000. If the required security or bond amount totals over \$100,000, more than one instrument not exceeding \$100,000 each and issued by different financial institutions shall be accepted.

3.4 Tax Clearance Requirement. Pursuant to §103D-328, HRS, the Contractor shall submit a tax clearance certificate issued by the Hawaii State Department of Taxation ("DOTAX") and the Internal Revenue Service ("IRS"). The certificate shall be valid for six (6) months from the most recent approval stamp date on the certificate and must be valid on the date it is received by the County. The application for the tax clearance shall be the responsibility of the Contractor, and must be submitted directly to the DOTAX or IRS and not to the County.

3.5 Hawaii Business Requirement. (a) The Contractor shall comply with either §103D-310 (c) (1) or §103D-310(c)(2), HRS, as follows:

(a) §103D-310(c)(1), HRS, Hawaii business. A business entity meeting the requirement of §103D-310(c)(1), HRS, referred to as a "Hawaii business", is incorporated or organized under the laws of the State of Hawaii. As evidence of compliance, the Contractor shall submit a "Certificate of Good Standing" issued by the Department of Commerce and Consumer Affairs Business Registration Division (BREG). A Hawaii business that is a sole proprietorship, however, is not required to register with the BREG, and therefore not required to submit the certificate. A Contractor's status as a sole proprietor and its business street address indicated in Contractor's bid will be used to confirm that the Contractor is a Hawaii business.

(b) §103D-310(c)(2), HRS, Compliant non-Hawaii business. A business entity meeting the requirement of §103D-310(c)(2), HRS, referred to as a "compliant non-Hawaii business," is not incorporated or organized under the laws of the State of Hawaii but is registered to do business in the State as a separate branch or division capable of fully performing under the contract. As evidence of compliance, the Contractor shall submit a "Certificate of Good Standing" issued by the BREG.

(c) The above certificates shall be current within six (6) months of issuance date and submitted to the County prior to award of contract. If a valid certificate is not submitted on a timely basis for award of a contract, a bid otherwise responsive and responsible may not receive the award. The application for the above certificates shall be the responsibility of the Contractor, and must be submitted directly to the BREG and not to the County.

3.6 Department of Labor and Industrial Relations (DLIR) requirement. (a) The Contractor shall submit a certificate of compliance (DLIR form LIR #27), issued by the DLIR stating the Contractor complies with chapters 383, 386, 392 and 393 of the Hawaii Revised Statutes.

(b) The above certificate shall be current within six (6) months of issuance date and

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submitted to the County prior to award of contract. If a valid certificate is not submitted on a timely basis for award of a contract, a bid otherwise responsive and responsible may not receive the award. The application for the above certificates shall be the responsibility of the Contractor, and must be submitted directly to the DLIR and not to the County.

3.7 Contract Not Binding Unless Properly Executed and Appropriation Available.

The contract shall not be binding or of any force until said contract has been fully and properly signed by all of the Parties thereto and approved by the Procurement Officer as to availability of funds in the amount and for the purpose set forth therein. The Contractor's execution of the contract shall be considered verification that the Contractor has reviewed, understands, accepts, and agrees to abide by the terms and conditions contained in the bid documents, the proposal submitted by the Contractor, the proposed contract, and the performance and payment bonds.

3.8 Forfeiture of Bid Security. Failure to execute the contract and furnish sufficient performance and payment bonds shall be cause for the cancellation of award to the Contractor. The Contractor also forfeits the bid security which becomes the property of the County, which is not a penalty, but liquidated damages sustained by the County. The County may make award to the next lowest responsive, responsible bidder or the County may re-advertise the work contemplated.

Section 4 - Legal Relations and Responsibility

4.1 Independent Contractor. The Contractor shall perform the contract as an independent contractor and shall not be entitled to any benefits and privileges of an employee of the County of Maui for purposes including, but not limited to, the County's civil service system, fringe benefits, unemployment benefits, worker's compensation benefits, federal and state taxes, social security tax, medicare tax, FICA tax and any other employment taxes. Upon execution of the contract, the Contractor shall comply with chapter 237 (general excise tax); chapter 383 (employment security); chapter 386 (workers' compensation); chapter 392 (temporary disability insurance); and chapter 393 (pre-paid health care), HRS. The Contractor and Contractor's sureties shall be liable for any loss caused to the County by reason of the Contractor's failure to comply with chapter 386, HRS.

4.2 Contractor's Inability to Contract for County. Notwithstanding anything herein contained to the contrary, Contractor shall not have the right to make any contracts or commitments for, or on behalf of, the County without first obtaining written consent of the County.

4.3 Insurance. (a) The Contractor shall submit to the Officer-in-Charge within ten (10) calendar days after execution of the contract, or within such further time as the County may allow, three (3) copies of insurance certification evidencing that the Contractor has in force the following types of insurance with the following minimum limits of liability:

(1) HRS chapters 383 (Unemployment Insurance), 386 (Workers' Compensation), 392 (Temporary Disability Insurance), and 393 (Prepaid Health Care) requirements for award. The Contractor shall submit an approved certificate of compliance issued by the Hawaii State Department of Labor and Industrial Relations (DLIR). The certificate shall be valid for six (6) months from the date of issue and must be valid on the date it is received by

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the County. The application for the certificate shall be the responsibility of the Contractor, and must be submitted directly to the DLIR and not to the County. [§103D-310(c), HRS]

(2) Employers' Liability Insurance. The Contractor and anyone acting under its direction or control or on its behalf shall at its own expense procure and maintain and require the Contractor's sub-contractors (if any) at their own expense to procure and maintain in full force at all times during the term of this Contract, employers' Liability insurance with minimum limits for bodily injury from accident of FIVE HUNDRED THOUSAND DOLLARS (\$500,000), or such other limit acceptable to the County, - each accident; for bodily injury from disease of FIVE HUNDRED THOUSAND DOLLARS (\$500,000), or such other limit acceptable to the County, - each employee; and for bodily injury from disease of FIVE HUNDRED THOUSAND DOLLARS (\$500,000), or such other limit acceptable to the County, - each policy limit.

(3) Commercial General Liability Insurance. The Contractor and anyone acting under its direction or control or on its behalf shall at its own expense procure and maintain and require the Contractor's sub-contractors (if any) at their own expense to procure and maintain in full force at all times during the terms of this Contract, Commercial General Liability insurance with a bodily injury and property damage combined single limit of liability of at least ONE MILLION DOLLARS (\$1,000,000), for any occurrence, and THREE MILLION DOLLARS (\$3,000,000) in the aggregate, or such other limit acceptable to the County. Such insurance shall include coverage in like amount for products/completed operations, contractual liability, and personal and advertising injury. "Claims made" policies are not acceptable under this section.

(4) Automobile Liability Insurance. The Contractor and anyone acting under its direction or control or on its behalf shall at its own expense procure and maintain and require the Contractor's sub-contractors (if any) at their own expense to procure and maintain in full effect at all times during the term of this Contract, Automobile Liability insurance with a bodily injury and property damage combined single limit of at least ONE MILLION DOLLARS (\$1,000,000), or such other limit acceptable to the County, per accident.

(5) Fire and Standard Extended Coverage Insurance. Except for contracts in which the scope of work is limited to roadway construction or utility improvements that do not include payment for stored materials on-site, the Contractor shall insure the work for one million dollars (\$1,000,000), or such other limit acceptable to the County, plus one hundred percent (100%) of the replaceable value thereof for the life of the contract against all loss or damage by fire at the site and against all loss or damage covered by the Standard Extended Coverage Insurance endorsement, including vandalism and malicious mischief, by an insurance company or companies acceptable to the County. The amount of insurance may vary with the extent of the work complete, but shall at all times be at least equal to one million dollars (\$1,000,000), or such other limit acceptable to the County, plus the replaceable value of the amount paid for the work and materials installed and delivered, plus the replaceable value of the work or materials furnished or delivered by the Contractor but not yet paid for by the County. The insurance policy or policies shall be held jointly in the name of the County, the Contractor, and the Contractor's subcontractors as their interest may appear. The Contractor shall submit to the County satisfactory proof of the amount of such insurance carried with each application for partial payment.

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(6) County as Additional Insured. Insurance policies providing the insurance coverage required in this section (except for Workers' Compensation) shall name the County, its agents, and its employees as additional insured for any claims arising from the Contractor's activities under this Contract. Coverage must be primary in respect to the additional insured. Any other insurance carried by the County shall be excess only and not contribute with this insurance. Such policies or certificates showing the above coverage shall be deposited with the County within ten (10) days of the execution of this Contract and shall contain the following statement:

"The Named Insured, its Insurance Carrier or Broker shall notify the certificate holder of any cancellation, or reduction in coverage or limits, of any insurance within thirty (30) days of receipt of insurers' notification to that effect."

(b) When a subcontractor is utilized, the Contractor shall furnish or require the subcontractor to furnish the Procurement Officer within ten (10) calendar days after execution of the contract, or within such further time as the County may allow, with a copy of a policy or policies of insurance and certificate of insurance covering the subcontractor and the subcontractor's employees or agents in the same amount and for the same liability specified above.

(c) In the event of cancellation or termination of any policy required above or any substitute policy as provided for hereinafter, the Contractor or the subcontractor, as the case may be, shall immediately furnish the Procurement Officer with a substitute policy of insurance in the same amount and for the same liability specified above.

4.4 Indemnification. The Contractor shall defend, indemnify and hold harmless the County and its officers and employees harmless from any and all deaths, injuries, losses and damages to persons or property, and any and all claims, demands, suits, action and liability therefor, caused by error, omissions or negligence in the performance of the contract by the Contractor or Contractor's subcontractors, agents and employees. The Contractor's obligations under this section shall survive and shall continue to be binding upon Contractor notwithstanding the expiration, termination or surrender of the contract.

4.5 Absence of Interest. The Contractor covenants that it currently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under the contract. The Contractor further covenants that in the performance of the contract, no person having such interest shall be employed.

4.6 Laws and Regulations. (a) The Contractor shall keep fully informed of all applicable federal, state and county laws, ordinances, codes, rules and regulations, governmental general and development plans and all changes thereto including, but not limited to, the Americans with Disabilities Act, health and safety, labor, anti-discrimination and environmental laws and regulations, and the following:

- (1) All Sections of the local County's Charter and Code;
- (2) Article I of Title 10, Maui County Code, 1980, as amended, relating to the Maui Traffic Code;
- (3) Title 12, Maui County Code, 1980, as amended, relating to Streets, Sidewalks,

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and Public Places;

(4) Chapter 16.04A, Maui County Code, 1980, as amended, relating to the Fire Code;

(5) Chapter 16.18A, Maui County Code, 1980, as amended, relating to the Electrical Code;

(6) Chapter 16.20A, Maui County Code, 1980, as amended, relating to the Plumbing Code;

(7) Chapters 103 and 103D, HRS, as amended, relating to Expenditure of Public Money and Public Contracts and the Hawaii Public Procurement Code, including Hawaii Administrative Rules Chapter 103D (Chapters 3-120, 3-121, 3-122, 3-123, 3-124, 3-125, 3-126, 3-128, 3-129, 3-130, 3-131, 3-132);

(8) Chapter 104, HRS, as amended, relating to Wages and Hours of Employees on Public Works;

(9) Chapter 22 of Subtitle 4 of Title 12, HAR, relating to Wage Determinations and the Administration and Enforcement of chapter 104, HRS;

(10) Chapter 132, HRS, as amended, relating to the Fire Protection;

(11) Chapter 321, HRS, as amended, relating to the Department of Health;

(12) Chapter 378, HRS, as amended, relating to Fair Employment Practices;

(13) Chapter 386, HRS, as amended, relating to Workers' Compensation Law;

(14) Chapter 396, HRS, as amended, relating to Occupational Safety and Health, and specifically, all bids and proposals in excess of \$100,000 for construction jobs shall have a signed certification from the bidder or offeror that a written safety and health plan for the job will be available and implemented by the notice to proceed date of the project (see §396-18, HRS);

(15) Chapter 444, HRS, as amended, relating to contractors for construction work. Provider shall use properly licensed contractors for all construction work as required by law;

(16) Part III of Subtitle 8 of Title 12, HAR, relating to Construction Standards; and

(17) Chapters 120 to 132 of Subtitle 11 of Title 3, HAR, relating to the Hawaii Public Procurement Code.

(b) The Contractor shall comply with all such laws, ordinances, codes, rules, regulations, design standards and criteria, governmental general and development plans. If any discrepancy or inconsistency is discovered between the contract and any such law, ordinance, code, rule, regulation, design standard, design criterion, and governmental general and development plans, the Contractor shall immediately report the same in writing to the Officer-in-Charge.

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(c) The Contractor shall obtain all necessary permits and approvals for the performance of the contract and shall pay for all charges in connection with such permits.

Section 5 - County Responsibility

5.1 Cooperation by the County. The County, through the Officer-in-Charge, shall cooperate fully with the Contractor and will promptly place at the disposal of the Contractor all available pertinent information which the County may have in its possession. The Officer-in-Charge will certify to the accuracy of certain information in writing whenever it is possible to do so. The County does not represent that other information not certified as accurate is so and takes no responsibility therefor, and the Contractor shall rely on such information at the Contractor's own risk.

5.2 Review by the County. The Officer-in-Charge shall review all submissions and other work and data required to be made by the Contractor and reject or approve such submissions in their entirety or approve the same subject to such deletions, additions and revisions as the County may deem necessary and proper. For submissions specified in the special provisions, all items not required by the County to be deleted, added or revised after review by the Officer-in-Charge and not defective by reason or error, omissions or negligence on the part of the Contractor, subcontractors, agents or employers shall be deemed to have been approved.

5.3 Limitation of Liability. The County shall be responsible for damage or injury caused by the County's agents, officers, and employees in the course of their employment to the extent that the County's liability for such damage or injury has been determined by a court or otherwise agreed to by the County, and the County shall pay for such damage or injury to the extent permitted by law and approved by the Maui County Council. The County's total liability under the contract, if any, is strictly limited to the provisions in this paragraph.

Section 6 - Performance of Contract.

6.1 Time. (a) Time is of the essence herein. Performance of the services under the contract shall commence on the commencement date designated in the Notice to Proceed and the services described herein shall be completed within the time specified.

(b) If the Contractor cannot complete the contract within the time specified due to reasons beyond its control, a written request for a time extension accompanied by a detailed accounting of the causes and reasons for such delays may be submitted to the Officer-in-Charge for determination as to whether a time extension will be granted. The Officer-in-Charge's decision shall be final.

(c) If the scope of the work is amended during construction, an appropriate adjustment may be made to the contract time subject to approval by the Officer-in-Charge.

(d) Any adjustment to the contract time shall be made by contract amendment or change order.

6.2 Preconstruction Meeting. The County may schedule a pre-construction meeting after the execution of the contract.

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6.3 Construction Schedule. (a) The Contractor shall submit to the Officer-in-Charge a detailed construction schedule in critical path method ("CPM") format, itemizing the various subdivisions of work and their durations at the pre-construction meeting, if held. If a pre-construction meeting is not held, the Contractor shall submit the schedule to the Officer-in-Charge not more than ten (10) calendar days after the Notice to Proceed is issued.

(b) The detailed construction schedule shall include: construction activities, the submission and approval of samples of materials and shop drawings, the procurement of materials and equipment, fabrication of materials and equipment and their delivery, installation, and testing, and start-up in CPM format.

(c) The Contractor shall revise the construction schedule whenever any delays are anticipated in any of the various items of work, or the performance of such items of work are obviously not in accordance with the construction schedule, and submit it to the Officer-in-Charge, together with the reasons for such anticipated or actual delays, and the planned courses of action to prevent or minimize any delay in the completion of the contract. Acceptance of the revised construction schedule and the reasons for such revisions shall not be construed to mean concurrence or acceptance as a basis for any time extension by the Officer-in-Charge.

6.4 Construction Progress. (a) The Contractor shall furnish such manpower, materials, facilities and equipment as may be necessary to insure the prosecution and completion of the work in accordance with the accepted schedule. If work falls fourteen (14) days or more behind the accepted construction schedule, the Contractor agrees to take some or all of the following actions to return the project to the accepted schedule. These actions may include the following:

- (1) Increase manpower in quantities and crafts;
- (2) Increase the number of working hours per shift, shifts per working day, working days per week, or the amount of equipment, or any combination of the foregoing; and/or
- (3) Reschedule activities.

(b) Upon demand by the Officer-in-Charge, the Contractor shall prepare a proposed construction schedule revision demonstrating a plan to make up the lag in progress and insure completion of the work within the contract time. Upon receipt of an acceptable proposed schedule, the revision to the construction schedule shall be included a change order to the contract in accordance with section 8, Contract Amendments/Change Orders.

(c) All actions to return the project to the accepted schedule are at the Contractor's sole expense. The Contractor shall pay all costs incurred by the County which result from the Contractor's action to return the project to its accepted schedule. Contractor agrees that County shall deduct such charges from payments due the Contractor. It is further understood and agreed that none of the services performed by the Officer-in-Charge in monitoring, reviewing and reporting project status and progress shall relieve the Contractor of responsibility for planning and managing construction work in conformance with the construction schedule.

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(d) When the Contractor foresees a delay in the prosecution of the work and, in any event, immediately upon the occurrence of a delay which the Contractor regards as unavoidable, the Contractor shall notify the Officer-in-Charge in writing of the probability of the occurrence of such delay, the extent of the delay, and its possible cause. The Contractor shall take immediate steps to prevent, if possible, the occurrence or continuance of the delay. If this cannot be done, the Officer-in-Charge shall determine how long the delay shall continue, to what extent the prosecution and completion of the work are being delayed thereby, and whether the delay is to be considered avoidable or unavoidable. The Officer-in-Charge shall notify the Contractor of the Officer-in-Charge's determination. The Contractor agrees that no claim shall be made for delays which are not called to the attention of the Officer-in-Charge at the time of occurrence.

(e) In case the work is not completed in the time specified, including extension of time as may have been granted for unavoidable delays, the Contractor shall be assessed damages for those costs incurred by the County which are attributable to the fact that the work was not completed on schedule.

6.5 Avoidable delays. (a) Avoidable delays in the prosecution of the work shall include delays which could have been avoided by the exercise of care, prudence, foresight and diligence on the part of the Contractor or its subcontractors. Avoidable delays include:

(1) Delays which may in themselves be unavoidable but which affect only a portion of the work and do not necessarily prevent or delay the prosecution of other parts of the work nor the completion of the whole work within the contract time.

(2) Time associated with the reasonable interference of other contractors employed by the County which do not necessarily prevent the completion of the whole work within the contract time.

(b) The County may grant an extension of time for avoidable delay if deemed in the County's best interest. If the County grants an extension of time for avoidable delay, the Contractor agrees to pay actual costs, including charges for construction management, engineering and administration incurred during the extension, and other damages incurred by the County. Such time extension shall be included in the contract as a change order pursuant to section 8, Contract Amendments/Change Orders.

6.6 Unavoidable delays. (a) Unavoidable delays in the prosecution or completion of the work shall include delays which result from causes beyond the control of the Contractor and which could not have been avoided by the exercise of care, prudence, foresight and diligence on the part of the Contractor or its subcontractors. Delays in completion of the work of other contractors employed by the County will be considered unavoidable delays insofar as they interfere with the Contractor's completion of the work. Delays due to normal weather conditions shall not be regarded as unavoidable as the Contractor agrees to plan work with prudent allowances for interference by normal weather conditions. Delays caused by fire, unusual storms, floods, tidal waves, earthquakes, strikes, labor disputes, freight embargoes and shortages of materials shall be considered as unavoidable delays insofar as they prevent the Contractor from proceeding with at least seventy-five percent (75%) of the normal labor and equipment force for at least four (4) hours per day toward completion of the current controlling item on the accepted critical path schedule.

(b) Should unavoidable delays prevent the work from beginning at the usual starting time, or prevent the Contractor from proceeding with seventy-five percent (75%) of the normal labor and equipment force for a period of at least four (4) hours per day, and the crew is dismissed as a result

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thereof, the Contractor will not be charged for a working day whether or not conditions change so that the major portion of the day could be considered to be suitable for work on the controlling item.

(c) For delays which the Contractor considers to be unavoidable, the Contractor shall submit to the Officer-in-Charge complete information demonstrating the effect of the delay on the critical path in the construction schedule. The submission shall be made within thirty (30) calendar days of the occurrence which is claimed to be responsible for the unavoidable delay. The Officer-in-Charge shall review the Contractor's submission and determine the number of days of unavoidable delay and the effect of such unavoidable delay on the critical path of the work. The County agrees to grant an extension of time, but no monetary compensation, to the extent that unavoidable delays affect the critical path in the construction schedule. During such extension of time, neither extra compensation or engineering inspection and administration nor damages for delay will be charged to the Contractor. It is understood and agreed by the Contractor and County that time extensions due to unavoidable delays will be granted only if such unavoidable delay involve critical activities which would prevent completion of the whole work within the specified contract time.

6.7 Furnishing of Plans and Specifications. The County will furnish the Contractor with up to six (6) sets of the plans and specifications at no cost to the Contractor. The Contractor shall be responsible for the cost of printing any additional plans and specifications.

6.8 Breakdown of Lump Sum Items. If the bid form calls for a total sum bid without bid items, or contains lump sum items, the Contractor shall submit a detailed cost breakdown of the total sum bid or such lump sum items not less than twenty (20) calendar days following issuance of Notice to Proceed.

6.9 Commencement of Work. The Contractor shall not commence with any work prior to the effective date of the Notice to Proceed.

6.10 Prosecution of the Work. The Contractor shall be available upon reasonable demand to discuss the progress of the services being performed under the contract. All questions arising during the performance of the contract which must be resolved by the Procurement Officer or Officer-in-Charge shall be brought to their immediate attention by Contractor.

6.11 Contractor to Report Errors or Discrepancies. Should the Contractor discover any apparent inconsistencies within the contract documents, discrepancies between the contract documents and the conditions on the ground, or any error or omission in the contract documents or instructions, the Contractor shall immediately advise the Officer-in-Charge in writing thereof. If, after discovery, the Contractor elects to perform any work which may require revisions without authorization by the Officer-in-Charge, such work shall be performed solely at the Contractor's risk.

6.12 Authority of the Procurement Officer and Officer-In-Charge. Any question or dispute concerning any provision of the contract which may arise during its performance shall be decided by the Officer-in-Charge. The decisions of the Officer-in-Charge shall be final and binding upon all Parties unless the same is fraudulent, capricious, arbitrary, or so grossly erroneous as necessarily to imply bad faith or is not supported by substantial evidence, provided that decisions on questions or disputes relating to acceptance of the services performed under the contract, suspension or termination of the contract, extension of time, reduction or increase in the compensation of the Contractor and payment shall become final and binding upon all Parties only upon approval of the Procurement Officer, and provided further that nothing herein shall be

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construed as making final and binding any decision of the Officer-in-Charge and/or Procurement Officer on a question of law. Pending final decision of any dispute or question, the Contractor shall proceed diligently with the performance of services under the contract in accordance with the decision of the Officer-in-Charge and/or Procurement Officer.

6.13 Subcontracting. (a) The Contractor shall not subcontract any part of the contract except to those subcontractors specifically listed in the proposal submitted by the Contractor; provided that the Contractor may, for good cause, engage other subcontractors with the Officer-in-Charge's approval.

(b) Subcontractors and their employees shall be considered employees of the Contractor. Engaging subcontractors to perform any work shall not relieve the Contractor of its duty to complete the work in accordance with the contract.

(c) The Contractor shall replace any subcontractor for not performing in accordance with the contract when required and so notified by the Officer-in-Charge.

6.14 Rate of Wages for Laborers and Mechanics. (a) Every laborer and mechanic performing work on the job site for the construction of the work shall be paid no less than the prevailing wages provided that:

(1) Prevailing wages shall be not less than the wages that the Director of Labor and Industrial Relations, shall have determined to be the prevailing wages for corresponding classes of laborers and mechanics on projects of similar character in the State;

(2) The prevailing wages shall be not less than the wages payable under federal law to corresponding classes of laborers and mechanics employed on public works in the State that are prosecuted under contract or agreement with the government of the United States; and

(3) Notwithstanding the provisions of the contract, the prevailing wages shall be periodically adjusted during the performance of the contract in an amount equal to the change in the prevailing wages as periodically determined by the Director of Labor and Industrial Relations. [§104-2(b), HRS]

(b) No laborer or mechanic employed on the job site of any public work of the County thereof shall be permitted or required to work on Saturday, Sunday, or a legal holiday of the State or in excess of eight hours on any other day unless the laborer or mechanic receives overtime compensation for all hours worked on Saturday, Sunday, and a legal holiday of the State or in excess of eight hours on any other day. For purposes of determining overtime compensation under this subsection, the basic hourly rate of any laborer or mechanic shall not be less than the basic hourly rate determined by the Director of Labor and Industrial Relations to be the prevailing basic hourly rate for corresponding classes of laborers and mechanics on projects of similar character in the State. [§104-2(c), HRS]

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(c) The Contractor or the Contractor's subcontractors shall pay all mechanics and laborers employed on the job site, unconditionally and not less often than once a week, and without deduction or rebate on any account, except as allowed by law, the full amounts of their wages including overtime, accrued to not more than five (5) working days prior to the time of payment, at wage rates not less than those deemed to be prevailing, regardless of any contractual relationship which may be alleged to exist between the Contractor or subcontractor and the laborers and mechanics.

(d) The rates and wages to be paid shall be posted by the Contractor in a prominent and easily accessible place at the job site, and a copy of the rates of wages required to be posted shall be given to each laborer and mechanic employed under the contract by the Contractor at the time each laborer and mechanic is employed, except that where there is a collective bargaining agreement the Contractor does not have to provide the Contractor's employees the wage rate schedules. [§ 104-2(d), HRS]

(e) The Contractor shall be solely responsible for any increase in rates and wages during the contract.

(f) The County may withhold from the Contractor so much of the accrued payments as the County may consider necessary to pay to the laborers and mechanics employed by the Contractor or any subcontractor on the job site the difference between the prevailing wages and the wages received and not refunded by the laborers and mechanics. [§ 104-2(e), HRS]

6.15 Payrolls and Payroll Records. (a) A certified copy of all payrolls shall be submitted weekly to the Officer-in-charge for review. The Contractor shall be responsible for the submission of certified copies of the payrolls of all subcontractors. The certification shall affirm that the payrolls are correct and complete, that the wage rates contained therein are not less than the prevailing wages and the classifications set forth for each laborer or mechanic conform with the work the laborer or mechanic performed. Any certification discrepancy found by the County shall be reported to the Contractor and Director of Labor and Industrial Relations. [§104-3(a), HRS]

(b) Payroll records for all laborers and mechanics working at the site of the work shall be maintained by the Contractor and the Contractor's subcontractors during the course of the work and preserved for a period of three (3) years thereafter. The records shall contain the name of each employee, the employees' correct classification, rate of pay, daily and weekly number of hours worked, deductions made and actual wages paid. [§104-3(b), HRS]

(c) The Contractor shall make payroll records available for examination within ten (10) calendar days from the date of the written request by the County, Director of Labor and Industrial Relations of the State, or any authorized representatives thereof. Any Contractor who:

- (1) Fails to make payroll records accessible within ten (10) calendar days;
- (2) Fails to provide information requested for the proper enforcement of chapter 104-3, HRS, within ten (10) calendar days; or
- (3) Fails to keep or falsifies any record required under chapter 104-3, HRS, shall be assessed a penalty as set forth in section 104-22(b), HRS. [§104-3(c), HRS]

6.16 Prompt Payment By Contractor to Subcontractors and Vendors. (a) Any money,

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other than compensation retained, paid to the Contractor shall be dispersed to subcontractors and vendors within ten (10) calendar days after receipt of the money in accordance with the terms of the subcontract; provided that the subcontractor met all the terms and conditions of the subcontract and there are no bona fide disputes on which the County has withheld payment. [§103-10.5(a), HRS]

(b) Upon final payment to the Contractor, full payment to the subcontractor, including compensation retained, shall be made within ten (10) calendar days after receipt of money, provided that there are no bona fide disputes over the subcontractor's performance under the subcontract. [§103-10.5(b), HRS]

(c) Where a subcontractor has provided evidence to the Contractor of satisfactorily completing all work under their subcontract and has provided a properly documented final payment request as described in (b) above, and:

(1) Has provided the Contractor an acceptable performance and payment bond for the work under the contract executed by a surety company authorized to do business in the State of Hawaii, as provided in Section 103-32.1, HRS; or

(2) The following has occurred:

(A) A period of ninety (90) days) after the day on which the last of the labor was done or performed and the last of the material was furnished or supplied has elapsed without written notice of a claim given to Contractor or surety, as provided in section 103D-324, HRS; and

(B) The subcontractor has provided to the Contractor:

(I) An acceptable release of retainage bond, executed by a surety company authorized to do business in the State, in an amount of not more than two times the amount being retained or withheld by the Contractor;

(ii) Any other bond acceptable to the Contractor; or

(iii) Any other form of mutually acceptable collateral, all sums retained or withheld from a subcontractor and otherwise due to the subcontractor for satisfactory performance under the subcontract shall be paid by the Procurement Officer to the Contractor and subsequently, upon receipt from the Procurement Officer, by the Contractor to the subcontractor within the applicable time periods specified in subsection (b) and section 103-10. If the Procurement Officer or the Contractor fails to pay in accordance with this section, a penalty of one and one-half per cent per month shall be imposed upon the outstanding amounts due that were not timely paid by the responsible party. The penalty may be withheld from future payment due to the Contractor, if the Contractor was the responsible party. If a contractor has

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violated subsection (b) three or more times within two years of the first violation, the Contractor shall be referred by the Procurement Officer to the Contractor license board for action under section 444-17(14), HRS.

(d) A properly documented final payment request from a subcontractor, as required by subsection (c), shall include:

(1) Substantiation of the amounts requested;

(2) A certification by the subcontractor, to the best of the subcontractor's knowledge and belief, that:

(A) The amounts requested are only for performance in accordance with the specifications, terms, and conditions of the subcontract;

(B) The subcontractor has made payments due to its subcontractors and suppliers from previous payments received under the subcontract and will make timely payments from the proceeds of the payment covered by the certification, in accordance with their subcontract agreements and the requirements of this section; and

(C) The payment request does not include any amounts that the subcontractor intends to withhold or retain from a subcontractor or supplier in accordance with the terms and conditions of their subcontract; and

(3) The submission of documentation confirming that all other terms and conditions required under the subcontract agreement have been fully satisfied.

The Procurement Officer shall return any final payment request that is defective to the Contractor within seven days after receipt, with a statement identifying the defect.

(e) In the case of a construction contract, a payment request made by a contractor to the Procurement Officer that includes a request for sums that were withheld or retained from a subcontractor and are due to a subcontractor may not be approved under subsection (c) unless the payment request includes:

(1) Substantiation of the amounts requested; and

(2) A certification by the Contractor, to the best of the Contractor's knowledge and belief, that:

(A) The amounts requested are only for performance in accordance with the specifications, terms, and conditions of the contract;

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(B) The subcontractor has made payments due to its subcontractors and suppliers from previous payments received under the contract and will make timely payments from the proceeds of the payment covered by the certification, in accordance with their subcontract agreements and the requirements of this section; and

(C) The payment request does not include any amounts that the Contractor intends to withhold or retain from a subcontractor or supplier in accordance with the terms and conditions of their subcontract.

The Procurement Officer shall return any final payment request that is defective to the Contractor within seven days after receipt, with a statement identifying the defect.

(f) This section shall not be construed to impair the right of a contractor or a subcontractor at any tier to negotiate and to include in their respective subcontracts provisions that provide for additional terms and conditions that are requested to be met before the subcontractor shall be entitled to receive final payment under subsection (c) of this section; provided that any such payments withheld shall be withheld by the Procurement Officer.

6.17 Termination of Work on Failure to Pay Agreed Wages. If the County finds that any laborer or mechanic employed on the job site by the Contractor or any subcontractor has been or is being paid wages at a rate less than the required rate by the contract or specifications, or has not received the laborer's or mechanic's full overtime compensation, the County may, by written notice to the Contractor, terminate the Contractor's right, or the right of any subcontractor, to proceed with the work or with the part of the work in which the required wages or overtime compensation have not been paid and may complete such work or part by contract or otherwise, and the Contractor and the Contractor's sureties shall be liable to the County for any excess costs occasioned thereby. [§104-4, HRS]

6.18 Vehicular and Pedestrian Traffic, Public Convenience, and Safety. (a) If the project requires the closing or obstruction of any public thoroughfare, the Contractor shall comply with the Manual on Uniform Traffic Control Devices, U. S. Department of Transportation, Federal Highway Administration, and the Maui Traffic Code of the Maui County Codes, 1980, as amended.

(b) No pedestrian or vehicular traffic within public rights of way shall be altered without authorization from the Hawaii State Department of Transportation, Department of Public Works and Environmental Management, Police Department, and Department of Fire and Public Safety.

(c) The Contractor shall minimize, to the extent possible, hazardous conditions; shall provide additional safety devices as deemed prudent; shall maintain all signs, signals, lighting devices, markings, and barricades provided to minimize public inconvenience; and shall exercise safety practices during all hours of the day for as long as such hazardous conditions exist. The Contractor shall prudently extend applicable provision of this subsection to areas, other than streets and highways, which involve the project.

(d) The presence of inspectors on the project or their oversight to discover or to point out any noncompliance on the part of the Contractor shall not relieve the Contractor from its responsibility under this subsection.

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6.19 Work on Weekends and Holidays, Night Work, and Overtime Work. (a) No work, except for resolution of an emergency event, shall be performed on Saturdays, Sundays, or State/County recognized legal holidays, unless authorized by the Officer-in-Charge.

(b) No work shall be performed between sunset and sunrise, unless required by the contract documents or authorized by the Officer-in-Charge.

(c) No work in excess of eight (8) hours per day or in excess of forty (40) hours per week shall be performed unless authorized by the Officer-in-Charge.

(d) The Contractor shall be responsible for costs incurred by the County under paragraphs (a), (b), and (c).

6.20 Value Engineering. (a) Except with specific approval from the Officer-in-Charge, this subsection shall be applicable only if the contract price is in excess of \$100,000 and will result in a net savings in the project of at least \$1,000.

(b) Any cost reduction proposal intended to be considered as a value engineering change proposal (VECP) shall be so identified as a value engineering change proposal and submitted to the Officer-in-Charge.

(c) In order that any proposal be accepted as a VECP, it must result in a net cost savings to the County by providing a system, structure, procedure or process better than the design specified or by providing less costly items than those specified in the contract documents without impairing any of their essential functions and characteristics such as service life, reliability, economy of operation, ease of maintenance, and necessary standardized features. [§103-49, HRS]

(d) With the submission of any VECP, the Contractor shall submit the following information:

(1) A description of the difference between the existing contract requirements and the VECP, and the comparative advantages and disadvantages of each;

(2) An itemization of the requirements of the contract which must be changed if the VECP is accepted and recommendations as to how each change should be made;

(3) An estimate of the reduction in construction costs or the net cost savings to the County that would result from acceptance of the VECP, taking into account the costs of implementation by the Contractor, including costs attributable to subcontractors, and the basis of the estimate;

(4) A prediction of effects the VECP would have on other costs to the County, such as County-furnished property costs, costs of related items, and costs of maintenance and operations;

(5) A statement of the time by which a change order accepting the VECP should be issued to obtain the maximum cost reduction during the remainder of the contract period, noting any effect on the contract period; and

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(6) The dates of any previous submissions of the value engineering change proposals, the number of any governmental contracts under which submitted and the previous actions by the various branches of government.

(e) The submission of any VECP by the Contractor and the receipt thereof by the Officer-in-Charge, or verbal acceptance of any VECP by any employee, assign, or agent of the County shall not obligate the County to accept or approve any such proposal. The Contractor shall comply with the provisions of the contract until such time that a VECP is approved.

(f) The County may accept in whole or in part any VECP. Its decision in the acceptance of any VECP is final. The County will approve value engineering change proposals by issuing change orders.

(g) The Contractor may restrict the County's right to use any sheet of a value engineering change proposal or of the supporting data in accordance with the terms of the following legend if it is marked as follows on such the sheet:

"This data furnished pursuant to a value engineering incentive clause shall not be duplicated, used, or disclosed, in whole or in part, for any purpose other than to evaluate a value engineering change proposal submitted under said clause. This restriction does not limit the County's right to use information contained in this data if it is or has been obtained from another source, or is otherwise available, without limitations. If after use of the data in evaluating a value engineering change proposal, the County accepts the proposal by issuing a change order, the County shall have the right to duplicate, use, and disclose any data pertinent to the proposal as accepted, in any manner and for any purpose whatsoever, and authorize others to do likewise."

(h) If the VECP is approved, the Contractor grants to the County all rights to use, duplicate or disclose in whole or part, in any manner and for any purpose, and to have or permit others to do likewise, any data reasonably necessary to fully utilize such a proposal. Contract modifications made as a result of this clause will state that they are made pursuant to it.

(i) If a VECP is accepted, affected portions of the construction plans and specifications shall be modified by change order.

(j) An equitable adjustment shall be made in the contract price so that the Contractor will share a portion of the realized cost reduction.

(k) If a VECP is accepted, an adjustment shall be made to the contract time, as required.

(l) Previously accepted or previously submitted but not accepted value engineering change proposals under other contracts, or both, may be submitted for consideration; provided that previously accepted value engineering change proposals under other contracts shall not be grounds for automatic acceptance under the contract.

(m) The County may impose, as a condition of acceptance of any VECP, a requirement that the Contractor warrants the statements, claims, and other information contained in the VECP regarding essential functions and characteristics such as service life, reliability, economy of operation, ease of maintenance, and desired appearance, such warranty to be for an appropriate

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period to be determined by the County.

(n) The determination of the proposed VECP shall be at the County's sole discretion and the decision will be final.

(o) The County shall not be liable for costs or delays incurred by the Contractor regarding the County's determination with respect to a proposed VECP including development costs, anticipated profits, and increased material or labor costs. Non conforming work and the annulment of VECP review shall not be the basis of claim against the County including claims for delay.

6.21 Plans to Be Furnished by the Contractor. (a) Working or shop drawings shall be submitted only by the Contractor for approval by the Officer-in-Charge. Upon approval by the Officer-in-Charge, such drawings shall become part of the contract documents. The Contractor shall not proceed with work and shall not order any material, equipment, or device affected by such drawings, until such drawings are approved by the Officer-in-Charge.

(b) The Contractor shall submit six (6) copies of working or shop drawings and/or catalog cuts for fabricated items and manufactured items (including mechanical and electrical equipment). Submission shall be made in sufficient time to allow the Officer-in-Charge not less than twenty-one (21) calendar days for examining submissions, unless such submissions are for major equipment that requires review by more than one engineering discipline, in which case the time period shall be increased to thirty (30) calendar days.

(c) Drawing size shall be (8.5" x 11"), (11" x 17"), or (24" x 36"). Drawings shall be accurate, distinct, and complete, and shall contain all required information, including satisfactory identification of items, units, and assemblies in relation to the contract drawings and specifications.

(d) The Contractor shall mark drawings by a signed stamp, or other approved means, indicating that the Contractor has checked the shop drawings, and that the work shown is in accordance with contract requirements and has been checked for dimensions and relationship with work of all other trades involved. The practice of submitting incomplete or unchecked drawings will not be acceptable and will be returned to the Contractor for re-submission in the proper form.

(e) After the Officer-in-Charge's review, two (2) sets of submissions will be returned to the Contractor appropriately stamped. If major changes or corrections are necessary, the drawings may be rejected and will be returned to the Contractor with one (1) set of the submissions indicating such changes or corrections, and the Contractor shall correct and resubmit six (6) revised copies. No changes shall be made by the Contractor to resubmitted shop drawings other than those changes indicated by the Officer-in-Charge.

(f) The Officer-in-Charge's review of shop and working drawings and catalog cuts shall not relieve the Contractor from responsibility for correctness of dimensions, fabrication details, and space requirements.

(g) Operation and maintenance data shall be assembled in three ring binders (Slant "D" style), which shall be indexed and tabbed. The Contractor shall provide six (6) copies of originals (not photocopies) of the operation and maintenance data to the Officer-in-Charge.

6.22 Contract Documents to Be Kept on the Project Site. The Contractor shall keep

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a copy of the contract documents at the project site, and in such a location where they shall be readily accessible for reference.

6.23 Additional Plans to Be Furnished by the Officer-in-Charge. The construction plans are intended to be fairly comprehensive and indicate in detail the scope of the work. If during the progress of construction, the Contractor should request supplemental plans to clarify or define in greater detail the intent of the contract documents, the Officer-in-Charge may furnish such supplemental plans, and such additional plans shall become a part of the contract documents, and the Contractor shall perform the work in conformance with such supplemental plans.

6.24 Personal Supervision. (a) The Contractor shall either be personally present or have a responsible representative, authorized to act on behalf of the Contractor, at the project site at all times.

(b) The Contractor shall provide the Officer-in-Charge, in writing, with the name(s) of the Contractor's representative(s).

6.25 Character of Workers, Methods, and Equipment. (a) The Contractor shall employ persons who possess the skills required to perform the work under the contract.

(b) When required by the Officer-in-Charge, the Contractor shall replace any employee who lacks the skill to perform the work assigned to such employee, or is discourteous or disorderly while performing such work. A person who has been replaced may be assigned other work with the approval of the Officer-in-Charge.

(c) The Contractor shall use proper and efficient methods and equipment based upon standard construction industry practices for the performance of the contract.

6.26 Lines and Grades. (a) The laying out of base lines, establishment of grades and staking out the entire work shall be done by a surveyor or civil engineer licensed in the State of Hawaii at the expense of the Contractor, and the Contractor shall be solely responsible for their accuracy. The Contractor shall be responsible for costs of replacing the horizontal and vertical control points or monuments if disturbed or destroyed by the Contractor.

(b) Should any discrepancy be discovered in the dimensions given in the plans, the Contractor shall immediately notify the Officer-in-Charge before proceeding any further with the work, otherwise the Contractor will be held responsible for any costs involved in correction of construction placed due to such discrepancy.

6.27 Contractor's Entry upon Private Properties. Unless explicitly stated in the contract documents or informed in writing by the Officer-in-Charge, the Contractor is not authorized to enter any property other than the project site. If the Contractor enters any property, whether authorized by the landowner or any other person claiming an interest in the property, or without any authorization, and causes property damage, personal injury, or wrongful death thereupon, the Contractor shall be responsible to settle any and all claims made by the landowner or person claiming an interest in the property.

6.28 Existing Underground Improvements. (a) Whenever the existence of drainage,

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gas, oil, sewer, or water pipelines (if applicable, see also Article 301.10 of the Water Systems Standards); cable TV, electric, or telephone lines, or other underground utility facilities are indicated in the construction plans, or are not indicated in the construction plans, but inquiries indicate their existence, the Contractor shall exercise utmost caution, keeping in mind the possible existence of unrecorded laterals and other incidental facilities, and protect all such improvements from damage. The Contractor shall be responsible for any and all damages to all such improvements resulting from its operations.

(b) The Contractor is not eligible for additional compensation and shall not make any claims against the County for extra effort required to prevent any damages or extra work caused or resulting from its operations under this subsection.

6.29 Quality of Materials. All materials furnished and installed shall be new, be of standard quality of their respective kinds, and be free of defects. Rejected materials must be removed from the project site immediately or within such time as allowed by the Officer-in-Charge and replaced with materials of the quality required by the contract documents. Failure by the Officer-in-Charge to reject materials or to require the removal of such rejected materials shall not relieve the Contractor from responsibility as to the quality and character of materials used on the project.

6.30 Defective Work. Any defective work which may be discovered before the completion of the work shall be corrected as soon as possible. The fact that the Officer-in-Charge may not be aware of defective work shall not constitute the acceptance of the same. Payment, whether partial or final, shall not be construed to be an acceptance of defective work or improper material.

6.31 Inspectors. (a) The Officer-in-Charge may place inspectors on the project. They shall have free access to inspect any and all portions of the project at all times and shall be afforded all means to inspect the materials furnished and work performed on the project. No defective or noncomplying material or workmanship will be considered as accepted as a consequence of the failure of the inspectors to discover or to point out said defects or deficiencies during the construction; nor will the presence of inspectors on the project relieve the Contractor from responsibility for securing the quality and progress of work required by the contract documents.

(b) The inspectors may not alter or waive the provisions of the contract, issue instructions contrary to the contract, or act as foreman for the Contractor. The inspectors shall be free to perform their duties at all times and any intimidation of any inspector by the Contractor or the Contractor's agents or employees, shall be sufficient reason for the County to terminate the contract.

(c) If the Contractor wishes to work at such time of the day which is during the period other than the regular business hours of the County, or on a Saturday, Sunday, or legal State/County holiday, the Contractor shall submit a written request to the Officer-in-Charge for inspection services during such period not less than forty-eight (48) hours in advance of the time when such inspection services are required. If the Contractor's request is granted, the Contractor shall pay the County at the rate per hour designated by the County for each inspector provided. A deposit of legal tender or certified check in an amount estimated by the County to be the cost of be incurred by the County. The Contractor shall be refunded any unused portion of the deposit or be responsible for additional payment based on actual cost incurred by the County for the additional inspection. The County may reject the request for additional inspection services, and consequently deny the Contractor's request

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to work overtime if inspectors are not available during the period the Contractor is planning to work.

6.32 Findings Confidential. Any reports, information, or data which the County deems confidential and is given to or prepared or assembled by the Contractor under the contract shall not be made available to any individual or entity by the Contractor without the prior written approval of the Officer-in-Charge.

6.33 Ownership Vested in County. It is expressly understood that any and all equipment, materials, data, information, results and any other thing derived or obtained directly or indirectly as a result of the contract, including, but not limited to, equipment, materials, data, information, and results shall be the sole and exclusive property of the County and that the Contractor shall have no interest, right or title to or in any of the foregoing.

6.34 Pollution. In accordance with section 103D-411, HRS, the Contractor shall control any pollution in accordance with applicable federal, state, and county regulations when pollution is encountered in the performance of the contract. The Contractor shall immediately notify the Officer-in-Charge if pollution is encountered in the performance of the contract.

6.35 Best Efforts. Contractor agrees that it will, at all times, faithfully, industriously, and to the best of Contractor's ability, experience and talents, perform all of the duties that may be required of Contractor pursuant to the express and implicit terms hereof to the reasonable satisfaction of the County, as determined by the Officer-in-Charge.

6.36 Clean up. Upon the completion of the work, the Contractor shall remove all temporary structures, surplus materials, rubbish, and obstructions. Should the Contractor fail to do so, the Officer-in-Charge may undertake the work and deduct the cost of performing such work from compensation due the Contractor.

6.37 Responsibility of the Contractor Prior to Final Acceptance of the Work. The Contractor shall be responsible for the work until final acceptance by the County. Use of any portion of the work which may be necessitated by tie-ins to existing and live water systems and which portion of the work must be kept live and use of other portions of the work other than water system improvements by the public, with or without permission by the County, shall not be construed as an acceptance of the work and shall not relieve the Contractor from its responsibility hereunder.

6.38 Substantial Completion. (a) The Contractor, on considering the work to be substantially complete and ready for its intended use, shall so notify the Officer-in-Charge in writing. The notification shall include an itemized list of remaining incomplete work. If the Officer-in-Charge determines that the work is not substantially complete, the Officer-in-Charge will so notify the Contractor in writing identifying the reasons for such a determination. If the Officer-in-Charge finds the work substantially complete, the Officer-in-Charge will meet with the Contractor to:

- (1) prepare a punch list of incomplete items of work;
- (2) define the division of responsibility between County and Contractor with respect to security, operation, maintenance, heat, utilities, insurance, and warranties; and
- (3) describe any other issues related to acceptance of the substantially completed work.

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The Officer-in-Charge will notify the Contractor in writing of the terms of the County's acceptance of substantial completion. The written notification shall include a punch list of incomplete work items, set the date for their completion, describe the division of responsibility between the County and Contractor, and describe any other terms of acceptance of substantial completion. The Contractor shall acknowledge, in writing, acceptance of all terms specified in the written notice before the project is determined substantially complete by the County.

(b) Upon receipt of the Contractor's written acknowledgment, the County shall take possession of the work or portion of the work and put it into its intended service. The date that the work or portion of the work is put into service will become the date of substantial completion.

(c) Subsequent to the substantial completion date, the County may exclude the Contractor from the work during such periods when construction activities might interfere with the operation of the project. The County, however, shall allow the Contractor reasonable access for completion or correction of incomplete punch list items.

(d) Except for any portion(s) of work specified for early completion or required by the County for early possession, substantial completion will not occur for any work until the entire project is ready for possession and use.

(e) The Officer-in-Charge shall have sole discretion for determination of substantial completion.

6.39 Possession of Portions of the Project. Should the Contractor fail to meet any date specified for substantial completion of the work or any portion of the work requiring early possession and use by the County, the County may, after a 10-day written notice to the Contractor, take over such portion or all of the work that is behind schedule. In such case, the Officer-in-Charge will prepare a punch list of incomplete work. The County may allow the Contractor reasonable access to the work at such times that the operation of the project will not be affected or the County may complete the work itself after giving the Contractor notice of the County's intention to do so. The cost of County's work will be charged to and deducted from amounts due to the Contractor. The substantial completion date will be established as the date when the County actually begins using the project or portion of the project for its intended purpose. Division of responsibilities between the County and Contractor, beginning of warranties, and any other issues relating to substantial completion shall be as specified in the contract.

6.40 Acceptance of the Project. (a) Upon completion of the work, including portions of the work previously accepted as substantially complete, the Contractor shall so notify the Officer-in-Charge in writing. Upon receipt of the notification, the Officer-in-Charge will determine if the work conforms to the terms of the contract. If the Officer-in-Charge finds materials, equipment, or workmanship which do not meet the terms of the contract, the Officer-in-Charge shall prepare a punch list of such items and submit it to the Contractor. Following completion of the corrective work by the Contractor, the Contractor shall notify the Officer-in-Charge that the work has been completed in accordance with the contract. Final determination of the acceptability shall be made by the Officer-in-Charge. Upon acceptance of the project, the Officer-in-Charge shall immediately file a notice of completion. For portions of the project not previously accepted as substantially complete, the conditions of guarantee shall commence on the date that the Officer-in-Charge files a notice of completion.

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(b) The final application for payment shall be accompanied by all required documentation called for in the contract including complete and legally effective releases or waivers of liens in a form acceptable to the County. Subject to prior approval of the County, the Contractor may submit in lieu of the lien releases and waivers: (1) receipts of releases in full; (2) an affidavit that the releases and receipts cover all labor, services, materials, and equipment for which a lien could be filed and that all payrolls, materials, and equipment bills and other indebtedness connected with the work for which the County or the County's property might in any way be responsible have been paid or otherwise satisfied; and (3) consent of the surety, if any, to final payment.

(c) If any subcontractor or supplier fails to furnish a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to the County to indemnify the County against any lien.

(d) If, after reviewing the Contractor's final application for payment including all documentation required, the Officer-in-Charge determines that the work is complete, the Officer-in-Charge will recommend that final payment, including all retainages, be made by the County. The final payment will be due and payable by the County within thirty (30) days after any legal notice periods have expired.

6.41 Warranty. (a) The Contractor and Contractor's sureties shall be responsible for the work for a period of one (1) year following final acceptance to be free from defects in workmanship and materials. Product warranties, as applicable, beyond the one (1) year Contractor warranty shall be secured in the name of the County of Maui and furnished to the County prior to final payment request.

(b) The performance and payment bond shall remain in force during the Contractor's warranty period, or the Contractor may elect to withdraw the performance and payment bond and deposit a replacement bond in an amount not less than ten percent (10%) of the final contract price; provided that the Contractor and Contractor's sureties for the replacement bond shall be responsible for any and all costs which exceed the replacement bond amount during the warranty period.

(c) The Contractor and Contractor's sureties shall be responsible for the repair or replacement, or both, of all defective work or materials.

(d) If the Contractor or Contractor's sureties fail to perform the responsibilities under this subsection in a timely manner, the Officer-in-Charge may undertake or cause the undertaking of such work, and the Contractor and Contractor's sureties shall be responsible for all costs thereunder.

(e) If the work or any portion thereof fails, and the Officer-in-Charge determines that the public's safety, health, or welfare is jeopardized, the Officer-in-Charge may, with or without notice to the Contractor or the Contractor's surety, undertake the repair or replacement work, and the Contractor and Contractor's sureties shall be responsible for all costs incurred by the County.

Section 7 - Compensation

7.1 Compensation. The Contractor shall be paid the amount stated in the contract less any reduction in compensation and plus any increase in compensation pursuant to the contract change order and modification sections herein, as full compensation for the performance of the

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services under the contract.

7.2 Compensation Retained. (a) The County may retain a portion of the amount due under the contract to the Contractor to insure proper performance of the contract, provided that the sum withheld shall not exceed five percent (5%) of the amount due the Contractor and that after fifty percent (50%) of the contract is completed and progress is satisfactory, no additional sum shall be withheld; provided further that if progress is not satisfactory, the Procurement Officer may continue to withhold as compensation retained sums not exceeding five percent (5%) of the amount due the Contractor; provided further that the compensation retained shall not include sums deducted and withheld separately as liquidated damages from moneys due or that may become due the Contractor under the contract. [§103-32.1(a), HRS]

(b) The retention amount withheld by the Contractor from its subcontractors shall be the same percentage of compensation retained as that of the Contractor, provided that the subcontractor has provided evidence to the Contractor of:

- (1) A valid performance and payment bond for the project that is acceptable to the Contractor and executed by a surety company authorized to do business in the State of Hawaii;
- (2) Any other bond acceptable to the Contractor; or
- (3) Any other form of collateral acceptable to the Contractor.

This subsection shall also apply to the subcontractors who subcontract work to other subcontractors. [§103-32.1(b), HRS]

(c) The County may enter into an agreement with the Contractor which will allow the Contractor to withdraw from time to time the whole or any portion of the sum retained under subparagraph (a) upon depositing with the County any general obligation bond of the State or its political subdivisions with a market value not less than the sum to be withdrawn; provided that the County may require that the total market value of such bond be greater than the sum to be withdrawn. [§103-32.2, HRS]

7.3 Monthly Progress Payments. (a) The County shall pay the Contractor monthly progress payments based on the actual quantities of work done and the actual quantities of materials delivered to and safely stored at a site approved by the County. The Contractor shall submit monthly progress payment request to the Officer-in-Charge no later than the fifth (5th) day of each month for work performed during the previous calendar month.

(b) Subject to the retainage provisions of subsection 7.2, Compensation Retained, the County shall pay the Contractor an amount equal to the value of the completed and installed portion of the work for which the Contractor certifies has not previously been paid. The County shall also pay the Contractor for seventy-five percent (75%) of the value of materials furnished, delivered and stored in an approved manner, provided that:

- (1) A copy of the paid receipts for the stored materials must be submitted with the pay estimate;

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(2) Fire and Standard Extended Coverage Insurance is required if payment for stored materials is requested; and

(3) Payment for perishable stored materials, such as live plants and similar materials, will not be allowed.

(c) The Officer-in-Charge may decline to process a progress payment request if the total value of the work done since last estimate is less than \$1,000.

(d) Monthly progress payments may be subject to compensation retained.

7.4 Death or Disability of Contractor. In the case of an individual Contractor, if the Contractor dies or becomes physically or mentally disabled, the Contractor or the Contractor's estate shall be compensated in the same proportion of the compensation under the contract as the services performed bear to the services to be performed under the contract.

7.5 Campaign Contributions Prohibited. It is understood and agreed by the Parties that no portion of the Contractor's compensation to be paid under the terms of the contract shall be used as a campaign contribution.

7.6 Authority to Withhold Money Due or Payable. The Procurement Officer may withhold such amounts from the money due or to become payable under the contract to the Contractor, or any assignee thereof, as may be necessary to protect the County against liability, to satisfy the obligations of the Contractor to the County, employees, subcontractors and material men who have performed labor or furnished material and equipment under the contract, or to satisfy any outstanding debts owed to the County by the Contractor and may make such payments from such amounts as may be necessary to discharge such obligations, satisfy County debts and protect the County.

7.7 Final Payment - Final Acceptance. (a) Final payment will be made only after the issuance of a notice of final approval and acceptance by the Officer-in-Charge advising the Contractor of the satisfactory fulfillment of the terms of the contract, provided that the Director of Finance has determined that the Contractor has fully satisfied all outstanding debts to the County. Acceptance by the Contractor of the final payment shall constitute payment in full for all services performed under the contract.

(b) Upon completion and acceptance of the work under the contract, the County shall pay the Contractor the balance due after deducting previous payments and amounts to be retained or deducted according to the contract.

(c) The County shall not make final payment until the following is received:

(1) Written consent of the Contractor's sureties on the Contractor's bonds;

(2) Tax clearance certificate from the State Director of Taxation stating that all delinquent taxes levied or accrued against the Contractor have been paid. The tax clearance for final payment shall be an original certificate with a green certified copy stamp, not over two (2) months old, with box 3a of the application completed for a specific job number, and indicating tax clearances from the Hawaii State Department of Taxation and the Internal Revenue Service on Tax Clearance Application A-6;

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(3) An affidavit stating that payment due to all subcontractors and all persons, companies, corporations for labor, tools, materials, and equipment used in the prosecution of the work under the contract have been paid or have been satisfactorily secured; and

(4) A "Certification of Compliance for Final Payment" (SPO Form-22).

Section 8 - Contract Amendments/Change Orders

8.1 Change Order. In accordance with sections 103D-202, HRS and 3-125-4, HAR, the Procurement Officer, at any time, and without notice to any surety, in a signed writing designated or indicated to be a change order, may make changes in the work within the scope of the contract as may be found to be necessary or desirable. Such changes shall not invalidate the contract or release the sureties, and the Contractor shall perform the work as changed, as though it had been part of the original contract. Minor changes in the work may be directed by the Procurement Officer with no change in contract price or time of performance.

8.2 Adjustments of Price or Time for Performance. In accordance with section 3-125-4, HAR, if any change order increases or decreases the Contractor's cost of, or the time required for performance of any part of the work under the contract, whether or not changed by the order, an adjustment may be made and the contract modified in writing accordingly.

(a) Any adjustment in contract price shall be determined in accordance with Section 11-Price Adjustment Clause.

(b) Failure of the parties to agree to an adjustment in time shall not excuse a Contractor from proceeding with the contract as changed, provided that the Procurement Officer, within fourteen (14) days after the changed work commences, makes such provisional adjustments in time as the Procurement Officer deems reasonable.

(c) The right of the Contractor to dispute the contract price or time required for performance or both shall not be waived by its performing the work, provided however, that it follows written notice requirements for disputes and claims established by the contract.

(d) The County may choose to formalize a change to the scope of work or contract time by a contract amendment.

8.3 Time Period for Claim. Within thirty (30) days after receipt of a written change order under paragraph 8.1, unless such period is extended by the Procurement Officer in writing, the Contractor shall file a notice of intent to assert claim for an adjustment. The requirement for timely written notice cannot be waived and shall be a condition precedent to the assertion of a claim.

8.4 Claim Barred After Final Payment. No claim by the Contractor for an adjustment hereunder shall be allowed if written notice is not given prior to final payment under the contract.

8.5 Other Claims Not Barred. In the absence of such a change order, nothing in this section shall restrict the Contractor's right to pursue a claim arising under the contract or for breach of contract.

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Section 9 - Stop Work Orders

9.1 Suspension of Work. The Procurement Officer may, by written order, suspend the performance of the work, either in whole or in part for periods as the Procurement Officer may deem necessary for any cause, including but not limited to:

- (a) Weather or soil conditions considered unsuitable for prosecution of the work;
- (b) Failure on the part of the Contractor to:
 - (1) Correct conditions unsafe for the general public or for the workers;
 - (2) Carry out orders given by the Procurement Officer;
 - (3) Perform the work in strict compliance with the provisions of the contract; or
 - (4) Provide adequate supervision on the job site.
- (c) Whenever a redesign that may affect the work is deemed necessary by the Procurement Officer;
- (d) Unacceptable noise or dust arising from the construction even if it does not violate any law or regulation; or
- (e) The convenience of the County.

9.2 Partial and Total Suspension. Suspension of work on some but not all items of work shall be considered a "partial suspension". Suspension of work on all items shall be considered "total suspension". The period of suspension shall be computed from the date set out in the written order for work to cease until the date of the order for work to resume.

9.3 Reimbursement to Contractor. In the event that the Contractor is ordered by the Procurement Officer in writing as provided herein to suspend all work under the contract in accordance with paragraph (c), (d), or (e) of subsection 9.1, Suspension of Work, the Contractor may be reimbursed for actual money expended towards the project during the period of suspension. No allowance will be made for anticipated profits.

9.4 Cost Adjustment. If the performance of all or part of the work is suspended for reasons beyond the control of the Contractor, an adjustment shall be made for any increase in the cost of performance of the contract (excluding profit) necessarily caused by such suspension, and the contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension:

- (a) To the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor; or
- (b) For which an adjustment is provided for or excluded under any other provision of the

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contract.

9.5 Claims For Adjustment. Any adjustment in contract price made pursuant to this clause shall be determined in accordance with the provisions on changes and claims for adjustment. Claims for compensation shall be filed in writing with the Procurement Officer within thirty (30) days after the date of the order to resume work or the claims will not be considered. Together with the claim, the Contractor shall submit substantiating documents covering the entire amount shown on the claim. The Procurement Officer shall take the claim under consideration, may make such investigations as are deemed necessary, and shall be the sole judge as to the equitable nature of the claim. The Procurement Officer's decision shall be final.

9.6 No Adjustment. No provision of this section shall entitle the Contractor to any adjustments for delays due to failure of surety, suspensions made at the request of the Contractor, any delay required under the contract, or suspensions, either partial or whole, made by the Procurement Officer under paragraph (b) of subsection 9.1, Suspension of Work.

Section 10 - Variations in Estimated Quantities

10.1 Variations Requiring Adjustments. Where the estimated quantity of a pay item in the contract is an estimated quantity and where the actual quantity of such pay item varies by more than fifteen percent (15%) above or below the estimated quantity in the contract, an adjustment in the contract price shall be made upon demand of either party. The adjustment shall be based upon any increase or decrease in costs due solely to the variation above one hundred fifteen percent (115%) or below eighty five percent (85%) of the estimated quantity. If the quantity variation is such as to cause an increase in the time necessary for completion, the Procurement Officer shall, upon receipt of a timely written request for an extension of time, prior to final payment of the contract, ascertain the facts and make such adjustment for extending the completion date as in the judgment of the Procurement Officer the findings justify.

10.2 Adjustment of Price. Any adjustment in contract price shall be determined in accordance with Section 11 - Price Adjustment Clause.

Section 11 - Price Adjustment Clause

11.1 Price Adjustment. Any adjustment in contract price pursuant to a clause in the contract shall be made in one or more of the following ways:

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

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

(c) By the costs attributable to the events or situations under such clauses with adjustment of profit or fee, all as specified in the contract or subsequently agreed upon before commencement of the pertinent performance;

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(d) In any other manner as the parties may mutually agree upon before commencement of the pertinent performance; or

(e) In the absence of agreement between the Parties, the provisions of section 103D-501(b)(5), HRS shall apply.

11.2 Submission of cost or pricing data. The contractor shall be required to submit cost or pricing data if any adjustment in contract price is subject to the provisions of section 103D-312, HRS (Cost or pricing data), as amended. The submission of any cost or pricing shall be made subject to the provisions of subchapter 15, chapter 3-122, HAR. A fully executed change order or other document permitting billing for the adjustment in price under any method listed in paragraphs 11.1(a) through 11.1(d) shall be issued within ten days after agreement on the method of adjustment.

11.3 Determining Adjustments in Price. (a) In determining the adjustment in price to the County resulting from a change, the allowances for all overhead, extended overhead resulting from adjustments to contact time (including home office and branch office overhead) and profit combined shall not exceed the percentages set forth below:

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

(b) For each subcontractor, for any work performed by its own forces, twenty percent (20%) of the cost;

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

In no event shall overhead and profit exceed a total of twenty percent (20%) of direct costs, regardless of the number of tier subcontractors.

(a) The Contractor may add up to one percent (1%) of direct costs for bonds.

(b) If the bid contains lump sum items, the Officer-in-Charge may delete the lump sum item, which shall be deducted from the contract price based on the bid price of the lump sum item.

(c) If the bid contains unit price items, the Officer-in-Charge may increase or decrease the quantities of such items, or delete such items in their entirety. If quantities are increased, the Contractor shall perform such work at the unit price bids for such items. If quantities are decreased or such unit price items are deleted in their entirety, the deductions from the contract price shall be based on the unit price bids for such items.

11.4 Change Order Work by Force Account. (a) Compensation for change work by force account (time and expenses basis) shall be an amount equal to the sum of the following items:

(1) The cost to the Contractor of all material delivered for the change order work evidenced by bills or vouchers;

(2) The cost of all labor including foremen, except general superintendence, necessary to incorporate the above material in the change work or to finish the change order

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if no material are required, to be determined from the Contractor's payrolls or by inspections performed by the inspectors, or both;

(3) Ten percent (10%) of the amount from sub-paragraph (2), which shall be considered as covering the cost of superintendence, hand tools, and clerical work in connection with the change order work and the Contractor's overhead costs;

(4) A rental charge for the use of all construction equipment approved by the Officer-in-Charge. The rental rates shall be agreed upon by the Contractor and the Officer-in-Charge, and may or may not, include the cost of fuel oil, gasoline, electric energy, lubricating oil, repairs, and maintenance. The Contractor shall submit a proposed schedule of equipment rental charges to the Officer-in-Charge for approval prior to entering into a change order. The cost of small tools shall not be included;

(5) The cost of workers' compensation insurance and public liability premiums, unemployment tax, social security tax, or other taxes on the labor for sub-paragraph (2);

(6) Fifteen percent (15%) of the sums of sub-paragraphs (1) through (4), which shall be considered as covering all other expenses and profit;

(7) Where force account work is performed by a subcontractor, the Contractor may add five percent (5%) to the subcontractor's computed compensation to cover its overhead and profit, provided that overhead and profit shall be limited to a total of twenty percent (20%) of direct costs;

(8) One percent (1%) of direct costs for paragraphs (1) through (7) for bonds. The addition for bond cost is applicable only to the Contractor's compensation; and

(9) The cost of state excise tax on the sum of paragraphs (1) through (8).

(b) The performance of change order work on a force account basis shall be under the supervision of the Officer-in-Charge, and the Officer-in-Charge's decision shall be final. The method of performing such work, the equipment to be used, and the amount and character of labor to be employed shall meet with the approval of the Officer-in-Charge. The force account formula may also apply to deleted work.

(c) Whenever the Contractor is directed to perform extra work on a time and expense basis, the Contractor will maintain accurate records. Each day a record of labor, materials and equipment costs shall be submitted to the Officer-in-Charge for verification. These records shall reflect the actual and necessary expenses pertaining to the extra work and shall be available for audit. Audits conducted under this provision shall be in accordance with generally acceptable auditing standards and established procedures and guidelines of the reviewing or auditing agencies.

11.5 Materials Ordered. If the Officer-in-Charge deletes any item, or decreases the quantity of any item in the bid, and the Contractor has already ordered materials involved in such deletions or decreases, the Contractor shall make every effort to return the materials if requested by the Officer-in-Charge. If the materials are returnable, the County shall pay the actual costs incurred to the Contractor to return the materials evidenced by receipt or invoice. If the materials cannot be returned, the County shall pay the actual cost to the Contractor of the materials evidenced by receipt

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or invoice; provided that the materials are free from defect upon inspection and acceptance by the County. Materials ordered prior to the issuance of the Notice to Proceed shall be the Contractor's responsibility and the County will not make payment for such materials.

11.6 Work by County. If additional work is required to complete the contract, the County reserves the right to (1) perform the additional work itself; and (2) employ another contractor to perform the work. The Contractor shall fully cooperate with the County to schedule the completion of the additional work.

Section 12 - Differing Site Conditions

12.1 Notification. The Contractor shall promptly, and before such conditions are disturbed, notify the Procurement Officer of:

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

(b) Unknown physical conditions at the site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the contract.

12.2 Adjustments of Price or Time for Performance. After receipt of the notice, the Procurement Officer shall promptly investigate the site, and if it is found that the conditions do materially so differ and cause an increase in the Contractor's cost of, or the time required for, performance of any part of the work under the contract, whether or not changed as a result of the conditions, an adjustment shall be made and the contract modified in writing accordingly. Any adjustment in contract price made pursuant to this section shall be determined in accordance with Section 11 - Price Adjustment Clause.

12.3 Timeliness of Claim. No claim of the Contractor under this section shall be allowed unless the Contractor has given the notice required in this section; provided, however, that the time prescribed therefore may be extended by the Procurement Officer in writing.

12.4 No Claim After Final Payment. No claim by the Contractor for an adjustment thereunder shall be allowed if asserted after final payment under the contract.

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12.5 Knowledge. Nothing contained in this section shall be grounds for an adjustment in compensation if the Contractor had actual knowledge of the existence of such conditions prior to the submission of bids.

Section 13 - Novation or Change of Name

13.1 No Assignment. No County contract is transferable, or otherwise assignable, without the written consent of the Procurement Officer. A Contractor may assign monies receivable under a contract with written consent of the Procurement Officer.

13.2 Recognition of a Successor in Interest; Assignment. When in the best interest of the County, a successor in interest may be recognized in an assignment agreement in which the transferor, the transferee and the County shall agree that:

- (a) The transferee assumes all of the transferor's obligations;
- (b) The transferor remains liable for all obligations under the contract but waives all rights under the contract as against the County; and
- (c) The transferor shall continue to furnish, and the transferee shall also furnish, all required bonds.

13.3 Change of Name. When a Contractor requests to change the name in which it holds a contract with the County, the Procurement Officer shall, upon receipt of a document indicating such change of name (for example, an amendment to the articles of incorporation of the corporation), enter into a novation agreement with the requesting Contractor to effect such a change of name. The agreement changing the name shall specifically indicate that no other terms and conditions of the contract are thereby changed.

Section 14 - Claims Based on Oral Directives

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

14.2 Change Order Issued. Not more than five (5) working days after receipt of the written notice from the Contractor, the Procurement Officer shall issue a change order for the subject work if the Procurement Officer agrees that it constitutes a change. If no change order is issued in

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the time established, it shall be deemed a rejection of the Contractor's claim for a change. If the Contractor objects to the Procurement Officer's refusal to issue a change order, it shall file a written protest with the Procurement Officer within thirty (30) days after delivery to the Procurement Officer of the Contractor's written notice of its intention to treat the oral order as a change. In all cases the Contractor shall proceed with the work. The protest shall be determined as provided in section 17 - Remedies.

Section 15 - Default, Delay, and Time Extensions

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

15.2 Liquidated Damages Upon Termination. If fixed and agreed liquidated damages are provided in the contract, and if the County so terminates the Contractor's right to proceed, the resulting damage will consist of the liquidated damages for the time as may be required for final completion of the work.

15.3 Liquidated Damages in Absence of Termination. If fixed and agreed liquidated damages are provided in the contract, and if the County does not terminate the Contractor's right to proceed, the resulting damage will consist of liquidated damages accumulated until the work is completed or accepted.

15.4 Time Extension. The Contractor's right to proceed shall not be so terminated nor shall the Contractor be charged with resulting damage if:

(a) The delay in the completion of the work arises from causes such as: acts of God; acts of the public enemy; acts of the State and any other governmental entity in either a sovereign or contractual capacity; acts of another Contractor in the performance of a contract with the County; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; unusually severe weather; delays of subcontractors due to causes similar to those set forth above; or shortage of materials; provided, however, that no extension of time will be granted for a delay caused by a shortage of materials, unless the Contractor furnishes to the Procurement Officer proof that the Contractor has diligently made every effort to obtain the materials from all known sources, and further proof that the inability to obtain the materials when originally planned did in fact cause a delay in final completion of the entire work which could not be compensated for by revising the sequence of the Contractor's operations; and

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(b) The Contractor, within ten (10) days from the beginning of the delay (unless the Procurement Officer grants a further period of time before the date of final payment under the contract), notifies the Procurement Officer in writing of the causes of delay. The Procurement Officer shall ascertain the facts and the extent of the delay and extend the time for completing the work when, in the judgment of the Procurement Officer, the findings of fact justify such an extension.

15.5 Additional Rights and Remedies. The rights and remedies of the County provided in the contract are in addition to any other rights and remedies provided by law.

Section 16 - Termination for Convenience

16.1 Terminations. The Procurement Officer may, when the interests of the County so require, terminate the contract in whole or in part, for the convenience of the County. The Procurement Officer shall give written notice of the termination to the Contractor specifying the part of the contract terminated and when termination becomes effective.

16.2 Contractor's Obligations. The Contractor shall incur no further obligations in connection with the terminated work, and on the date set in the notice of termination the Contractor will stop work to the extent specified. The Contractor shall also terminate outstanding orders and subcontracts as they relate to the terminated work. The Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work subject to the County's approval. The Procurement Officer may direct the Contractor to assign the Contractor's right, title, and interest under terminated orders or subcontracts to the County. The Contractor must still complete the work not terminated by the notice of termination and may incur obligations as necessary to do so.

16.3 Right to Construction and Goods. The Procurement Officer may require the Contractor to transfer title and deliver to the County in the manner and to the extent directed by the Procurement Officer:

(a) Any completed constructions; and

(b) The partially completed construction, goods, materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "construction material") as the Contractor has specifically produced or specially acquired for the performance of the terminated part of the contract. The Contractor shall protect and preserve property in the possession of the Contractor in which the County has an interest. If the Procurement Officer does not exercise this right, the Contractor shall use the Contractor's best efforts to sell the construction, goods, and construction materials in accordance with the standards of section 490:2-706, HRS. This in no way implies that the County has breached the contract by exercise of the termination for convenience clause.

16.4 Compensation. (a) The Contractor shall submit a termination claim specifying the amounts due because of the termination for convenience together with cost or pricing data, submitted to the extent required by sub-chapter 15, chapter 3-122, HAR, bearing on such claim. If the Contractor fails to file a termination claim within one year from the effective date of termination, the Procurement Officer may pay the Contractor, if at all, an amount set in accordance with clause (2) of paragraph (c).

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(b) The Procurement Officer and the Contractor may agree to a settlement provided the Contractor has filed a termination claim supported by cost or pricing data submitted as required and that the settlement does not exceed the total contract price plus settlement costs reduced by payments previously made by the County, the proceeds of any sales of construction, goods, and construction materials under clause (3) of paragraph (c), and the contract price of the work not terminated.

(c) Absent complete agreement under paragraph (b), the Procurement Officer shall pay the Contractor the following amounts, provided payments under paragraph (b) shall not duplicate payments under this paragraph, for the total (without duplication of any items) of:

(1) The cost of all contract work performed prior to the effective date of the notice of termination plus a five per cent (5%) markup on actual direct costs on the portion of the work (the markup shall not include anticipatory profit or consequential damages) less amounts paid or to be paid for completed portions of the work; provided, however, that if it appears that the Contractor would have sustained a loss if the entire contract would have been completed, no markup shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss;

(2) Subject to the prior approval of the Procurement Officer, the costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to the "Contractor's obligations" provisions of the contract. Subcontractors shall be entitled to a markup of no more than ten per cent (10%) on direct costs incurred to the date of termination. These costs must not include costs paid in accordance with clause (1);

(3) The total sum to be paid the Contractor under this paragraph shall not exceed the total contract price reduced by the amount of any sales of construction, goods, and construction materials under subsection 16.3, Right to Construction and Goods, and the contract price of work not terminated.

(d) Cost claimed, agreed to, or established under paragraphs (b) and (c) shall be in accordance with chapter 3-123, HAR.

Section 17 - Remedies

17.1 General. Any dispute arising under or out of the contract is subject to chapter 3-126, HAR.

17.2 Disputes. (a) All controversies between the County and the Contractor which arise under, or are by virtue of, the Contract and which are not resolved by mutual agreement shall be decided by the Procurement Officer in writing, within ninety calendar days after a written request by the Contractor for a final decision concerning the controversy; provided that if the Procurement Officer does not issue a written decision within ninety calendar days after written request for a final

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decision, or within such longer period as may be agreed upon by the Parties, then the Contractor may proceed as if an adverse decision had been received.

(b) The Procurement Officer shall immediately furnish a copy of the decision to the Contractor, by certified mail, return receipt requested, or by any other method that provides evidence of receipt.

(c) Any such decision shall be final and conclusive, unless fraudulent, or unless the Contractor brings an action seeking judicial review of the decision in the Circuit Court of the Second Circuit, State of Hawaii, County of Maui, within the six months from the date of receipt of the decision.

(d) The Contractor shall comply with any decision of the Procurement Officer and proceed diligently with performance of the contract pending final resolution by the Circuit Court of the Second Circuit, State of Hawaii, County of Maui, of any controversy arising under, or by virtue of, the contract, except where there has been a material breach of contract by the County; provided that in any event the Contractor shall proceed diligently with the performance of the contract where the Procurement Officer has made a written determination that work under the contract is essential to the public health and safety.

Section 18 - Miscellaneous Provisions

18.1 Severability. If any provision of the contract is held invalid, the other provisions of the contract shall not be affected thereby. If the application of the contract or any of its provisions as to any person or circumstance is held invalid, the application of the contract and its provisions as to other persons or circumstances shall not be affected thereby.

18.2 Entire Agreement. The contract contains the complete agreement concerning the subject arrangement between the Parties and shall, as of the effective date hereof, supersede all other agreements between the Parties. The Parties stipulate that neither has made any representations with respect to the subject matter, execution and delivery of the contract except as such representations are specifically set forth herein. Each party acknowledges that the party has relied on the party's own judgment in entering into the contract. The Parties further acknowledge that any payments or representations that may have previously been made by either of them to the other are of no effect and that neither has relied thereon in connection with its dealing with the other.

18.3 Notices. (a) Any written notice required to be given by a party to the contract shall be:

(1) delivered personally to the Contractor's designated representative on the project site, or

(2) sent by United States first class mail, postage prepaid to the party's address listed in the contract.

(b) A notice shall be deemed to have been received three (3) days after mailing or at the time of actual receipt, whichever is earlier. The Contractor shall notify the County in writing of any change of address. The Contractor shall maintain a post office address within the County of Maui and file the same with the Officer-in-Charge prior to or with the execution of the contract. All

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notices addressed in compliance with the directions of the Contractor and properly mailed shall be effective when mailed, or delivered by any of the above methods.

18.4 Assistance of Legal Counsel. The Parties have carefully read and fully understand all of the provisions and effects of the contract. The Parties shall consult with their respective counsel if any provision of the contract is not fully understood. The Parties are voluntarily entering into the contract and neither Party has made representations concerning the terms or effects of the contract other than those contained herein.

18.5 Applicable Law and Venue. The contract shall be governed by the laws of the State of Hawaii. Any action or court proceeding which may arise from the contract shall be heard in the Circuit Court of the Second Circuit, State of Hawaii, County of Maui.

[END OF GENERAL TERMS AND CONDITIONS]