



STATE OF HAWAII
SPECIAL CONDITIONS

Project: PUNONO ROAD IMPROVEMENTS
Location: NIENIE PASTORAL LOTS, HAMAKUA, HAWAII
Contractor: TBD

SC-01 INTERCHANGEABLE TERMS

The following terms are one and the same:

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

SC-02 INSURANCE COVERAGE

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

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

<u>Coverage</u>	<u>Limit</u>
General Liability Insurance (occurrence form)	Bodily Injury and Property Damage (combined single limit): <u>\$1,000,000</u> per occurrence and <u>\$2,000,000</u> aggregate Personal Injury: <u>\$1,000,000</u> per occurrence and <u>\$2,000,000</u> aggregate
Automobile Insurance (covering all owned, non-owned and hired automobiles)	Bodily Injury: <u>\$1,000,000</u> per person and <u>\$1,000,000</u> per occurrence. Property Damage: <u>\$1,000,000</u> per accident or combined single limit of <u>\$2,000,000</u> .
Workers Compensation (statutory limit is required by laws of the State of Hawaii)	Insurance to include Employer’s Liability. Both such coverages shall apply to all employees of the CONTRACTOR and, in case any subcontractor fails to provide adequate similar protection for all his employees, to all employees of subcontractors.
Builder’s Risk covering the CONTRACTOR and all subcontractors	100% Replacement Value
Fire and extended coverage	100% Replacement Value
Malicious Mischief	100% Replacement Value



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Flood Insurance, if applicable Maximum Coverage available

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

SC-03

COMPLETION SCHEDULE AND LIQUIDATED DAMAGES

The CONTRACTOR shall complete all work as specified or indicated in the Contract Documents on or before NINETY calendar days after receiving written Notice to Proceed, subject to extensions, as may be granted.

In case of failure on the part of the CONTRACTOR to complete the work within the time



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specified, the CONTRACTOR shall pay to DHHL as liquidated damages, and not as a penalty, \$1,000.00 per calendar day for each day that the project, in its entirety, remains incomplete.

SC-04 PROCESS THROUGH DHHL

Any and all submittals, reports, requests, claims and notices under the contract shall be processed through Land Development Division Project Manager, at Hale Kalaniana'ole, 91-5420 Kapolei Parkway, Kapolei, Hawaii 96707.

SC-05 SURVEYING SERVICES

Any surveying services required shall be the responsibility of the contractor and considered incidental to the scope of work under this contract and therefore covered under the terms of this contract. No separate payment shall be made.

Upon completion, the Contractor shall prepare an as-built plan for the project site in which the finished grades are certified by a Registered Land Surveyor. Six (6) copies of the as-built plan shall be submitted to the Construction Manager and Engineer. The cost of the as-built plan shall be incidental to the contract. No separate payment shall be made.

SC-06 ALLOWANCES

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

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

SC-07 PERMITS AND FEES

Contractor shall apply and pay for all permits and inspection fees as required by all governmental agencies having jurisdiction over this project.

SC-08 COORDINATION WITH OTHER PARTIES

The CONTRACTOR shall coordinate all the necessary work for temporary utility services, permanent service and appurtenances with the appropriate agencies, including but not limited to the West Hawaii District Office and the County of Hawaii.

SC-09 CONTRACTOR'S LICENSING



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

SC-10 WATER CHARGES AND REQUIREMENTS

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

SC-11 SOIL AND DUST CONTROL

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

SC-12 FINAL INSPECTION

Throughout the construction period, the work may be subject to periodic inspection by the Department, designated Construction Inspector, the County of [REDACTED], Department of [REDACTED] and other applicable government agencies. Once work has been satisfactorily completed, the County, accompanied by the Department and Construction Inspector, will make the final inspection of the work to determine whether all work has been done in complete compliance with the requirements of the plans and these specifications.

The CONTRACTOR shall therefore schedule the final inspection with the County of [REDACTED], Department of [REDACTED] and notify the Department's Project Manager one week prior to said inspection.

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

SC-13 GENERAL CONDITIONS

In the event of conflicts and/or discrepancies, the DHHL Construction General Conditions shall govern over Form AG-008, 103D General Conditions (eff. 10/17/13)



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SC-14 CAMPAIGN CONTRIBUTIONS BY STATE AND COUNTY CONTRACTORS

Contractors are hereby notified of the applicability of Section 11-355, HRS, which states that campaign contributions from specified State or County government contractors during the term of the contract if the contractors are paid with funds appropriated by a legislative body.

**SPECIAL CONDITIONS 01-14 (APPROVED BY AG) SHOULD BE INCLUDED IN ALL IFB DOCS.
PROJECT SPECIFIC SPECIAL CONDITIONS SHOULD BEGIN AT SC-15.**

Examples of Special Conditions included in other IFB's:**SC- CONTRACTOR'S DAILY REPORT**

The Contractor shall submit a daily report electronically, for DHHL review. The report shall include:

1. Date
2. Weather
3. Activity at the site for the Contractor
 - a. Labor – who and what classification, i.e., carpenter, laborer, supervisor, etc.
 - b. Equipment
 - c. Materials delivered
 - d. Work performed (photos)
4. Activity at the site for subcontractors
 - a. Labor – who and what classification, i.e., carpenter, laborer, supervisor, etc.
 - b. Equipment
 - c. Materials delivered
 - d. Work performed (photos)
5. Visitors to the site – DHHL, Construction Manager, Inspectors, etc.
6. Problems or Questions (including suggested resolutions, if any)
7. Safety report status
8. Quality control report status

SC- APPRENTICESHIP AGREEMENT PREFERENCE – CONTRACTOR'S RESPONSIBILITY [include if preference was applied in bid]

1. For the duration of the contract awarded utilizing the Hawai'i Apprenticeship Preference, the CONTRACTOR shall certify each month that work is being conducted on the project, that it continues to be a participant in the relevant apprenticeship program for each trade it employs.
2. Monthly certification shall be made on *MONTHLY REPORT OF CONTRACTOR'S PARTICIPATION IN APPROVED APPRENTICESHIP PROGRAM UNDER ACT 17*



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(*Monthly Certification Form 2*) prepared and made available by the DLIR. *Monthly Certification Form 2* shall be a signed original by the respective apprenticeship program sponsor's authorized official, and submitted by the Contractor with its monthly payment requests. *Monthly Certification Form 2* is available on the DLIR website at: <http://hawaii.gov/labor/wdd>

3. Should the Contractor fail or refuse to submit its monthly certification forms, or at any time during the construction of the project, cease to be a party to a registered apprenticeship agreement for each apprenticeable trade the Contractor employs, the Contractor will be subject to the following sanctions:
 - a. Withholding of the requested payment until the required form(s) are submitted;
 - b. Temporary or permanent cessation of work on the project, without recourse to breach of contract claims by the Contractor; provided the DHHL shall be entitled to restitution for nonperformance or liquidated damages claims; or
 - c. Proceed to debar pursuant to HRS §103D-702.
4. If events such as “acts of God,” acts of a public enemy, acts of the State or any other governmental body in its sovereign or contractual capacity, fires, floods, epidemics, freight embargoes, unusually severe weather, or strikes or other labor disputes prevent the Contractor from submitting the certification forms, the Contractor shall not be penalized as provided herein, provided the Contractor completely and expeditiously complies with the certification process when the event is over.

SC- ARCHAEOLOGICAL REPORT

An Archaeological Field Inspection Report of the project area was completed and no archaeological sites were found within the project limits. The CONTRACTOR should be aware that archaeological sites may be encountered during the construction of this project. If the CONTRACTOR encounters a potential archaeological site during construction, he shall immediately cease all operations in the area and contact the Engineer.

A copy of the archaeological field inspection report, dated December 4, 2009 is attached. CONTRACTOR shall comply with the recommendations in the report as part of the construction method.

SC- INADVERTENT DISCOVERY OF HUMAN BURIALS

Although not expected, in the event human burials are inadvertently discovered, the CONTRACTOR shall immediately stop work in the vicinity of the burial and contact the following parties and agencies immediately: State Historic Preservation Division, DHHL, Office of Hawaiian Affairs and the Maui - Lanai Islands Burial Council.



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DHHL shall provide the CONTRACTOR with a Supplemental Agreement for additional time added to the CONTRACTOR's performance schedule for the mitigation of any inadvertent discovery of human remains.

SC- CERTIFICATION

The CONTRACTOR and CONTRACTOR's Hawaii Licensed Professional Land Surveyor shall jointly certify the finish elevation of the new well head and concrete slab referenced to mean sea level.

SC- GEOTECHNICAL ENGINEER

The services of a geotechnical engineering firm are not anticipated; however, the CONTRACTOR may engage the services of a geotechnical consultant at its own cost. Any geotechnical costs shall be incidental to the contract. No separate payment shall be made.

SC- FIRE PREVENTION PLAN

The site is dry and subject to fires. As such, the CONTRACTOR shall prepare a Comprehensive Fire Prevention Plan, post the regulations clearly at the site and enforce the plan.

SC- FIELD OFFICE

A field office for exclusive use of DHHL personnel or their representatives is not required. CONTRACTOR may provide a field office at their own expense.

SC- WATER SYSTEM SPECIFICATIONS

The "WATER SYSTEM STANDARDS," State of Hawaii, dated 2002, and all subsequent amendments and additions, are by reference incorporated herein and made a part of these contract documents. The work embraced herein shall be performed by the CONTRACTOR in accordance with the "WATER SYSTEM STANDARDS," and the various sections of the Special Conditions.

The term "Water System Standards" used in these contract documents refers to the "WATER SYSTEM STANDARDS" State of Hawaii, dated 2002, and all subsequent amendments and additions.

SC- CONTINGENT ITEMS

Depending upon the site and soil conditions, and other factors, the Project Manager may decide to delete the contingent items in its entirety. A Change Order may be issued to delete the work and the contract amount shall be reduced by subtracting the entire corresponding bid amount. If part of the work is done, or if the work exceeds the estimated quantities, payment shall be made on the actual number of units incorporated in the work at the unit price bid.



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SC- EARTHWORK QUANTITIES

Prior to any grading operations, the Contractor shall submit to the Engineer a list of estimated quantities for excavation and embankment. The Contractor shall also estimate a reasonable percentage for loss/shrinkage and percentage of unsuitable excavated materials. The percentages shall be updated as the grading work progresses. The CONTRACTOR is responsible for disposal of all excavated material offsite. Borrow material shall not be imported until all excavation work is completed and authorized by the Project Manager.

SC- CONSTRUCTION YARD AND RIGHT-OF-ENTRY

Contractor's staging area may be located along side of road, as approved by the Project Manager. Should the staging area measure more than 1 acre, the Contractor will be responsible to apply for and obtain a National General Permit Coverage (NGPC) for Stormwater Associated with Construction Activities from the State Department of Health, Clean Water Branch, including associated fees, before starting any work.

Access to the project site will be from Punono Road.

SC- COUNTY OF MAUI INSPECTION

All work within the proposed well site and any County maintained easements and roadways shall be inspected and approved by the applicable agencies of the County of Maui. The CONTRACTOR shall make arrangements directly with the appropriate agencies to arrange for inspection of work. All work and/or fees necessary to comply with this item shall be considered incidental to the various contract items. No separate payment shall be made.

SC- STATE GENERAL EXCISE TAX

This project is not exempt from the State of Hawaii General Excise Tax. The CONTRACTOR's prices shall include the General Excise Tax for all work.

SC- FINAL SETTLEMENT OF CONTRACT

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

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

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



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[The following are **required** when Federal funds NAHASDA, USDA-RD, etc. are used.]

SC- Equal Employment Opportunity

For federally assisted construction contracts, during the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary



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of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

SC - CONTRACT WORK HOURS AND SAFETY STANDARDS ACT.

For contracts in excess of \$100,000 that involve the employment of mechanics or laborers, Contractor shall comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR part 5).

SC - CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT.

For contracts in excess of \$150,000, Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C.



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7401- 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387).

SC - ENERGY EFFICIENCY.

Contractor shall comply with the Energy Policy and Conservation Act (P.L. 94-163). Mandatory standards and policies relating to energy efficiency, contained in any applicable State Energy Conservation Plan, shall be utilized.

SC - DEBARMENT AND SUSPENSION.

Contractor certifies that it is not a party listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR part 180, as supplemented by 2 CFR part 2424, "Nonprocurement Debarment and Suspension." In addition, Contractor shall not enter into lower tier contracts with parties listed on the government wide exclusions in SAM.

SC - BYRD ANTI-LOBBYING AMENDMENT.

For contracts in excess of \$100,000, the Contractor and each tier of its subcontractors shall file the required certification that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. The Contractor and each tier of its subcontractors must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

SC - PROCUREMENT OF RECOVERED MATERIALS.

Contractor shall comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.