

# **INVITATION FOR BID**

## **J19344**

### **REQUIREMENTS and SPECIFICATIONS TO CONSTRUCT**

Hoapili Hale  
Carpet Replacement  
JUD-2C-HoapHale-CrptRpl-2019  
(2)-013:013:020 & 021  
2145 Main Street  
Wailuku, Maui, Hawai'i

**THE JUDICIARY  
STATE OF HAWAI'I**

**MAY 2019**

**NOTE:** If this solicitation document was downloaded through the internet, each interested person must register through email, providing contact information to the listed contact person in the Judiciary Contracts & Purchasing Office. Registration is essential for you to receive any addendums or other information for this solicitation. The Judiciary shall not be responsible for any missing addenda, clarifications, attachments or other information regarding this solicitation if an Offer is submitted from an incomplete solicitation document.

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## **NOTICE TO BIDDERS**

This solicitation is provided to you for information purposes. Bidders wishing to receive notices or addenda for this specific solicitation must register by email to [Tritia.L.Cruz@courts.hawaii.gov](mailto:Tritia.L.Cruz@courts.hawaii.gov)

### **SEALED BIDS (Chapter 103D, HRS) For:**

**HOAPILI HALE, 2145 Main Street, Wailuku, HI  
Carpet Replacement  
JUD-2C-HoapHale-CrptRpl-2019  
JUD IFB J19344**

Will be received at The Judiciary, State of Hawaii, Financial Services Department, Kauikeaouli Hale, 1111 Alakea Street, Sixth Floor, Honolulu, Hawai'i, 96813-2807. The solicitation documents, including the Solicitation, Offer and Contract Forms, drawings and specifications may be obtained in electronic format from our Judiciary website at <http://www.courts.state.hi.us> under 'General Information' and Business with the Judiciary.

### **Submit the Competitive SOLICITATION, OFFER AND CONTRACT FORM up to: 2:00 PM, June 13, 2019**

At that time, bids will be publicly opened. Bids received after the due time and date will not be considered.

The work consists of moving furniture, removal of old carpeting and disposal, replacement of carpeting with carpet tiles/roll carpet (steps) and cove base at various sections of the building.

The estimated construction cost is \$90,000-\$240,000 USD.

All interested parties are invited to attend a voluntary pre-bid meeting and Judiciary-conducted site visit. No other time for a site inspection will be scheduled or allowed.

Pre-bid meeting and the accompanying Judiciary-conducted site visit at: Hoapili Hale, 2145 Main Street, Room #407, May 29, 2019, 9:00am. *The site visit will immediately follow the meeting.*

*Each Bidder shall bring their own flashlight and small tools that may be required to inspect the premises. Bidders and interested parties are required to sign-in and sign out at the meetings to confirm attendance. Check with Project Coordinator.*

The estimated value of the Judiciary contract is less than \$250,000 and the apprenticeship agreement preference pursuant to Hawaii Revised Statutes §103-55.6 (ACT 17, SLH 2009) shall not apply.

The Hawaii products preference pursuant to ACT 175, SLH 2009 may be applicable for items of this solicitation. Persons wishing to certify and qualify a product not currently listed as a Hawaii Product shall submit a Certification for Hawaii Product Preference (form SPO-38) to: Department of Accounting and General Services, Public Works Division, 1151 Punchbowl Street, Room 426, Honolulu, Hawaii, Attn: Jolie Yee. The product shall meet the specifications of this project. The submittal must be received by the Judiciary by 12:00 p.m. on June 5, 2019. View the current Hawaii Products List on the State Procurement Office (SPO) website at <http://hawaii.gov/spo>, click on 'For Vendors'; and select 'Hawaii Product Preferences'.

For each product, one form shall be completed and submitted (i.e. 3 products should have 3 separate forms completed). The form is available on the SPO webpage at <http://hawaii.gov/spo> under the 'Forms' menu; click on 'SPO-038' to view and complete form SPO-38 online.

Late submittals for this solicitation will not be reviewed by this agency.

**Campaign Contributions by State and County Contractors Prohibited.**

If awarded a contract in response to this solicitation, Offeror agrees to comply with HRS section 11-355, which states that campaign contributions are prohibited from a State and County government contractor during the term of the contract if the contractor is paid with funds appropriated by the legislative body between the execution of the contract through the completion of the contract.

To be eligible to submit a Bid, the Bidder must possess a valid State of Hawai'i Contractor's license classification C-7 Carpet Laying Contractor.

Refer to the **GENERAL NOTICE**, published with the project specifications for additional information.

/s/ Susan Gochros For

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**RODNEY A. MAILE**

ADMINISTRATIVE DIRECTOR OF THE COURTS  
The Judiciary - State of Hawai'i

## **GENERAL NOTICE**

### **TAX CLEARANCE AND HAWAII BUSINESS CERTIFICATES**

Refer to Instructions to Bidders for information regarding tax clearance and business certificates.

### **REQUIREMENT FOR CONTRACTORS LICENSING CLASSIFICATIONS**

Refer to Notice to Bidders for contractor licensing requirements.

### **OTHER INFORMATION**

Bid results and the Contract Awards notice will be posted on at <http://www.courts.hi.us/fy-2019-invitation-for-bids-awards>.

Refer to Instructions to Bidders for other conditions and requirements to award a contract.

Any protest shall be submitted to the Administrator. Bidders shall comply with the GENERAL CONDITIONS Article 2.13 Protests.

## **SECTION 00210 - INSTRUCTIONS TO BIDDERS**

### **PART 1 - GENERAL**

#### **1.01 GENERAL**

- A. Only bidders with the required Contractor's license(s) are eligible to submit a Bid.
- B. Bidders (Contractors) shall be incorporated or organized under the laws of the State 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 following definitions are used in the solicitation documents.
  - 1. Hawaii Business §3-122-112 HAR: A bidder who is registered and incorporated or organized under the laws of the State is a "Hawaii Business" and eligible for an award.
  - 2. Compliant non-Hawaii Business §3-122-112 HAR: A bidder not incorporated or organized under the laws of the State, but is registered to do business in the State and complies with or is exempt from the requirements of §3-122-112 HAR, is a "Compliant Non-Hawaii Business" and eligible for an award.
  - 3. Non-compliant Bidder: If a bidder is a non-Hawaii business and is not registered with the DCCA Business Registration Division (BREG) or cannot comply with §3-122-112 HAR, then the bidder is non-compliant and is ineligible for an award.
- C. When announced by the NOTICE TO BIDDERS, all bidders who intend to submit a bid are invited to attend the mandatory pre-bid meeting and the accompanying site visit(s). Other interested parties may attend the initial pre-bid meeting and the accompanying site visit(s). For other site visits not conducted by the Department, bidders shall contact and make arrangements with the Project Contact Person listed in SECTION 00800 - SPECIAL CONDITIONS of these specifications.
- D. Bidders shall submit the "Solicitation, Offer and Contract Form", bid bond (if required), and any other documents required by these solicitation documents.
- E. The *GENERAL CONDITIONS* set forth additional terms and conditions for the bid and award process. The *GENERAL CONDITIONS* will be part of the contract documents by which the State and the bidder (prospective Contractor) will be bound. Bidders are directed to the *GENERAL CONDITIONS*, for contract and statutory requirements and for Bidding and Execution of Contract Requirements. Bidders are also directed to SECTION 00700 - GENERAL CONDITIONS and SECTION 00800 - SPECIAL CONDITIONS of these specifications for definitions and modifications to the *GENERAL CONDITIONS*.

#### **1.02 OFFEROR(S) or BIDDER(S)**

- A. The terms "Offeror" and "Bidder" are synonymous when used in this Section 00210 and other solicitation documents.

#### **1.03 PRE-BID MEETING AND SITE VISIT(S)**

- A. General

1. The attendance of pre-bid meetings and site visits is voluntary.
2. Failure to attend the pre-bid meeting(s) and site visit(s) for a project DOES NOT absolve the bidder from its responsibilities under section 2.4.1 of the Interim General Conditions.
3. Verbal responses and discussions may occur during the course of the pre-bid meeting or site visit and shall not be considered to alter any information in the solicitation documents (see Section 2.5.1 of the Interim General Conditions).

**B. Pre-bid Meetings and Site Visits**

1. The Project Coordinator may require all prospective bidder/offers to attend a Pre-bid Meeting(s) and Site Visit(s).
2. All bidders/offers will be required to sign the attendance sheet.
3. Failure to attend mandatory pre-bid meetings and site visits, if required, will automatically be cause for rejection of the bid.

**1.04 ADDENDA AND CLARIFICATIONS**

- A. The Department may periodically issue addenda and bid clarifications which may provide additional information or alter the plans and specifications.
- B. The Department will make addenda and bid clarifications available to Bidders via the Department's website and at the physical locations indicated in the Notice to Bidders for pickup of the solicitation documents. Bidders are responsible for the information contained in the addenda and bid clarifications whether or not the bidder receives the addenda or clarifications.
- C. Bidders discovering an ambiguity, inconsistency, or error when examining the bid documents or the site and bidders with questions or clarification requests shall transmit said discoveries, questions, and/or requests via HlePRO by the due date listed in the solicitation.
- D. All written transmittals shall be brief, concise, but complete enough to properly evaluate and determine the merits of the question or request. Include references to appropriate section numbers, paragraphs, drawings, details, schedule numbers, and provide other information as appropriate.
- E. Requests transmitted or otherwise communicated directly to the Consultant will not be considered to be transmitted to the Department and will not be addressed.
- F. Bidders shall submit all discoveries, questions, and/or requests via HlePRO by the due date listed in the solicitation.
- G. Requests for Substitution will only be entertained prior to bid opening if Section 00800 - SPECIAL CONDITIONS indicates that substitutions before award are allowed for this project. If allowed, requests of this nature must be submitted before the deadline specified for this purpose in the Notice to Bidders.

**1.05 SOLICITATION, OFFER AND CONTRACT FORM (BID FORM)**

- A. Bidder shall fill out the "Solicitation, Offer and Contract Form" completely. This includes the "Offer" portion of the form and all remaining fill-ins. Write in ink or type. Bidders must also comply with the supplemental instructions contained within the "Solicitation, Offer and Contract Form." Do not alter the "Solicitation, Offer and Contract Form", and maintain the form intact. When the State makes changes to the "Solicitation, Offer and Contract Form", a completely new bid form

with appropriate addendum notation will be issued. Bidders shall use the most current version. Bidders shall use their exact legal name as registered with the Department of Commerce and Consumer Affairs, if applicable; and to indicate exact legal name in the appropriate space on the Solicitation, Offer and Contract Form.

- B. Schedule for Work: Note the provisions of this article, the referenced COST, TIME AND SCHEDULE article, and specification SECTION 01100 - PROJECT REQUIREMENTS for the construction dates including: project schedule, project start date, jobsite start date, jobsite completion date, contract completion date and contract duration, if provided.
- C. Allowances: If applicable to this project, bidder shall include in its total lump sum (base) bid price all cash allowances that are itemized in the COST, TIME AND SCHEDULE article on the "Solicitation, Offer and Contract Bid Form" and described in SECTION 01210 - ALLOWANCES of these specifications. Unless otherwise provided in the contract documents, the bidder shall include costs for unloading and handling materials and equipment at the site, labor, installation costs, overhead, profit, coordination, insurance and other incidental expenses in the lump sum bid price and not in the allowance.
  - 1. For testing and inspection allowances, the allowance costs shall include the cost of engaging testing agencies, actual tests and inspections and reporting results. Allowance does not include incidental labor required to assist the testing agency or costs for retesting if previous tests and inspection result in failure.
- D. Variable Quantities Unit Prices: If applicable to this project, bidder shall include in its total lump sum (base) bid price a total cost for Variable Quantities Unit Prices (VQUP) that are described in SECTION 01270 - VARIABLE QUANTITIES UNIT PRICES. Bidder shall complete the VQUP schedule by extending costs for unit prices, subtotals and totals. The unit costs provided shall include all materials, labor, tools and equipment required to install the work complete, in addition to all charges for overhead, coordination, profit, insurance, and other incidental expenses. Bidder shall make sure to enter the variable quantities unit prices total amount in the bid form, COST, TIME AND SCHEDULE article.
- E. Alternates: If applicable to this project, bidder shall include its total cost(s) in the COST, TIME AND SCHEDULE article for the alternates that are described on the drawings or in SECTION 01230 - ALTERNATES. Bidder must completely fill in the cost for each listed alternate. Where the respective alternate's work will be performed at no cost to the State, bidder shall fill in '\$0.00' as the cost. **If the cost for any alternate is left blank, the "Solicitation, Offer and Contract Form" will be rejected as an irregular bid.**
  - 1. For the purposes of evaluating the bid, the alternates are listed in the COST, TIME AND SCHEDULE article and in specification SECTION 01230 - ALTERNATES in the order of precedence from highest (listed first) to lowest for additive alternates and from lowest (listed first) to highest for deductive alternates.
  - 2. Bidders are directed to the COST, TIME AND SCHEDULE article that lists additional or deductive consecutive calendar days that will be allowed for each accepted alternate.
- F. Preference: If applicable to this project, preferences are considered when evaluating bids to determine the ranking of the respective bidders. The award of



the contract will be in the amount of the bid exclusive of any preference adjustments.

G. Hawaii Product Preference:

1. In accordance with ACT 175, SLH 2009, the Hawaii products preference is applicable to this solicitation. Hawaii Products may be available for those items noted on the offer form.
2. The Hawaii products list is available on the SPO webpage at <http://spo.hawaii.gov>, click on 'Procurement of Goods, Services, and Construction-Chapter 103D, HRS'; under 'Procurement' click on 'Preferences', 'Hawaii Products' and select 'Hawaii Products List' to view.
3. Offeror offering a Hawaii Product (HP) shall identify the HP on the solicitation offer page(s). Any person desiring a Hawaii product preference shall have the product(s) certified and qualified if not currently on the Hawaii products list, prior to the deadline for receipt of offer(s) specified in the procurement notice and solicitation. The responsibility for certification and qualification shall rest upon the person requesting the preference.
4. Persons desiring to qualify their product(s) not currently on the Hawaii product list shall complete form SPO-38, *Certification for Hawaii Product Preference* and submit to the Procurement Officer, and provide all additional information required by the Procurement Officer. For each product, one form shall be completed and submitted (i.e. 3 products should have 3 separate forms completed). Form SPO-38 is available on the SPO webpage at <http://spo.hawaii.gov> under the 'Quicklinks' menu; click on 'Forms for Vendors, Contractors, and Service Providers'.
5. When a solicitation contains both HP and non-HP, then for the purpose of selecting the lowest bid or purchase price only, the price offered for a HP item shall be decreased by subtracting 10% for the class I or 15% for the class II HP items offered, respectively. The lowest total offer, taking the preference into consideration, shall be awarded the contract unless the offer provides for additional award criteria. The contract amount of any contract awarded, however, shall be the amount of the price offered, exclusive of the preferences.
6. Change in availability of Hawaii product. In the event of any change that materially alters the offeror's ability to supply Hawaii products, the offeror shall immediately notify the procurement officer in writing and the parties shall enter into discussions for the purposes of revising the contract or terminating the contract for convenience.

H. Recycled Product Preference: If applicable to this project, a recycled product preference of at least 5 percent of the price of the item is available. All bidders, either proposing or not proposing to use the recycled product preference shall complete the "Recycled Product Schedule". If choosing to use a recycled product, enter the respective costs for the recycled product; otherwise, enter the cost for the non-recycled product. Make sure a cost is entered for each listed product. Each product cost shall be complete, including jobsite delivery and applicable taxes.

1. For each recycled product the bidder chooses to use, the bidder shall include in its bid package the complete "Certification of Recycled Content Form"

(SPO-Form 8) along with all supporting information. A sample of the certification form is in the GENERAL CONDITIONS.

2. The "Recycled Product Schedule" shows the percent preference used for each listed recycled product.

I. Apprenticeship Agreement Preference:

1. If applicable to this project, any bidder seeking the preference must be a party to an apprenticeship agreement registered with the State Department of Labor and Industrial Relations (DLIR) at the time the bid is submitted for each apprenticeable trade the bidder will employ to construct the project. "Employ" means the employment of a person in an employer-employee relationship.
  - a. The apprenticeship agreement shall be registered with the DLIR and conform to the requirements of Hawaii Revised Statutes Chapter 372.
  - b. Subcontractors do not have to be a party to an apprenticeship agreement for the bidder to obtain the preference.
  - c. The bidder is not required to have apprentices in its employ at the time the bid is submitted to qualify for the preference.
2. Self Certification. A bidder seeking the preference must identify each apprenticeable trade the bidder will employ to perform the work by completing the self-certification in the solicitation, offer and contract form. "Apprenticeable trade" shall have the same meaning as "apprenticeable occupation" pursuant to Hawaii Administrative Rules (HAR) §12-30-5.
3. The certification of bidder's participation (Form 1)
  - a. The *Certification of Bidder's Participation - Form 1* shall be authorized by an apprenticeship sponsor listed on the DLIR list of registered apprenticeship programs. "Sponsor" means an operator of an apprenticeship program and in whose name the program is approved and registered with the DLIR pursuant to HAR §12-30-1.
  - b. The authorization shall be an original signature by an authorized official of the apprenticeship sponsor.
  - c. The completed *Certification of Bidder's Participation - Form 1* for each trade must be submitted with the bid. A facsimile or copy is acceptable to be submitted with the bid, however the signed original must be submitted within five (5) working days of the bid open date. If the signed original is not received within this timeframe, the preference may be denied. Previous certifications shall not apply.
  - d. When filling out the *Certification of Bidder's Participation - Form 1*, the name of Apprenticeable Trade and Apprenticeship Sponsor must be the same as recorded in the List of Construction Trades in Registered Apprenticeship Programs that is posted on the State Department of Labor and Industrial Relations website. "Registered apprenticeship program" means a construction trade program approved by and registered with the DLIR pursuant to HAR §12-30-1 and §12-30-4.

- e. The *Certification of Bidder's Participation - Form 1* and the List of Construction Trades in Registered Apprenticeship Programs is available on the DLIR website at: <http://labor.hawaii.gov/wdd/files/2012/12/Form-1-Certification-of-Bidders-Participation.pdf>
- 4. Upon receiving the Self Certification and *Certification of Bidder's Participation - Form 1*, the Procurement Officer will verify that the apprenticeship program is on the List of Construction Trades in Registered Apprenticeship Programs and that the form is signed by an authorized official of the Apprenticeship Program Sponsor. If the programs and signature are not confirmed by the DLIR, the bidder will not qualify for the preference.
- 5. If the bidder is certified to participate in an apprenticeship program for each trade which will be employed by the bidder for the project, a preference will be applied to decrease the bidder's bid amount by five (5) percent for evaluation purposes.
- 6. Should the bidder qualify for other preferences (for example, Hawaii Products), all applicable preferences shall be applied to the bid price.
- J. Other Conditions: Bidder acknowledges and agrees to the provisions and certifications stated in this article.
- K. Receipt of Addenda: Bidder shall fill in the appropriate dates any addenda were received.
- L. Listing Joint Contractors or Subcontractors:
  - 1. Bidder shall complete the "Joint Contractors or Subcontractors List". It is the sole responsibility of the bidder to review the requirements of this project and determine the appropriate specialty Contractor's licenses that are required to complete the project. Failure of the bidder to provide the correct names and specialty Contractor's nature of work to be performed may cause the bid to be rejected.
  - 2. Bidder agrees the completed listing of joint Contractors or Subcontractors is required for the project and that the bidder, together with the listed joint Contractors and Subcontractors, have all the specialty Contractor's licenses to complete the work.
  - 3. Based on the Hawaii Supreme Court's January 28, 2002 decision in Okada Trucking Co., Ltd. v. Board of Water Supply, et al., 97 Hawaii 450 (2002), the bidder as a general Contractor ('A' or 'B' license) is prohibited from undertaking any work solely or as part of a larger project, which would require the bidder ('A' or 'B' general Contractor) to act as a specialty ('C' license) Contractor in any area in which the bidder ('A' or 'B' general Contractor) has no specialty Contractor's license. Although the 'A' and 'B' Contractor may still bid on and act as the "Prime Contractor" on an 'A' or 'B' project (See, *HRS §444-7 for the definitions of an "A" and "B" project*), respectively, the 'A' and 'B' Contractor may only perform work in the areas in which they have the appropriate Contractor's license. The bidder ('A' or 'B' general Contractor) must have the appropriate 'C' specialty Contractor's licenses either obtained on its own, or obtained automatically under HAR §16-77-32.

4. General Engineering 'A' Contractors automatically have these 'C' specialty Contractor's licenses: C-3, C-9, C-10, C-17, C-24, C-31a, C-32, C-35, C-37a, C-37b, C-38, C-43, C-49, C-56, C-57a, C-57b, and C-61.
5. General Building 'B' Contractors automatically have these 'C' specialty Contractor's licenses: C-5, C-6, C-10, C-12, C-24, C-25, C-31a, C-32a, C-42a, and C-42b.
6. Instructions to complete the Joint Contractors or Subcontractors List:
  - a. Describe the specialty Contractor's nature of work to be performed for this project and provide the complete firm name of the joint Contractor or Subcontractor in the respective columns.
  - b. List only one joint Contractor or Subcontractor per required specialty Contractor's classification, unless the nature of work to be performed by each such joint contractor is both distinct and separate. (i.e. two C-13 contractors are listed but one has the responsibility for AC controls (nature of work listed as "electrical-AC controls") and the other for AC power (nature of the work listed as "electrical-AC power").
  - c. For projects with alternate(s), fill out the respective "Joint Contractors or Subcontractors List for the Alternate(s)". Bidder shall describe the specialty Contractor's nature of work to be performed on this project for the respective alternate. Bidders shall fill in the complete firm name and nature of work to be performed by the respective joint Contractor or Subcontractor. If the joint Contractor or Subcontractor was previously listed under base bid, listing under Alternate(s) is not required.
- M. Cost, Time and Schedule: Bidder shall completely fill out the article and enter the cost for the Project Bid Price, Variable Quantities Unit Prices and Alternates when provided. Bidder shall tabulate the Project Bid Price, Variable Quantities Unit Prices and Allowances when provided, and the Bidders shall then enter the Total Lump Sum Bid Price. **BE SURE TO ENTER THE TOTAL LUMP SUM BID PRICE IN WORDS AND NUMERALS.** Refer to Bidder's Instructions located within the article.
  1. If provided, bidder shall fill in total costs for each alternate.
  2. The bidder is directed to the construction time information Article entitled "TIME" for the contract duration and construction time for alternates. Bidder shall refer to SECTION 01100 - PROJECT REQUIREMENTS of these specifications for additional construction time information, as applicable.
- N. Offer Page: Bidder shall completely fill out Blocks 11 through 22C. Bidder shall indicate if it is a "Hawaii Business" or a "Compliant Non-Hawaii Business" in Block 21. Also, bidder shall refer to Bidder's Instructions located near end of section.

#### 1.06 EVALUATION CRITERIA

- A. Evaluating Bids: The lowest responsive, responsible bid is determined by the following procedures:
  1. Chapter 103D, HRS, which provides for the preferences, shall apply.
  2. The total lump sum bid price is adjusted to reflect the applicable preferences.
    - a. For projects with alternates, the total lump sum base bid price and alternates will be adjusted to reflect the applicable preferences.

3. Project control budget is established prior to the submission of bids.
  4. If there is more than one alternate for a project, the State will determine the precedence of the alternates for each project prior to the submission of bids.
  5. The project will be evaluated based on the adjusted bid price.
- B. Evaluating Bids with Additive Alternates:
1. Prior to opening bids, the State will announce the project control budget. All bids will be evaluated on the basis of the same alternate item.
  2. After adjusting for applicable preferences, the alternates, in their precedence order, are added to the total lump sum base bid price. This (these) sum(s) are compared to the project control budget, and must be within the project control budget.
  3. If adding another alternate would make the aggregate amount exceed the project control budget for all bidders, that alternate will be skipped and the next alternate will be added, provided an award might be made within the project control budget. This procedure will continue, until adding any remaining alternates will result in the aggregate total amount for all the bidders to exceed the project control budget, or until no additional alternates remain.
  4. The bidder with the lowest aggregate amount, within the project control budget (after application of the various preferences), for the total lump sum base bid plus the alternates in their precedence order, is the "Low Bidder" for that project and is designated for award.
  5. Additive Alternate Example: The project control budget available is \$100,000. In the order of precedence, alternates A-1, A-2 and A-3 are additive alternates. After applying the preferences, the bids are ranked lowest price to highest price and are "Bid A", "Bid B" and "Bid C". Bid A's total lump sum base bid price and three additive alternates (in the precedence order) are \$80,000, \$16,000, \$10,000 and \$5,000 respectively. Bid B's total lump sum base bid price and three additive alternates (in the precedence order) are \$82,000, \$10,000, \$9,000 and \$3,000 respectively. Bid C's total lump sum base bid price and three additive alternates (in the precedence order) are \$85,000, \$10,000, \$8,000 and \$4,000 respectively.
    - a. In adding the alternates to the bids, alternate A-1 is under the project control budget for all bids. The second alternate A-2 is initially skipped since it would cause the aggregate amount of all bids to exceed \$100,000. The third alternate A-3 is added and the aggregate amounts, including base bid price plus alternates A-1 and A-3, of both Bid B and Bid C, are under the project control budget.
    - b. Bid A's aggregate total is \$101,000. Bid B's aggregate total is \$95,000. Bid C's aggregate total is \$99,000.
    - c. Bid B's price including alternates A-1 and A-3 is the lowest bid price (over Bid C) and has an aggregate amount within the adjusted project control budget, and therefore is designated the "Low Bidder" for the project.
  6. Should the Lump Sum Base Bid of all bidders exceed the project control

budget, the bidder with the lowest total lump sum base bid after application of the preferences is designated the low bidder for the project.

#### **1.07 METHOD OF AWARD**

- A. The contract will be awarded to the lowest responsive and responsible Bidder whose bid (including any alternates which may be selected) meets the requirements and criteria set forth in the solicitation documents and as determined by the Comptroller.
- B. In the event the total lump sum bid for bids without alternates or with additive alternates of all bidders exceeds the project control budget, the Department reserves the right to make an award to the apparent Low Bidder if additional funds are available or by reducing the scope of work through negotiation.
- C. Not used.
- D. Additional Requirements for Bids with Alternates: After determining the designated Low Bidder for the project, an award may be made on the amount of the Low Bidder's total lump sum base bid alone or on any combination of alternates exclusive of any preferences. The combination of alternates may include substituting any of the alternates that were included in the designated Low Bidder's aggregate price with an alternate that was not included, provided:
  - 1. It is in the best interest of the State,
  - 2. Funds are available at the time of award, and
  - 3. The combination of the total lump sum base bid plus alternate(s) does not change the established Low Bidder for the project.

#### **1.08 OTHER CONDITIONS FOR AWARD**

- A. The Administrative Director of the Courts may reject any or all bids and waive any defects if the Administrative Director believes the rejection or waiver is in the best interest of the State.
- B. The Administrative Director of the Courts may hold all bids up to 60 calendar days from the date bids were opened. Unless otherwise required by law, bids may not be withdrawn without penalty.
- C. The award of the contract is conditioned upon funds made available for the project (or projects if applicable).
- D. Any agreement or contract is subject to approval by the Department of the Attorney General, and the approval of the Governor, as required by statute, regulation, rule, order, or other directive.

#### **1.09 RESPONSIBILITY OF AWARDED BIDDER**

- A. Pursuant to Section 103D-310(c), HRS, the responsive bidder recommended for contract award, if any, shall be compliant with all laws governing entities doing business in the State including the following chapters:
  - 1. Chapter 237, tax clearance;
  - 2. Chapter 383, unemployment insurance;
  - 3. Chapter 386, workers' compensation;

4. Chapter 392, temporary disability insurance;
  5. Chapter 393, prepaid health care; and
  6. Chapter 103D-310(c), Certificate of Good Standing (COGS) for entities doing business in the State.
- B. The State will verify compliance on Hawaii Compliance Express (HCE). The HCE is an electronic system that allows vendors/contractors/service providers doing business with the State to quickly and easily obtain proof that they are compliant with applicable laws. The HCE certificate, 'Certificate of Vendor Compliance', allows this single printable electronic certificate to be substituted for the tax clearance, labor certificate, and a Certificate of Good Standing required in Hawaii Revised Statutes (HRS), Section 103D-310(c), and Hawaii Administrative Rules (HAR), Section 3-122-112. The HCE provides compliance status in real time.
- C. Bidders are advised to register with Hawaii Compliance Express at <https://vendors.ehawaii.gov> before submitting an offer. Bidders are strongly encouraged to submit a 'Certificate of Vendor Compliance' with their bid package to ensure the State's ability to quickly verify compliance at the time of award. If an offeror is not compliant at the time of award, an otherwise responsive and responsible offeror may not receive the award.

## **PART 2 - PRODUCTS (Not Used)**

## **PART 3 – EXECUTION (Not Used)**

END OF SECTION

## SOLICITATION, OFFER AND CONTRACT FORM

1. JUD Project Identifier: <b>JUD-2C-HoapHale-CrptRpl-2019</b>	2. TYPE OF SOLICITATION <b>Invitation for Bid (IFB)</b>	3. PAGE OF PAGES <b>1 of 10 Pages</b>
<b>IMPORTANT - The "offer" section must be fully completed by offeror.</b>		
NOTE: In sealed bid solicitations "offer" and "offeror" mean "bid" and "bidder."		
4. ISSUED BY: <b>THE JUDICIARY – STATE OF HAWAI'I          CONTRACTS AND PURCHASING          6TH FLOOR          KAUKEAOULI HALE          1111 ALAKEA STREET          HONOLULU, HAWAI'I 96813</b>		5. ADDRESS OFFER TO: <b>THE JUDICIARY – STATE OF HAWAI'I          CONTRACTS AND PURCHASING          6TH FLOOR          KAUKEAOULI HALE          1111 ALAKEA STREET          HONOLULU, HAWAI'I 96813          ATTN: TRITIA CRUZ</b>
6. FOR INFORMATION	A. NAME <b>Lance Nishijo</b>	B. TELEPHONE NO. (NO COLLECT CALLS) <b>(808) 264-1405</b>
<b>SOLICITATION</b>		
7. THE STATE OF HAWAII REQUIRES PERFORMANCE OF THE WORK DESCRIBED IN THESE DOCUMENTS TO CONSTRUCT: <b>Hoapili Hale          Carpet Replacement          JUD-2C-HoapHale-CrptRpl-2019          TMK: (2)-13:013:020 &amp; 21          Maui, Hawaii</b>		
<p>After carefully examining the bid documents including the specifications, drawings, addenda, and other proposed contract documents, the bidder shall furnish all labor, materials, machinery, tools, superintendence, transportation, and other construction accessories, services, and facilities necessary to construct and complete, at its own risk and expense, the work and requirements of the Project for the cost and time stipulated in the COST, TIME AND SCHEDULE article of Attachment A of the Form. The bidder agrees to the conditions and requirements stipulated in this SOLICITATION, OFFER AND CONTRACT FORM and any attachments thereto.</p>		
<p>8. The Contractor shall complete the work as stipulated in the COST, TIME AND SCHEDULE article of Attachment A. This performance period is mandatory.</p>		
<p>9. THE CONTRACTOR MUST FURNISH ANY REQUIRED PERFORMANCE AND PAYMENT BONDS WITHIN 10 CONSECUTIVE CALENDAR DAYS AFTER DATE OF THE LETTER OF AWARD. IF ALTERNATE FORMS OF SECURITY WILL BE SUBMITTED, REFER TO STATE OF HAWAII, GENERAL CONDITIONS 3.7.1.3. INCORPORATED HEREIN BY REFERENCE.</p>		



10. ADDITIONAL SOLICITATION REQUIREMENTS:

- A. Offers to perform the work required are due at the place specified in Block 5, by the date and time specified in the Notice to Bidders.
- B. Bid Security is required. (Section 103D-323, HRS)
- C. Hawaii Product Preference –Any offeror proposing to use the Hawaii product preference must complete the Hawaii product preference schedule form in the solicitation and submit it with the offer.
- D. Apprenticeship Agreement Preference – Not applicable.
- E. Listing of Joint Contractors and Subcontractors – Any offeror must submit with its offer, the name of each person or firm to be engaged by the offeror as a joint contractor or subcontractor in the performance of the contract and the nature and scope of the work to be performed by each. The offeror is directed to complete the joint contractors and subcontractors list form included in the solicitation and submit it with the offer.
- F. The Offeror be registered and compliant with Hawaii Compliance Express, link found at <http://vendors.ehawaii.gov/hce/splash/welcome.html>.
- G. All offers are subject to the requirements of the solicitation, including the Specifications, Notice to Bidders, Instruction to Bidders, General Conditions, and Drawings, any Special Conditions, Addenda, Bid Clarifications, and any other provision whether incorporated in full text or by reference in, or attached to, the solicitation.
- H. Contractors are hereby notified of the applicability of Section 11-355 HRS, which states that campaign contributions are prohibited from specified State or county government contractors during the term of the contract if the contractors are paid with funds appropriated by a legislative body.
- I. Recycled Product Preference – Certain recycled products are not acceptable for use in this project. Any offeror proposing to use the recycled product preference must complete the recycled product preference schedule form in the solicitation and submit it with the offer.

<b>OFFER (Must be fully completed by offeror)</b>	
11. NAME AND ADDRESS OF OFFEROR (Include Zip Code) (*1)	12. REMITTANCE ADDRESS (Include only if different than item 11)
13. TELEPHONE NO. (Include area code ) FAX NO.	14. EMAIL ADDRESS
15. FEDERAL EMPLOYER ID # (FEIN)	16. HAWAII GENERAL EXCISE ID #
17. BUSINESS ORGANIZATION (*2)	18. CONTRACTOR'S LICENSE NO.
19. The offeror agrees to perform the work required at the price(s) specified in the COST, TIME AND SCHEDULE article of Attachment A in strict accordance with the terms of this solicitation, including any attachments thereto, if this offer is accepted by The Judiciary-State of Hawaii within 60 calendar days after the date offers are due.	
20. The offeror has completed Attachment A.	
21. COMPLIANCE WITH §3-122-112 (HAR) {BIDDER'S INSTRUCTIONS: Mark one box only. If a Non-Hawaii Business, write your State's name where incorporated.}	
<p>The undersigned represents:</p> <p><input type="checkbox"/> A Hawaii Business incorporated or organized under the laws of the State of Hawaii.</p> <p>Or</p> <p><input type="checkbox"/> A Compliant Non-Hawaii Business not incorporated or organized under the laws of the State of Hawaii, but registered at the State of Hawaii, Department of Commerce and Consumer Affairs, Business Registration Division to do business in the State of Hawaii. State of incorporation: _____</p>	
22A. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or print)	
22B. SIGNATURE: I declare under penalty of law that the foregoing is true and correct to the best of my knowledge. (*3)	22C. DATE:

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**BIDDERS INSTRUCTIONS AND SOLICITATION, OFFER AND CONTRACT FORM FOOTNOTES (footnotes relate to boxes 11, 17 & 22B)**

- (\*1) If the Offeror is a "dba" of a sole proprietor, furnish the exact legal name as registered with the Department of Commerce and Consumer Affairs.
- If Offeror is a "dba" or a "division" of a corporation, furnish the exact legal name of the corporation under which the awarded contract will be executed.
- The address included in this box will be used for correspondence.
- (\*2) For Business Organization, enter one of the following: Sole Proprietor, Partnership, Corporation, Joint Venture, or Other.
- (\*3) MANUAL SIGNATURE REQUIRED: attach to this page evidence of the authority of this signatory to submit bids on behalf of the Offer, and also the names and residence addresses of all officers of the company.

Fill in information in all blank spaces or the bid may be invalidated. SOLICITATION, OFFER AND CONTRACT FORM MUST BE INTACT; MISSING PAGES OR ANY ALTERATIONS MAY INVALIDATE THE BID. TYPE OR WRITE ALL INFORMATION IN INK. USE INK FOR MANUAL SIGNATURE.

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<b>CONTRACT (To be completed by The Judiciary - State of Hawai'i)</b>	
23. CONTRACT NO.	23A. CONTRACT DATE:
24. ITEMS ACCEPTED:	
25. AMOUNT:	27. PAYMENT WILL BE MADE BY: The Judiciary – State of Hawai'i  By _____ Signature  _____ Print Name  _____ Title
26. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 4 UNLESS DIFFERENT ADDRESS STIPULATED HERE (7 copies unless otherwise specified)	
<b>ADMINISTRATOR WILL COMPLETE ITEM 28 OR 29 AS APPLICABLE</b>	
<input type="checkbox"/> 28. NEGOTIATED AGREEMENT ( <i>Contractor is required to sign this document and return ____ copies to issuing office.</i> ) Contractor agrees to furnish and deliver all items or perform all work for the consideration slated in this contract. The rights and obligations of the parties to this contract shall be governed by (a) this contract award, (b) the solicitation, and (c) any document incorporated by reference in or attached to this contract.	<input type="checkbox"/> 29. AWARD ( <i>Contractor is not required to sign this document.</i> ) Your offer on this solicitation is hereby accepted as to the items listed in Block 24. This award consummates the contract, which consists of (a) the Judiciary - State of Hawaii solicitation and your offer, and (b) this contract award. No further contractual document is necessary.
28A. NAME AND TITLE OF CONTRACTOR OR PERSON AUTHORIZED TO SIGN ( <i>Type or print</i> )	29A. NAME OF ADMINISTRATOR ( <i>Type or print</i> )
28B. SIGNATURE: I declare under penalty of law that the foregoing is true and correct to the best of my knowledge.	29B. THE JUDICIARY - STATE OF HAWAI'I By:
28C. DATE	

## ATTACHMENT A

### A. COST, TIME AND SCHEDULE

Hoapili Hale

Carpet Replacement

PROJECT IDENTIFIER: JUD-2C-HoapHale-CrptRpl-2019

1. **COST: Courtroom #4A (Room #412), Courtroom #4B (Room #426), Courtroom #4C (Room #461), and Courtroom #4D (Room #450)**

**TOTAL LUMP SUM BASE BID PRICE: \$**

DOLLARS

*{BIDDER'S INSTRUCTIONS: Fill in the total lump sum base bid price in numbers and write out the total lump sum base bid price in words.}*

Additive Alternates	Bid Price
1. Special Services Branch, Suite 226	
2. Courtroom #3D, Room #348	
3. Courtroom #3C, Room #360	
4. Jury Room #4A (Room #409), Jury Room #4B (Room #431), Jury Room #4C (Room #438), Jury Room #4D (Room #455)	
<b>Total :</b>	

### 2. TIME:

**Contract Duration**

180 Calendar Days

### 3. SCHEDULE FOR WORK

Contractor shall commence and complete all work within the contract duration stipulated and as follows:

- a. After the project is awarded, the contractor shall begin preparatory work, obtain approvals, permits, process submittals or conduct other work as directed. The contractor shall not start any work at the jobsite or order any materials, unless the Contracting Officer specifically issues a written authorization to proceed with designated work.

- b. Upon receipt of the executed contract and a written authorization from the Contracting Officer, the contractor may proceed with ordering materials, doing offsite fabrication and similar work, approved by DAGS, prior to issuance of the formal Notice to Proceed. The Contractor shall not start any work at the jobsite before the formal Notice to Proceed is issued, unless the Contracting Officer specifically issues a written authorization to proceed with designated work. Payment for materials ordered and received prior to DAGS issuance of the formal Notice to Proceed are subject to the following conditions:
1. The contractor is responsible for all storage costs incurred. No additional compensation will be made;
  2. Ordering materials prior to the formal Notice to Proceed will not decrease or increase the specified contract time; and
  3. Conditions as specified in the DAGS 1999 INTERIM GENERAL CONDITIONS, and other conditions required by the contract documents.
- c. After issuance of the formal Notice to Proceed or upon written authorization from the Contracting Officer to proceed with designated work, the contractor shall order approved materials, do off-site fabrication and similar work. The contractor shall start and complete the jobsite work per the dates, times and durations noted in the COST, TIME AND SCHEDULE article.>

#### **4. ALLOWANCES**

Bidder includes in the Lump Sum Base Bid Price, cash allowances that are itemized in the COST, TIME AND SCHEDULE article and described in specification SECTION 01210 - ALLOWANCES. (The allowance is an estimate and may increase or decrease, depending on the actual cost of the vendor who will perform the work.)

#### **B. ALTERNATES**

Bidder offers to incorporate in the work the alternates that are described on the drawings and in specification SECTION 01230 – ALTERNATES. For the purpose of evaluating the bid, the alternates listed in COST, TIME AND SCHEDULE article and in SECTION 01230 – ALTERNATES, are in the order of precedence.

#### **C. BID SECURITY**

Required for this project.

#### **D. RECEIPT OF ADDENDA AND BID CLARIFICATIONS**

Bidder acknowledges receipt of the following Addenda and Bid Clarifications issued by the Department, and the bidder shall indicate by marking each applicable box:

- |   |  |
|---|--|
| <input type="checkbox"/> Addendum No. 1 | <input type="checkbox"/> Bid Clarification No. 1 |
| <input type="checkbox"/> Addendum No. 2 | <input type="checkbox"/> Bid Clarification No. 2 |
| <input type="checkbox"/> Addendum No. 3 | <input type="checkbox"/> Bid Clarification No. 3 |
| <input type="checkbox"/> Addendum No. 4 | <input type="checkbox"/> Bid Clarification No. 4 |
| <input type="checkbox"/> Addendum No. 5 | <input type="checkbox"/> Bid Clarification No. 5 |

#### **E. PREFERENCE**

Bidder agrees that:

1. Preferences are considered in the evaluation of bids; however, the award of the contract will be in the amount of the bid offered exclusive of any preferences.

2. If granted Hawaii product or recycled product preference and awarded the contract, the Contractor must use the designated products in the work; otherwise, the Contractor may be in default of the contract.
3. If granted the Apprenticeship Agreement Preference and awarded the contract, the Contractor must, for the duration of the contract, 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.

**F. HAWAII PRODUCT PREFERENCE: N/A**

**G. RECYCLED PRODUCT PREFERENCE: N/A**

**H. APPRENTICESHIP AGREEMENT PREFERENCE**

The estimated value of the public works contract is less than \$250,000 and the apprenticeship agreement preference pursuant to Hawaii Revised Statutes §103-55.6 (Act 17, SLH 2009) shall not apply.

**I. OTHER CONDITIONS**

1. Bidder agrees to pay liquidated damages as specified in SECTION 00800 - SPECIAL CONDITIONS.
2. Bidder declares that its firm was not assisted or represented by an individual who has, in a State capacity, been involved in this project or this proposed contract in the past two consecutive years.
3. **Anti-collusion Certification** - In accordance with §3-122-192 (HAR), the bidder declares that the price submitted for this bid is independently arrived at without collusion.
4. **Certification for Safety and Health Programs for Offers in excess of \$100,000** - In accordance with HRS 396-18, the bidder certifies that its organization will have a written safety and health plan for this project that will be available and implemented by the date when onsite construction starts. Bidder may obtain the requirements for the safety plan from the Department of Labor and Industrial Relations, Occupational, Safety and Health Division (HIOSH).
5. **Labor and Wage Certification** (Chapter 104 HRS) - For projects in excess of \$2,000, the bidder shall comply with the requirements of Chapter 104 HRS, "Wages and Hours of Employment on Public Works Construction Projects" and shall certify that:
  - a. Individuals engaged in the performance of the contract on the job site shall not be paid less than wages the Director of Labor and Industrial Relations determines to be prevailing for corresponding classes of laborers and mechanics employed on public works projects, including any periodic adjustments to the prevailing wages during the performance of the contract; and
  - b. Overtime compensation shall be at one and one-half times the basic hourly rate plus fringe benefits for hours worked on Saturday, Sunday, or legal holiday of the State or in excess of eight hours on any other day; and

- c. All applicable laws of the federal and state governments relating to workers' compensation, unemployment compensation, payment of wages, and safety shall be fully complied with.
6. Upon the acceptance of the bid by the Procurement Officer, the bidder must enter into and execute a contract and furnish a performance and payment bond. These bonds shall conform to the provisions of HRS Sections 103D-324 and 325, and any law applicable thereto.
7. **Compliance with §103D-310 HRS:** Bidder shall be incorporated or organized under the laws of the State or registered to do business in the State as a separate branch or division that is capable of fully performing under the contract.

**J. LISTING JOINT CONTRACTORS OR SUBCONTRACTORS (HRS, 103D-302)**

It is the sole responsibility of the bidder to review the requirements of this project and determine the appropriate specialty contractor's licenses that are required to complete the project. The bidder acknowledges that as a general contractor ('A' or 'B' license) the bidder is prohibited from undertaking any work solely or as part of a larger project, which would require the bidder ('A' or 'B' general contractor) to act as a specialty ('C' license) contractor in any area in which the bidder ('A' or 'B' general contractor) has no specialty contractor's license. The bidder ('A' or 'B' general contractor) must have the appropriate 'C' specialty contractor's licenses either obtained on its own, or obtained automatically under HAR §16-77-32.

General Engineering 'A' Contractors automatically have these 'C' specialty contractor's licenses: C-3, C-9, C-10, C-17, C-24, C-31a, C-32, C-35, C-37a, C-37b, C-38, C-43, C-49, C-56, C-57a, C-57b, and C-61.

General Building 'B' Contractors automatically have these 'C' specialty contractor's licenses: C-5, C-6, C-10, C-12, C-24, C-25, C-31a, C-32a, C-42a, and C-42b.

Bidder agrees the completed listing of joint contractors or subcontractors is required for the project and that the bidder, together with the listed joint contractors and subcontractors, have all the specialty contractor's licenses to complete the work.

**Joint Contractors or Subcontractors List**

*{BIDDER'S INSTRUCTIONS: Refer to SECTION 00210 - INSTRUCTIONS TO BIDDERS for detailed instruction to fill out this list. Write in the complete firm name and nature of work to be performed by the required joint contractor or subcontractor.}*

COMPLETE FIRM NAME JOINT CONTRACTOR OR SUBCONTRACTOR	NATURE OF WORK TO BE PERFORMED





**L. COMPENSATION**

All payments shall be made in the manner and at the times indicated in the Contract Documents.

It is understood and agreed that the compensation paid by the Judiciary to the Contractor shall include all expenses incurred by the Contractor for all loss or damage arising out of the nature of the work, from the action of the elements, or from any delay or unforeseen obstruction or difficulty encountered in the prosecution of the work; for all risks of every description connected with the work; and for all expenses incurred by or in consequence of the suspension or discontinuation of the work, except as set forth in the General Conditions.

It is further agreed by the parties that any portion of the Contract price payable to the Contractor out of federal funds shall be paid to the Contractor only when such federal funds are received, and this contract shall not be construed as binding the State to pay said portion out of any fund other than those which are received from the Federal government.

**M. GUARANTY OF WORK**

The Contractor agrees to guaranty all work under this Contract for the period(s) stipulated in the Contract Documents from the project acceptance date.

If any unsatisfactory condition or damage develops within the time of this guaranty due to materials or workmanship that are deficient, inferior, or not in accordance with the contract, the Contractor shall, when notified by the State, immediately place such guaranteed work in a condition satisfactory to the State and make repairs of all damage to the buildings, equipment and grounds made necessary in fulfillment of the guaranty. Everything necessary for the fulfillment of any guaranty shall be done without any expense to the State. It is understood that the performance and payment bond furnished by the Contractor under this Contract may be used to secure performance of Contractor's guaranty.

**N. CONTRACT DOCUMENTS**

It is understood and agreed that the following documents, and any amendments or addenda thereto, comprise this contract and are fully a part of this Contract as though attached hereto or set forth at length herein: (1) Contractor's accepted proposal; (2) General Conditions; (3) Drawings; (4) Specifications, including the Notice to Bidders, Instructions to Bidders, and Special Conditions, Addenda, Bid Clarifications, if any; (5) Combination Performance and Labor and Material Payment Bond; and (6) this Contract Agreement.

**O. ENTIRE AGREEMENT**

This Contract is the entire agreement between parties, and no alterations, changes, or additions thereto shall be made, except in writing approved by the parties.

**P. ATTACHMENTS TO BE PROVIDED BY OFFER AS APPLICABLE**

- ☐ Corporate Resolution
- ☐ Certificate of Vendor Compliance (HCE)
- ☐ Power of Attorney
- ☐ Bid Security

END OF SECTION

## SECTION 00700 - GENERAL CONDITIONS

### PART 1 - GENERAL

#### 1.01 GENERAL CONDITIONS

- A. The publication by the Public Works Division, Department of Accounting and General Services, State of Hawaii, titled "INTERIM GENERAL CONDITIONS 1999 Edition," known as the "GENERAL CONDITIONS", forms part of the State of Hawaii Contract between the Contractor and the State of Hawaii. The GENERAL CONDITIONS are not physically included with these specifications, but are included by reference. Copies of the GENERAL CONDITIONS may be obtained from the Department of Accounting and General Services, Public Works Division, Oahu Office, State of Hawaii, fourth floor of the Kalanimoku Building, Room 422, 1151 Punchbowl Street, Honolulu, Hawaii or at the DAGS District Offices on Kauai, Maui and Hawaii. GENERAL CONDITIONS are also available for download at:  
<http://pwd.hawaii.gov/wp-content/uploads/2014/12/InterimGeneralConditions1999Edition.pdf>.
- B. The GENERAL CONDITIONS and SECTION 00800 - SPECIAL CONDITIONS shall govern the Work specified in all DIVISIONS and SECTIONS.
- C. Wherever the term 'Interim General Conditions' appears in the Contract Documents, it shall be replaced with the term "GENERAL CONDITIONS."

#### 1.02 REVISIONS TO THE GENERAL CONDITIONS - The following changes shall govern over the respective items in the published "INTERIM GENERAL CONDITIONS, 1999 Edition."

- A. Under ARTICLE 1 - DEFINITIONS, replace existing sections (1.4, 1.5, 1.9, 1.11, 1.12, 1.18, 1.24, 1.26, 1.28, 1.37, 1.43, 1.44, 1.49, and 1.50 respectively) and add new sections (1.65 through 1.76 respectively):

**"1.4 ADMINISTRATOR** - Administrative Director of the Courts

**1.5 ADVERTISEMENT** - A public announcement soliciting bids or offers.

**1.9 BID** - See Offer.

**1.11 BIDDER** - See Offeror.

**1.12 BIDDING DOCUMENTS (or SOLICITATION DOCUMENTS)** - The advertisement solicitation notice and instructions, Offer requirements, Offer forms, and the proposed contract documents including all addenda, and clarifications issued prior to receipt of the Offer.

**1.18 COMPTROLLER** – Administrative Director of the Courts.

**1.24 CONTRACT TIME (or CONTRACT DURATION)** - The number of calendar (or working) days provided for completion of the contract, inclusive of authorized time extensions. The number of days shall begin

running on the effective date in the Notice to Proceed. If in lieu of providing a number of calendar (or working) days, the contract requires completion by a certain date, the work shall be completed by that date.

- 1.26 DEPARTMENT** – The Judiciary
- 1.28 ENGINEER** – The Administrative Director of the Courts, or the authorized person to act in the Administrator's behalf.
- 1.37 INSPECTOR** - The person assigned by the Contracting Officer to inspect and monitor construction operations.
- 1.43 NOTICE TO CONTRACTORS** - See Solicitation.
- 1.44 NOTICE TO PROCEED** - A written notice from the Department to the Contractor establishing the applicable Contract Duration, Project Start Date, Jobsite Start Date, Jobsite Completion Date, and Contract Completion Date.
- 1.49 PROPOSAL (Bid)** - See Offer (or Bid).
- 1.50 PROPOSAL FORM** - See Offer Form (or Bid Form).
- 1.65 CONTRACTING OFFICER** - See Engineer.
- 1.66 JOBSITE START DATE** - The date when on-site construction may start.
- 1.67 JOBSITE COMPLETION DATE** - The date when on-site construction must be completed.
- 1.68 OFFER (or BID)** - The executed document submitted by an Offeror in response to a solicitation request, to perform the work required by the proposed contract documents, for the price quoted and within the time allotted.
- 1.69 OFFEROR (or BIDDER)** - Any individual, partnership, firm, corporation, joint venture or other legal entity submitting directly or through a duly authorized representative or agent, an Offer for the work or construction contemplated.
- 1.70 OFFER FORM (or BID FORM)** - The form prepared by the Department on which the Offeror submits the written offer or bid. By submitting an offer or bid, the Offeror adopts the language on the form as its own.
- 1.71 PROJECT CONTROL BUDGET** -The amount of funds set aside for the construction of the Project.
- 1.72 PROJECT START DATE** - The date established in the Notice to Proceed when the Contractor shall begin prosecution of the work and the start of contract time.

**1.73 RESIDENT** – A person who is physically present in the State of Hawaii at the time the person claims to have established the person's domicile in the State of Hawaii and shows the person's intent is to make Hawaii the person's primary residence.

**1.74 SHORTAGE TRADE** – A construction trade in which there is a shortage of Hawaii residents qualified to work in the trade as determined by the Department of Labor and Industrial Relations.

**1.75 SOLICITATION** - An Invitation to Bid or Request for Proposals or any other document issued by the Department to solicit bids or offers to perform a contract. The solicitation may indicate the time and place to receive the bids or offers and the location, nature and character of the work, construction or materials to be provided."

**1.76 PUBLIC WORKS ADMINISTRATOR** - See Engineer.

B. Under ARTICLE 2 – PROPOSAL REQUIREMENTS AND CONDITIONS, modify section 2.1 – QUALIFICATION OF BIDDERS, by deleting 2.1.1, through 2.1.2.8 and substitute the following 2.1.1 through 2.1.2:

**"2.1.1 Notice of Intention to Bid**

2.1.1.1 In accordance with section 103D-310, Hawaii Revised Statutes, and Section 3-122-111, Hawaii Administrative Rules, a written notice of intention to bid need not be filed for construction of any public building or public work. A written notice of intention to bid need not be filed for mere furnishing and installing of furniture, equipment, appliances, material and any combination of these items when a Contractor's license is not required under Chapter 444 of the Hawaii Revised Statutes, as amended, and the rules and regulations of the Contractor's License Board.

2.1.1.2 If two (2) or more prospective bidders desire to bid jointly as a joint venture on a single project, they must file an affidavit of joint venture. Such affidavit of joint venture will be valid only for the specific project for which it is filed. No further license is required when all parties to the joint venture possess current and appropriate contractor's licenses. Joint ventures are required to be licensed in accordance with Chapter 444 of the Hawaii Revised Statutes, as amended, and the rules and regulations of the Contractor's License Board when any party to the joint venture agreement does not hold a current or appropriate contractor's license. The joint venture must register with the office of the Director of Commerce and Consumer Affairs in accordance Chapter 425 of the Hawaii Revised Statutes, as amended.

2.1.1.3 No persons, firm or corporation may bid where (1) the person, firm, or corporation, or (2) a corporation owned substantially by the person, firm, or corporation, or (3) a substantial stockholder or an officer of the corporation, or (4) a partner or substantial investor in the firm is in arrears in any payment owed to the State of Hawaii or any of its political subdivisions or is in default of any obligation to the State of Hawaii or to all or to any of its political

subdivisions, including default as a surety or failure to perform faithfully and diligently any previous contract with the Department.

**2.1.2 Compliance Certificate 103D-310(c), Hawaii Revised Statutes** – The Contractors are required to provide proof of compliance in order to receive a contract of \$25,000 or more. To meet this requirement, Bidders may apply and register at the “Hawaii Compliance Express” website:  
<http://vendors.ehawaii.gov/hce/splash/welcome.html>

- C. Under ARTICLE 2 - PROPOSAL REQUIREMENTS AND CONDITIONS, modify section 2.6 - SUBSTITUTION OF MATERIALS AND EQUIPMENT BEFORE BID OPENING, by renaming section 2.6 SUBSTITUTION BEFORE CONTRACT AWARD and deleting subsections 2.6.1, through 2.6.6 and substitute the following three new subsections and related paragraphs 2.6.1 through 2.6.3:

**“2.6.1** For Substitutions after the Letter of Award is issued; refer to Section 6.3 SUBSTITUTION AFTER CONTRACT AWARD.

**2.6.2** Unless specifically required otherwise in the contract documents, Offerors shall not submit products, materials, equipment, articles or systems for review or approval prior to submitting their Offers.

**2.6.3** Offerors shall prepare their Offer forms based on the performance requirements of the materials, equipment, articles or systems noted on the drawings and specifications. If trade names, makes, catalog numbers or brand names are specified, Offerors shall infer that these items indicate the quality, style, appearance or performance of the material, equipment, article, or systems to be used in the project.”

- D. Under ARTICLE 2 – PROPOSAL REQUIREMENTS AND CONDITIONS, modify section 2.7 – PREPARATION OF PROPOSAL, by deleting subsection 2.7.3 and substituting the following 2.7.3:

**“2.7.3** Pursuant to the requirements of Section 103D-302, HRS, each Bidder shall include in its bid the name of each person or firm to be engaged by the Bidder on the project as joint contractor or subcontractor indicating also the nature and scope of work to be performed by such joint contractor and/or subcontractor. If the Bidder fails to list a joint contractor or subcontractor, the State may accept the bid if it is in the State’s best interest and the value of the work to be performed by the joint contractor or subcontractor is equal to or less than one percent of the total bid amount. The Bidder shall be solely responsible for verifying that their joint contractor or subcontractor has the proper license at the time of the submitted bid.”

- E. Under ARTICLE 2 – PROPOSAL REQUIREMENTS AND CONDITIONS, modify section 2.8 – BID SECURITY Section 3-122-223(d) HAR, by deleting subsection 2.8.1 and substituting the following 2.8.1:

**“2.8.1** Subject to the exceptions in Section 3.122.223(d) HAR, all lump sum base bids of \$250,000 and higher, or lump sum base bids including alternates of

\$250,000 and higher, that are not accompanied by bid security are non-responsive. Bid security shall be one of the following: Section 3-122-222(a) HAR”

- F. Under ARTICLE 2 – PROPOSAL REQUIREMENTS AND CONDITIONS, modify section 2.13 – PROTEST, by renumbering existing subsection 2.13.4 to 2.13.5 and adding new subsection 2.13.4:

“**2.13.2** No Protest based upon the contents of the solicitation shall be considered unless it is submitted in writing to the Public Works Administrator prior to the date set for the receipt of proposals.

**2.13.3** A protest of an award or proposed award pursuant to §103D-302 or §103D-303, HRS, shall be submitted in writing to the Public Works Administrator within five (5) working days after the posting of the award of the Contract.”

2.13.4 All protests must be *addressed to Administrative Director of the Courts* and delivered in a sealed envelope labeled with the word “PROTEST” to The Judiciary - State of Hawaii, Office of the Administrative Director, 417 South King Street, Suite 206-A, Hawaii, 96813-2943 and received at The Judiciary, State of Hawaii, Office of the Administrative Director, 417 South King Street, Suite 206-A, Hawaii, 96813-2943 prior to the submission deadline.

The Protestor bears sole responsibility for ensuring that the protest letter / documentation is delivered by the appropriate deadline. Timely receipt shall be evidenced by the date and time stamped at The Judiciary - State of Hawaii, Office of the Administrative Director, 417 South King Street, Suite 206-A, Hawaii, 96813-2943 prior to the submission deadline.

If the bidder chooses to deliver its protest by the United States Postal Service (USPS), the documents should be sent to The Judiciary - State of Hawaii, Office of the Administrative Director, 417 South King Street, Suite 206-A, Hawaii, 96813-2943. USPS does not deliver directly to The Judiciary - State of Hawaii, Office of the Administrative Director, and mail must be processed through a mailroom. This may cause a delay in receipt by The Judiciary - State of Hawaii, Office of the Administrative Director.

The Protestor bears sole responsibility for ensuring that the protest documentation is delivered by the appropriate deadline.

- G. Under ARTICLE 3 – AWARD AND EXECUTION OF CONTRACT, modify section 3.3 CORRECTION OF BIDS AND WITHDRAWAL OF BIDS 3-122-31 HAR, by deleting subsection 3.3.1.2(b) and substituting the following 3.3.1.2(b):

“(b) Transposition errors;”

- H. Under ARTICLE 3 – AWARD AND EXECUTION OF CONTRACT, modify section 3.3 CORRECTION OF BIDS AND WITHDRAWAL OF BIDS §3-122-31 HAR, by deleting subsection 3.3.2 and substituting the following 3.3.2:

“**3.3.2** Withdrawal of bids after bid opening but prior to award may be made when the bid contains a mistake attributable to an obvious error which affects

price, quantity, quality, delivery, or contractual conditions, and the bidder requests withdrawal in writing by submitting proof of evidentiary value which demonstrates that a mistake was made. The Comptroller shall prepare a written approval or denial in response to this request.”

- I. Under ARTICLE 3 – AWARD AND EXECUTION OF CONTRACT, modify section 3.4 AWARD OF CONTRACT, by deleting subsection 3.4.4 and substituting the following 3.4.4:

“**3.4.4** The contract will be drawn on the offer forms and accepted by the Comptroller. The contract will not be binding upon the Department until all required signatures have been affixed thereto and written certification that funds are available for the work has been made.”

- J. Under ARTICLE 3 – AWARD AND EXECUTION OF CONTRACT, modify section 3.7 REQUIREMENT OF PERFORMANCE AND PAYMENT BONDS by deleting subsections 3.7.1, 3.7.1.2, and 3.7.1.3 and substituting the following new subsections 3.7.1, 3.7.1.1, and 3.7.1.2:

“3.7.1 Performance and Payment Bonds shall be required for contracts \$25,000 and higher. At the time of contract award, the successful Bidder shall file good and sufficient performance and payment bonds on the form furnished by the Department (see Appendix), each in an amount equal to one hundred percent (100%) of the amount of the contract price unless otherwise stated in the solicitation of bids. Acceptable performance and payment bonds shall be limited to the following:

3.7.1.1 Surety bonds underwritten by a company licensed to issue bonds in this State; or

3.7.1.2 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, and payable on demand to the State by a bank, a savings institution, or credit union insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

(a) These instruments may be utilized only to a maximum of \$100,000.

(b) If the required amount totals over \$100,000, more than one instrument not exceeding \$100,000 each and issued by different financial institutions shall be acceptable.”

- K. Under ARTICLE 3 – AWARD AND EXECUTION OF CONTRACT, modify section 3.7 REQUIREMENT OF PERFORMANCE AND PAYMENT BONDS by adding the following new subsection 3.7.3:

“3.7.3 For additional Performance and Payment Bond requirements due to changes in the contract amount after contract award, see section 4.2.4.2 Additional Performance and Payment Bond Increases.”

- L. Under ARTICLE 3 – AWARD AND EXECUTION OF CONTRACT, add new Section 3.8 as follows:

**“3.8 CAMPAIGN CONTRIBUTIONS BY STATE AND COUNTY**

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

- M. Under ARTICLE 3 – AWARD AND EXECUTION OF CONTRACT, modify section 3.8 EXECUTION OF THE CONTRACT, by renumbering the section number to 3.9, related subsection numbers to 3.9.1, 3.9.2, by deleting former subsection 3.8.1 and substituting the following new 3.9.1:

**“3.9.1** Upon acceptance of the successful bidder’s offer by the Comptroller, the Contractor shall provide satisfactory performance and payment bonds within ten (10) calendar days after award of the contract or within such further time as granted by the Comptroller. No proposal or contract shall be considered binding upon the State until the contract has been fully and properly executed by all parties thereto and the Comptroller has endorsed thereon its certificate, as required by Section 103D-309, HRS, that there is an available unexpended appropriation or balance of an appropriation over and above all outstanding contracts sufficient to cover the State’s amount required by such contract.”

- N. Under ARTICLE 3 – AWARD AND EXECUTION OF CONTRACT, modify section 3.9 FAILURE TO EXECUTE THE CONTRACT, by renumbering the section number to 3.10, related subsection numbers to 3.10.1, 3.10.2, 3.10.3, by deleting former subsection 3.9.2 and substituting the following new 3.10.2:

**“3.10.2 After the Award** – If the Bidder to whom contract is awarded shall fail or neglect to furnish satisfactory security within ten (10) calendar days after such award or within such further time as the Comptroller may allow, the State shall be entitled to recover from such Bidder its actual damages, including but not limited to the difference between the bid and the next lowest responsive bid, as well as personnel and administrative costs, consulting and legal fees and other expenses incurred in arranging a contract with the next low responsive bidder or calling for new bids. The State may apply all or part of the amount of the bid security to reduce damages. If upon determination by the State of the amount of its damages the bid security exceeds that amount, it shall release or return the excess to the person who provided same.”

- O. Under ARTICLE 3 – AWARD AND EXECUTION OF CONTRACT, renumber Section 3.10 NOTICE TO PROCEED and related subsection numbers to 3.11, 3.11.1, 3.11.2, 3.11.3 and 3.11.4.

- P. Under ARTICLE 4 - SCOPE OF WORK, modify Section 4.2 CHANGES, by deleting subsection 4.2.4.2 and substituting the following new subsection 4.2.4.2:

**“4.2.4.2 Performance and Payment Bond Increases.** When the contract price is increased, performance and payment bonds shall each be increased in amounts equal to one hundred percent (100%) of the increase in contract price. The Contractor is responsible to increase the penal amounts of each



of the existing bonds or to obtain additional bonds in order to secure additional protection for the Department.

(a) Upon request of the Contracting Officer, the Contractor shall provide evidence in the form of a Bond Rider (See attached form at the end of Section 00700 – General Conditions) from the surety documenting the additional performance and payment bond protections.

(b) If the Contractor fails to deliver the required additional performance and payment bonds, the Department shall have remedies provided under Section 7.27 Termination of Contract for Cause.”

Q. Under ARTICLE 4 - SCOPE OF WORK, modify Section 4.2 CHANGES, by deleting subsection 4.2.4.3 and substituting the following two new subsections:

“4.2.4.3 Upon receipt of a change order, that the Contractor does not agree with any of the terms or conditions or the adjustments or non adjustments of the contract price or contract time; the Contractor shall not execute or sign the change order, but shall return the unsigned change order, along with a written notification of the conditions or items that are in dispute.

4.2.4.4 If the Contractor signs or executes the change order, this constitutes an agreement on the part of the Contractor with the terms and conditions of the change order. A change order that is mutually agreed to and signed by the parties of the contract constitutes a contract modification.”

R. Under ARTICLE 4 - SCOPE OF WORK, modify section 4.2 CHANGES, by adding the following three new subsections 4.2.5 through 4.2.7:

**“4.2.5 Claim Notification** - The Contractor shall file a notice of intent to claim for a disputed change order within 30 calendar days after receipt of the written order. Failure to file the protest within the time specified constitutes an agreement on the part of the Contractor with the terms, conditions, amounts and adjustment or non-adjustment to contract price or contract time set forth in the disputed change order. The requirement for timely written notice shall be a condition precedent to the assertion of a claim.

**4.2.6 Proceeding with Directed Work** - Upon receipt of a contract modification, change order, or field order, the Contractor shall proceed with the directed changes and instructions. The Contractor's right to make a claim for additional compensation or an extension of time for completion is not affected by proceeding with the changes and instructions described in a change order and field order.

**4.2.7 Pricing or Negotiating Costs Not Allowed** - The Contractor's cost of responding to requests for price or time adjustments is included in the contract price. No additional compensation will be allowed unless authorized by the Contracting Officer.”

S. Under ARTICLE 4 - SCOPE OF WORK, modify section 4.3 Duty of Contractor to Provide Proposal for Changes, by deleting subsection 4.3.4.

- T. Under ARTICLE 4 - SCOPE OF WORK, modify section 4.4 PRICE ADJUSTMENT, by deleting subsection 4.4.1 and substituting subsection 4.4.1 and adding a new subsection 4.4.2 and modify section 4.5 ALLOWANCES FOR OVERHEAD AND PROFIT, by deleting subsections 4.5.1, 4.5.2 and 4.5.3 and substituting subsections 4.5.1, 4.5.2 and 4.5.3 as follows:

**“4.4 PRICE ADJUSTMENT HRS 103D-501**

**4.4.1** A fully executed change order or other document permitting billing for the adjustment in price under any method listed in paragraphs (4.4.1.1) through (4.4.1.5) shall be issued within ten days after agreement on the price adjustment. Any adjustment in the contract price pursuant to a change or claim in this contract shall be made in one or more of the following ways:

4.4.1.1 By agreement to a fixed price adjustment before commencement of the pertinent performance;

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

4.4.1.3 Whenever there is a variation in quantity for any work covered by any line item in the schedule of costs submitted as required by Section 7.2 COMMENCEMENT REQUIREMENTS, by the Department at its discretion, adjusting the lump sum price proportionately;

4.4.1.4 FORCE ACCOUNT METHOD. At the sole option of the Contracting Officer, by the costs attributable to the event or situation covered by the change, plus appropriate profit or fee, all as specified in Section 4.5 ALLOWANCES FOR OVERHEAD AND PROFIT and the force account provision of Section 8.3 PAYMENT FOR ADDITIONAL WORK before commencement of the pertinent performance;

4.4.1.5 In such other manner as the parties may mutually agree upon before commencement of the pertinent performance; or

4.4.1.6 In the absence of an agreement between the two parties:

4.4.1.6.a For change orders with value not exceeding \$50,000 by documented actual costs of the work, allowing for overhead and profit as set forth in Section 4.5 ALLOWANCES FOR OVERHEAD AND PROFIT. A change order shall be issued within fifteen days of submission by the contractor of proper documentation of completed force account work, whether periodic (conforming to the applicable billing cycle) or final. The contracting officer shall return any documentation that is defective to the contractor within fifteen days after receipt, with a statement identifying the defect; or

4.4.1.6.b For change orders with value exceeding \$50,000 by a unilateral determination by the Contracting Officer of the reasonable and necessary costs attributable to the event or situation covered by the change, plus appropriate profit or fee, all as computed by the Contracting Officer in accordance with applicable sections of Chapters 3-123 and 3-126 of the Hawaii Administrative Rules, and Section 4.5 ALLOWANCES FOR

OVERHEAD AND PROFIT. When a unilateral determination has been made, a unilateral change order shall be issued within ten days. Upon receipt of the unilateral change order, if the contractor does not agree with any of the terms or conditions, or the adjustment or nonadjustment of the contract time or contract price, the contractor shall file a notice of intent to claim within thirty days after the receipt of the written unilateral change order. Failure to file a protest within the time specified shall constitute agreement on the part of the contractor with the terms, conditions, amounts, and adjustment or nonadjustment of the contract time or the contract price set forth in the unilateral change order.

**4.4.2 Cost or Pricing Data** - Contractor shall provide and certify cost or pricing data for any price adjustment to a contract involving aggregate increases and decreases in costs plus applicable profits expected to exceed \$100,000. The certified cost or pricing data shall be subject to the provisions of HAR chapter 3-122, subchapter 15.

#### **4.5 ALLOWANCES FOR OVERHEAD AND PROFIT HRS103D-501**

**4.5.1** In determining the cost or credit to the Department resulting from a change, the allowances for all overhead, including, extended overhead resulting from adjustments to contract time (including home office, branch office and field overhead, and related delay impact costs) and profit combined, shall not exceed the percentages set forth below:

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

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

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

**4.5.2** Not more than three markup allowance line item additions not exceeding the maximum percentage shown above will be allowed for profit and overhead, regardless of the number of tier subcontractors.

**4.5.3** The allowance percentages will be applied to all credits and to the net increase of direct costs where work is added and deleted by the changes.”

U. Under ARTICLE 5 - CONTROL OF THE WORK, modify section 5.4 SHOP DRAWINGS AND OTHER SUBMITTALS, by deleting subsection 5.4.14 and 5.4.15 and substitute the following new subsections:

“5.4.1.4 Descriptive Sheets and Other Submittals - When a submittal is required by the contract, the Contractor shall submit to the Contracting Officer five (5) complete sets of descriptive sheets such as shop drawings, brochures, catalogs, illustrations, calculation, material safety data sheets (MSDS), certificates, reports, warranty, etc., which will completely describe the material, product, equipment, furniture or appliance to be used in the

project as shown in the drawings and specifications and how it will be integrated into adjoining construction. Prior to the submittal, the Contractor shall review and check all submittal sheets for conformity to the contract requirements and indicate such conformity by marking or stamping and signing each sheet. Where descriptive sheets include materials, systems, options, accessories, etc. that do not apply to this contract, non-relevant items shall be crossed out so that all remaining information will be considered applicable to this contract. It is the responsibility of the Contractor to submit descriptive sheets for review and acceptance by the Contracting Officer as required at the earliest possible date after the date of award in order to meet the Contract Duration. Delays caused by the failure of the Contractor to submit descriptive sheets as required will not be considered as justification for contract time extension.

5.4.1.5 Material Samples and Color Samples - When material and color sample submittals are required by the contract, the Contractor shall submit to the Contracting Officer no less than three (3) samples conforming to Section 6.6 MATERIAL SAMPLES. One sample will be retained by the Consultant, one sample will be retained by the State, and the remaining sample(s) will be returned to the Contractor. Prior to the material and color submittal, the Contractor shall review and check all samples for conformity to the contract requirements and indicate such conformity by marking or stamping and signing each sample. It is the responsibility of the Contractor to submit samples for review and acceptance by the Contracting Officer as required at the earliest possible date after the date of award in order to meet the Contract Duration. Delays caused by the failure of the Contractor to submit material and color samples as required will not be considered as justification for contract time extension.

5.4.1.6 Unless the technical sections (Divisions 2 - 16) specifically require the Contractor furnish a greater quantity of shop drawings and other submittals, the Contractor shall furnish the quantities required by this section.”

- V. Under ARTICLE 5 - CONTROL OF THE WORK, modify section 5.8 COOPERATION BETWEEN THE CONTRACTOR AND THE DEPARTMENT, by deleting the subsection 5.8.1 and substitute the following new subsection 5.8.1:

**“5.8.1 Furnishing Drawings and Specifications** - The Judiciary will not furnish hard copies of contract plans and specifications to Contractors. Contractors who receive award for projects through HlePro shall download the files of drawings and specifications from the HlePro website:

<https://hiepro.ehawaii.gov/welcome.html>,

and make their own hard copies. Contractors who receive award for projects through Invitations for Bid shall download the files for drawings and specifications from the Judiciary website:

[http://www.courts.state.hi.us/fiscal/IFB\\_RFP/FY\\_2015%20IFB%20RFP](http://www.courts.state.hi.us/fiscal/IFB_RFP/FY_2015%20IFB%20RFP)

or the State Procurement Office website:

<https://hands.ehawaii.gov/hands/admin/search/opportunity/14097>,

and make their own hard copies. Contractor shall have and maintain at least one hard copy of the Contract Drawings and Specifications on the work site, at all times.”

W. Under ARTICLE 5 - CONTROL OF THE WORK, modify section 5.12 SUBCONTRACTS, by deleting the subsection 5.12 and related paragraphs and substitute the following new subsection 5.12 and related paragraphs:

**“5.12 SUBCONTRACTS** - Nothing contained in the contract documents shall create a contractual relationship between the State and any subcontractor. The contractor may subcontract a portion of the work but the contractor shall remain responsible for the work that is subcontracted.

**5.12.1 Replacing Subcontractors** - Contractors may enter into subcontracts only with subcontractors listed in the offer form. The contractor will be allowed to replace a listed subcontractor if the subcontractor:

5.12.1.1 Fails, refuses or is unable to enter into a subcontract consistent with the terms and conditions of the subcontractor's offer presented to the contractor; or

5.12.1.2 Becomes insolvent; or

5.12.1.3 Has any license or certification necessary for performance of the work suspended or revoked; or

5.12.1.4 Has defaulted or has otherwise breached the subcontract in connection with the subcontracted work; or

5.12.1.5 Agrees to be substituted by providing a written release; or

5.12.1.6 Is unable or refuses to comply with other requirements of law applicable to contractors, subcontractors, and public works projects.

**5.12.2 Notice of Replacing Subcontractor** - The Contractor shall provide a written notice to the Contracting Officer when it replaces a subcontractor, including in the notice, the reasons for replacement. The Contractor agrees to defend, hold harmless, and indemnify the State against all claims, liabilities, or damages whatsoever, including attorney's fees, arising out of or related to the replacement of a subcontractor.

**5.12.3 Adding Subcontractors** - The Contractor may enter into a subcontract with a subcontractor that is not listed in the offer form only after this contract becomes enforceable.

**5.12.4 Subcontracting** - Contractor shall perform with its own organization, work amounting to not less than twenty (20%) of the total contract cost, exclusive of costs for materials and equipment the Contractor purchases for installation by its subcontractors, except that any items designated by the State in the contract as “specialty items” may be performed by a subcontract and the cost of any such specialty items so performed by the subcontract may be deducted from the total contract cost before computing the amount of work required to be performed by the Contractor with its own organization.”

- X. Under ARTICLE 6 - CONTROL OF MATERIALS AND EQUIPMENT, Modify Section 6.3 SUBSTITUTION OF MATERIALS AND EQUIPMENT AFTER BID OPENINGS, by renaming section 6.3 SUBSTITUTION AFTER CONTRACT AWARD and by deleting subsections 6.3.1 through 6.3.3 and related paragraphs, and substitute the following two new subsections 6.3.1 and 6.3.2 and related paragraphs:

**“6.3.1** Materials, equipment, articles and systems noted on the drawings and specifications, establish a standard of quality, function, performance or design requirements and shall not be interpreted to limit competition. Should trade names, makes, catalog numbers or brand names be specified, the contractor shall infer that these items indicate the quality, style, appearance or performance of the material, equipment, article, or systems to be used in the project. The contractor is responsible to use materials, equipment, articles or systems that meet the project requirements. Unless specifically provided otherwise in the contract documents, the contractor may, at its option, use any material, equipment, article or system that, in the judgment of the Contracting Officer, is equal to that required by the contract documents.

6.3.1.1 If after installing a material, equipment, article or system a variance is discovered, the contractor shall immediately replace the material, equipment, article or system with one that meets the requirements of the contract documents.

**6.3.2 Substitution After Contract Award** - Subject to the Contracting Officer's determination; material, equipment, article or system with a variant feature(s) may be allowed as a substitution, provided it is in the State's best interest. The State may deny a substitution; and if a substitution is denied, the Contractor is not entitled to any additional compensation or time extension.

6.3.2.1 The Contractor shall include with the submittal, a notification that identifies all deviations or variances from the contract documents. The notice shall be in a written form separate from the submittal. The variances shall be clearly shown on the shop drawing, descriptive sheet, and material sample or color sample; and the Contractor shall certify that the substitution has no other variant features. Failures to identify the variances are grounds to reject the related work or materials, notwithstanding that the Contracting Officer accepted the submittal. If the variances are not acceptable to the Contracting Officer, the Contractor will be required to furnish the item as specified on the contract documents at no additional cost or time.

6.3.2.2 Acceptance of a variance shall not justify a contract price or time adjustment unless the Contractor requests an adjustment at the time of submittal and the adjustments are explicitly agreed to in writing by the Contracting Officer. Any request shall include price details and proposed scheduling modifications. Acceptance of a variance is subject to all contract terms, and is without prejudice to all rights under the surety bond.

6.3.2.3 The Contractor can recommend improvements to the project, for materials, equipment, articles, or systems by means of a substitution request, even if the improvements are at an additional cost. The Contracting Officer shall make the final determination to accept or reject the Contractor's

proposed improvements. If the proposed material, equipment, article or system cost less than the specified item, the Department will require a sharing of cost similar to value engineering be implemented. State reserves its right to deny a substitution; and if a substitution is denied, the Contractor is not entitled to additional compensation or time extension.”

- Y. Under Article 7 - PROSECUTION AND PROGRESS, modify section 7.2 SCHEDULE OF PRICES by deleting paragraph 7.2.4.1 and substitute the following paragraph 7.2.4.1:

“7.2.4.1. The Contractor shall estimate at the close of each month the percentage of work completed under each of the various construction items during such month and submit the Monthly Payment Application to the Contracting Officer for review and approval. The Contractor shall be paid the approved percentage of the price established for each item less the retention provided in Section 8.4 PROGRESS PAYMENTS.”

- Z. Under Article 7 - PROSECUTION AND PROGRESS, add the following paragraph 7.2.4A:

**“7.2.4A Subcontracts.** Upon award of a contract and prior to starting any construction work, the Contractor shall submit to the Contracting Officer a list of all subcontractors and the actual subcontracted dollar amount for each of its subcontractors regardless of the amount of the subcontract. See section 7.39 – Employment of State Residents Requirements.”

- AA. Under ARTICLE 7 – PROSECUTION AND PROGRESS, modify section 7.2.5 PROOF OF INSURANCE COVERAGE, by deleting subsection 7.2.5 and substitute the following:

**“7.2.5 Proof of Insurance Coverage** - Certificate of Insurance or other documentary evidence satisfactory to the Contracting Officer that the Contractor has in place all insurance coverage required by the contract. The Certificate of Insurance shall contain wording which identifies the Project number and Project title for which the certificate of insurance is issued. Refer to Section 7.3 INSURANCE REQUIREMENTS.”

- BB. Under ARTICLE 7 – PROSECUTION AND PROGRESS, modify section 7.3 INSURANCE REQUIREMENTS, by deleting subsection 7.3.3 and substitute the following new subsection 7.3.3:

“7.3.3 Certificate(s) of Insurance acceptable to the State shall be filed with the Contracting Officer prior to commencement of the work. Certificates shall identify if the insurance company is a “captive” insurance company or a “Non-Admitted” carrier to the State of Hawaii. The best’s rating must be stated for the “Non-Admitted” carrier. Certificates shall contain a provision that coverages being certified will not be cancelled or materially changed without giving the Contracting Officer at least thirty (30) days prior written notice. Should any policy be canceled before final acceptance of the work by the State, and the Contractor fails to immediately procure replacement insurance as specified, the State, in addition to all other remedies it may have for such breach, reserves the right to

procure such insurance and deduct the cost thereof from any money due to the Contractor."

CC. Under ARTICLE 7 – PROSECUTION AND PROGRESS, modify section 7.3 INSURANCE REQUIREMENTS, by deleting subsection 7.3.7.2 and substitute the following new subsection 7.3.7.2:

"7.3.7.2 General Liability - The Contractor shall obtain General Liability insurance with a limit of not less than \$2,000,000 per occurrence and in the Aggregates. The insurance policy shall contain the following clauses: 1) "The State of Hawaii is added as an additional insured as respects to operations performed for the State of Hawaii."; and 2) "It is agreed that any insurance maintained by the State of Hawaii will apply in excess of, and not contributed with, insurance provided by this policy." The required limit of insurance may be provided by a single policy or with a combination of primary and excess policies. Refer to SPECIAL CONDITIONS for any additional requirements."

DD. Under ARTICLE 7 – PROSECUTION AND PROGRESS, modify section 7.3 INSURANCE REQUIREMENTS, by deleting subsection 7.3.7.3 and substitute the following new subsection 7.3.7.3:

"7.3.7.3 Auto Liability - The Contractor shall obtain Auto Liability Insurance covering all owned, non-owned and hired autos with a Combined single Limit of not less than \$1,000,000 per occurrence. The insurance policy shall contain the following clauses: 1) "The State of Hawaii is added as an additional insured as respects to operations performed for the State of Hawaii."; and 2) "It is agreed that any insurance maintained by the State of Hawaii will apply in excess of, and not contributed with, insurance provided by this policy." The required limit of insurance may be provided by a single policy or with a combination of primary and excess policies. Refer to SPECIAL CONDITIONS for any additional requirements."

EE. Under ARTICLE 7 – PROSECUTION AND PROGRESS, modify section 7.3 INSURANCE REQUIREMENTS, by deleting subsection 7.3.7.4 and substitute the following new subsection 7.3.7.4:

"7.3.7.4 Property Insurance (Builders Risk)

(a) New Building(s) - The Contractor shall obtain Property Insurance covering building(s) being constructed under this Contract. The limit shall be equal to the completed value of the building(s) and shall insure against all-loss excluding earthquakes and floods. The coverage shall be provided by a company authorized to write insurance in the State of Hawaii as an insurer. The insurance policy shall contain the following clauses: 1) "The State of Hawaii is added as an additional insured as respects to operations performed for the State of Hawaii."; and 2) "It is agreed that any insurance maintained by the State of Hawaii will apply in excess of, and not contributed with, insurance provided by this policy." Refer to SPECIAL CONDITIONS for any additional requirements.



(b) Building Renovation and / or Installation Contract - The Contractor shall obtain Property Insurance with a limit equal to the completed value of the work or property being installed and shall insure against all-loss excluding earthquakes and floods. The coverage shall be provided by a company authorized to write insurance in the State of Hawaii as an insurer. The insurance policy shall contain the following clauses: 1) "The State of Hawaii is added as an additional insured as respects to operations performed for the State of Hawaii."; and 2) "It is agreed that any insurance maintained by the State of Hawaii will apply in excess of, and not contributed with, insurance provided by this policy." Refer to SPECIAL CONDITIONS for any additional requirements.

(c) The Contractor is not required to obtain property insurance for contracts limited to site development."

FF. Under ARTICLE 7 - PROSECUTION AND PROGRESS, modify section 7.7 PREVAILING WAGES, by deleting subsection 7.7.4.

GG. Under Article 7 – PROSECUTION AND PROGRESS, add the following section 7.9A – APPRENTICESHIP AGREEMENT CERTIFICATION

**"7.9A APPRENTICESHIP AGREEMENT CERTIFICATION (HRS §103-55.6)**

**7.9A.1** For the duration of a contract awarded and executed utilizing the apprenticeship agreement preference the Contractor shall certify, for each month that work is being conducted on the project, that it continues to be a participant in the relevant registered apprenticeship program for each trade it employs.

**7.9A.2** Monthly certification shall be made by completing the *Monthly Report of Contractor's Participation - Form 2* made available by the State Department of Labor and Industrial Relations, the original to be signed by the respective apprenticeship program sponsors authorized official, and submitted by the Contractor to the Engineer with its monthly payment requests. The *Monthly Report of Contractor's Participation - Form 2* available on the DLIR website at: <http://labor.hawaii.gov/wdd/files/2012/12/Form-2-Monthly-Report-of-Contractors-Participation.pdf>.

**7.9A.3** Should the Contractor fail or refuse to submit its *Monthly Report of Contractor's Participation – Form 2*, or at any time during the duration of the contract, cease to be a party to a registered apprenticeship agreement for any of the apprenticeable trades the Contractor employs, or will employ, the Contractor will be subject to the following sanctions:

7.9A.3.1 Withholding of the requested payment until all of the required *Monthly report of Contractor's Participation – Form 2s* are properly completed and submitted.

7.9A.3.2 Temporary or permanent cessation of work on the project, without recourse to breach of contract claims by the Contractor; provided the Department shall be entitled to restitution for nonperformance or liquidated damages claims; or

7.9A.3.3 Proceedings to debar or suspend pursuant to HRS §103D-702.

**7.9A.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 *Monthly Report of Contractor’s Participation – Form 2*, 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.”

HH. Under ARTICLE 7 - PROSECUTION AND PROGRESS, modify section 7.10 OVERTIME AND NIGHT WORK, by deleting subsection 7.10.2 and substitute the following:

**“7.10.2** Contractor shall notify the Contracting Officer two working days prior to doing overtime and night work, to insure proper inspection will be available. The notification shall address the specific work to be done. A notification is not required when overtime work and night work are included as normal working hours in the contract and in the contractor’s construction schedule.”

II. Under ARTICLE 7 - PROSECUTION AND PROGRESS, modify section 7.11 - OVERTIME AND NIGHT PAYMENT FOR STATE INSPECTION SERVICES, by adding new subsection 7.11.1 and renumbering the existing subsections 7.11.1, 7.11.1.1, 7.11.1.2, 7.11.1.3 and 7.11.2 to read 7.11.2, 7.11.2.1, 7.11.2.2, 7.11.2.3 and 7.11.3 respectively. Change subsection reference number (7.11.1) in subsection 7.11.3 - Payment for Inspection Services to read 7.11.2:

**“7.11.1** The Department is responsible for overtime or night time payments for Department’s inspection services, including Department’s Inspector, State staff personnel and the Department’s Consultant(s) engaged on the project, when overtime and night work are included as normal working hours in the contract and in the contractor’s construction schedule.”

JJ. Under ARTICLE 7 - PROSECUTION AND PROGRESS, modify section 7.25 - DISPUTES AND CLAIMS, by deleting subsection 7.25.10 and paragraph 7.25.10.1 and substitute the following:

**“7.25.10 Decision on Claim or Appeal** - The Contracting Officer shall decide all controversies between the State and the Contractor which arise under, or are by virtue of, this contract and which are not resolved by mutual agreement. The decision of the Contracting Officer on the claim shall be final and conclusive, unless fraudulent or unless the contractor delivers to the Comptroller a written appeal of the Contracting Officer’s decision no later than 30 days after the date of the Contracting Officer’s decision. The Comptroller’s decision shall be final and conclusive, unless fraudulent or unless the Contractor brings an action seeking judicial review of the Comptroller’s decision in an appropriate circuit court of this State within six months from the date of the Comptroller’s decision.

7.25.10.1 If the contractor delivers a written request for a final decision concerning the controversy, the Comptroller shall issue a final decision within 90 days after receipt of such a request; provided that if the Comptroller does not issue a written decision within 90 days, 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. Both parties to this contract agree that the period of up to 30 days to appeal the Contracting Officer's decision to the Comptroller shall not be included in the 90 day period to issue a final decision."

KK. Under ARTICLE 7 - PROSECUTION AND PROGRESS, modify section 7.25 - DISPUTES AND CLAIMS, by deleting subsection 7.25.13 Waiver of Attorney's Fees.

LL. Under ARTICLE 7 - PROSECUTION AND PROGRESS, modify section 7.31 - SUBSTANTIAL COMPLETION, AND FINAL INSPECTION, by deleting paragraph 7.31.2.1 and substitute the following:

"7.31.2.1 The Contracting Officer shall confirm the list of deficiencies noted by the contractor's punchlist(s) and will notify the contractor of any other deficiencies that must be corrected."

MM. Under ARTICLE 7 - PROSECUTION AND PROGRESS, modify section 7.32 - PROJECT ACCEPTANCE DATE, by adding new paragraph 7.32.4.1 as follows:

"7.32.4.1 Punchlist corrective work shall be completed prior to Contract Completion Date, or extension thereof."

NN. Under ARTICLE 7 - PROSECUTION AND PROGRESS, modify section 7.32 - PROJECT ACCEPTANCE DATE, by deleting subsection 7.32.7 and substitute the following:

"**7.32.7** If the contractor fails to correct the deficiencies within the time established in paragraph 7.32.4.1, the Contracting Officer shall assess liquidated damages as required by section 7.26 - FAILURE TO COMPLETE THE WORK ON TIME."

OO. Under ARTICLE 7 - PROSECUTION AND PROGRESS, add new section 7.39 as follows:

**"7.39 EMPLOYMENT OF STATE RESIDENTS REQUIREMENTS HRS 103B**

**7.39.1** A Contractor awarded a contract shall ensure that Hawaii residents comprise not less than 80% of the workforce employed to perform the contract. The 80% requirement shall be determined by dividing the total number of hours worked on the contract by Hawaii residents, by the total number of hours worked on the contract by all employees of the contractor in the performance of the contract. The hours worked by any subcontractor of the Contractor shall count towards the calculation for purposes of this section. The hours worked by employees within shortage trades, as determined by the Department of Labor and Industrial Relations (DLIR), shall not be included in the calculation for this section.

**7.39.2** The requirements of this section shall apply to any subcontract of \$50,000 or more in connection with the Contractor, that is, such subcontractors must also ensure that Hawaii residents comprise not less than 80% of the subcontractor's

workforce used to perform the subcontract. See also, section 7.2 - Commencement Requirements.

**7.39.3** The Contractor, and any subcontractor whose subcontract is \$50,000 or more, shall comply with the requirements of this section.

7.39.3.1 Certification of compliance shall be made in writing under oath by an officer of the Contractor and applicable subcontractors and submitted with the final payment request.

7.39.3.2 The certification of compliance shall be made under oath by an officer of the company by completing a Certification of Compliance for Employment of State Residents form and executing the Certificate before a licensed notary public. See attached form at the end of Section 00700 – General Conditions.

7.39.3.3 In addition to the certification of compliance as indicated above, the Contractor and any subcontractors shall maintain records such as certified payrolls for laborers and mechanics who performed work at the site and timesheets for all other employees who performed work on the project. These records shall include the names, addresses and number of hours worked on the project by all employees of the Contractor and subcontractors who performed work on the project to validate compliance with this section. The Contractor and Subcontractors shall maintain, retain, and provide access to these records in accordance with Section 7.38 – RECORDS MAINTENANCE, RETENTION AND ACCESS, except that these provisions shall apply to all contracts, regardless of the value of the contract.

**7.39.4** A Contractor or applicable subcontractor who fails to comply with this section shall be subject to any of the following sanctions:

7.39.4.1 With respect to the General Contractor, withholding of payment on the contract until the Contractor or its subcontractor complies with this section; or

7.39.4.2 Proceedings for debarment or suspension of the Contractor or subcontractor under Hawaii Revised Statutes §103D-702.

**7.39.5 Conflict with Federal Law** - This section shall not apply if the application of this section is in conflict with any federal law, or if the application of this section will disqualify the State from receiving Federal funds or aid. See Section 00800 - Special Conditions to determine if this section does not apply.”

PP. Under ARTICLE 8 – MEASUREMENT AND PAYMENT, Section 8.3 PAYMENT FOR ADDITIONAL WORK, modify clause 8.3.4.5(h) by changing the replacement value from ‘five hundred dollars (\$500)’ to read “\$1,000.”

QQ. Under ARTICLE 8 - MEASUREMENT AND PAYMENT, Modify section 8.3 PAYMENT FOR ADDITIONAL WORK, by deleting subsection 8.3.1 and substitute the following new subsections and paragraph:

**“8.3.1 Payment for Changed Conditions** - A contract modification or change order complying with section 4.4 PRICE ADJUSTMENT and section 4.5 ALLOWANCES FOR OVERHEAD AND PROFIT shall be issued for all changes that are directed under Section 4.2 CHANGES. No payment for any change including work performed under the force account provisions will be made until a change order is issued or contract modification is executed.

8.3.1.1 At the completion of the force account work or at an intermediate interval approved by the Contracting Officer, the contractor shall submit its force account cost proposal, including; approved daily force account records with any attached invoices or receipt, to the Department for processing a contract modification or change order.”

RR. Under Article 8 - MEASUREMENT AND PAYMENT, modify section 8.4 PROGRESS AND/OR PARTIAL PAYMENTS, by deleting section and related SUBSECTIONS 8.4.1 thru 8.4.4.4 and substitute the following new section 8.4 and related subsections 8.4.1 thru 8.4.4.4:

#### **“8.4 PROGRESS PAYMENTS**

**8.4.1 Progress Payments** - The Contractor will be allowed progress payments on a monthly basis upon preparing the Monthly Payment Application forms and submitting them to the Contracting Officer. The monthly payment shall be based on the items of work satisfactorily completed and the value thereof at unit prices and/or lump sum prices set forth in the contract as determined by the Contracting Officer and will be subject to compliance with Section 7.9 PAYROLLS AND PAYROLL RECORDS.

**8.4.2** In the event the Contractor or any Subcontractor fails to submit certified copies of payrolls in accordance with the requirements of Section 7.9 PAYROLLS AND PAYROLL RECORDS, the Contracting Officer may retain the amount due for items of work for which payroll affidavits have not been submitted on a timely basis notwithstanding satisfactory completion of the work until such records have been duly submitted. The Contractor shall not be due any interest payment for any amount thus withheld.

**8.4.3 Payment for Materials** - The Contractor will also be allowed payments of the manufacturer's, supplier's, distributor's or fabricator's invoice cost of accepted materials to be incorporated in the work on the following conditions:

8.4.3.1 The materials are delivered and properly stored at the site of Work; or

8.4.3.2 For special items of materials accepted by the Contracting Officer, the materials are delivered to the Contractor or subcontractor(s) and properly stored in an acceptable location within a reasonable distance to the site of Work.

**8.4.4** Payments shall be made only if the Contracting Officer finds that:

8.4.4.1 The Contractor has submitted bills of sale for the materials or otherwise demonstrates clear title to such materials.

8.4.4.2 The materials are insured for their full replacement value to the benefit of the Department against theft, fire, damages incurred in transportation to the site, and other hazards.

8.4.4.3 The materials are not subject to deterioration.

8.4.4.4 In case of materials stored off the project site, the materials are not commingled with other materials not to be incorporated into the project.”

SS. Under ARTICLE 8 - MEASUREMENT AND PAYMENT, Modify section 8.5 PROMPT PAYMENT, by deleting section 8.5 and related subsections 8.5.1 thru 8.5.6 and substitute the following new section 8.5 and related subsections 8.5.1 thru 8.5.9:

**“8.5.1** Any money paid to a Contractor for work performed by a subcontractor shall be disbursed to such subcontractor within ten (10) days after receipt of the money in accordance with the terms of the subcontract; provided that the subcontractor has met all the terms and conditions of the subcontract and there are no bona fide disputes on which the Contracting Officer has withheld payment.

**8.5.2** Upon final payment to the Contractor, full payment to all subcontractors shall be made within ten (10) days after receipt of the money, provided there are no bona fide disputes over the subcontractor’s performance under the subcontract.

**8.5.3** 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 contracting officer to the contractor and subsequently, upon receipt from the contracting officer, by the contractor to the subcontractor within the applicable time periods specified in subsection 8.5.2 and section 103-10 HRS:

8.5.3.1 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 subsection (8.5.5) of this section, and:

8.5.3.1.a Has provided to the Contractor an acceptable performance and payment bond for the project executed by a surety company authorized to do business in the State, as provided in section 8.6 RETAINAGE; or

8.5.3.1.b The following has occurred:

8.5.3.1.b.1 A period of ninety 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 and the surety, as provided for in section 103D-324 HRS; and

8.5.3.1.b.2 The subcontractor has provided to the Contractor:

8.5.3.1.b.2.1 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;

8.5.3.1.b.2.2 Any other bond acceptable to the Contractor; or

8.5.3.1.b.2.3 Any other form of mutually acceptable collateral.

**8.5.4** If the Contracting 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 violated subsection 8.5.2 three or more times within two years of the first violation, the Contractor shall be referred by the Contracting Officer to the Contractor License Board for action under section 444-17(14) HRS.

**8.5.5** Final Payment Request. A properly documented final payment request from a subcontractor, as required by subsection 8.5.3, shall include:

8.5.5.1 Substantiation of the amounts requested;

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

8.5.5.2.a The amounts requested are only for performance in accordance with the specifications, terms, and conditions of the subcontract;

8.5.5.2.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

8.5.5.2.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

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

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

**8.5.7** A payment request made by a Contractor to the Contracting 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 8.5.3 unless the payment request includes:

8.5.7.1 Substantiation of the amounts requested; and

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

8.5.7.2.a The amounts requested are only for performance in accordance with the specifications, terms, and conditions of the contract;

8.5.7.2.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

8.5.7.2.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.

**8.5.8** 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 8.5.3 of this section; provided that any such payments withheld shall be withheld by the contracting officer."

TT. Under ARTICLE 8 - MEASUREMENT AND PAYMENT, modify section 8.6 RETAINAGE, by deleting section 8.6 and related subsections 8.6.1 thru 8.6.3 and substituting the following new section 8.6 and related subsections:

**"8.6 RETAINAGE** - The Department will retain a portion of the amount due under the contract to the contractor, to ensure the proper performance of the contract.

**8.6.1** The sum withheld by the Department from the Contractor shall not exceed five per cent of the total amount due the contractor and that after fifty per cent of the contract is completed and progress is satisfactory, no additional sum shall be withheld; provided further that if progress is not satisfactory, the contracting officer may continue to withhold as retainage, sums not exceeding five per cent of the amount due the contractor

**8.6.2** The retainage shall not include sums deducted as liquidated damages from moneys due or that may become due the Contractor under the contract.

**8.6.3** General Obligation Bonds - The Contractor may withdraw retainage monies in whole or in part by providing a general obligation bond of the State or its political subdivisions suitable to the Department. The Contractor shall endorse over to the Department and deposit with the Department any general obligation bond suitable to the Department, but in no case with a face value less than the value established by law, of the amount to be withdrawn. The Department may sell the bond and use the proceeds in the same way as it may use monies directly retained from progress payments or the final payment.

**8.6.4** Any retainage provided for in this section or requested to be withheld by the contractor shall be held by the contracting officer.



**8.6.5** A dispute between a Contractor and subcontractor of any tier shall not constitute a dispute to which the State or any county is a party, and there is no right of action against the State or any county. The State and a county may not be interpleaded in any judicial or administrative proceeding involving such a dispute.

**8.6.6** The retention amount withheld by the Contractor from its subcontractor shall be not more than the same percentage of retainage as that of the Contractor (also applies to subcontractors who subcontract work to other subcontractors) where a subcontractor has provided evidence to the Contractor of:

8.6.6.1 A valid performance and a payment bond for the project that is acceptable to the Contractor and executed by a surety company authorized to do business in this State;

8.6.6.2 Any other bond acceptable to the Contractor; or

8.6.6.3 Any other form of collateral acceptable to the Contractor.

**8.6.7** A written notice of any withholding shall be issued to a subcontractor, with a copy to the Procurement Officer, specifying the following:

8.6.7.1 The amount to be withheld;

8.6.7.2 The specific causes for the withholding under the terms of the subcontract; and

8.6.7.3 The remedial actions to be taken by the subcontractor to receive payment of the amounts withheld.

**8.6.8** The provisions of this section shall not be construed to require payment to subcontractors of retainage released to a contractor pursuant to an agreement entered into with the contracting officer meeting the requirements of subsection 8.6.3.”

UU.Under Article 8 – MEASUREMENT AND PAYMENT, modify section 8.7 WARRANTY OF CLEAR TITLE, by deleting section and substitute the following new section 8.7:

**“8.7 WARRANTY OF CLEAR TITLE** - The Contractor warrants and guarantees that all work and materials covered by progress payments made thereon shall be free and clear of all liens, claims, security interests or encumbrances, and shall become the sole property of the Department. This provision shall not, however, be construed as an acceptance of the work nor shall it be construed as relieving the Contractor from the sole responsibility for all materials and work upon which payments have been made or the restoration of any damaged work, or as waiving the right of the Department to require the fulfillment of all the items of the contract.”

VV.Under Article 8 – MEASUREMENT AND PAYMENT, modify section 8.8 – FINAL PAYMENT, by deleting subsection 8.8.1 and substitute the following new subsection 8.8.1:

**8.8.1** Upon final settlement, the final payment amount, less all previous payments and less any sums that may have been deducted in accordance with the provisions of the contract, will be paid to the Contractor, provided the Contractor has submitted the following documents with the request for final payment: a) a current "Certificate of Vendor Compliance" issued by the Hawaii Compliance Express (HCE); and b) an originally notarized Certificate of Compliance for Employment of State Residents signed under oath by an officer of the Contractor and applicable subcontractors pursuant to chapter 103B HRS. The Certificate of Vendor Compliance is used to certify the Contractor's compliance with: a) Section 103D-328, HRS (for all contracts \$25,000 or more) which requires a current tax clearance certificate issued by the Hawaii State Department of Taxation and the Internal Revenue Service; b) Chapters 383, 386, 392, and 393, HRS; and c) Subsection 103D-310(c), HRS. The State reserves the right to verify that compliance is current prior to the issuance of final payment. Contractors are advised that non-compliance status will result in final payment being withheld until compliance is attained.

WW.Under Article 8 – MEASUREMENT AND PAYMENT, modify section 8.9 – CLAIMS ARISING OUT OF PAYMENT FOR REQUIRED WORK, by deleting section and substitute the following new section 8.9:

**"8.9 CLAIMS ARISING OUT OF PAYMENT FOR REQUIRED WORK -**

If the Contractor disputes any determination made by the Contracting Officer regarding the amount of work satisfactorily completed, or the value thereof, or the manner in which payment therefore is made or calculated, it shall notify the Contracting Officer in writing of the specific facts supporting the Contractor's position. Such notice shall be delivered to the Contracting Officer no later than thirty (30) days after the Contractor has been tendered payment for the subject work, or, if no payment has been tendered, not later than fifty (50) days after it has submitted the Monthly Payment Application required under Section 8.4 PROGRESS PAYMENTS herein to the Contracting Officer for the work that is the subject of the dispute. The delivery of the written notice cannot be waived and shall be a condition precedent to the filing of the claim. No claim for additional compensation for extra work or change work shall be allowed under this provision, unless the notice requirements of Article 4 SCOPE OF WORK have been followed. Acceptance of partial payment of a Monthly Payment Application amount shall not be deemed a waiver of the right to make a claim described herein provided the notice provisions are followed. The existence of or filing of a payment claim herein shall not relieve the Contractor of its duty to continue with the performance of the contract in full compliance with the directions of the Contracting Officer. Any notice of claim disputing the final payment made pursuant to Section 8.8 FINAL PAYMENT must be submitted in writing not later than thirty (30) days after final payment that is identified as such has been tendered to the Contractor."

XX.Add the attached Bond Rider form to the Appendix.

YY.Add the attached Certification of Compliance for Employment of State Residents form to the Appendix.

**PART 2 - PRODUCTS (Not Used)**

**PART 3 - EXECUTION (Not Used)**

## BOND RIDER

This Rider is to be attached to and forms a part of Performance Bond No. \_\_\_\_\_  
and Labor and Material Payment Bond No. \_\_\_\_\_ (hereinafter collectively referred to  
as "Bonds) issued by \_\_\_\_\_, (hereinafter referred to as "Surety"),  
(Name of Bonding Company)  
as Surety, on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**WHEREAS** \_\_\_\_\_,  
(Full Legal Name and Street Address of Contractor)  
as Contractor (hereinafter referred to as Principal) has signed a Contract with the State of Hawaii (hereinafter  
referred to as Obligee) on \_\_\_\_\_, for the following project:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
hereinafter called Contract.

**NOW THEREFORE**, the undersigned hereby agree that the amounts for each of the attached Bonds shall be  
changed

**FROM:** \_\_\_\_\_ (000,000,000.00)

**TO:** \_\_\_\_\_ (000,000,000.00).

Except as herein modified, the Bonds shall remain in full force and effect.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

(Seal)

\_\_\_\_\_  
Name of Principal (Contractor)

\*

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

(Seal)

\_\_\_\_\_  
Name of Surety

\*

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\*ALL SIGNATURES MUST BE ACKNOWLEDGED BY A NOTARY PUBLIC

ATTACHMENT 1

**CERTIFICATION OF COMPLIANCE  
FOR  
EMPLOYMENT OF STATE RESIDENTS  
HRS 103B**

Project Title: \_\_\_\_\_

Agency Project No: \_\_\_\_\_

Contract No.: \_\_\_\_\_

As required by Hawaii Revised Statutes 103B – Employment of State Residents on Construction Procurement Contracts, I hereby certify under oath, that I am an officer of \_\_\_\_\_ and for the Project Contract indicated

(Name of Contractor or Subcontractor Company)

above, \_\_\_\_\_ was in compliance with

(Name of Contractor or Subcontractor Company)

HRS 103B by employing a workforce of which not less than eighty percent are Hawaii residents, as calculated according to the formula in the solicitation, to perform this Contract.

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

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

*CORPORATE SEAL*

\_\_\_\_\_  
(Name of Company)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Print Title)

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

Doc. Date: \_\_\_\_\_ # of Pages \_\_\_\_ 1<sup>st</sup> Circuit

Notary Name: \_\_\_\_\_

Doc. Description: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Notary Public, 1<sup>st</sup> Circuit, State of Hawaii  
My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Signature Date

NOTARY CERTIFICATION

END OF SECTION

## SECTION 00800 - SPECIAL CONDITIONS

### PART 1 - GENERAL

#### 1.01 GENERAL CONDITIONS

- A. As specified in SECTION 00700 - GENERAL CONDITIONS: The *GENERAL CONDITIONS* and these *SPECIAL CONDITIONS* shall govern all work specified in all Divisions and Sections.
- B. Revisions to the *GENERAL CONDITIONS*: The following conditions included in this paragraph 1.01 B. and subparagraphs shall govern respective items in the published *INTERIM GENERAL CONDITIONS 1999 Edition* and in SECTION 00700 - GENERAL CONDITIONS, paragraph entitled REVISIONS TO THE GENERAL CONDITIONS.

- 1. Under ARTICLE 2 – PROPOSAL REQUIREMENTS AND CONDITIONS, modify section 2.13 – PROTEST, by renumbering existing subsection 2.13.4 to 2.13.5 and adding new subsection 2.13.4:

2.13.4 All protests must be *addressed to Administrative Director of the Courts* and delivered in a sealed envelope labeled with the word “PROTEST” to The Judiciary - State of Hawaii, Office of the Administrative Director, 417 South King Street, Suite 206-A, Hawaii, 96813-2943 and received at The Judiciary, State of Hawaii, Office of the Administrative Director, 417 South King Street, Suite 206-A, Hawaii, 96813-2943 prior to the submission deadline.

The Protestor bears sole responsibility for ensuring that the protest letter / documentation is delivered by the appropriate deadline. Timely receipt shall be evidenced by the date and time stamped at The Judiciary - State of Hawaii, Office of the Administrative Director, 417 South King Street, Suite 206-A, Hawaii, 96813-2943 prior to the submission deadline.

If the bidder chooses to deliver its protest by the United States Postal Service (USPS), the documents should be sent to The Judiciary - State of Hawaii, Office of the Administrative Director, 417 South King Street, Suite 206-A, Hawaii, 96813-2943. USPS does not deliver directly to The Judiciary - State of Hawaii, Office of the Administrative Director, and mail must be processed through a mailroom. This may cause a delay in receipt by The Judiciary - State of Hawaii, Office of the Administrative Director.

The Protestor bears sole responsibility for ensuring that the protest documentation is delivered by the appropriate deadline.

- 2. Under ARTICLE 3 - AWARD AND EXECUTION OF CONTRACTS, modify section 3.11 NOTICE TO PROCEED by deleting subsections 3.11.1 and 3.11.2 and substitute the following:

3.11.1 The Letter of Award also serves as the formal Notice to Proceed, and the Contractor is authorized to proceed with the work immediately. In the event that the Contractor refuses or neglects

to start the work within seven consecutive days from the Project Start Date, the Comptroller may terminate the contract in accordance with the *GENERAL CONDITIONS* "Termination of the Contract for Cause" section.

3. Under ARTICLE 3 – AWARD AND EXECUTION OF CONTRACT, modify section 3.11 NOTICE TO PROCEED, by deleting subsection 3.11.4 and substitute the following new paragraph 3.11.4:

3.11.4 In the event the Notice to Proceed is not issued within one hundred and eighty (180) days after the date of the bid opening, the Contractor may submit a claim for increased labor and material costs (but not overhead costs) which are directly attributable to the delay beyond the first 180 days. Such claims shall be accompanied with the necessary documentation to justify the claim. No payment will be made for escalation costs that are not fully justified as determined by the State.

4. Under ARTICLE 7 - PROSECUTION AND PROGRESS, delete Section 7.9A – APPRENTICESHIP AGREEMENT CERTIFICATION. This project is federally funded and HRS §103-55.6 (Act 17, Session Laws of Hawaii 2009) is in conflict with federal law, or the application of the apprenticeship agreement will disqualify the State from receiving Federal funds or aid. Therefore, Section 7.9A shall not apply.

#### **1.02 SUBMITTAL DATES FOR CLARIFICATIONS AND SUBSTITUTIONS**

- A. Written clarification requests must be received no later than 4:30 p.m., fourteen calendar days prior to bid opening.

#### **1.03 PROJECT CONTACT PERSON**

- A. Project Contact - For Contractor's access to the site to view conditions during bidding.

NAME:	Lance Nishijo
POSITION OR TITLE:	Building Maintenance
TELEPHONE NUMBER:	(808) 264-1405
EMAIL:	<a href="mailto:lance.s.nishijo@courts.hawaii.gov">lance.s.nishijo@courts.hawaii.gov</a>

- B. The Judiciary Contact - For questions or clarifications on the plans and specifications during bidding, offerors must submit by e-mail "QUESTIONS AND CLARIFICATIONS" form found at the end of this section. For general questions on the procurement requirements or processes call by telephone.

Purchasing Specialist, Contracts and Purchasing	
NAME	Tritia Cruz
EMAIL	<a href="mailto:tritia.l.cruz@courts.hawaii.gov">tritia.l.cruz@courts.hawaii.gov</a>
TELEPHONE NUMBER	(808) 538-5805

- C. Project Coordinator  
NAME Lance Nishijo
- D. Websites:  
Judiciary web site: <http://www.courts.state.hi.us>
- E. Contacts During Construction: Address and process correspondence through the Project Coordinator.

#### **1.04 LIQUIDATED DAMAGES**

- A. In accordance with the *GENERAL CONDITIONS*, Article 7 - PROSECUTION AND PROGRESS, Section 7.26, FAILURE TO COMPLETE THE WORK ON TIME, upon failure to complete the work or any portion of the work within the time or times fixed in the contract or extension thereof, the Contractor shall pay liquidated damages to the State, in the amount of \$189.00 per calendar day of delay.
- B. In accordance with the *GENERAL CONDITIONS*, Article 7 - PROSECUTION AND PROGRESS, Section 7.32, PROJECT ACCEPTANCE DATE; upon failure to correct punch list deficiencies, within the time or times fixed in the contract or extension thereof, the Contractor shall pay liquidated damages to the State, in the amount equal to 10 percent of the liquidated damages, per calendar day of delay.
- C. In accordance with the *GENERAL CONDITIONS*, Article 7 - PROSECUTION AND PROGRESS, Section 7.33, FINAL SETTLEMENT OF CONTRACT; upon failure to submit closing documents within the time or times fixed in the contract or extension thereof, the Contractor shall pay liquidated damages to the State, in the amount equal to five percent of the liquidated damages, per calendar day of delay.

#### **1.05 SPECIALTY CONTRACTOR'S AND SUBCONTRACTOR'S LICENSE**

- A. Contractor shall be solely responsible to assure that all the specialty licenses required to perform the work are covered by the Contractor or its Subcontractor(s) or joint Contractors.

#### **1.06 WORKING HOURS**

- A. All work shall be completed on the weekends and scheduled through the officer in charge, unless otherwise noted or restricted under SECTION 01100 - PROJECT REQUIREMENTS. In the event of conflict, the working hours provisions of specification SECTION 01100 - PROJECT REQUIREMENTS shall govern over this item 1.06.

#### **1.07 REPORTS, SITE AND SUBSURFACE INVESTIGATIONS, BORING LOGS – NOT USED**

#### **1.08 SPECIFIC PROJECT REQUIREMENTS**

- A. Permits may be required for this project; therefore, the Contractor is responsible to pay for or obtain these permits.



## **1.09 COMPREHENSIVE ANNUAL FINANCIAL REPORTING**

- A. For any project that involves work on multiple structures, including non-building structures, whether it be new work or renovation work, or when the project involves both site improvements and a structure, the Contractor shall provide the following information to the Contracting Officer for fixed asset allocation purposes:
1. Within 30 calendar days of award as applicable to the project, the following shall be submitted:
    - a. The total cost of each individual structure;
    - b. The total cost of on-site improvement work; and
    - c. The total cost of off-site improvement work.
  2. After all work, including all change order work has been completed, and prior to a request for final payment, the following shall be submitted:
    - a. The total cost of each individual structure including any related change order cost;
    - b. The total cost of on-site improvement work including any related change order cost; and
    - c. The total cost of off-site improvement work including any related change order cost.
  3. The sum total cost of each category noted above shall total to the contract amount awarded, plus all change order work issued.
    - a. The cost of each individual structure includes the cost of the structure and any work within five (5) feet of the structure or building line which may include, but is not limited to its foundation, foundation earthwork, and utility improvements within and immediately below the building line.
    - b. The on-site improvement cost includes all site improvement work from five (5) feet and beyond the building line and up to the project's property line, which may include but is not limited to clearing and grubbing, grading, drainage system, site utility, walkway, parking lot, and landscape improvements.
    - c. The off-site improvement cost includes all off-site improvement work outside the of the project's property line, which may include but is not limited to walkway, landscape, drainage, utility, and roadway improvements.

## **PART 2 – PRODUCTS (Not Used)**

## **PART 3 – EXECUTION (Not Used)**

END OF SECTION

## QUESTIONS AND CLARIFICATIONS (WRITTEN REQUESTS ONLY)

PROJECT NAME: Hoapili Hale  
PROJECT TITLE: Carpet Replacement  
Judiciary Project Identifier JUD-2C-HoapHale-CrptRpl-2019  
PROJECT COORDINATOR: Lance Nishijo

.....  
BID OPENING DATE: **June 13, 2019** (This request must be received no less than  
14 days prior to bid opening)

PERSON MAKING REQUEST: \_\_\_\_\_

COMPANY: \_\_\_\_\_

TELEPHONE NO.: \_\_\_\_\_ E-MAIL: \_\_\_\_\_

QUESTION OR CLARIFICATION (Be specific and list drawing/detail and specification section or paragraph that requires attention. Attach additional pages as necessary. E-mail  
Tritia.L.Cruz@courts.hawaii.gov

## **SECTION 01230 - ALTERNATES**

### **PART 1 - GENERAL**

#### **1.01 SUMMARY**

- A. This Section includes administrative and procedural requirements for alternates.
- B. The description of alternates is not intended to give a detailed description of all additional or deductive work required by the alternate item(s), as only the principal features of such additional or deductive work are listed.
- C. Should any one or all of the alternates become a part of the contract, the cost of all additional or deductive work required by the alternate item(s), even though not specifically mentioned herein, are included in the lump sum bid price.

#### **1.02 DEFINITIONS**

- A. Alternate: An amount proposed by Bidders (Offerors) and stated on the Bid Form for certain work defined herein that may be added to or deducted from the Total Lump Sum Bid Price amount if State decides to accept a corresponding change either in the amount of construction to be completed or in the products, materials, equipment, systems, or installation methods described in the Contract Documents.
  - 1. The cost or credit for each alternate is the net addition to or deduction from the Contract Sum to incorporate alternate into the Work. No other adjustments are made to the Total Lump Sum Bid Price.

#### **1.03 PROCEDURES**

- A. Coordination: Modify or adjust affected adjacent work as necessary to completely integrate work of the alternate into the Project.
  - 1. Include as part of each alternate, miscellaneous devices, accessory objects, and similar items incidental to or required for a complete installation whether or not indicated as part of alternate.
- B. Notification: Immediately following award of the Contract, notify each party involved, in writing, of the status of each alternate. Indicate if alternates have been accepted, rejected, or deferred for later consideration.
- C. Execute accepted alternates under the same conditions as other work of the Contract.
- D. Schedule: A Schedule of Alternates is included at the end of this Section. Specification Sections referenced in schedule contain requirements for materials necessary to achieve the work described under each alternate.

### **PART 2 - PRODUCTS (Not Used)**

## **PART 3 - EXECUTION**

### **3.01 SCHEDULE OF ALTERNATES**

- A. Alternate No. A-1 Additive: Special Services Branch, Suite 226

Moving furniture, raising panel walls, removal and disposal of old carpeting, replacing carpeting with carpet tiles, cove base 4" (as needed), transitions and floor preparation.

- B. Alternate No. A-2 Additive: Courtroom #3D, Room #348

Moving furniture, removal and disposal of old carpeting, replacing carpeting with carpet tiles/roll carpet (steps), cove base 4" (as needed), transitions and floor preparation.

- C. Alternate No. A-3 Additive: Courtroom #3C, Room #360

Moving furniture, removal and disposal of old carpeting, replacing carpeting with carpet tiles/roll carpet (steps), cove base 4" (as needed), transitions and floor preparation.

- D. Alternate No. A-4 Additive: Jury Room #4A (Room #409), Jury Room #4B (Room 431), Jury Room #4C (Room #438), and Jury Room #4D (Room #455).

Moving furniture, removal and disposal of old carpeting, replacing carpeting with carpet tiles, cove base 4" (as needed), transitions and floor preparation.

END OF SECTION

## **DIVISION 9 - FINISHES**

### **SECTION 09681 – CARPET TILE, BROADLOOM CARPET, RESILIENT BASE AND TRANSITION STRIPS**

#### **PART 1 – GENERAL**

##### **1.01 SUMMARY**

- A. This Section includes carpet tile, matching broadloom carpet, resilient base, transition strips and accessories.

##### **1.02 RELATED DOCUMENTS**

- A. The General Conditions of the Contract apply to the work of this Section.

##### **1.03 SUBMITTALS**

- A. Product Data: Provide manufacturer's written data on physical characteristics, certifications, durability, and fade resistance. Include installation methods and replacement instruction.
- B. Samples: For each of the following products and for each color and texture required. Label each sample with manufacturer's name, material description, color, pattern and designation indicated on Drawings.
  - 1. Carpet tile: ten (10) each full size samples.
  - 2. Broadloom carpet of same manufacturer, specification, pattern/color and dye lot as Carpet tile.
  - 3. Exposed transition stripping and accessories: two (2) each, minimum 12" long; matching color of resilient base..
  - 4. Resilient Base color as selected by Contracting Officer; two (2) each, minimum 12" long
- C. Maintenance Data: For carpet tile and broadloom carpet, include the following:
  - 1. Methods for maintaining carpet tile, including cleaning and stain removal products and procedures and manufacturer's recommended maintenance schedule.
  - 2. Precautions for cleaning materials and methods that could be detrimental to carpet tile.
  - 3. MSDS Sheets.
- D. Warranties: Furnish two (2) copies of written warranties as required by Part 2, Item 2.02 A-16 and -17.
- E. Certifications: Furnish Manufacturer's written certifications that carpet passes Static, Flammability, and Smoke Density standards of Part 2, Item 2.02 A-13, 14 and 15.

- F. MSDS Sheets: Furnish MSDS sheets for all adhesives and sealers.
- G. Work Schedule: Submit 6 copies including date, time and activity for Project Contact's approval at least two weeks before any work on site is started.
  - 1. Judiciary will be responsible for packing and unpacking contents of furnishings.

#### **1.04 QUALITY ASSURANCE**

- A. Flooring Contractor's Qualifications: A firm with not less than 5 consecutive years of experience in installation of commercial carpeting of type, quantity and installation methods similar to work of this Section.
- B. Carpet Tile and Broadloom Carpet Manufacturer's Qualifications: Carpet mill with not less than 5 consecutive years of production experience with carpet similar to type specified in this Section; whose published product literature clearly indicates general compliance of products with requirements of this Section.
- C. Measurement Verification: Square footages shown on this drawing are approximate. It is the Flooring Contractor's responsibility to verify all dimensions and job site conditions. Order sufficient yardage to fully carpet areas as indicated and to fill overage requirements as specified. No substitutions will be permitted to make up for any shortage of material in overage or in carpet installed.
- D. Flooring Contractor shall be responsible for the accuracy of measurements.
- E. Dye Lots: All carpet in continuous areas shall be from the same dye lots.
- F. Material Testing: After delivery of carpet to the jobsite, Contracting Officer may require that the materials be tested by an independent agency to assure compliance. Contractor shall pay for testing.

#### **1.05 PROJECT CONDITIONS**

- A. Environmental Limitations: Do not install carpet tile over cementitious underlayment until cementitious underlayment has cured and is sufficiently dry to bond with adhesive and has pH range recommended by carpet tile manufacturer.

#### **1.06 EXTRA MATERIALS**

- A. Furnish extra materials described below, before installation begins, that match products installed and that are packaged with protective covering for storage and identified with labels describing contents. Deliver to a storage area designated by Project Contact.
  - 1. Carpet tile: Full-size units, not fewer than two dozen (24) full size tiles, of type and dye lot installed.
  - 2. Broadloom Carpet: 5% overage

### **PART 2 - PRODUCTS**

#### **2.01 ASBESTOS PROHIBITION**

- A. No asbestos containing materials or equipment shall be used under this Section. The contractor shall ensure that all materials and equipment incorporated in the project are asbestos-free.

## **2.02 CARPET MODULAR TILE and BROADLOOM CARPET**

A. Materials:

1. Face Yarn: Premium solution-dyed / yarn-dyed nylon, passing GSA requirements for permanent stain resistance carpet.
2. Construction: Tufted.
3. Surface Texture / Weave Type: Level loop pile.
4. Stitches per Inch: Minimum 8.5
5. Gauge: 1/10 (39.37 rows per 10 cm)
6. Pile thickness: Minimum 0.153
7. Density: 5,200 – 8600 oz. per cubic yard, per ASTM D-418
8. Backing Material: EcoFlex ICT
9. Size: 24"x24"
10. Indoor Air Quality: Meets Green Label Plus 1098
11. Recycled Content: Minimum 35% pre-consumer recycled content by total weight
12. Protective Treatment / Soil Release Technology: Sentry Plus or equal
13. Static Resistance: Meets AATCC-134 Under 3.5 KV
14. Flammability: Meets ASTM E 648 Class 1 (Glue Down)
15. Smoke Density: Meets ASTM E 662 Less than 450
16. General Warranty: Provide special warranty, signed by Flooring Contractor and Carpet Manufacturer, agreeing to repair or replace defective materials and workmanship of carpeting work during a minimum 10 year warranty period following date of Substantial Completions as required by Part 1, Item 1.03-D of this Section.
17. Carpet Tile Wear Warranty: Provide carpet tile wear warranty, as required by Part 1, Item 1.03-D of this Section, insuring that carpet tile is dimensionally stable (no cupping, dishing or dimensional changes), will not delaminate and that no less than 90% of the pile fiber will be retained when properly installed and maintained, and should wear exceed 10% in five years, the manufacturer shall furnish and install new replacement carpet meeting these specifications at no cost to the Judiciary.

B. Appearance

1. Manufacturer: Mohawk
2. Pattern/Style: Sketchpad, Modular Carpet
3. Color: Glazed (#7939)

**2.03 ADHESIVES / ACCESSORIES**

- A. Adhesive and Sealers: Products as recommended and approved by carpet tile manufacturer in writing for compatibility with carpet tile backing.
1. All adhesives and sealers shall contain no calculated solvents per OSHA Regulations 29 CFRE 1910.1200, have no calculated VOC's, be non-flammable and meet the criteria of the CRI Green Label Plus Certification Program.
- B. Miscellaneous Materials: As recommended and approved in writing by carpet tile manufacturer.
- C. Protection Paper: Heavy, reinforced, non-staining Kraft laminated paper as approved by carpet tile manufacturer.

**2.04 COMMERCIAL GRADE RESILIENT BASE AND TRANSITION STRIPS**

- A. Resilient Base: Provide resilient base, rubber or vinyl, color as selected by Contracting Officer, from manufacturer's standard by Armstrong, Burke, Johnsonite or Roppe.
- B. Transition Strips: Provide resilient transition strips, rubber or vinyl, color as selected by Contracting Officer, from manufacturer's standard by Armstrong, Burke, Johnsonite or Roppe. Comply with ADA carpet edge trim requirements.

**PART 3 - EXECUTION**

**3.01 DEMOLITION**

- A. Examine all work areas to verify existing conditions prior to proceeding with work.
- B. If an condition that would prevent work is found or suspected, immediately notify the Project Contact and do not proceed until such conditions have been corrected.
- C. Completely and carefully remove existing carpeting in areas indicated to receive new carpet tiles.

**3.02 PREPARATION**

- A. Take field measurements to determine exact quantity of materials required for floor preparation.
- B. Examine surfaces on which the carpet tiles are to be installed. Correct conditions which will impair proper installation, including by not limited to trowel marks, pits, dents, protrusions, cracks or joints. Fill cracks, joints, depressions and other irregularities with leveling compound.



- C. Examine substrates, areas and conditions for compliance with requirements for maximum moisture content and alkalinity range per carpet tile manufacturer's printed instructions. Comply with carpet tile manufacturer's printed instructions for preparation of existing floor substrate.

- 1. Do not install carpet over concrete with either excessive moisture or dust producing surface which is not adequately sealed.

### **3.03 INSTALLATION**

- A. Prior to start of installation, check critical dimensions of spaces to receive carpet tile to ensure that planned use of materials will fulfill requirements, including locations for seams, joints and edgings. Take field measurements to determine exact quantity of materials required.
- B. Comply with carpet tile and Broadloom carpet manufacturers printed instructions and recommendations for installation by glue down method. Ensure the proper amount of adhesive is applied to subfloor.
- C. Save excess carpet and scraps exceeding the size of ½ tile for Judiciary. Deliver selected pieces to on-site storage area as directed by Contracting Officer.
- D. Transition strips: Secure to floor in all transition areas in manner required to meet ADA requirements.

### **3.04 CLEANING AND PROTECTION**

- A. Remove and dispose of debris and unusable scraps.
- B. Vacuum using two-motor, top loading, upright commercial machine with brush-only element, utilizing a high filtration dust bag. Remove spits in accordance with carpet tile manufacturer's guidelines and replace carpet tiles where spots cannot be removed. Remove protruding face yarn using sharp scissors. Trim loose yarns or fibers at all cut edges.
- C. Protect carpet tile installation until final acceptance.
- D. Overage and maintenance materials: Deliver overage and useable and uncut carpet tiles, properly packages and identified, to Judiciary's designated on-site attic storage area.

### **3.04 CLEANING AND PROTECTION**

- A. Remove and dispose of debris and unusable scraps.
- B. Vacuum using two-motor, top loading, upright commercial machine with brush-only element, utilizing a high filtration dust bag. Remove spits in accordance with carpet tile manufacturer's guidelines and replace carpet tiles where spots cannot be removed. Remove protruding face yarn using sharp scissors. Trim loose yarns or fibers at all cut edges.

### **3.05 TRAINING**

- A. Contractor shall provide training to enable Judiciary's maintenance staff to maintain the new carpet in proper condition and to minimize wear and

deterioration. Training involving use of standard cleaning materials, tools and equipment, and procedures and frequencies shall be provided for up to six Judiciary employees including supervisors and workers.

1. Training shall be provided prior to final acceptance of the project by the Judiciary.

END OF SECTION

## **DIVISION 1 - GENERAL REQUIREMENTS**

### **SECTION 01100 - PROJECT REQUIREMENTS**

#### **PART 1 - GENERAL**

##### **1.01 WORK COVERED BY CONTRACT DOCUMENTS**

- A. Project Identification
  - 1. Project Title: Carpet Replacement
  - 2. Project Location: Hoapili Hale, 2145 Main Street, Wailuku, HI 96793  
(2)-013:013:020 & 021  
  
Courtroom #4A (Room #412), Courtroom #4B, (Room #426), Courtroom #4C, (Room #461), and Courtroom #4D (Room #450).
- A. Additive Alternates:
  - 1. Special Services Branch, Suite 226
  - 2. Courtroom #3D (Room #348)
  - 3. Courtroom #3C (Room #360)
  - 4. Jury room #4A (Room #409), Jury Room #4B (Room #431), Jury Room #4C (Room #438), and Jury Room #4D (Room #455).
- B. The work consists of moving furniture, raising panel walls (A-1), removal and disposal of carpeting, replacing carpeting with carpet tiles, cove base (4") as needed, transitions and floor preparation in various areas of the building.
- C. Perform operations and furnish equipment, fixtures, appliances, tools, materials, related items and labor necessary to execute, complete and deliver the work as required by the Contract Documents.
- D. The Division and Sections into which these specifications are divided shall not be considered an accurate or complete segregation of work by trades. This also applies to work specified within each section.
- E. Contractor shall not alter the Drawings and Specifications. If an error or discrepancy is found, notify the Contracting Officer.
- F. Specifying of interface and coordination in the various specification sections is provided for information and convenience only. These requirements in the various sections shall complement the requirements of this Section.

##### **1.02 SPECIFICATION FORMATS AND CONVENTIONS**

- A. Specification Content: The Specifications use certain conventions for the style of language and the intended meaning of certain terms, words, and phrases when used in particular situations. These conventions are as follows:
  - 1. Abbreviated Language: Language used in the Specifications and other Contract Documents is abbreviated and include incomplete sentences.

Omission of words or phrases such as “the Contractor shall”, “as shown on the drawings”, “a”, “an”, and “the” are intentional. Omitted words and phrases shall be provided by inference to form complete sentences. Words and meanings shall be interpreted as appropriate. Words implied, but not stated, shall be inferred, as the sense requires. Singular words shall be interpreted as plural, and plural words shall be interpreted as singular where applicable as the context of the Contract Documents indicates. Where devices, or items, or parts thereof are referred to in the singular, it is intended that such reference shall apply to as many such devices, items or parts as are required to properly complete the Work.

2. Imperative mood and streamlined language are generally used in the Specifications. Requirements expressed in the imperative mood are to be performed by Contractor. Occasionally, the indicative or subjunctive mood may be used in the Section Text for clarity to describe responsibilities that must be fulfilled indirectly by Contractor or by others when so noted.
    - a. The words “shall”, “shall be”, or “shall comply with”, depending on the context, are implied where a colon (:) is used within a sentence or phrase.
  3. Abbreviations and Acronyms for Industry Organizations: Where abbreviations and acronyms are used in Specifications or other Contract Documents, they shall mean the recognized name of the entities indicated in Gale Research’s “Encyclopedia of Associations” or in Columbia Books’ “National Trade & Professional Associations of the U.S.”.
- B. Terms
1. Directed: Terms such as “directed”, “requested”, “authorized”, “selected”, “approved”, “required”, and “permitted” mean directed by Contracting Officer, requested by Contracting Officer, and similar phrases.
  2. Indicated: The term “indicated” refers to graphic representations, notes, or schedules on drawings or to other paragraphs or schedules in specifications and similar requirements in the Contract Documents. Terms such as “shown”, “noted”, “scheduled”, and “specified” are used to help the user locate the reference.
  3. Furnish: The term “furnish” means to supply and deliver to project site, ready for unloading, unpacking, assembly, and similar operations.
  4. Install: The term “install” describes operations at project site including unloading, temporarily storing, unpacking, assembling, erecting, placing, anchoring, applying, working to dimension, finishing, curing, protecting, cleaning, and similar operations.
  5. Provide: The terms “provide” or “provides” means to furnish and install, complete and ready for the intended use.
  6. Installer: An installer is the Contractor or another entity engaged by Contractor as an employee, Subcontractor, or Sub-Subcontractor, to perform a particular construction operation, including installation, erection, application, and similar operations.

7. Submit: Terms such as “submit”, “furnish”, “provide”, and “prepare” and similar phrases in the context of a submittal, means to submit to the Contracting Officer.

C. Industry Standards

1. Applicability of Standards: Unless the Contract Documents include more stringent requirements, applicable construction industry standards have the same force and effect as if bound or copied directly into the Contract Documents to the extent referenced. Such standards are made a part of the Contract Documents by reference.
2. Publication Dates: Comply with standards in effect as of date of the Contract Documents, unless otherwise indicated.
3. Conflicting Requirements: If compliance with 2 or more standards is specified and the standards establish different or conflicting requirements for minimum quantities or quality levels, comply with the most stringent requirement. Refer uncertainties and requirements that are different, but apparently equal, to Contracting Officer for a decision before proceeding.

**1.03 CONTRACT**

- A. Refer to SECTION 00800 - SPECIAL CONDITIONS for other contract conditions.
- B. Construction Window:
  1. Project Start Date: To be determined
  2. Jobsite Start Date: After notice to proceed
  3. Jobsite Completion Date: Within 180 days after notice to proceed is given.
- C. Project Schedule:

Schedule is presented for information and planning purposes. Dates and activities are subject to adjustments. See Part 3 paragraph entitled “PROGRESS SCHEDULE”.

**1.04 WORK SEQUENCE**

The Work will be conducted in a single or multiple construction phase(s).

**1.05 USE OF PREMISES AND WORK RESTRICTIONS**

- A. General: The Contractor is notified that the entire building will generally remain operational throughout the entire duration of the project.
- B. Contractor's use of premises is restricted as follows:
  1. Construction Times and Schedule:
    - a. All work will be completed on scheduled after operational hours, weekends and or State holidays.
    - b. No restrictions of time.
  2. Site Access and Parking:
    - a. No site access restrictions.

3. Sanitation:  
Use of the building's toilet facilities will be restricted to the public rest rooms. Failure to keep such facilities clean and neat will subject the Contractor to loss of privilege.

4. Noise and Dust Control:  
In adjacent locations surrounding the project site, noise, dust and other disrupting activities, resulting from construction operations, are detrimental to the conduct of Judiciary activities. Therefore, Contractor shall monitor its construction activities. Exercise precaution when using equipment and machinery to keep the noise and dust levels to a minimum.

5. Other Conditions:
  - a. Arrange for construction debris and trash to be removed from project site daily.
  - b. Vacuum, dust and install temporary protective coverings over floor pathways where entering/exiting work areas.
  - c. Operate machinery and equipment with discretion and with minimum interference to driveways and walkways. Do not leave machinery and equipment unattended on roads and driveways.
  - d. Store materials in the areas as designated by the Contracting Officer. Locate construction equipment, machinery, equipment and supplies within the Project Contract Limits.
  - e. Keep access roads to the project site free of dirt and debris. Provide, erect and maintain lights, barriers, signs, etc. when working on roads, driveways and walkways to protect pedestrians and moped/bicycle riders. Obey traffic and safety regulations.

E. Security Provisions:

1. Security Checks:

After award and before commencement of any work on The Project, Contractor shall submit for a security check a list of the names, dates of birth, and Social Security Numbers of all workers planned to work on the site, inside the building. Any worker who has a previous record of any felonies or any conviction for such offenses other than minor traffic offenses will not be permitted to work on this project. The list of workers shall be kept current at all times. Workers shall not enter the jobsite until receipt of clearance is obtained from the Contracting Officer. Workers shall not enter the jobsite until receipt of clearance is obtained from the Contracting Officer. Workers found on the site without proper clearance will be removed immediately. Workers shall exchange picture identification for a Visitor Badge upon entry and shall maintain this Badge visibly on their person at all times. Worker lists may be transmitted to Contracting Officer via E-mail, [Lance.S.Nishijo@courts.hawaii.gov](mailto:Lance.S.Nishijo@courts.hawaii.gov). Note that it may take up to two weeks lead time before workers receive clearance.

2. Staff Oversight:

- a. All movements of the Contractor's employees into and within the building will be subject to control by authorized Judiciary staff.

- b. When work is performed outside the normal operating hours of the User's operations, only a single entry to the building will be permitted and an authorized Judiciary employee shall be stationed at this entrance throughout the period that it is open. All construction workers must remain in line-of-sight of an authorized Judiciary employee. Workers moving from on work area to another must be accompanied by an authorized Judiciary employee. The Contractor shall be restricted to the area of construction and shall at no time enter other areas unless granted permission by the authorized Judiciary employee.
- 3. Tool, Material and Equipment Controls:
  - a. Material and equipment shall be brought into the work area through entrance as approved by those in authority and shall be carried to and stored in limited areas as approved. Introduction or possession of weapons, narcotics, alcoholic beverages, or contraband to the project site is prohibited.
  - b. Explosives, explosive devices or any equipment associated with a system that could be used as an explosive shall not be allowed.
- 4. Exterior Openings, Scaffolding, Ladders, Temporary Enclosures, Staging, Lifting and Safety Devices:

Ensure that there are no openings in the walls/windows, roofs/doors of the building where unlawful entry in the building is possible. All exterior openings which have been opened for construction shall be securely closed at the end of the Contractor's workday, unless otherwise directed by the Judiciary. Scaffolding, ladders and other equipment used for vertical access may remain but must be properly secured to prevent unauthorized access at the end of each day's work provided that pedestrian access is not obstructed.

#### **1.06 WORK UNDER OTHER CONTRACTS**

- A. Cooperation with Other Work:

Not applicable

#### **1.07 STATE-FURNISHED PRODUCTS**

Not applicable.

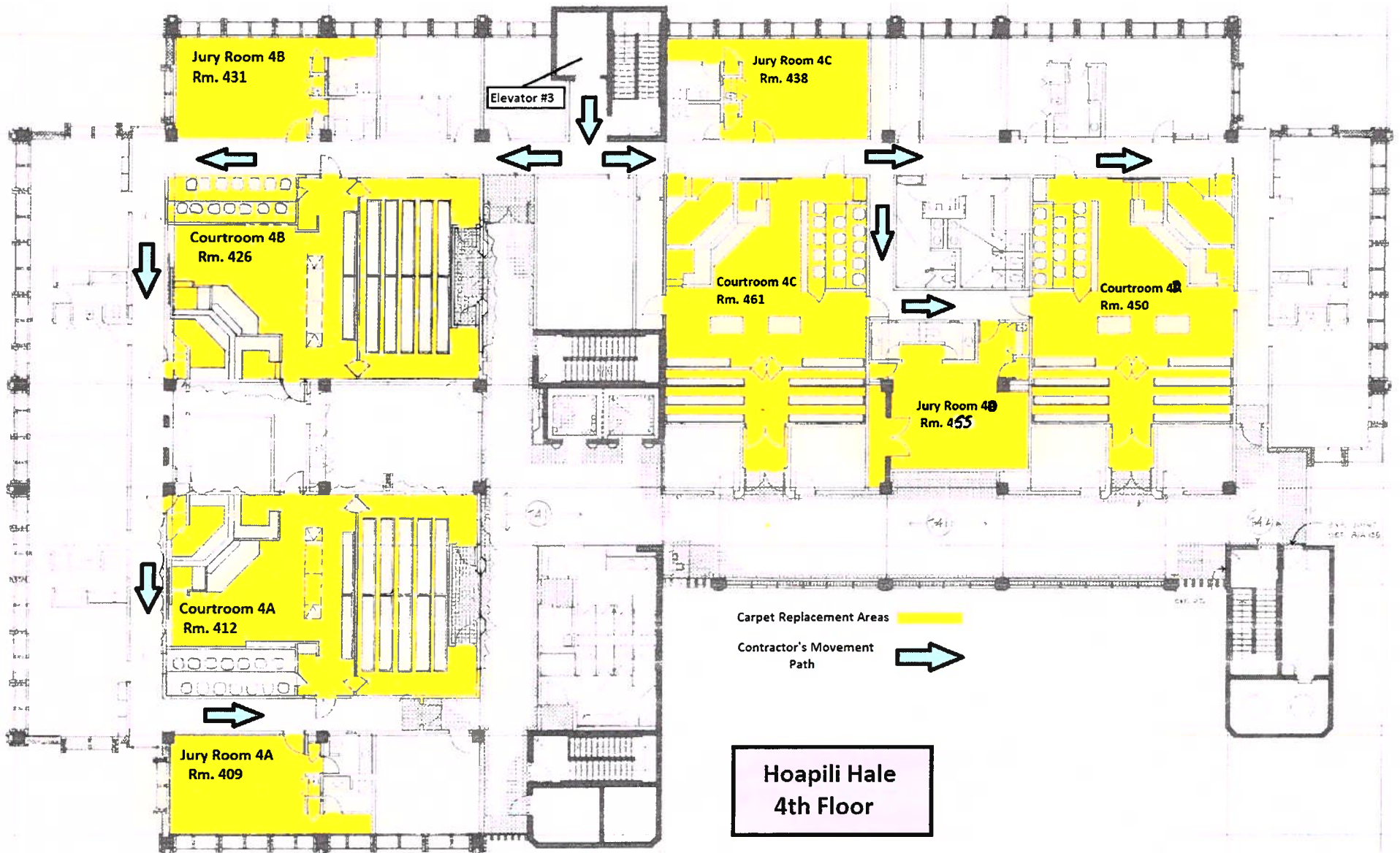
#### **1.09 MISCELLANEOUS PROVISIONS**

Not applicable.

#### **PART 2 - PRODUCTS (Not Used)**

#### **PART 3 – EXECUTION (Not applicable)**

END OF SECTION





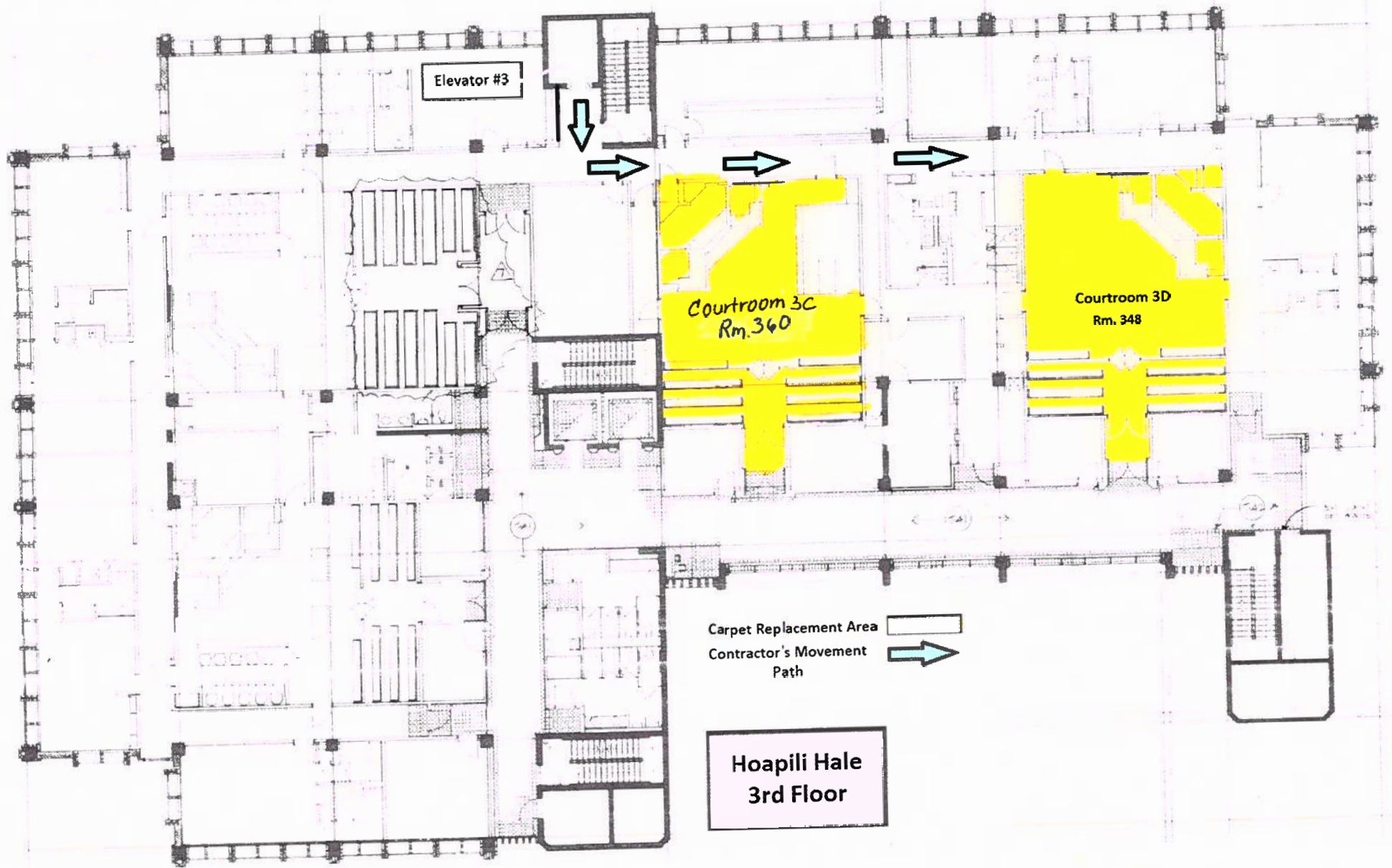
Elevator #3

Courtroom 3C  
Rm. 340

Courtroom 3D  
Rm. 348

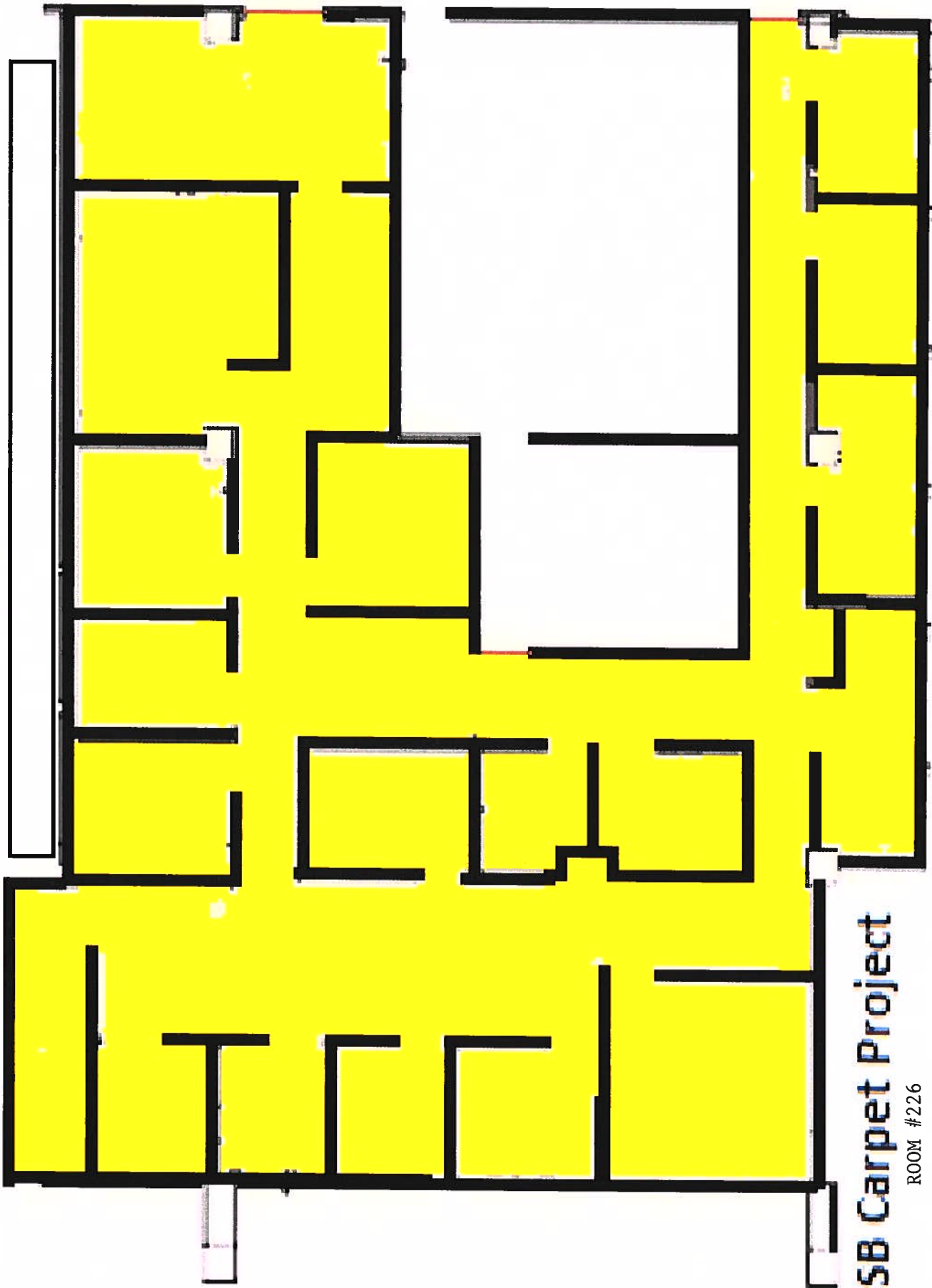
Carpet Replacement Area  
Contractor's Movement  
Path

Hoapili Hale  
3rd Floor



Office entrance

Main Street



SSB Carpet Project

ROOM #226