STATE OF HAWAII

CONTRACT FOR GOODS OR SERVICES
BASED UPON
COMPETITIVE SEALED BIDS

This Contract, executed on the respective dates indicated below, is effective as of
April 30, 2022, between Hawaii Public Housing Authority,
(Insert name of state department, agency, board or commission)

State of Hawaii ("STATE"), by its Executive Director,
(Insert title of person signing for State)
(hereafter also referred to as the HEAD OF THE PURCHASING AGENCY or designee ("HOPA")),
whose address is 1002 North School Street, Honolulu, Hawaii 96817

and

("CONTRACTOR"), a ________________________ , whose business address and federal
and state taxpayer identification numbers are as follows: ________________________

____________________________

RECITALS

A. The STATE desires to retain and engage the CONTRACTOR to provide the goods or services, or both, described in this Contract and its attachments, and the CONTRACTOR is agreeable to providing said goods or services, or both.

B. The STATE has issued an invitation for competitive sealed bids, and has received and reviewed bids submitted in response to the invitation.

C. The solicitation for bids and the selection of the CONTRACTOR were made in accordance with section 103D-302, Hawaii Revised Statutes ("HRS"), Hawaii Administrative Rules, Title 3, Department of Accounting and General Services, Subtitle 11 ("HAR"), Chapter 122, Subchapter 5, and applicable procedures established by the appropriate Chief Procurement Officer ("CPO").

D. The CONTRACTOR has been identified as the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation.

E. Pursuant to Section 356D-4, HRS (Legal authority to enter into this Contract), the STATE is authorized to enter into this Contract.

F. Money is available to fund this Contract pursuant to:

(1) Fund 020
(Identify state sources)

or (2) Federal Low Income Public Housing Operations Fund
(Identify federal sources)

or both, in the following amounts: State $ ________________________

Federal $ ________________________

NOW, THEREFORE, in consideration of the promises contained in this Contract, the STATE and the CONTRACTOR agree as follows:

1. Scope of Services. The CONTRACTOR shall, in a proper and satisfactory manner as determined by the STATE, provide all the goods or services, or both, set forth in the Invitation for Bids number PMB-2022-04 ("IFB") and the CONTRACTOR'S accepted bid ("Bid"), both of which, even if not physically attached to this Contract, are made a part of this Contract.

2. Compensation. The CONTRACTOR shall be compensated for goods supplied or services performed, or both, under this Contract in a total amount not to exceed
($_________________), including approved costs incurred and taxes, at the time and in the manner set forth in the IFB and CONTRACTOR'S Bid.

3. **Time of Performance.** The services or goods required of the CONTRACTOR under this Contract shall be performed and completed in accordance with the Time of Performance set forth in Attachment-S3, which is made a part of this Contract.

4. **Bonds.** The CONTRACTOR ☑ is required to provide or ☐ is not required to provide: ☐ a performance bond, ☑ a payment bond, ☐ a performance and payment bond in the amount of NA DOLLARS ($ NA ________).

5. **Standards of Conduct Declaration.** The Standards of Conduct Declaration of the CONTRACTOR is attached to and made a part of this Contract.

6. **Other Terms and Conditions.** The General Conditions and any Special Conditions are attached to and made a part of this Contract. In the event of a conflict between the General Conditions and the Special Conditions, the Special Conditions shall control. In the event of a conflict among the documents, the order of precedence shall be as follows: (1) this Contract, including all attachments and addenda; (2) the IFB, including all attachments and addenda; and (3) the CONTRACTOR'S Bid.

7. **Liquidated Damages.** Liquidated damages shall be assessed in the amount of Fifty and 00/100 DOLLARS ($ 50.00 __________) per day, in accordance with the terms of paragraph 9 of the General Conditions.

8. **Notices.** Any written notice required to be given by a party to this Contract shall be (a) delivered personally, or (b) sent by United States first class mail, postage prepaid. Notice to the STATE shall be sent to the HOPA'S address indicated in the Contract. Notice to the CONTRACTOR shall be sent to the CONTRACTOR'S address indicated in the Contract. A notice shall be deemed to have been received three (3) days after mailing or at the time of actual receipt, whichever is earlier. The CONTRACTOR is responsible for notifying the STATE in writing of any change of address.

IN VIEW OF THE ABOVE, the parties execute this Contract by their signatures, on the dates below, to be effective as of the date first above written.

---

**STATE**

(Signature)
Hakim Ouansafi
(Title)
Executive Director

(Date)

**CONTRACTOR**

(Signature)

(Print Name)

(Date)

---

**APPROVED AS TO FORM:**

Deputy Attorney General

* Evidence of authority of the CONTRACTOR'S representative to sign this Contract for the CONTRACTOR must be attached.
STATE OF HAWAI'I

CONTRACTOR'S ACKNOWLEDGMENT

STATE OF (________________________) )
) SS.
(________________________) COUNTY OF (________________________) )

On this (___________) day of (________), (_____), before me appeared

(________________________) and (________________________)), to me

known, to be the person(s) described in and, who, being by me duly sworn, did say that he/she/they is/are

(________________________) and (________________________)) of

(________________________), the

CONTRACTOR named in the foregoing instrument, and that he/she/they is/are authorized to sign said

instrument on behalf of the CONTRACTOR, and acknowledges that he/she/they executed said

instrument as the free act and deed of the CONTRACTOR.

(Notary Stamp or Seal)

(Signature)

(Print Name)

Notary Public, State of (________________________)

My commission expires: (________________________)

Doc. Date: (________________________) # Pages: (________________________)

Notary Name: (________________________) Circuit

Doc. Description: Contract for Goods or Services Based Upon

Competitive Sealed Bids

(Notary Stamp or Seal)

Notary Signature ____________________________ Date ____________________________

NOTARY CERTIFICATION
STATE OF HAWAII
CONTRACTOR'S
STANDARDS OF CONDUCT DECLARATION

For the purposes of this declaration:
"Agency" means and includes the State, the legislature and its committees, all executive departments, boards, commissions, committees, bureaus, offices; and all independent commissions and other establishments of the state government but excluding the courts.

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

"Employee" means any nominated, appointed, or elected officer or employee of the State, including members of boards, commissions, and committees, and employees under contract to the State or of the constitutional convention, but excluding legislators, delegates to the constitutional convention, justices, and judges. (Section 84-3, HRS).

On behalf of [insert name], CONTRACTOR, the undersigned does declare as follows:

1. CONTRACTOR □ is* □ is not a legislator or an employee or a business in which a legislator or an employee has a controlling interest. (Section 84-15(a), HRS).

2. CONTRACTOR has not been represented or assisted personally in the matter by an individual who has been an employee of the agency awarding this Contract within the preceding two years and who participated while so employed in the matter with which the Contract is directly concerned. (Section 84-15(b), HRS).

3. CONTRACTOR has not been assisted or represented by a legislator or employee for a fee or other compensation to obtain this Contract and will not be assisted or represented by a legislator or employee for a fee or other compensation in the performance of this Contract, if the legislator or employee had been involved in the development or award of the Contract. (Section 84-14 (d), HRS).

4. CONTRACTOR has not been represented on matters related to this Contract, for a fee or other consideration by an individual who, within the past twelve (12) months, has been an agency employee, or in the case of the Legislature, a legislator, and participated while an employee or legislator on matters related to this Contract. (Sections 84-18(b) and (c), HRS).

CONTRACTOR understands that the Contract to which this document is attached is voidable on behalf of the STATE if this Contract was entered into in violation of any provision of chapter 84, Hawaii Revised Statutes, commonly referred to as the Code of Ethics, including the provisions which are the source of the declarations above. Additionally, any fee, compensation, gift, or profit received by any person as a result of a violation of the Code of Ethics may be recovered by the STATE.

*Reminder to Agency: If the "is" block is checked and if the Contract involves goods or services of a value in excess of $10,000, the Contract must be awarded by competitive sealed bidding under section 103D-302, HRS, or a competitive sealed proposal under section 103D-303, HRS. Otherwise, the Agency may not award the Contract unless it posts a notice of its intent to award it and files a copy of the notice with the State Ethics Commission. (Section 84-15(a), HRS).

CONTRACTOR

By ____________________________

(Signature)

Print Name ____________________________

Print Title ____________________________

Name of Contractor ____________________________

Date ____________________________
STATE OF HAWAII

SCOPE OF SERVICES

CONTRACTOR: _______________________

PROPERTY: Kalihi Valley Homes (1005), 2250 Kalena Drive, Honolulu, Hawaii 96819
Mayor Wright Homes (1003), 521 North Kukui Street, Honolulu, Hawaii 96817
Punchbowl Homes (1011), 730 Captain Cook Avenue, Honolulu, Hawaii 96826
Kalanihuia (1024), 1220 Aala Street, Honolulu, Hawaii 96817
Makamae (1046), 21 South Kuakini Street, Honolulu, Hawaii 96817
Pumehana (1047), 1212 Kinau Street, Honolulu, Hawaii 96814

SERVICES: Security Services
IFB No. PMB-2022-04

1. It is understood and agreed that the following documents, and any amendments or addenda, comprise the Contract between the parties and govern the work to be performed by the CONTRACTOR for security services: (1) Contract for Goods and Services including the Contractor’s Acknowledgement, Contractor’s Standard of Conduct Declaration, Attachments S1, S2, S3, S4, and S5; (2) General Conditions, AG-008 103D General Conditions; (3) General Conditions for Non-Construction Contracts, Form HUD-5370-C; (4) Invitation for Bids number PMB-and the all addenda (IFB); (5) CONTRACTOR’s accepted bid offer dated. These documents are collectively referred to as the “Contract Documents”.

2. The CONTRACTOR shall provide security services to the Hawaii Public Housing Authority (HPHA) in a satisfactory and proper manner as determined by the STATE and in strict accordance with the Contract Documents.

3. In accordance with the Contract Documents, the CONTRACTOR shall furnish all labor, equipment, supplies, and other means necessary to provide security services as described in IFB PMB-and the CONTRACTOR’S accepted bid offer. If there is a conflict between the CONTRACTOR’S accepted bid offer and this Contract, this Contract shall prevail.

4. The CONTRACTOR shall furnish security services at the property listed below:

<table>
<thead>
<tr>
<th>Asset Management Project</th>
<th>Property Name</th>
<th>Property Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>AMP 31</td>
<td>Kalihi Valley Homes</td>
<td>2250 Kalena Drive, Honolulu, Hawaii 96819</td>
</tr>
<tr>
<td>AMP 32</td>
<td>Mayor Wright Homes</td>
<td>521 North Kukui Street, Honolulu, Hawaii 96817</td>
</tr>
<tr>
<td></td>
<td>Punchbowl Homes</td>
<td>730 Captain Cook Avenue, Honolulu, Hawaii 96813</td>
</tr>
</tbody>
</table>
STATE OF HAWAII

SCOPE OF SERVICES

<table>
<thead>
<tr>
<th>AMP 35</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Makamae</td>
<td>21 South Kuakini Street Honolulu, Hawaii 96813</td>
</tr>
<tr>
<td>Kalanihuia</td>
<td>1220 Aala Street Honolulu, Hawaii 96817</td>
</tr>
<tr>
<td>Pumehana</td>
<td>1212 Kinau Street Honolulu, Hawaii 96814</td>
</tr>
</tbody>
</table>

5. The CONTRACTOR shall provide security services at AMPs 31, 32, and 35 as follows:

1. The CONTRACTOR shall provide security services at Kalihi Valley Homes as follows:

   a. Vehicle Gate Guard - Gate A:

      i. Provide one (1) security officer, seven (7) days a week, including State holidays, unless otherwise instructed by the HPHA.

      ii. Stop, monitor and check all incoming vehicles for valid AMP 31 vehicle parking decal or special parking pass/permit and check each occupant ages 18 years and older in the vehicle for a valid identification, unless otherwise instructed by the HPHA.

      iii. Entry of the vehicle shall be denied upon failure to produce a valid parking decal or special parking/pass permit unless otherwise instructed by the STATE. Entry of an occupant ages 18 years old and older shall be denied upon failure to produce a valid identification unless otherwise instructed by the HPHA.

      Security officers shall issue a visitor parking pass once visitors are allowed after verifying the visitor knows the name of the resident whose unit they are visiting and only if driver has a valid driver’s license. Pass must identify the visitor(s), make/model and license plate of vehicle, and name of the tenants' unit residing at the property; this information shall be maintained in the Gate Guard's daily entry log. All visitor passes shall be retrieved from person exiting the premises, unless otherwise instructed by the state.

      Allow household movers or deliveries to tenant’s entry after providing information as specified by the Officer-in-Charge. If guest is not listed on the guest log, obtain authorization from tenant to authorize guest entry onto the premises, unless otherwise instructed by the state.

      Exceptions are visitors conducting business at Kalihi Valley
Homes, including professional delivery drivers, the City and County of Honolulu Handivan, police/fire/ambulance vehicles, HPHA State vehicles and private vehicles operated by HPHA staff. The HPHA staff entering with a private vehicle shall be required to produce a valid HPHA issued identification. The City and County of Honolulu Handivan shall be allowed entry upon evidence that an occupant(s) is a tenant of Kalihi Valley Homes or is conducting business at Kalihi Valley Homes unless otherwise instructed by the HPHA.

iv. Provide uninterrupted traffic control services throughout each day for the duration of the Contract. Maintain daily log of vehicular traffic in and out of the property as prescribed by the Officer-in-Charge.

v. Stop and check all incoming pedestrians ages 10 years and older for a valid Kalihi Valley Homes tenant identification or special visitor pass/permit. Entry shall be denied upon failure to produce proper identification unless otherwise instructed by the STATE. This information shall be maintained in the Gate Guard’s daily entry log.

vi. Allow entry to vendors or individuals having official business with the HPHA's property management agent.

vii. Prohibit all vehicles and/or pedestrians with unapproved live animals aboard to enter the premise.

viii. The tentative period of coverage shall be as follows:

- **Sunday through Saturday** [(one) 1 security officer/shift]
- 24 hours per day

The HPHA reserves the right to increase or decrease the period of coverage.

b. **Vehicle Gate Guard - Gate B:**

i. Provide one (1) security officer, seven (7) days a week, including State holidays, unless otherwise instructed by the HPHA.

ii. Assist emergency vehicles to exit the property in a safe and expeditious manner. The Roving Officers are to provide assistance for emergency vehicles to access to areas which maybe gated.
STATE OF HAWAII

SCOPE OF SERVICES

x. Monitor and call Honolulu Police Department (HPD) for parked vehicles in front of Gate B. Rove the property lines from Gate B to pedestrian gate to Gate A along Kalena Drive. Open pedestrian Gate and Gate B at 6am daily. Secure pedestrian Gate and Gate B after the last City bus for the day has departed, no later than 11pm daily. The Roving Officers are to secure the cattle gates at the Kaulani and Kalaunu Parks, Playground, and other perimeter fence line Gates.

Security officers shall issue a visitor parking pass once visitors are allowed after verifying the visitor knows the name of the resident whose unit they are visiting and only if driver has a valid driver’s license. Pass must identify the visitor(s), make/model and license plate of vehicle, and name of the tenants' unit residing at the property; this information shall be maintained in the Gate Guard's daily entry log.

Exceptions are visitors conducting business at Kalihi Valley Homes, including professional delivery drivers, the City and County of Honolulu Handivan, police/fire/ambulance vehicles, HPHA State vehicles and private vehicles operated by HPHA staff. The HPHA staff entering with a private vehicle shall be required to produce a valid HPHA issued identification. The City and County of Honolulu Handivan shall be allowed entry upon evidence that an occupant(s) is a tenant of Kalihi Valley Homes or is conducting business at Kalihi Valley Homes unless otherwise instructed by the HPHA.

xi. Provide uninterrupted traffic control services throughout each day for the duration of the Contract. Maintain daily log of vehicular traffic in and out of the property as prescribed by the Officer-in-Charge.

xii. Stop and check all incoming pedestrians ages 10 years and older for a valid Kalihi Valley Homes tenant identification or special visitor pass/permit. Entry shall be denied upon failure to produce proper identification unless otherwise instructed by the STATE. Register all pedestrians from Gate B and pedestrian Gate. This information shall be maintained in the Gate Guard’s daily entry log.

xiii. Allow entry to vendors or individuals having official business with the HPHA's property management agent.

xiv. Prohibit all vehicles and/or pedestrians with unapproved live
animals aboard to enter the premise.

xv. The tentative period of coverage shall be as follows:

**Sunday through Saturday [(one) 1 security officer/shift]]**
4:00 p.m. to 12:00 a.m. eight (8) hours
The HPHA reserves the right to increase or decrease the period of coverage.

b. Roving Foot Patrol:

i. The CONTRACTOR shall provide roving foot patrol tours seven (7) days a week, including State Holidays

The tentative period of coverage shall be as follow:

**Sunday through Saturday [(one 1 security officer/shift)]**
7:00 a.m. to 3:00 p.m. eight (8) hours
*one (1) patrol officer will be a Site Supervisor

**Sunday through Saturday [(two 2 security officers/shift)]**
3:00 p.m. to 11:00 p.m. eight (8) hours
11:00 p.m. to 7:00 a.m. eight (8) hours
*one (1) patrol officer will be a Site Supervisor

The HPHA reserves the right to change the period of coverage, including without limitation to the number of officers per shift and the number of hours per shift.

ii. A Site Supervisor must be on shift at all times and will be responsible for the supervision and training of the on-site staff to include but not limited to monitoring security patrols, training, and enforcing security procedures, supervising and monitoring activity on property to deter and prevent theft, sabotage, fire, and accidents, responding to calls for assistance, write/review reports on accidents, conducting rounds, various incidents, suspicious activities, safety and fire hazards and other security related situations, provide needed assistance to residents, employees, law enforcement, and visitors in accordance to the HPHA procedures, serving as training officer to new security staff, and performing other related duties, as may be assigned by the Officer-in-Charge. The site supervisor shall be responsible for the overall protection and safeguarding of property, persons, assets and will act as a
STATE OF HAWAII

SCOPE OF SERVICES

liaison between the Security Officers and Officer-in-Charge.

iii. Conduct a minimum of five (5) complete rounds of all administrative and community facilities, residential buildings, stairwells, parking lots, common areas, refuse areas and the entire grounds of the property during each shift period following a pre-approved plan or an alternate plan as determined by the HPHA. A minimum 24 tags or more should be detected to complete a rove per a minimum of the five (5) roves per shift. Additional rounds shall be based on the CONTRACTOR’s assessment and need or as requested by the Officer-in-Charge. Security shall use property Detex system or similar to account for location of visits during each round.

iv. Unusual situations which prevent the security personnel from conducting a minimum of five (5) complete rounds of the entire grounds of the property shall be recorded in a log book. Any incidents or damages by vandalism, graffiti, and any criminal activity shall be reported to the Officer-in-Charge. Provide photographic evidence to accompany reports whenever possible.

Any incidents of trespassing, damages by vandalism, graffiti, and any criminal activity shall be reported to HPD, the emergency contact number, and the Officer-in-Charge with completely filled out HPHA approved forms (i.e., Trespass Form), Police Report number, and photos. Security shall trespass the offender and/or record HPD report number. A detailed incident report shall be submitted for each incident, including the who, what, where and when the incident occurred.

2. The CONTRACTOR shall provide securities services at Mayor Wright Homes as follows:

a. Vehicular Gate Guard – Gate 1 – Liliha Street/Gate 2 – Pua Lane

i. Provide one (1) security officer at Gate 1 - Liliha Street and one (1) security officer at Gate 2 - Pua Lane, seven (7) days a week, including State holidays, unless otherwise instructed by the HPHA.

ii. Stop, monitor and check all incoming vehicles for valid AMP 32 vehicle parking decal or special parking pass/permit and check each occupant ages 18 years and older in the vehicle for a valid
STATE OF HAWAII

SCOPE OF SERVICES

AMP 32 tenant identification, unless otherwise instructed by the HPHA. Entry of the vehicle shall be denied upon failure to produce a valid parking decal or special parking/pass permit unless otherwise instructed by the STATE. Entry of an occupant ages 18 years old and older shall be denied upon failure to produce a valid AMP 32 tenant identification unless otherwise instructed by the HPHA.

Security officers shall issue a visitor parking pass once visitors are allowed after verifying the visitor knows the name of the resident whose unit they are visiting and only if driver has a valid driver’s license. Pass must identify the visitor(s), make/model and license plate of vehicle, and name of the tenants' unit residing at the property; this information shall be maintained in the Gate Guard's daily entry log. All visitor passes shall be retrieved from person exiting the premises, unless otherwise instructed by the state.

Exceptions are visitors conducting business at Mayor Wright Homes, the City and County of Honolulu Handivan, police/fire/ambulance vehicles, HPHA State vehicles and private vehicles operated by HPHA staff. The HPHA staff entering with a private vehicle shall be required to produce a valid HPHA issued identification.

The City and County of Honolulu Handivan shall be allowed entry upon evidence that an occupant(s) is a tenant of Mayor Wright Homes or is conducting business at Mayor Wright Homes unless otherwise instructed by the HPHA.

iii. Provide uninterrupted traffic control services throughout each day for the duration of the Contract. Maintain daily log of vehicular traffic in and out of the property as prescribed by the Officer-in-Charge.

iv. Stop and check all incoming pedestrians ages 10 years and older for a valid Mayor Wright Homes tenant identification. Entry shall be denied upon failure to produce proper identification unless otherwise instructed by the State. No visitors shall be allowed on property thru Gate 1 - Liliha Street, unless otherwise instructed by the State.

v. Instruct guests or any Mayor Wright Homes tenant unable to produce the proper identification to enter thru Gate 2 – Pua Lane, unless otherwise instructed by the State.
vi. Allow entry to vendors or individuals having official business with the HPHA’s property management agent.

vii. Allow household movers or deliveries to tenants entry after providing information as specified by the Officer-In-Charge.

viii. If guest is not listed on the guest log, obtain authorization from tenant to authorize guest entry onto the premises, unless otherwise instructed by the State.

ix. All guest passes shall be retrieved from person exiting the premises, unless otherwise instructed by the State.

x. Prohibit all tenants, vehicles and/or pedestrians with unapproved live animals aboard to enter the premises.

xi. The tentative period of coverage shall be as follows:

   Gate 1 - Liliha Street:

   Sunday through Saturday [(one) 1 security officer/shift] 24 hours per day

   Gate 2 - Pua Lane:

   Sunday through Saturday [(one) 1 security officer/shift] 24 hours per day

   The HPHA reserves the right to increase or decrease the period of coverage.

b. Roving Foot Patrol:

i. The CONTRACTOR shall provide roving foot patrol tours seven (7) days a week, including State holidays

   The tentative period of coverage shall be as follows:

   Sunday through Saturday [Two (2) security officer/shift 1] 7:00am to 3:00pm. Eight (8) hours
   *Patrol to consist of one (1) Rover / (1) Site Supervisor at all times*

   Sunday through Saturday [Two (2) security officer/shift 2] 3:00pm to 11:00pm. Eight (8) hours
STATE OF HAWAII

SCOPE OF SERVICES

*Patrol to consist of one (1) Rover / (1) Site Supervisor at all times*

Sunday through Saturday [Two (2) security officer/shift 3]
11:00 p.m. to 7:00 a.m. eight (8) hours
*Patrol to consist of one (1) Rover / (1) Site Supervisor at all times*

Sunday through Saturday [Two (2) security officer/shift 4]
6:00 p.m. to 2:00 a.m. eight (8) hours
*Patrol to consist of one (2) Rovers*

c. Site Supervisor:

i. The CONTRACTOR shall provide site supervisor seven (7) days a week, including State holidays

The tentative period of coverage shall be as follows:

Sunday through Saturday [One (1) Site Supervisor]
24 hours per day

The HPHA reserves the right to change the period of coverage, including without limitation to the number of officers per shift and the number of hours per shift.

ii. A Site Supervisor must be on shift at all times and will be responsible for the supervision and training of the on-site staff to include but not limited to report writing and rounds. The site supervisor shall be responsible for the overall protection and safeguarding of property, persons, assets and will act as a liaison between the Security Officers and Officer-in-Charge.

iii. Conduct a minimum of four (4) complete rounds of all administrative and community facilities, residential buildings, stairwells, parking lots, common areas, refuse areas and the entire grounds of the properties during each shift following a pre-approved plan or an alternate plan as determined by the HPHA. Additional rounds shall be based on the CONTRACTOR ‘S assessment and need or as request by the Officer-in-Charge.

Unusual situations which prevent the security personnel from
STATE OF HAWAII

SCOPE OF SERVICES

conducting a minimum of four (4) complete rounds of the entire grounds of the property shall be recorded in a log book. Any incidents or damages by vandalism, graffiti, and any criminal activity shall be reported to the Officer-in-Charge. Provide photographic evidence to accompany reports whenever possible.

Any incidents of trespassing, damages by vandalism, graffiti, and any criminal activity shall be reported to HPD, the emergency contact number, and the Officer-in-Charge with completely filled out HPHA approved forms (i.e., Trespass Form), Police Report number, photos. Security shall trespass the offender and/or record HPD report number. A detailed incident report shall be submitted for each incident, including the who, what, where and when the incident occurred.

3. The CONTRACTOR shall provide security services at Punchbowl Homes as follows:

a. Roving Foot Patrol:

   i. Provide roving foot patrol tours seven (7) days a week, including State holidays. The tentative period of coverage shall be as follows:

      Sunday thru Saturday [one (1) security officer/shift]
      7:00 p.m. - 5:00 a.m.; ten (10) hours

   ii. Conduct a minimum of eight (8) complete rounds of all administrative and community facilities, residential buildings, stairwells, parking lots, common areas, refuse areas and entire grounds each shift following a pre-approved plan or an alternate plan as determined by the HPHA. Additional rounds shall be based on the CONTRACTOR’S assessment and need or as requested by the Officer-in-Charge.

   Unusual situations which prevent the security personnel from conducting a minimum of eight (8) complete rounds of the entire grounds of the property shall be recorded in a log book. Any incidents or damages by vandalism, graffiti, and any criminal activity shall be reported to the Officer-in-Charge. Provide photographic evidence to accompany reports whenever possible.

   Any incidents of trespassing, damages by vandalism, graffiti,
and any criminal activity shall be reported to HPD, the emergency contact number, and the Officer-in-Charge with completely filled out HPHA approved forms (i.e., Trespass Form), Police Report number, photos. Security shall trespass the offender and/or record HPD report number. A detailed incident report shall be submitted for each incident, including the who, what, where and when the incident occurred.

4. The CONTRACTOR shall provide security services at Makamae as follows:
   a. Roving foot patrol:
      i. Provide roving foot patrol tours seven (7) days a week, including State holidays. The tentative period of coverage shall be as follows:
         Sunday thru Saturday [one (1) security officer/shift]
         7:00 p.m. - 5:00 a.m.; ten (10) hours
         The HPHA reserves the right to change the period of coverage, including without limitation to the number of officers per shift and the number of hours per shift.
      iii. Conduct a minimum of eight (8) complete rounds of all administrative and community facilities, residential buildings, stairwells, parking lots, common areas, refuse areas and the entire grounds of the property during each shift period following a pre-approved plan or an alternate plan as determined by the HPHA. Additional rounds shall be based on the CONTRACTOR’s assessment and need or as requested by the Officer-in-Charge.

         Unusual situations which prevent the security personnel from conducting a minimum of eight (8) complete rounds of the entire grounds of the property shall be recorded in a log book. Any incidents or damages by vandalism, graffiti, and any criminal activity shall be reported to the Officer-in-Charge. Provide photographic evidence to accompany reports whenever possible.

         Any incidents of trespassing, damages by vandalism, graffiti, and any criminal activity shall be reported to HPD, the emergency contact number, and the Officer-in-Charge with completely filled out HPHA approved forms (i.e., Trespass Form), Police Report number, photos. Security shall trespass the offender and/or record HPD report number. A detailed
5. The CONTRACTOR shall provide security services at Kalanihuiua as follows:

a. Roving foot patrol:

   i. Provide roving foot patrol tours seven (7) days a week, including State holidays. The tentative period of coverage shall be as follows:

      **Sunday thru Saturday [one (1) security officer/shift]**
      7:00 p.m. - 5:00 a.m.; ten (10) hours

      The HPHA reserves the right to change the period of coverage, including without limitation to the number of officers per shift and the number of hours per shift.

   ii. Conduct a minimum of eight (8) complete rounds of all administrative and community facilities, residential buildings, stairwells, parking lots, common areas, refuse areas and the entire grounds of the property during each shift period following a pre-approved plan or an alternate plan as determined by the HPHA. Additional rounds shall be based on the CONTRACTOR’S assessment and need or as requested by the Officer-in-Charge.

      Unusual situations which prevent the security personnel from conducting a minimum of eight (8) complete rounds of the entire grounds of the property shall be recorded in a log book. Any incidents or damages by vandalism, graffiti, and any criminal activity shall be reported to the Officer-in-Charge. Provide photographic evidence to accompany reports whenever possible.

      Any incidents of trespassing, damages by vandalism, graffiti, and any criminal activity shall be reported to HPD, the emergency contact number, and the Officer-in-Charge with completely filled out HPHA approved forms (i.e., Trespass Form), Police Report number, photos. Security shall trespass the offender and/or record HPD report number. A detailed incident report shall be submitted for each incident, including the who, what, where and when the incident occurred.

6. The CONTRACTOR shall provide security services at Pumehana as follows:
a. Roving Foot Patrol:

i. Provide roving foot patrol tours seven (7) days a week, including State holidays. The tentative period of coverage shall be as follows:

**Sunday thru Saturday [one (1) security officer/shift]**
7:00 p.m. - 5:00 a.m.; ten (10) hours

ii. Conduct a minimum of eight (8) complete rounds of all administrative and community facilities, residential buildings, stairwells, parking lots, common areas, refuse areas and entire grounds each shift following a pre-approved plan or an alternate plan as determined by the HPHA. Additional rounds shall be based on the CONTRACTOR’S assessment and need or as requested by the Officer in-Charge.

Unusual situations which prevent the security personnel from conducting a minimum of eight (8) complete rounds of the entire grounds of the property shall be recorded in a log book. Any incidents or damages by vandalism, graffiti, and any criminal activity shall be reported to the Officer-in-Charge. Photos to accompany reports whenever possible.

Any incidents of trespassing, damages by vandalism, graffiti, and any criminal activity shall be reported to HPD, the emergency contact number, and the Officer-in-Charge with completely filled out HPHA approved forms (i.e., Trespass Form), Police Report number, photos. Security shall trespass the offender and/or record HPD report number. A detailed incident report shall be submitted for each incident, including the who, what, where and when the incident occurred.

Monitor parked vehicles on the property premises and initiate action to tow vehicles from the property that do not have a valid parking decal. Notify the Officer-in-Charge of tow via incident report. Conduct visual inspection of parking areas for applicable current parking decals and suspicious activities. Tow vehicles parked in unauthorized areas.

7. The CONTRACTOR shall provide the following services at each property as follows:

a. Investigate all disturbances and incidents that were observed or reported. Endeavor to abate nuisances and disturbances when
possible, using tact and judgment to prevent or minimize disorder, quell disturbances and maintain law and order. Investigation and follow up shall include, without limitation:

i. Be alert for suspicious persons and/or vehicles, vandalism to the HPHA property, buildings, and parking areas and resident's property.

ii. Report all fires to the Honolulu Fire Department and to the Property Management Office.

iii. Enforce project rules and lease provisions pursuant to governing Federal public housing under Chapter 356D, Hawaii Revised Statutes (HRS), Chapter 17-2028 Hawaii Administrative Rules (HAR), and all other applicable HAR rules. See Attachments 16 and 17.

iv. Appropriately respond to HRS criminal violations, including without limitation, possessing or drinking alcoholic beverages in HPHA common area (see HRS section 281-78), engaging in disorderly conduct such as unreasonable noise or fighting/threatening behavior (see HRS section 711-1101), criminal trespass, assault, harassment, and criminal property damage.

v. Enforce traffic and speed limit signs.

b. Determine the need for and to summon the Honolulu Police Department (HPD) when intervention or arrest is necessary. Cooperate with and assist the police, if necessary, and testify in court or administrative hearings when required.

c. Monitor parked vehicles on the property premises and initiate action to tow vehicles from the property that do not have a valid parking decal. Notify the Officer-in-Charge of tow via incident report. Conduct visual inspection of parking areas for applicable current parking decals and suspicious activities. Tow vehicles parked in unauthorized areas.

d. The CONTRACTOR may act on behalf of the Officer-in Charge to issue a trespass warning, either verbally or in writing as instructed by the Officer-in-Charge. The CONTRACTOR shall cooperate with the HPD pertaining to issuance and/or enforcement of trespass notices. The Officer-in-Charge shall provide guidelines to the CONTRACTOR on issuance of trespass warnings. Provide photo of the Tresspasser, completed Trespass Form, Incident Report, and Police Report.
e. The CONTRACTOR to provide at least one (1) cell phone per shift for guards to call translation services if needed. Officer-in-Charge will provide CONTRACTOR with contact information for Communication Technology Services (CTS) or similar along with the property Account number for services. All calls into this service shall be logged, an Incident Report completed and turned into Officer-in-Charge by next business day.

f. Maintain confidentiality of all documents viewed or information gathered during the performance of his/her duties, including discussing with the residents the details of incidents on property without the express consent of the Officer-in-Charge.

g. Cooperate with local law enforcement on crime and drug prevention issues in and around the property.

h. During an extraordinary event, enforce HPHA’s rules with jurisdiction over the event (e.g., during a pandemic enforce the social distancing recommendation and do not allow tenants to gather in groups larger than 10).

i. Special Events:

The CONTRACTOR shall agree to change the security schedules for special events requiring increased security services as requested by the Officer-in-Charge. Changes to the security schedule may include increased number of hours per day or number of security personnel on a special event basis. Special events include, without limitation, an increase in criminal activity and increase in gang activity.

The HPHA provided a projected number of special event hours for each applicable Contract period as follows:

<table>
<thead>
<tr>
<th>AMP No.</th>
<th>Property</th>
<th>Initial Term</th>
<th>Option Year 1</th>
</tr>
</thead>
<tbody>
<tr>
<td>31</td>
<td>Kalihi Valley Homes</td>
<td>460</td>
<td>460</td>
</tr>
<tr>
<td>32</td>
<td>Mayor Wright Homes</td>
<td>1,344</td>
<td>1,344</td>
</tr>
<tr>
<td>35</td>
<td>Punchbowl Homes</td>
<td>416</td>
<td>416</td>
</tr>
</tbody>
</table>
The Officer(s)-In-Charge may request special event services for up to 24 hours a day as deemed necessary by the HPHA. The projected number of special event hours is estimated. The HPHA shall determine the definite amounts. The HPHA reserves the right to request/require additional hours at the accepted bid price for the applicable Contract performance period. The Officer-in-Charge shall coordinate the special event dates and times and provide no less than 48 hours advanced notice to the CONTRACTOR.

j. Administrative and/or Judicial Hearings:

The CONTRACTOR agrees that security personnel shall appear at administrative and/or judicial proceedings to provide testimony when requested by the Officer(s)-in Charge. The bid price per hour for appearing at administrative and judicial hearings shall not exceed the bid price per hour for regular scheduled security services.

The HPHA provided a projected number of administrative and/or judicial hearing hours for each applicable Contract period as follows:

<table>
<thead>
<tr>
<th>AMP No.</th>
<th>Projected Quantity of Administrative and/or Judicial Hearing Hours</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Property</td>
</tr>
<tr>
<td>31</td>
<td>Kalihi Valley Homes</td>
</tr>
<tr>
<td>32</td>
<td>Mayor Wright Homes</td>
</tr>
<tr>
<td>35</td>
<td>Punchbowl Homes</td>
</tr>
<tr>
<td>35</td>
<td>Makamae</td>
</tr>
<tr>
<td>35</td>
<td>Kalanihuia</td>
</tr>
</tbody>
</table>
The projected number of administrative or judicial hearing hours is estimated. This does not imply that the HPHA will utilize these definite amounts. The HPHA reserves the right to request/require additional hours at the accepted bid price for the applicable Contract performance period.

The Officer-in-Charge shall coordinate the administrative and/or judicial hearing dates and times with the CONTRACTOR on an as needed basis.

k. Emergency Services:

The CONTRACTOR shall agree to change the security schedules in emergency situations and accommodate anticipated needs for increased security due to unforeseen circumstances as requested by the Officer-in-Charge.

Changes to the security schedule may include increased number of hours per day or number of security personnel on an as needed basis. The HPHA shall provide not less than two (2) hours advance notice to the CONTRACTOR.

The HPHA is unable to provide a projected number of emergency hours for emergency services at the issuance of this solicitation. The HPHA reserves the right to request/require any quantity of emergency service hours at the accepted bid price for the applicable Contract performance period.

8. Community Support

On a monthly basis, unless waived by the Officer-in-Charge, the CONTRACTOR shall provide a supervisor to participate in a community walk with the HPHA Officer-in-Charge or designee and/or a tenant community group. The community walk may be up to two (2) hours or at a length of time as determined necessary by the HPHA. If a community walk is not scheduled, the supervisor shall schedule and conduct his/her own walk. At the discretion of the HPHA, the HPHA may require the walk to take place in the presence of personnel authorized by the HPHA. The purpose of the walk is to receive input from the HPHA management staff, tenants, and/or community volunteers of
community concerns.

9. Reporting Requirements

The CONTRACTOR shall:

a. Prepare and submit Incident Reports to the HPHA, covering in detail all disturbances, incidents and violations of the HPHA or site rules and regulations that were observed or reported during each daily tour of duty or other appropriate reports as requested. Such reports shall contain all pertinent facts available and the names of all persons involved and unit numbers and shall be in a format to be specified by the HPHA.

Incident Reports are due to the Officer-in-Charge not later than 8:00 a.m., the next business day of an incident or as instructed otherwise by the HPHA.

b. For incidents requiring the CONTRACTOR’S action, the CONTRACTOR shall prepare and submit follow-up Incident Reports to the HPHA indicating corrective actions taken by the CONTRACTOR to prevent similar incidents from recurring.

Follow-up Incident Reports shall be due to the Contract Administrator within five (5) business days of an incident or as instructed otherwise by the HPHA.

c. Prepare and submit an Incident Report of Schedule Deviations to the HPHA indicating all work hours deviated from the security schedule as applicable. The Incident Report shall include security services not performed due to security officers’ failure to report for duty, reporting late for duty, or all other circumstances that prevented the normal course of security coverage as scheduled.

The Incident Report of Schedule Deviations shall be due to the HPHA not later than 8:00 a.m., the next business day or as instructed otherwise by the HPHA.

d. On a bi-weekly basis, prepare and submit daily check point printouts of Watchman Recording Device, Detex or equal, to the Contract Administrator.

e. On a monthly basis, prepare and submit a monthly report of the community walk, incident reports and daily log sheets.

f. Submit Incident Report for Corporate Translation Services (CTS) or similar translation services used by next business day to Officer-in-
10. Equipment Requirements

a. The HPHA shall provide a Watchman Recording Device, Detex or equal for control and monitor of roving on the properties. The HPHA reserves the right to change the locations and/or number of check points at each property due to unforeseen circumstances, including without limitation, emergency situations identified criminal hot spots. The CONTRACTOR shall be responsible for all costs associated with damages to the recording device.

b. The CONTRACTOR shall provide, where applicable, each roving patrol officer with a bicycle, any other applicable equipment, and be responsible for the maintenance of the bicycle and applicable equipment.

c. All security officers shall be uniformed bearing the company name and/or logo with their name tags easily visible, without sidearms.

d. The CONTRACTOR shall provide each security officer a walkie-talkie with hands-free capability. The CONTRACTOR may also provide each security officer with a cellular phone or other appropriate means of communication, flashlight, and appropriate gear for inclement weather. CONTRACTOR to provide and ensure that Roving Officers and Gate Officers have adequate raingear, flashlights, and/or headlamps for all shifts to complete the minimum roves and job duties.

e. While on duty, a walkie-talkie shall be used as the main source of communication between the site security officers.

f. The CONTRACTOR shall provide the security supervisor/dispatcher with a cellular phone or other appropriate means of communication. The CONTRACTOR may provide tenants access to a direct line or other appropriate means to the security officers for emergencies. The CONTRACTOR may post a central dispatch number for tenants to contact.

g. The CONTRACTOR shall be responsible for all equipment costs and maintenance of the cellular phone and/or other appropriate means of communication.

11. Facilities

The HPHA shall provide restroom facilities, where possible, within the property.
and may provide space which may include electricity, internet access, and telephone. The CONTRACTOR shall be responsible for the daily upkeep of all assigned facilities. The CONTRACTOR shall also be responsible for any damages to the facilities caused by the CONTRACTOR’S personnel.

12. Managing Requirements and Qualifications (Minimum Requirements)

1. Personnel

   a. The CONTRACTOR shall ensure that all personnel meet minimum qualifications to include: 1) licensing requirements pursuant to section 463-10.5, HRS; 2) at least two (2) years relevant experience in law enforcement and/or security; and 3) one (1) year of experience with the CONTRACTOR.

      The CONTRACTOR shall provide documentation with its Bid Offer Form that its personnel have met the licensing requirements pursuant to section 463-10.5, HRS and experience requirements. See Attachment 18. Provide Officer-in-Charge with license and photo of all Security Guards that will be working on property and keep updated records with any changes to staff.

   b. The CONTRACTOR’S security officers shall be required to attend an orientation conducted by the HPHA prior to the start of services. If parking on property the Security Guards are to register personal vehicles with the Officer-in-Charge.

   c. The CONTRACTOR’S supervisor shall have a minimum of one (1) year experience with law enforcement and three (3) years of experience employed by the CONTRACTOR.

   d. The CONTRACTOR shall not assign a security officer to the property where he/she currently resides or where his/her immediate family currently resides.

   e. The CONTRACTOR shall employ sufficient personnel at all times for performing the work in the manner and time required by these specifications and any subsequent post orders. The CONTRACTOR shall maintain and implement a plan to-ensure minimal disruption of services due to staff vacancies or changes. CONTRACTOR shall provide Officer-in-Charge upcoming work schedule for the following week for Site Supervisor and Guards scheduled to be on property.

   f. The CONTRACTOR shall be solely responsible for the behavior and conduct of their employees or agents on STATE property and shall instruct security personnel to fully cooperate with the Officer-in-Charge. Security personnel shall refrain from socializing or fraternizing with the
residents of the property while on duty. Corrective actions for repeat occurrences shall be required by the CONTRACTOR.

g. The CONTRACTOR agrees that security personnel shall not enter any occupied dwelling unit, except in the case of emergency or with the consent of the HPHA, the Officer-in Charge or his/her designated representative.

h. The CONTRACTOR shall remove any of its employees from servicing or providing services to the HPHA upon request in writing by the Officer-in-Charge. At the request of the HPHA, the CONTRACTOR shall remove immediately and shall not employ any person who in the opinion of the HPHA does not perform his/her duties and responsibilities in a proper and skillful manner, intoxicated, disorderly, abusive, or unable to demonstrate tact and diplomacy in dealing with the public.

i. The CONTRACTOR shall relieve any security officer who is arrested for any major crimes or felony, pending final resolution of the investigation. The HPHA has final authority to allow the individual to perform security duties pending investigation, resolution or conviction. A resulting conviction will disqualify the individual from performing work in any capacity under this Contract.

j. The CONTRACTOR shall ensure that no security officer employed under this Contract has been convicted of selling, dealing, or using controlled substances such as crystal methamphetamine in or around any State or Federal public housing under the jurisdiction of the HPHA.

k. The CONTRACTOR shall inform the Officer-in-Charge of all security officers employed under this Contract who is a registered sex offender.

l. The CONTRACTOR shall have a properly licensed supervisor to oversee the entire operation and to ensure that the services required are satisfactorily performed. All security officers shall be under the supervision of the CONTRACTOR.

m. Security personnel will refrain from having personal visitors and from socializing while on duty. Telephone calls shall be limited to emergencies.

n. The CONTRACTOR shall ensure that all information, documents, or materials viewed, discussed or provided to the security personnel in the line of duty shall be treated as confidential. Security personnel shall refrain from providing confidential information to the tenants and the general public without express consent of the HPHA.

o. The CONTRACTOR shall select only those individuals capable of
demonstrating the following:

i. Ability to exercise good judgement.

ii. Maturity in conduct and attitude.

iii. Ability to communicate in English both verbally and in writing and read simple instructions.

p. Courteous to members of the public and HPHA employees, tolerant in their interactions with others, as well as neat and groomed in appearance. Each security officer shall maintain a satisfactory level of drug-free general health at all times to work under the resulting Contract. The following are the minimum physical requirements:

   i. Able to hear at a normal conversational level.

   ii. Able to serve a normal shift walking, riding, standing, manning posts, using stairs or elevators, and operating motor vehicles if required.

   iii. Correctable vision to 20/20 in each eye.

q. During the performance of the resulting Contract period(s), the CONTRACTOR shall not discriminate against any employee or applicant for employment because of gender, race, religion, color, disability, or national origin. The CONTRACTOR shall comply with all relevant Federal and State laws and rules. Please note that businesses are responsible for knowing and complying with the most current laws.

r. Each security officer shall comply with section 463-10.5, HRS, Guards; registration, instruction, training testing, and required continuing education; renewal of registration. Section 463-10.5, HRS, requires that all guards shall apply to register with the board, and shall meet the following registration, instruction, and training requirements prior to performing services as a guard:

   i. Be not less than 18 years of age.

   ii. Possess a high school education or equivalent.

   iii. Not presently suffering from any psychiatric or psychological disorder directly related and detrimental to a person’s performance in the profession.

   iv. Not convicted in any jurisdiction of a crime reflecting unfavorably on the fitness of the individual to perform services as a guard,
STATE OF HAWAII

SCOPE OF SERVICES

unless the conviction was annulled or expunged by court order. The individual shall submit to a national criminal history record check as authorized by federal law, including, without limitation, to the Private Security Officer Employment Authorization Act of 2004, and specified in the rules of the board; and

v. Successfully complete eight (8) hours classroom instruction before the first day of services and four (4) hours of classroom instruction annually. Classroom instruction must be provided by an instructor who is approved by the board.

The CONTRACTOR understands and agrees that the HPHA may require reduction or replacement of any number of contracted security personnel in conjunction with the use of law enforcement personnel.

s. Subject to section 356D-6.5, HRS, smoking of tobacco or any other plant material is strictly prohibited on HPHA properties. Furthermore, pursuant to section 328J-1 and 328J-2, HRS, "smoking" includes the use of an electronic smoking device and shall be prohibited in all enclosed or partially enclosed areas. The CONTRACTOR agrees and shall adhere to these no-smoking laws while on HPHA properties. Such violation may be considered a breach of the resulting Contract and result in suspension or termination of the Contract. It shall be considered a violation of State law and subject to prosecution to the fullest extent under the law.

2. Administrative

a. The CONTRACTOR shall be required to attend quarterly meetings or upon request by the Officer-in-Charge and/or Contract Administrator. The day and time is to be specified by the Contract Administrator. Necessary field visits shall be made as required.

b. Every four (4) weeks, the Officer-in-Charge and/or Contractor Administrator shall submit a report to the CONTRACTOR listing any discrepancies or Contract violation(s) requiring correction. The CONTRACTOR shall notify the Officer-in-Charge within five (5) calendar days of the action(s) to be taken to correct the deficiencies. These discrepancies or Contract violation(s) shall be corrected or implemented within five (5) business days to avoid delays in payment issuance or for payment adjustment purposes.

c. The CONTRACTOR shall maintain its own written administrative policies, at a minimum, addressing the following:
STATE OF HAWAII

SCOPE OF SERVICES

I. Drug Free Workplace Policy;
II. Sexual Harassment Awareness in the Workplace Policy;
III. Non-Violence in the Workplace Policy;
IV. Standards of Conduct; and
V. Americans with Disabilities Act.

The CONTRACTOR shall maintain evidence that all staff are adequately informed of their requirements and obtain their agreement to comply with the said policies. The CONTRACTOR shall be solely responsible for the conduct of their employees and for their compliance with its administrative policies.

The CONTRACTOR further agrees and shall include in its administrative policy that it does not and shall not discriminate against any employee or applicant for employment.

Such action shall include, without limitation, no discrimination in the following:

(1) Employment, upgrading, demotion, or transfer;
(2) Recruitment or recruitment advertising;
(3) Layoff or termination;
(4) Rates of pay or other forms of compensation; and
(5) Selection for training, including apprenticeship.

The CONTRACTOR shall insert provisions similar to the foregoing in all subcontracts.

The CONTRACTOR shall comply with requirements of the Department of Housing and Urban Development, pursuant to its regulations issued under Title VI of the Civil Rights Act of 1964; said regulations set forth in 24, CFR, Subtitle A, Part I.I et seq.

d. The CONTRACTOR employing 15 or more persons agree and shall take appropriate initial and continuing steps to provide written notice to participants, beneficiaries, applicants, and employees that it does not discriminate on the basis of handicap, pursuant to 24 CFR Part 8, section 8.54(a) - Notice.

3. Contract Monitoring

1. The satisfactory performance of work shall be monitored by the Officer-in-Charge and the Contract Administrator or their designated representative(s). Performance will be monitored on an ongoing basis by the HPHA through desk monitoring, site inspection and/or other methods deemed as appropriate by the Contract Administrator and his/her
designated representative(s).

2. Should the CONTRACTOR fail to comply with the requirements of the Contract, the HPHA may request a written corrective action plan that shall include the corrective actions to be taken, a timeline for implementation, and the responsible parties. The HPHA will monitor the CONTRACTOR for implementation of the corrective action plan. The HPHA reserves the right to request regular or additional reports on progress towards compliance with the Contract and the corrective action plan.

3. In the event the CONTRACTOR fails, refuses, or neglects to perform the services in accordance with the requirements of this IFB and the resulting Contract, the HPHA reserves the right to purchase in the open market, a corresponding quantity of services, and deduct from the CONTRACTOR the costs from monies due or that may thereafter become due to the CONTRACTOR. Such costs may include the HPHA’s cost of procuring such services. In the event that monies due to the CONTRACTOR are insufficient for this purpose, the CONTRACTOR shall pay the difference upon demand by the HPHA. The HPHA may also utilize all other remedies provided under the Contract and by law and rules.

4. Failure or refusal of the CONTRACTOR to perform services as required may be grounds to suspend or terminate the Contract as detailed in the General Conditions.
STATE OF HAWAII

COMPENSATION AND PAYMENT SCHEDULE

CONTRACTOR: _______________________

PROPERTY: Kalihi Valley Homes (1005), 2250 Kalena Drive, Honolulu, Hawaii 96819
Mayor Wright Homes (1003), 521 North Kukui Street, Honolulu, Hawaii 96817
Punchbowl Homes (1011), 730 Captain Cook Avenue, Honolulu, Hawaii 96826
Kalanihuia (1024), 1220 Aala Street, Honolulu, Hawaii 96817
Makamae (1046), 21 South Kuakini Street, Honolulu, Hawaii 96817
Pumehana (1047), 1212 Kinau Street, Honolulu, Hawaii 96814

SERVICES: Security Services
IFB No. PMB-2022-04

1. Subject to the availability, allocation and receipt of funds, and the CONTRACTOR’s full and timely performance of all contractual obligations, the CONTRACTOR shall be paid an amount of compensation not to exceed __________________ and ____/100 Dollars ($__________) for the initial Contract period as follows:

a. Subject to the availability and receipt of Federal funds under the Annual Contributions Contract and Section 161 of the Housing & Community Development Act of 1992 (HCDA 1992), Public Law 102-550, approved October 28, 1992, the STATE agrees to pay the CONTRACTOR, for services satisfactorily performed under this Contract, a sum of money not to exceed __________________ and ____/100 Dollars ($__________) for the initial Contract period.

b. Subject to the availability and receipt of State funds, the STATE agrees to pay the CONTRACTOR for services satisfactorily performed under this Contract, a sum of money not to exceed __________________ and ____/100 Dollars ($__________) for the initial Contract period.

See attached and incorporated Exhibit A.

2. Federal funds are subject to appropriation by the U.S. Congress and allocation by the U.S. Department of Housing and Urban Development (HUD). Funding and period of availability may change upon notice by HUD to STATE. If there should be insufficient funds for any portion of the remaining Contract period(s) beyond the initial Contract period ending April 30, 2023, the STATE may terminate the Contract or revise the amount/quantity of services required without penalty.

3. State funds shall be subject to appropriation by the State of Director of Finance and allocation by the Governor and/or State Legislature. Funding and period of availability may change upon notice by the STATE. If there should be insufficient funds for any portion of the remainder of the Contract period beyond the initial Contract period ending April 30, 2023, the STATE may terminate the Contract or revise the amount/quantity of services required without penalty.
4. Upon execution of this Contract, payments shall be paid in accordance with and subject to the following:

   a. Pursuant to section 103-10, HRS, the STATE shall have 30 calendar days after receipt of invoice or satisfactory delivery of goods or performance of the services to make payment. Upon receipt of the invoice, the HPHA shall date stamp the invoice and use this receipt date to calculate the 30-day payment period. For purposes of this paragraph, the CONTRACTOR’s invoice date shall not be considered.

   b. The CONTRACTOR, as agreed upon by the HPHA, shall submit monthly or bi-monthly itemized invoices for payment, listing services dates, security officer names, and man-hours of security services rendered for the billing cycle;

       Invoices shall be submitted to the HPHA not earlier than the first of the subsequent month for monthly invoices and not earlier than the 16th of the month and the 1st of the subsequent month for bi-monthly invoices, A copy of the Schedule Deviation Incident Report shall be attached to each invoice as applicable.

   c. The CONTRACTOR shall submit one (1) original itemized invoice for each billing cycle for services rendered to:

       Hawaii Public Housing Authority
       Property Management and Maintenance Services Branch
       1002 North School Street
       P.O. Box 17907
       Honolulu, HI 96817

   d. All invoices shall reference the Contract number assigned to this Contract. Payment shall be in accordance with section 103-10, HRS, upon certification by the Officer-in-Charge or designee that the CONTRACTOR has satisfactorily performed the services specified. Payment shall be made on the basis of actual man-hours of security services rendered by the CONTRACTOR.

   e. Separate invoices shall be submitted for each of the following services:

       i. Roving Guard
       ii. Gate Guard
       iii. Special Events, administrative and/or judicial hearings; and
       vi. Emergency services.
f. Invoice for the month of June shall be submitted to the HPHA by the 20th of June for work performed for the period from June 1st to June 15th for payment processing in order to comply with the HPHA's fiscal year-end close out processes. For work performed for the period from June 16th to June 30th, the invoice shall be submitted to the HPHA not later than July 15th or payment processing.

g. Every four (4) weeks, the HPHA will submit a report to the CONTRACTOR listing any discrepancies or Contract violation(s) requiring correction. These discrepancies or Contract violation(s) must be corrected or implemented to avoid delays in payment issuance or payment adjustment purposes.

h. For final payment, the CONTRACTOR must submit a valid tax clearance certificate and a “Certification of Compliance for Final Payment” (Form SPO-22). An original tax clearance certificate, not over two (2) months old with an original green certified copy stamp or a valid HCE Certificate of Vendor Compliance, in lieu of the tax clearance certificate, is acceptable. A copy of Form SPO-22 is available at www.spo.hawaii.gov. Select “Forms for Vendors/Contractors” from the Chapter 103D, HRS, link.

5. The CONTRACTOR shall be compensated at the accepted bid price per hour, which is the all-inclusive cost to the STATE, including all applicable taxes for providing the services specified.

6. The STATE is not responsible for overtime and shall not pay any overtime resulting from the CONTRACTOR’s scheduling of employees.
STATE OF HAWAII

TIME OF PERFORMANCE

CONTRACTOR: _______________________

PROPERTY: Kalihi Valley Homes (1005), 2250 Kalena Drive, Honolulu, Hawaii 96819
Mayor Wright Homes (1003), 521 North Kukui Street, Honolulu, Hawaii 96817
Punchbowl Homes (1011), 730 Captain Cook Avenue, Honolulu, Hawaii 96826
Kalanihuia (1024), 1220 Aala Street, Honolulu, Hawaii 96817
Makamae (1046), 21 South Kuakini Street, Honolulu, Hawaii 96817
Pumehana (1047), 1212 Kinau Street, Honolulu, Hawaii 96814

SERVICES: Security Services
IFB No. PMB-2022-04

1. The term of this Contract shall be effective April 30, 2022 and ends on April 30, 2023.

2. No services shall be rendered on this Contract before a Notice to Proceed is issued. Any services rendered preformed prior to receipt of the Notice to Proceed shall be at the CONTRACTOR’S sole risk and expense.

3. The option to extend the Contract shall be at the sole discretion of the STATE. The Contract may be extended, without the necessity of rebidding, at the same rates as proposed in the original bid unless price adjustments are made and approved as provided in IFB-PMB-2022-04 or this Contract:

   Initial term of Contract: 12 months
   Length of each extension: Up to 12 months
   Maximum length of Contract: 36 months

4. The initial Contract period shall commence on the STATE’s issuance of a Notice to Proceed. The following conditions must be met for an extension:

   a. The CONTRACTOR experienced cost savings and has unexpended funds available that can be used to provide additional services; or

   b. The STATE determines there is an ongoing need for the services and has funds to extend services of up to 24 months with no extension to exceed a 12-month period. Contract extension(s) shall be awarded at the same or comparable rates as the current Contract. Exceptions shall be granted upon satisfactory justification such as increase in cost of services or cost of living increase as provided herein; and

   c. A Supplemental Contract must be executed prior to expiration of the current Contract period; and

   d. The STATE may be required to obtain the U.S. Department of Housing and Urban Development’s (HUD) approval in writing of the extension prior to execution of a
Supplemental Contract if federal HUD funds are to be used as a funding source; and

e. The CONTRACTOR must obtain written approval and a Notice to Proceed by the STATE with the extension; and

f. The STATE has determined that the CONTRACTOR has satisfactorily provided services during the current Contract term; and

g. Necessary State and/or Federal funds are appropriated, allotted and received for an extension.
STATE OF HAWAII
CERTIFICATE OF EXEMPTION
FROM CIVIL SERVICE

1. By Heads of Departments Delegated by the Director of the Department of Human Resources Development (“DHRD”).

   Pursuant to a delegation of the authority by the Director of DHRD, I certify that the services to be provided under this Contract, and the person(s) providing the services under this Contract are exempt from the civil service, pursuant to § 76-16, Hawaii Revised Statutes (HRS).

   (Signature)  
   (Date)  

   Hakim Ouansafi  
   (Print Name)  
   Executive Director  
   (Print Title)

* This part of the form may be used by all department heads and the heads of attached agencies to whom the Director of DHRD expressly has delegated authority to certify § 76-16, HRS, civil service exemptions. The specific paragraph(s) of § 76-16, HRS, upon which an exemption is based should be noted in the contract file. If an exemption is based on § 76-16(b)(15), the contract must meet the following conditions:
   (1) It involves the delivery of completed work or product by or during a specific time;
   (2) There is no employee-employer relationship; and
   (3) The authorized funding for the service is from other than the "A" or personal services cost element.

NOTE: Not all attached agencies have received a delegation under § 76-16(b)(15). If in doubt, attached agencies should check with the Director of DHRD prior to certifying an exemption under § 76-16(b)(15). Authority to certify exemptions under §§76-16(b)(2), and 76-16(b)(12), HRS, has not been delegated; only the Director of DHRD may certify §§ 76-16(b)(2), and 76-16(b)(12) exemptions.

2. By the Director of DHRD, State of Hawaii.

   I certify that the services to be provided under this Contract, and the person(s) providing the services under this Contract are exempt from the civil service, pursuant to §76-16, HRS.

   (Signature)  
   (Date)  

   (Print Name)  

   (Print Title, if designee of the Director of DHRD)
CONTRACTOR: _______________________

PROPERTY: Kalihi Valley Homes (1005), 2250 Kalena Drive, Honolulu, Hawaii 96819
Mayor Wright Homes (1003), 521 North Kukui Street, Honolulu, Hawaii 96817
Punchbowl Homes (1011), 730 Captain Cook Avenue, Honolulu, Hawaii 96826
Kalanihui (1024), 1220 Aala Street, Honolulu, Hawaii 96817
Makamae (1046), 21 South Kuakini Street, Honolulu, Hawaii 96817
Pumehana (1047), 1212 Kinau Street, Honolulu, Hawaii 96814

SERVICES: Security Services
IFB No. PMB-2022-04

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

<table>
<thead>
<tr>
<th>Coverage</th>
<th>Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>General Liability Insurance</strong></td>
<td><strong>$2,000,000.00</strong> combined single limit per occurrence for bodily injury and property damage.</td>
</tr>
<tr>
<td><strong>Automobile Insurance</strong></td>
<td>Bodily injury liability limits of <strong>$1,000,000.00</strong> each person and <strong>$1,000,000.00</strong> per accident and property damage liability limits of <strong>$1,000,000.00</strong> per accident OR combined single limit of <strong>$2,000,000.00</strong>.</td>
</tr>
<tr>
<td><strong>Workers Compensation</strong></td>
<td>Insurance to include Employer’s Liability. Both such coverages shall apply to all employees of the CONTRACTOR and to all employees of sub-CONTRACTORs (in case any sub-CONTRACTOR fails to provide adequate similar protection for all his employees).</td>
</tr>
</tbody>
</table>

a. The State of Hawaii, the Hawaii Public Housing Authority, its elected and appointed officials, officers and employees shall be named as additional insured, except for Professional Liability Insurance and Workers Compensation Insurance, as respects to operations performed for the State of Hawaii under this Contract. Before the effective date of the Contract, the CONTRACTOR agrees to provide the STATE certificate(s) of insurance necessary to satisfy the STATE that the CONTRACTOR is in compliance with insurance provisions of this Contract and will keep such insurance in effect and the certificate(s) therefore on deposit with the STATE during the entire term of this Contract. Upon request by the STATE, the CONTRACTOR shall furnish a copy of the policy or policies.

b. Failure of the CONTRACTOR to provide and keep in force such insurance shall be a material default under this Contract. The STATE shall be entitled to
exercise any or all of the remedies provided in this Contract and by law for default by the CONTRACTOR.

c. The procuring of such required policy or policies of insurance shall not be construed to limit CONTRACTOR's liability under this Contract or to fulfill the indemnification provisions and requirements of this Contract. Notwithstanding said policy or policies of insurance, CONTRACTOR shall be obliged for the full and total amount of any damage, injury, or loss caused by negligence or neglect connected with this Contract.

d. The CONTRACTOR shall immediately provide written notice to the contracting department or HPHA should any of the insurance policies evidenced on its Certificate of Insurance form be cancelled, limited in scope, or not renewed upon expiration.

e. The Hawaii Public Housing Authority is a self-insured STATE agency. The CONTRACTOR's insurance shall be primary. Any insurance maintained by the State of Hawaii shall apply in excess of, and shall not contribute with, insurance provided by the CONTRACTOR.

f. To satisfy the minimum coverage limits required by this Contract, the CONTRACTOR may use an umbrella policy in addition to the mandatory insurance policies (i.e. General Liability Insurance, Automobile Insurance, and Workers' Compensation) provided that the HPHA approves, and the umbrella policy follows the underlying coverage forms.

2. The CONTRACTOR shall have a permanent office in the State where it conducts business and where it will be accessible in person or via telephone calls during normal State of Hawaii government business hours to address concerns or requests that need immediate attention. A telephone answering service is not acceptable.

3. Section 3 of the U.S. Housing Act of 1968

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

b. The parties to this Contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this Contract, the parties to this Contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
c. The CONTRACTOR agrees to send to each labor organization or representative of workers with which it has a collective bargaining agreement or any other understanding a notice advising the labor organization or workers' representative of the CONTRACTOR's commitments under this section 3 clause. CONTRACTOR shall post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, set forth minimum number and job titles subject to hire, the availability of apprenticeship/training positions and the qualifications for each. The notice shall also provide the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

d. The CONTRACTOR shall include this section 3 clause in every subcontract in compliance with regulations in 24 CFR part 135. It shall take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The CONTRACTOR will not subcontract with any subcontractor where the CONTRACTOR has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

e. The CONTRACTOR shall certify that any vacant employment positions were not filled to circumvent the CONTRACTOR's obligations under 24 CFR part 135. This includes any training positions that are filled (1) after the CONTRACTOR is selected but before the Contract is executed and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed.

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

4. The STATE shall monitor the performance of work an ongoing basis through personnel observation, site inspection and/or other appropriate methods deemed as appropriate by the Contract Administrator and his/her designated representative(s).

5. In the event the CONTRACTOR fails, refuses, or neglects to perform the services in accordance with the requirements of the IFB No. PMB-2018-30 or this Contract, the STATE reserves the right to purchase in the open market a corresponding quantity of services, and to deduct the cost of such services from any monies due or may thereafter become due the CONTRACTOR. In case monies due to the CONTRACTOR is insufficient for the purpose, the CONTRACTOR shall pay the difference upon demand by the STATE. The STATE may also utilize all other remedies provided under the Contract and by law and rules.

6. Failure or refusal of the CONTRACTOR to perform services as required may be
grounds to suspend or terminate the Contract as detailed in the General Conditions.

7. In the event of a conflict between the Federal General Conditions, HUD 5370-C (10/2006) and the State General Conditions, AG-008 103D General Conditions, the more restrictive shall apply.

8. In the event of a conflict between the Special Conditions and the General Conditions, the Special Conditions shall apply.

9. Liquidated damages are fixed at the sum of FIFTY DOLLARS ($50.00) for each calendar day that the CONTRACTOR fails to perform in whole or in part any of its obligations under the Contract in accordance with the terms of paragraph 9 of the General Conditions. Liquidated damages may be deducted from any payments due or may become due to the CONTRACTOR.

10. The CONTRACTOR shall repair all damages caused by the CONTRACTOR’s equipment or employees to existing utilities and structures, such as water lines, electric conduits, sewer lines, and buildings. If such repairs are not completed within an agreed upon timeline, the STATE reserves the right to purchase services for the necessary repairs from the open market and to deduct all repair costs from moneys due or may thereafter become due to the CONTRACTOR. In the event money due to the CONTRACTOR is insufficient for the purpose, the CONTRACTOR shall pay the difference upon demand by the STATE.

11. Interchangeable Terms. The following terms shall be one and same:
   a. “STATE” and “HPHA”.
   b. “Contract” and “Agreement”.
   c. “CONTRACTOR” and “Successful Bidder”.

12. SIGNATURE IN COUNTERPART AND ELECTRONIC SIGNATURE

This Contract may be executed in counterparts, each of which shall be deemed original, but all of which, together, shall constitute one instrument. This Contract may also be executed by electronic signature.

13. COVID-19 PANDEMIC

a. Due to the COVID-19 pandemic, the Contractor shall have their employees adhere to the following protocols while doing work at all HPHA properties:
   (1) Contact with tenants should be avoided with social distancing of a minimum of six (6) feet maintained;
   (2) Non-essential work that requires close contact should be avoided;
(3) Wash or clean hands before entering or leaving the site with soap and water or hand sanitizer with at least 60% alcohol content;

(4) Wear a face mask covering mouth and nose at all times on HPHA properties;

(5) Employees with a fever, cough or other flu-like symptoms are not allowed on the property; and

(6) Employees comply with Governor’s Executive Order No 21-07 (Access to State Property) COVID-19 vaccination and testing requirements, and HPHA requirements and procedure implementing this Executive Order.

b. Protocols for the COVID-19 pandemic will remain in effect until the Governor of Hawaii withdraws the Emergency Proclamation for COVID-19.

14. Vaccination Attestation and Documentation

a. The Contractor shall identify all employees accessing the HPHA’s facilities, verify vaccination status, and submit a COVID-19 Vaccination Status Attestation form by hard copy or through encrypted electronic submission to the HPHA’s designated representative. See Attachment 20.

Each individual accessing the HPHA’s facilities must indicate whether they are:

(1) Full vaccinated for COVID-19 (meaning two weeks have passed since the employee’s second dose in a two-dose series or two weeks have passed since a single-dose vaccine);

(2) Partially vaccinated for COVID-19 (including receipt of one dose of a two-dose course of vaccination); or

(3) Not vaccinated for COVID-19.

b. Full and partially vaccinated Contractor employees shall provide a photocopy of their valid vaccination card indicating the date(s) of vaccination. The photocopy of the card shall be maintained by the Contractor and shall only be submitted to the HPHA upon request.

c. Should the Contractor submit a Vaccination Attestation form without indicting one (1) of the three (3) options referenced above shall be considered as “Not vaccinated for COVID-19” and shall be subject to weekly testing, until the attestation form is revised to reflect the correct vaccination status.
d. Contractor employees on leaves of absence must comply with the vaccination and testing program before being permitted to return to duty at any of the HPHA’s facilities. Contractors are responsible to advise their employees of these requirements.

e. The Contractor shall provide their attestation form to the Contract Administrator not later than three (3) business days prior to the Contract start date.

f. Fully vaccinated Contractor employees who provides a copy of their CDC COVID-19 Vaccination Record card indicating they are fully vaccinated (meaning two weeks have passed since the employee’s second dose in a two-dose series or two weeks have passed since a single-dose vaccine), they shall not be subject to weekly COVID-19 testing.

g. Partially vaccinated contractor employees are those who attest to and provide a copy of their CDC COVID-19 Vaccination Record card indicating they: (1) received the first dose of the Moderna or Pfizer vaccine and have a scheduled appointment for the second vaccine; or (2) received the second dose of the Moderna or Pfizer vaccine less than two weeks ago; or (3) received the single dose of the one-dose vaccine (e.g., Johnson & Johnson/Janssen) less than two (2) weeks ago.

h. Contractor employees who submits an attestation with evidence that they are partially vaccinated are still subject to testing requirements until the Contractor employee can provide an updated attestation and evidence that they received their second dose and/or are fully vaccinated. Contractor employees are responsible for providing proof of negative test results through the COVID-19 Testing Attestation form and documentation of the negative test result to their supervisor or other designated representative prior to the beginning of their work shift on the reporting deadline.

i. Unvaccinated Contract employees who submits an attestation indicating they are not fully vaccinated and do not intend to become fully vaccinated will be subject to weekly testing and responsible for providing proof of negative test results through the COVID-19 Testing Attestation form and documentation of the negative test result to their supervisor or other designated representative prior to the beginning of their work shift.
# GENERAL CONDITIONS

## Table of Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Coordination of Services by the STATE</td>
<td>2</td>
</tr>
<tr>
<td>2. Relationship of Parties: Independent Contractor Status and Responsibilities, Including Tax Responsibilities</td>
<td>2</td>
</tr>
<tr>
<td>3. Personnel Requirements</td>
<td>3</td>
</tr>
<tr>
<td>4. Nondiscrimination</td>
<td>3</td>
</tr>
<tr>
<td>5. Conflicts of Interest</td>
<td>3</td>
</tr>
<tr>
<td>6. Subcontracts and Assignments</td>
<td>3</td>
</tr>
<tr>
<td>7. Indemnification and Defense</td>
<td>4</td>
</tr>
<tr>
<td>8. Cost of Litigation</td>
<td>4</td>
</tr>
<tr>
<td>9. Liquidated Damages</td>
<td>4</td>
</tr>
<tr>
<td>10. STATE’S Right of Offset</td>
<td>4</td>
</tr>
<tr>
<td>11. Disputes</td>
<td>4</td>
</tr>
<tr>
<td>12. Suspension of Contract</td>
<td>4</td>
</tr>
<tr>
<td>13. Termination for Default</td>
<td>5</td>
</tr>
<tr>
<td>14. Termination for Convenience</td>
<td>6</td>
</tr>
<tr>
<td>15. Claims Based on the Agency Procurement Officer’s Actions or Omissions</td>
<td>8</td>
</tr>
<tr>
<td>16. Costs and Expenses</td>
<td>8</td>
</tr>
<tr>
<td>17. Payment Procedures; Final Payment; Tax Clearance</td>
<td>9</td>
</tr>
<tr>
<td>18. Federal Funds</td>
<td>9</td>
</tr>
<tr>
<td>19. Modifications of Contract</td>
<td>9</td>
</tr>
<tr>
<td>20. Change Order</td>
<td>10</td>
</tr>
<tr>
<td>21. Price Adjustment</td>
<td>11</td>
</tr>
<tr>
<td>22. Variation in Quantity for Definite Quantity Contracts</td>
<td>11</td>
</tr>
<tr>
<td>24. Confidentiality of Material</td>
<td>12</td>
</tr>
<tr>
<td>25. Publicity</td>
<td>12</td>
</tr>
<tr>
<td>26. Ownership Rights and Copyright</td>
<td>12</td>
</tr>
<tr>
<td>27. Liens and Warranties</td>
<td>12</td>
</tr>
<tr>
<td>28. Audit of Books and Records of the CONTRACTOR</td>
<td>13</td>
</tr>
<tr>
<td>29. Cost or Pricing Data</td>
<td>13</td>
</tr>
<tr>
<td>30. Audit of Cost or Pricing Data</td>
<td>13</td>
</tr>
<tr>
<td>31. Records Retention</td>
<td>13</td>
</tr>
<tr>
<td>32. Antitrust Claims</td>
<td>13</td>
</tr>
<tr>
<td>33. Patented Articles</td>
<td>13</td>
</tr>
<tr>
<td>34. Governing Law</td>
<td>14</td>
</tr>
<tr>
<td>35. Compliance with Laws</td>
<td>14</td>
</tr>
<tr>
<td>36. Conflict between General Conditions and Procurement Rules</td>
<td>14</td>
</tr>
<tr>
<td>37. Entire Contract</td>
<td>14</td>
</tr>
<tr>
<td>38. Severability</td>
<td>14</td>
</tr>
<tr>
<td>39. Waiver</td>
<td>14</td>
</tr>
<tr>
<td>40. Pollution Control</td>
<td>14</td>
</tr>
<tr>
<td>41. Campaign Contributions</td>
<td>14</td>
</tr>
<tr>
<td>42. Confidentiality of Personal Information</td>
<td>14</td>
</tr>
</tbody>
</table>
GENERAL CONDITIONS

1. Coordination of Services by the STATE. The head of the purchasing agency ("HOPA") (which term includes the designee of the HOPA) shall coordinate the services to be provided by the CONTRACTOR in order to complete the performance required in the Contract. The CONTRACTOR shall maintain communications with HOPA at all stages of the CONTRACTOR'S work, and submit to HOPA for resolution any questions which may arise as to the performance of this Contract. "Purchasing agency" as used in these General Conditions means and includes any governmental body which is authorized under chapter 103D, HRS, or its implementing rules and procedures, or by way of delegation, to enter into contracts for the procurement of goods or services or both.


   a. In the performance of services required under this Contract, the CONTRACTOR is an "independent contractor," with the authority and responsibility to control and direct the performance and details of the work and services required under this Contract; however, the STATE shall have a general right to inspect work in progress to determine whether, in the STATE'S opinion, the services are being performed by the CONTRACTOR in compliance with this Contract. Unless otherwise provided by special condition, it is understood that the STATE does not agree to use the CONTRACTOR exclusively, and that the CONTRACTOR is free to contract to provide services to other individuals or entities while under contract with the STATE.

   b. The CONTRACTOR and the CONTRACTOR'S employees and agents are not by reason of this Contract, agents or employees of the State for any purpose, and the CONTRACTOR and the CONTRACTOR'S employees and agents shall not be entitled to claim or receive from the State any vacation, sick leave, retirement, workers' compensation, unemployment insurance, or other benefits provided to state employees.

   c. The CONTRACTOR shall be responsible for the accuracy, completeness, and adequacy of the CONTRACTOR'S performance under this Contract. Furthermore, the CONTRACTOR intentionally, voluntarily, and knowingly assumes the sole and entire liability to the CONTRACTOR'S employees and agents, and to any individual not a party to this Contract, for all loss, damage, or injury caused by the CONTRACTOR, or the CONTRACTOR'S employees or agents in the course of their employment.

   d. The CONTRACTOR shall be responsible for payment of all applicable federal, state, and county taxes and fees which may become due and owing by the CONTRACTOR by reason of this Contract, including but not limited to (i) income taxes, (ii) employment related fees, assessments, and taxes, and (iii) general excise taxes. The CONTRACTOR also is responsible for obtaining all licenses, permits, and certificates that may be required in order to perform this Contract.

   e. The CONTRACTOR shall obtain a general excise tax license from the Department of Taxation, State of Hawaii, in accordance with section 237-9, HRS, and shall comply with all requirements thereof. The CONTRACTOR shall obtain a tax clearance certificate from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of the Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR have been paid and submit the same to the STATE prior to commencing any performance under this Contract. The CONTRACTOR shall also be solely responsible for meeting all requirements necessary to obtain the tax clearance certificate required for final payment under sections 103-53 and 103D-328, HRS, and paragraph 17 of these General Conditions.

   f. The CONTRACTOR is responsible for securing all employee-related insurance coverage for the CONTRACTOR and the CONTRACTOR'S employees and agents that is or may be required by law, and for payment of all premiums, costs, and other liabilities associated with securing the insurance coverage.
g. The CONTRACTOR shall obtain a certificate of compliance issued by the Department of Labor and Industrial Relations, State of Hawaii, in accordance with section 103D-310, HRS, and section 3-122-112, HAR, that is current within six months of the date of issuance.

h. The CONTRACTOR shall obtain a certificate of good standing issued by the Department of Commerce and Consumer Affairs, State of Hawaii, in accordance with section 103D-310, HRS, and section 3-122-112, HAR, that is current within six months of the date of issuance.

i. In lieu of the above certificates from the Department of Taxation, Labor and Industrial Relations, and Commerce and Consumer Affairs, the CONTRACTOR may submit proof of compliance through the State Procurement Office’s designated certification process.

   a. The CONTRACTOR shall secure, at the CONTRACTOR'S own expense, all personnel required to perform this Contract.
   b. The CONTRACTOR shall ensure that the CONTRACTOR'S employees or agents are experienced and fully qualified to engage in the activities and perform the services required under this Contract, and that all applicable licensing and operating requirements imposed or required under federal, state, or county law, and all applicable accreditation and other standards of quality generally accepted in the field of the activities of such employees and agents are complied with and satisfied.

4. Nondiscrimination. No person performing work under this Contract, including any subcontractor, employee, or agent of the CONTRACTOR, shall engage in any discrimination that is prohibited by any applicable federal, state, or county law.

5. Conflicts of Interest. The CONTRACTOR represents that neither the CONTRACTOR, nor any employee or agent of the CONTRACTOR, presently has any interest, and promises that no such interest, direct or indirect, shall be acquired, that would or might conflict in any manner or degree with the CONTRACTOR'S performance under this Contract.

6. Subcontracts and Assignments. The CONTRACTOR shall not assign or subcontract any of the CONTRACTOR'S duties, obligations, or interests under this Contract and no such assignment or subcontract shall be effective unless (i) the CONTRACTOR obtains the prior written consent of the STATE, and (ii) the CONTRACTOR'S assignee or subcontractor submits to the STATE a tax clearance certificate from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR'S assignee or subcontractor have been paid. Additionally, no assignment by the CONTRACTOR of the CONTRACTOR'S right to compensation under this Contract shall be effective unless and until the assignment is approved by the Comptroller of the State of Hawaii, as provided in section 40-58, HRS.
   a. Recognition of a successor in interest. When in the best interest of the State, a successor in interest may be recognized in an assignment contract in which the STATE, the CONTRACTOR and the assignee or transferee (hereinafter referred to as the "Assignee") agree that:
      (1) The Assignee assumes all of the CONTRACTOR'S obligations;
      (2) The CONTRACTOR remains liable for all obligations under this Contract but waives all rights under this Contract as against the STATE; and
      (3) The CONTRACTOR shall continue to furnish, and the Assignee shall also furnish, all required bonds.
   b. Change of name. When the CONTRACTOR asks to change the name in which it holds this Contract with the STATE, the procurement officer of the purchasing agency (hereinafter referred to as the "Agency procurement officer") shall, upon receipt of a document acceptable or satisfactory to the
Agency procurement officer indicating such change of name (for example, an amendment to the CONTRACTOR'S articles of incorporation), enter into an amendment to this Contract with the CONTRACTOR to effect such a change of name. The amendment to this Contract changing the CONTRACTOR'S name shall specifically indicate that no other terms and conditions of this Contract are thereby changed.

c. Reports. All assignment contracts and amendments to this Contract effecting changes of the CONTRACTOR'S name or novations hereunder shall be reported to the chief procurement officer (CPO) as defined in section 103D-203(a), HRS, within thirty days of the date that the assignment contract or amendment becomes effective.

d. Actions affecting more than one purchasing agency. Notwithstanding the provisions of subparagraphs 6a through 6c herein, when the CONTRACTOR holds contracts with more than one purchasing agency of the State, the assignment contracts and the novation and change of name amendments herein authorized shall be processed only through the CPO's office.

7. Indemnification and Defense. The CONTRACTOR shall defend, indemnify, and hold harmless the State of Hawaii, the contracting agency, and their officers, employees, and agents from and against all liability, loss, damage, cost, and expense, including all attorneys' fees, and all claims, suits, and demands therefore, arising out of or resulting from the acts or omissions of the CONTRACTOR or the CONTRACTOR'S employees, officers, agents, or subcontractors under this Contract. The provisions of this paragraph shall remain in full force and effect notwithstanding the expiration or early termination of this Contract.

8. Cost of Litigation. In case the STATE shall, without any fault on its part, be made a party to any litigation commenced by or against the CONTRACTOR in connection with this Contract, the CONTRACTOR shall pay all costs and expenses incurred by or imposed on the STATE, including attorneys' fees.

9. Liquidated Damages. When the CONTRACTOR is given notice of delay or nonperformance as specified in paragraph 13 (Termination for Default) and fails to cure in the time specified, it is agreed the CONTRACTOR shall pay to the STATE the amount, if any, set forth in this Contract per calendar day from the date set for cure until either (i) the STATE reasonably obtains similar goods or services, or both, if the CONTRACTOR is terminated for default, or (ii) until the CONTRACTOR provides the goods or services, or both, if the CONTRACTOR is not terminated for default. To the extent that the CONTRACTOR'S delay or nonperformance is excused under paragraph 13d (Excuse for Nonperformance or Delay Performance), liquidated damages shall not be assessable against the CONTRACTOR. The CONTRACTOR remains liable for damages caused other than by delay.

10. STATE'S Right of Offset. The STATE may offset against any monies or other obligations the STATE owes to the CONTRACTOR under this Contract, any amounts owed to the State of Hawaii by the CONTRACTOR under this Contract or any other contracts, or pursuant to any law or other obligation owed to the State of Hawaii by the CONTRACTOR, including, without limitation, the payment of any taxes or levies of any kind or nature. The STATE will notify the CONTRACTOR in writing of any offset and the nature of such offset. For purposes of this paragraph, amounts owed to the State of Hawaii shall not include debts or obligations which have been liquidated, agreed to by the CONTRACTOR, and are covered by an installment payment or other settlement plan approved by the State of Hawaii, provided, however, that the CONTRACTOR shall be entitled to such exclusion only to the extent that the CONTRACTOR is current with, and not delinquent on, any payments or obligations owed to the State of Hawaii under such payment or other settlement plan.

11. Disputes. Disputes shall be resolved in accordance with section 103D-703, HRS, and chapter 3-126, Hawaii Administrative Rules ("HAR"), as the same may be amended from time to time.

12. Suspension of Contract. The STATE reserves the right at any time and for any reason to suspend this Contract for any reasonable period, upon written notice to the CONTRACTOR in accordance with the provisions herein.

a. Order to stop performance. The Agency procurement officer may, by written order to the CONTRACTOR, at any time, and without notice to any surety, require the CONTRACTOR to stop all or any part of the performance called for by this Contract. This order shall be for a specified
period not exceeding sixty (60) days after the order is delivered to the CONTRACTOR, unless the parties agree to any further period. Any such order shall be identified specifically as a stop performance order issued pursuant to this section. Stop performance orders shall include, as appropriate: (1) A clear description of the work to be suspended; (2) Instructions as to the issuance of further orders by the CONTRACTOR for material or services; (3) Guidance as to action to be taken on subcontracts; and (4) Other instructions and suggestions to the CONTRACTOR for minimizing costs. Upon receipt of such an order, the CONTRACTOR shall forthwith comply with its terms and suspend all performance under this Contract at the time stated, provided, however, the CONTRACTOR shall take all reasonable steps to minimize the occurrence of costs allocable to the performance covered by the order during the period of performance stoppage. Before the stop performance order expires, or within any further period to which the parties shall have agreed, the Agency procurement officer shall either:

(1) Cancel the stop performance order; or

(2) Terminate the performance covered by such order as provided in the termination for default provision or the termination for convenience provision of this Contract.

b. Cancellation or expiration of the order. If a stop performance order issued under this section is cancelled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, the CONTRACTOR shall have the right to resume performance. An appropriate adjustment shall be made in the delivery schedule or contract price, or both, and the Contract shall be modified in writing accordingly, if:

(1) The stop performance order results in an increase in the time required for, or in the CONTRACTOR'S cost properly allocable to, the performance of any part of this Contract; and

(2) The CONTRACTOR asserts a claim for such an adjustment within thirty (30) days after the end of the period of performance stoppage; provided that, if the Agency procurement officer decides that the facts justify such action, any such claim asserted may be received and acted upon at any time prior to final payment under this Contract.

c. Termination of stopped performance. If a stop performance order is not cancelled and the performance covered by such order is terminated for default or convenience, the reasonable costs resulting from the stop performance order shall be allowable by adjustment or otherwise.

d. Adjustment of price. Any adjustment in contract price made pursuant to this paragraph shall be determined in accordance with the price adjustment provision of this Contract.

13. Termination for Default.

a. Default. If the CONTRACTOR refuses or fails to perform any of the provisions of this Contract with such diligence as will ensure its completion within the time specified in this Contract, or any extension thereof, otherwise fails to timely satisfy the Contract provisions, or commits any other substantial breach of this Contract, the Agency procurement officer may notify the CONTRACTOR in writing of the delay or non-performance and if not cured in ten (10) days or any longer time specified in writing by the Agency procurement officer, such officer may terminate the CONTRACTOR'S right to proceed with the Contract or such part of the Contract as to which there has been delay or a failure to properly perform. In the event of termination in whole or in part, the Agency procurement officer may procure similar goods or services in a manner and upon the terms deemed appropriate by the Agency procurement officer. The CONTRACTOR shall continue performance of the Contract to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods or services.

b. CONTRACTOR'S duties. Notwithstanding termination of the Contract and subject to any directions from the Agency procurement officer, the CONTRACTOR shall take timely, reasonable, and
necessary action to protect and preserve property in the possession of the CONTRACTOR in which the STATE has an interest.

c. **Compensation.** Payment for completed goods and services delivered and accepted by the STATE shall be at the price set forth in the Contract. Payment for the protection and preservation of property shall be in an amount agreed upon by the CONTRACTOR and the Agency procurement officer. If the parties fail to agree, the Agency procurement officer shall set an amount subject to the CONTRACTOR'S rights under chapter 3-126, HAR. The STATE may withhold from amounts due the CONTRACTOR such sums as the Agency procurement officer deems to be necessary to protect the STATE against loss because of outstanding liens or claims and to reimburse the STATE for the excess costs expected to be incurred by the STATE in procuring similar goods and services.

d. **Excuse for nonperformance or delayed performance.** The CONTRACTOR shall not be in default by reason of any failure in performance of this Contract in accordance with its terms, including any failure by the CONTRACTOR to make progress in the prosecution of the performance hereunder which endangers such performance, if the CONTRACTOR has notified the Agency procurement officer within fifteen (15) days after the cause of the delay and the failure arises out of causes such as: acts of God; acts of a public enemy; acts of the State and any other governmental body in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather. If the failure to perform is caused by the failure of a subcontractor to perform or to make progress, and if such failure arises out of causes similar to those set forth above, the CONTRACTOR shall not be deemed to be in default, unless the goods and services to be furnished by the subcontractor were reasonably obtainable from other sources in sufficient time to permit the CONTRACTOR to meet the requirements of the Contract. Upon request of the CONTRACTOR, the Agency procurement officer shall ascertain the facts and extent of such failure, and, if such officer determines that any failure to perform was occasioned by any one or more of the excusable causes, and that, but for the excusable cause, the CONTRACTOR'S progress and performance would have met the terms of the Contract, the delivery schedule shall be revised accordingly, subject to the rights of the STATE under this Contract. As used in this paragraph, the term "subcontractor" means subcontractor at any tier.

e. **Erroneous termination for default.** If, after notice of termination of the CONTRACTOR'S right to proceed under this paragraph, it is determined for any reason that the CONTRACTOR was not in default under this paragraph, or that the delay was excusable under the provisions of subparagraph 13d, "Excuse for nonperformance or delayed performance," the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to paragraph 14.

f. **Additional rights and remedies.** The rights and remedies provided in this paragraph are in addition to any other rights and remedies provided by law or under this Contract.

14. **Termination for Convenience.**

a. **Termination.** The Agency procurement officer may, when the interests of the STATE so require, terminate this Contract in whole or in part, for the convenience of the STATE. The Agency procurement officer shall give written notice of the termination to the CONTRACTOR specifying the part of the Contract terminated and when termination becomes effective.

b. **CONTRACTOR'S obligations.** The CONTRACTOR shall incur no further obligations in connection with the terminated performance and on the date(s) set in the notice of termination the CONTRACTOR will stop performance to the extent specified. The CONTRACTOR shall also terminate outstanding orders and subcontracts as they relate to the terminated performance. The CONTRACTOR shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated performance subject to the STATE'S approval. The Agency procurement officer may direct the CONTRACTOR to assign the CONTRACTOR'S right, title, and interest under terminated orders or subcontracts to the STATE. The CONTRACTOR must still complete the performance not terminated by the notice of termination and may incur obligations as necessary to do so.
c. **Right to goods and work product.** The Agency procurement officer may require the CONTRACTOR to transfer title and deliver to the STATE in the manner and to the extent directed by the Agency procurement officer:

(1) Any completed goods or work product; and

(2) The partially completed goods and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "manufacturing material") as the CONTRACTOR has specifically produced or specially acquired for the performance of the terminated part of this Contract.

The CONTRACTOR shall, upon direction of the Agency procurement officer, protect and preserve property in the possession of the CONTRACTOR in which the STATE has an interest. If the Agency procurement officer does not exercise this right, the CONTRACTOR shall use best efforts to sell such goods and manufacturing materials. Use of this paragraph in no way implies that the STATE has breached the Contract by exercise of the termination for convenience provision.

d. **Compensation.**

(1) The CONTRACTOR shall submit a termination claim specifying the amounts due because of the termination for convenience together with the cost or pricing data, submitted to the extent required by chapter 3-122, HAR, bearing on such claim. If the CONTRACTOR fails to file a termination claim within one year from the effective date of termination, the Agency procurement officer may pay the CONTRACTOR, if at all, an amount set in accordance with subparagraph 14d(3) below.

(2) The Agency procurement officer and the CONTRACTOR may agree to a settlement provided the CONTRACTOR has filed a termination claim supported by cost or pricing data submitted as required and that the settlement does not exceed the total Contract price plus settlement costs reduced by payments previously made by the STATE, the proceeds of any sales of goods and manufacturing materials under subparagraph 14c, and the Contract price of the performance not terminated.

(3) Absent complete agreement under subparagraph 14d(2) the Agency procurement officer shall pay the CONTRACTOR the following amounts, provided payments agreed to under subparagraph 14d(2) shall not duplicate payments under this subparagraph for the following:

   (A) Costs incurred in preparing to perform and performing the terminated portion of the performance plus a fair and reasonable profit on such portion of the performance, such profit shall not include anticipatory profit or consequential damages, less amounts paid or to be paid for accepted goods or services; provided, however, that if it appears that the CONTRACTOR would have sustained a loss if the entire Contract would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss;

   (B) Costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to subparagraph 14b. These costs must not include costs paid in accordance with subparagraph 14d(3)(B);

   (C) The reasonable settlement costs of the CONTRACTOR, including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the Contract and for the termination of subcontracts thereunder, together with reasonable storage, transportation, and other costs incurred in connection with the protection or disposition of property allocable to the terminated portion of this Contract. The total sum to be paid the CONTRACTOR under this subparagraph shall not exceed the
total Contract price plus the reasonable settlement costs of the CONTRACTOR reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under subparagraph 14d(2), and the contract price of performance not terminated.

(4) Costs claimed, agreed to, or established under subparagraphs 14d(2) and 14d(3) shall be in accordance with Chapter 3-123 (Cost Principles) of the Procurement Rules.

15. Claims Based on the Agency Procurement Officer's Actions or Omissions.

a. Changes in scope. If any action or omission on the part of the Agency procurement officer (which term includes the designee of such officer for purposes of this paragraph 15) requiring performance changes within the scope of the Contract constitutes the basis for a claim by the CONTRACTOR for additional compensation, damages, or an extension of time for completion, the CONTRACTOR shall continue with performance of the Contract in compliance with the directions or orders of such officials, but by so doing, the CONTRACTOR shall not be deemed to have prejudiced any claim for additional compensation, damages, or an extension of time for completion; provided:

(1) Written notice required. The CONTRACTOR shall give written notice to the Agency procurement officer:

(A) Prior to the commencement of the performance involved, if at that time the CONTRACTOR knows of the occurrence of such action or omission;

(B) Within thirty (30) days after the CONTRACTOR knows of the occurrence of such action or omission, if the CONTRACTOR did not have such knowledge prior to the commencement of the performance; or

(C) Within such further time as may be allowed by the Agency procurement officer in writing.

(2) Notice content. This notice shall state that the CONTRACTOR regards the act or omission as a reason which may entitle the CONTRACTOR to additional compensation, damages, or an extension of time. The Agency procurement officer, upon receipt of such notice, may rescind such action, remedy such omission, or take such other steps as may be deemed advisable in the discretion of the Agency procurement officer;

(3) Basis must be explained. The notice required by subparagraph 15a(1) describes as clearly as practicable at the time the reasons why the CONTRACTOR believes that additional compensation, damages, or an extension of time may be remedies to which the CONTRACTOR is entitled; and

(4) Claim must be justified. The CONTRACTOR must maintain and, upon request, make available to the Agency procurement officer within a reasonable time, detailed records to the extent practicable, and other documentation and evidence satisfactory to the STATE, justifying the claimed additional costs or an extension of time in connection with such changes.

b. CONTRACTOR not excused. Nothing herein contained, however, shall excuse the CONTRACTOR from compliance with any rules or laws precluding any state officers and CONTRACTOR from acting in collusion or bad faith in issuing or performing change orders which are clearly not within the scope of the Contract.

c. Price adjustment. Any adjustment in the price made pursuant to this paragraph shall be determined in accordance with the price adjustment provision of this Contract.

16. Costs and Expenses. Any reimbursement due the CONTRACTOR for per diem and transportation expenses under this Contract shall be subject to chapter 3-123 (Cost Principles), HAR, and the following guidelines:
a. Reimbursement for air transportation shall be for actual cost or coach class air fare, whichever is less.

b. Reimbursement for ground transportation costs shall not exceed the actual cost of renting an intermediate-sized vehicle.

c. Unless prior written approval of the HOPA is obtained, reimbursement for subsistence allowance (i.e., hotel and meals, etc.) shall not exceed the applicable daily authorized rates for inter-island or out-of-state travel that are set forth in the current Governor's Executive Order authorizing adjustments in salaries and benefits for state officers and employees in the executive branch who are excluded from collective bargaining coverage.

17. Payment Procedures; Final Payment; Tax Clearance.

a. Original invoices required. All payments under this Contract shall be made only upon submission by the CONTRACTOR of original invoices specifying the amount due and certifying that services requested under the Contract have been performed by the CONTRACTOR according to the Contract.

b. Subject to available funds. Such payments are subject to availability of funds and allotment by the Director of Finance in accordance with chapter 37, HRS. Further, all payments shall be made in accordance with and subject to chapter 40, HRS.

c. Prompt payment.

(1) Any money, other than retainage, paid to the CONTRACTOR shall be disbursed to subcontractors 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; and

(2) Upon final payment to the CONTRACTOR, full payment to the subcontractor, including retainage, shall be made within ten (10) days after receipt of the money; provided that there are no bona fide disputes over the subcontractor's performance under the subcontract.

d. Final payment. Final payment under this Contract shall be subject to sections 103-53 and 103D-328, HRS, which require a tax clearance from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR have been paid. Further, in accordance with section 3-122-112, HAR, CONTRACTOR shall provide a certificate affirming that the CONTRACTOR has remained in compliance with all applicable laws as required by this section.

18. Federal Funds. If this Contract is payable in whole or in part from federal funds, CONTRACTOR agrees that, as to the portion of the compensation under this Contract to be payable from federal funds, the CONTRACTOR shall be paid only from such funds received from the federal government, and shall not be paid from any other funds. Failure of the STATE to receive anticipated federal funds shall not be considered a breach by the STATE or an excuse for nonperformance by the CONTRACTOR.


a. In writing. Any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract permitted by this Contract shall be made by written amendment to this Contract, signed by the CONTRACTOR and the STATE, provided that change orders shall be made in accordance with paragraph 20 herein.

b. No oral modification. No oral modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract shall be permitted.
c. **Agency procurement officer.** By written order, at any time, and without notice to any surety, the Agency procurement officer may unilaterally order of the CONTRACTOR:

(A) Changes in the work within the scope of the Contract; and

(B) Changes in the time of performance of the Contract that do not alter the scope of the Contract work.

d. **Adjustments of price or time for performance.** If any modification increases or decreases the CONTRACTOR'S cost of, or the time required for, performance of any part of the work under this Contract, an adjustment shall be made and this Contract modified in writing accordingly. Any adjustment in contract price made pursuant to this clause shall be determined, where applicable, in accordance with the price adjustment clause of this Contract or as negotiated.

e. **Claim barred after final payment.** No claim by the CONTRACTOR for an adjustment hereunder shall be allowed if written modification of the Contract is not made prior to final payment under this Contract.

f. **Claims not barred.** In the absence of a written contract modification, nothing in this clause shall be deemed to restrict the CONTRACTOR'S right to pursue a claim under this Contract or for a breach of contract.

g. **Head of the purchasing agency approval.** If this is a professional services contract awarded pursuant to section 103D-303 or 103D-304, HRS, any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract which increases the amount payable to the CONTRACTOR by at least $25,000.00 and ten per cent (10%) or more of the initial contract price, must receive the prior approval of the head of the purchasing agency.

h. **Tax clearance.** The STATE may, at its discretion, require the CONTRACTOR to submit to the STATE, prior to the STATE'S approval of any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract, a tax clearance from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR have been paid.

i. **Sole source contracts.** Amendments to sole source contracts that would change the original scope of the Contract may only be made with the approval of the CPO. Annual renewal of a sole source contract for services should not be submitted as an amendment.

20. **Change Order.** The Agency procurement officer may, by a written order signed only by the STATE, at any time, and without notice to any surety, and subject to all appropriate adjustments, make changes within the general scope of this Contract in any one or more of the following:

1. Drawings, designs, or specifications, if the goods or services to be furnished are to be specially provided to the STATE in accordance therewith;

2. Method of delivery; or

3. Place of delivery.

a. **Adjustments of price or time for performance.** If any change order increases or decreases the CONTRACTOR'S cost of, or the time required for, performance of any part of the work under this Contract, whether or not changed by the order, an adjustment shall be made and the Contract modified in writing accordingly. Any adjustment in the Contract price made pursuant to this provision shall be determined in accordance with the price adjustment provision of this Contract. Failure of the parties to agree to an adjustment shall not excuse the CONTRACTOR from proceeding with the Contract as changed, provided that the Agency procurement officer promptly and duly makes the provisional adjustments in payment or time for performance as may be reasonable. By
proceeding with the work, the CONTRACTOR shall not be deemed to have prejudiced any claim for additional compensation, or any extension of time for completion.

b. **Time period for claim.** Within ten (10) days after receipt of a written change order under subparagraph 20a, unless the period is extended by the Agency procurement officer in writing, the CONTRACTOR shall respond with a claim for an adjustment. The requirement for a timely written response by CONTRACTOR cannot be waived and shall be a condition precedent to the assertion of a claim.

c. **Claim barred after final payment.** No claim by the CONTRACTOR for an adjustment hereunder shall be allowed if a written response is not given prior to final payment under this Contract.

d. **Other claims not barred.** In the absence of a change order, nothing in this paragraph 20 shall be deemed to restrict the CONTRACTOR'S right to pursue a claim under the Contract or for breach of contract.

21. **Price Adjustment.**

a. **Price adjustment.** Any adjustment in the contract price pursuant to a provision in this Contract shall be made in one or more of the following ways:

1. By agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;
2. By unit prices specified in the Contract or subsequently agreed upon;
3. By the costs attributable to the event or situation covered by the provision, plus appropriate profit or fee, all as specified in the Contract or subsequently agreed upon;
4. In such other manner as the parties may mutually agree; or
5. In the absence of agreement between the parties, by a unilateral determination by the Agency procurement officer of the costs attributable to the event or situation covered by the provision, plus appropriate profit or fee, all as computed by the Agency procurement officer in accordance with generally accepted accounting principles and applicable sections of chapters 3-123 and 3-126, HAR.

b. **Submission of cost or pricing data.** The CONTRACTOR shall provide cost or pricing data for any price adjustments subject to the provisions of chapter 3-122, HAR.

22. **Variation in Quantity for Definite Quantity Contracts.** Upon the agreement of the STATE and the CONTRACTOR, the quantity of goods or services, or both, if a definite quantity is specified in this Contract, may be increased by a maximum of ten per cent (10%); provided the unit prices will remain the same except for any price adjustments otherwise applicable; and the Agency procurement officer makes a written determination that such an increase will either be more economical than awarding another contract or that it would not be practical to award another contract.

23. **Changes in Cost-Reimbursement Contract.** If this Contract is a cost-reimbursement contract, the following provisions shall apply:

a. The Agency procurement officer may at any time by written order, and without notice to the sureties, if any, make changes within the general scope of the Contract in any one or more of the following:

1. Description of performance (Attachment 1);
2. Time of performance (i.e., hours of the day, days of the week, etc.);
3. Place of performance of services;
(4) Drawings, designs, or specifications when the supplies to be furnished are to be specially manufactured for the STATE in accordance with the drawings, designs, or specifications; 

(5) Method of shipment or packing of supplies; or

(6) Place of delivery.

b. If any change causes an increase or decrease in the estimated cost of, or the time required for performance of, any part of the performance under this Contract, whether or not changed by the order, or otherwise affects any other terms and conditions of this Contract, the Agency procurement officer shall make an equitable adjustment in the (1) estimated cost, delivery or completion schedule, or both; (2) amount of any fixed fee; and (3) other affected terms and shall modify the Contract accordingly.

c. The CONTRACTOR must assert the CONTRACTOR'S rights to an adjustment under this provision within thirty (30) days from the day of receipt of the written order. However, if the Agency procurement officer decides that the facts justify it, the Agency procurement officer may receive and act upon a proposal submitted before final payment under the Contract.

d. Failure to agree to any adjustment shall be a dispute under paragraph 11 of this Contract. However, nothing in this provision shall excuse the CONTRACTOR from proceeding with the Contract as changed.

e. Notwithstanding the terms and conditions of subparagraphs 23a and 23b, the estimated cost of this Contract and, if this Contract is incrementally funded, the funds allotted for the performance of this Contract, shall not be increased or considered to be increased except by specific written modification of the Contract indicating the new contract estimated cost and, if this contract is incrementally funded, the new amount allotted to the contract.


a. All material given to or made available to the CONTRACTOR by virtue of this Contract, which is identified as proprietary or confidential information, will be safeguarded by the CONTRACTOR and shall not be disclosed to any individual or organization without the prior written approval of the STATE.

b. All information, data, or other material provided by the CONTRACTOR to the STATE shall be subject to the Uniform Information Practices Act, chapter 92F, HRS.

25. Publicity. The CONTRACTOR shall not refer to the STATE, or any office, agency, or officer thereof, or any state employee, including the HOPA, the CPO, the Agency procurement officer, or to the services or goods, or both, provided under this Contract, in any of the CONTRACTOR'S brochures, advertisements, or other publicity of the CONTRACTOR. All media contacts with the CONTRACTOR about the subject matter of this Contract shall be referred to the Agency procurement officer.

26. Ownership Rights and Copyright. The STATE shall have complete ownership of all material, both finished and unfinished, which is developed, prepared, assembled, or conceived by the CONTRACTOR pursuant to this Contract, and all such material shall be considered "works made for hire." All such material shall be delivered to the STATE upon expiration or termination of this Contract. The STATE, in its sole discretion, shall have the exclusive right to copyright any product, concept, or material developed, prepared, assembled, or conceived by the CONTRACTOR pursuant to this Contract.

27. Liens and Warranties. Goods provided under this Contract shall be provided free of all liens and provided together with all applicable warranties, or with the warranties described in the Contract documents, whichever are greater.
28. **Audit of Books and Records of the CONTRACTOR.** The STATE may, at reasonable times and places, audit the books and records of the CONTRACTOR, prospective contractor, subcontractor, or prospective subcontractor which are related to:

a. The cost or pricing data, and  
b. A state contract, including subcontracts, other than a firm fixed-price contract.

29. **Cost or Pricing Data.** Cost or pricing data must be submitted to the Agency procurement officer and timely certified as accurate for contracts over $100,000 unless the contract is for a multiple-term or as otherwise specified by the Agency procurement officer. Unless otherwise required by the Agency procurement officer, cost or pricing data submission is not required for contracts awarded pursuant to competitive sealed bid procedures.

If certified cost or pricing data are subsequently found to have been inaccurate, incomplete, or noncurrent as of the date stated in the certificate, the STATE is entitled to an adjustment of the contract price, including profit or fee, to exclude any significant sum by which the price, including profit or fee, was increased because of the defective data. It is presumed that overstated cost or pricing data increased the contract price in the amount of the defect plus related overhead and profit or fee. Therefore, unless there is a clear indication that the defective data was not used or relied upon, the price will be reduced in such amount.

30. **Audit of Cost or Pricing Data.** When cost or pricing principles are applicable, the STATE may require an audit of cost or pricing data.

31. **Records Retention.**

(1) Upon any termination of this Contract or as otherwise required by applicable law, CONTRACTOR shall, pursuant to chapter 487R, HRS, destroy all copies (paper or electronic form) of personal information received from the STATE.

(2) The CONTRACTOR and any subcontractors shall maintain the files, books, and records that relate to the Contract, including any personal information created or received by the CONTRACTOR on behalf of the STATE, and any cost or pricing data, for at least three (3) years after the date of final payment under the Contract. The personal information shall continue to be confidential and shall only be disclosed as permitted or required by law. After the three (3) year, or longer retention period as required by law has ended, the files, books, and records that contain personal information shall be destroyed pursuant to chapter 487R, HRS or returned to the STATE at the request of the STATE.

32. **Antitrust Claims.** The STATE and the CONTRACTOR recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the purchaser. Therefore, the CONTRACTOR hereby assigns to STATE any and all claims for overcharges as to goods and materials purchased in connection with this Contract, except as to overcharges which result from violations commencing after the price is established under this Contract and which are not passed on to the STATE under an escalation clause.

33. **Patented Articles.** The CONTRACTOR shall defend, indemnify, and hold harmless the STATE, and its officers, employees, and agents from and against all liability, loss, damage, cost, and expense, including all attorneys fees, and all claims, suits, and demands arising out of or resulting from any claims, demands, or actions by the patent holder for infringement or other improper or unauthorized use of any patented article, patented process, or patented appliance in connection with this Contract. The CONTRACTOR shall be solely responsible for correcting or curing to the satisfaction of the STATE any such infringement or improper or unauthorized use, including, without limitation: (a) furnishing at no cost to the STATE a substitute article, process, or appliance acceptable to the STATE, (b) paying royalties or other required payments to the patent holder, (c) obtaining proper authorizations or releases from the patent holder, and (d) furnishing such security to or making such arrangements with the patent holder as may be necessary to correct or cure any such infringement or improper or unauthorized use.
34. **Governing Law.** The validity of this Contract and any of its terms or provisions, as well as the rights and duties of the parties to this Contract, shall be governed by the laws of the State of Hawaii. Any action at law or in equity to enforce or interpret the provisions of this Contract shall be brought in a state court of competent jurisdiction in Honolulu, Hawaii.

35. **Compliance with Laws.** The CONTRACTOR shall comply with all federal, state, and county laws, ordinances, codes, rules, and regulations, as the same may be amended from time to time, that in any way affect the CONTRACTOR'S performance of this Contract.

36. **Conflict Between General Conditions and Procurement Rules.** In the event of a conflict between the General Conditions and the procurement rules, the procurement rules in effect on the date this Contract became effective shall control and are hereby incorporated by reference.

37. **Entire Contract.** This Contract sets forth all of the agreements, conditions, understandings, promises, warranties, and representations between the STATE and the CONTRACTOR relative to this Contract. This Contract supersedes all prior agreements, conditions, understandings, promises, warranties, and representations, which shall have no further force or effect. There are no agreements, conditions, understandings, promises, warranties, or representations, oral or written, express or implied, between the STATE and the CONTRACTOR other than as set forth or as referred to herein.

38. **Severability.** In the event that any provision of this Contract is declared invalid or unenforceable by a court, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining terms of this Contract.

39. **Waiver.** The failure of the STATE to insist upon the strict compliance with any term, provision, or condition of this Contract shall not constitute or be deemed to constitute a waiver or relinquishment of the STATE'S right to enforce the same in accordance with this Contract. The fact that the STATE specifically refers to one provision of the procurement rules or one section of the Hawaii Revised Statutes, and does not include other provisions or statutory sections in this Contract shall not constitute a waiver or relinquishment of the STATE'S rights or the CONTRACTOR'S obligations under the procurement rules or statutes.

40. **Pollution Control.** If during the performance of this Contract, the CONTRACTOR encounters a "release" or a "threatened release" of a reportable quantity of a "hazardous substance," "pollutant," or "contaminant" as those terms are defined in section 128D-1, HRS, the CONTRACTOR shall immediately notify the STATE and all other appropriate state, county, or federal agencies as required by law. The Contractor shall take all necessary actions, including stopping work, to avoid causing, contributing to, or making worse a release of a hazardous substance, pollutant, or contaminant, and shall promptly obey any orders the Environmental Protection Agency or the state Department of Health issues in response to the release. In the event there is an ensuing cease-work period, and the STATE determines that this Contract requires an adjustment of the time for performance, the Contract shall be modified in writing accordingly.

41. **Campaign Contributions.** The CONTRACTOR is hereby notified of the applicability of 11-355, HRS, which states that campaign contributions are prohibited from specified state or county government contractors during the terms of their contracts if the contractors are paid with funds appropriated by a legislative body.

42. **Confidentiality of Personal Information.**

a. **Definitions.**

"Personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either name or data elements are not encrypted:

(1) Social security number;

(2) Driver's license number or Hawaii identification card number; or
(3) Account number, credit or debit card number, access code, or password that would permit access to an individual's financial information.

Personal information does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

"Technological safeguards" means the technology and the policy and procedures for use of the technology to protect and control access to personal information.

b. Confidentiality of Material.

(1) All material given to or made available to the CONTRACTOR by the STATE by virtue of this Contract which is identified as personal information, shall be safeguarded by the CONTRACTOR and shall not be disclosed without the prior written approval of the STATE.

(2) CONTRACTOR agrees not to retain, use, or disclose personal information for any purpose other than as permitted or required by this Contract.

(3) CONTRACTOR agrees to implement appropriate "technological safeguards" that are acceptable to the STATE to reduce the risk of unauthorized access to personal information.

(4) CONTRACTOR shall report to the STATE in a prompt and complete manner any security breaches involving personal information.

(5) CONTRACTOR agrees to mitigate, to the extent practicable, any harmful effect that is known to CONTRACTOR because of a use or disclosure of personal information by CONTRACTOR in violation of the requirements of this paragraph.

(6) CONTRACTOR shall complete and retain a log of all disclosures made of personal information received from the STATE, or personal information created or received by CONTRACTOR on behalf of the STATE.

c. Security Awareness Training and Confidentiality Agreements.

(1) CONTRACTOR certifies that all of its employees who will have access to the personal information have completed training on security awareness topics relating to protecting personal information.

(2) CONTRACTOR certifies that confidentiality agreements have been signed by all of its employees who will have access to the personal information acknowledging that:

   (A) The personal information collected, used, or maintained by the CONTRACTOR will be treated as confidential;

   (B) Access to the personal information will be allowed only as necessary to perform the Contract; and

   (C) Use of the personal information will be restricted to uses consistent with the services subject to this Contract.

d. Termination for Cause. In addition to any other remedies provided for by this Contract, if the STATE learns of a material breach by CONTRACTOR of this paragraph by CONTRACTOR, the STATE may at its sole discretion:
(1) Provide an opportunity for the CONTRACTOR to cure the breach or end the violation; or

(2) Immediately terminate this Contract.

In either instance, the CONTRACTOR and the STATE shall follow chapter 487N, HRS, with respect to notification of a security breach of personal information.

e. Records Retention.

(1) Upon any termination of this Contract or as otherwise required by applicable law, CONTRACTOR shall, pursuant to chapter 487R, HRS, destroy all copies (paper or electronic form) of personal information received from the STATE.

(2) The CONTRACTOR and any subcontractors shall maintain the files, books, and records that relate to the Contract, including any personal information created or received by the CONTRACTOR on behalf of the STATE, and any cost or pricing data, for at least three (3) years after the date of final payment under the Contract. The personal information shall continue to be confidential and shall only be disclosed as permitted or required by law. After the three (3) year, or longer retention period as required by law has ended, the files, books, and records that contain personal information shall be destroyed pursuant to chapter 487R, HRS or returned to the STATE at the request of the STATE.
General Conditions for Non-Construction Contracts
Section I – (With or without Maintenance Work)

Applicability. This form HUD-5370-C has 2 Sections. These Sections must be inserted into non-construction contracts as described below:

1) Non-construction contracts (without maintenance) greater than $105,000 - use Section I.
2) Maintenance contracts (including nonroutine maintenance as defined at 24 CFR 968.105) greater than $2,000 but not more than $150,000 - use Section II; and Maintenance contracts (including nonroutine maintenance), greater than $150,000 – use Sections I and II.

Section I - Clauses for All Non-Construction Contracts greater than $150,000

1. Definitions

The following definitions are applicable to this contract:
(a) "Authority or Housing Authority (HA)" means the Housing Authority.
(b) "Contract" means the contract entered into between the Authority and the Contractor. It includes the contract form, the Certifications and Representations, these contract clauses, and the scope of work. It includes all formal changes to any of those documents by addendum, Change Order, or other modification.
(c) "Contractor" means the person or other entity entering into the contract with the Authority to perform all of the work required under the contract.
(d) "Day" means calendar days, unless otherwise stated.
(e) "HUD" means the Secretary of Housing and Urban development, his delegates, successors, and assigns, and the officers and employees of the United States Department of Housing and Urban Development acting for and on behalf of the Secretary.

2. Changes

(a) The HA may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in the services to be performed or supplies to be delivered.
(b) If any such change causes an increase or decrease in the hourly rate, the not-to-exceed amount of the contract, or the time required for performance of any part of the work under this contract, whether or not changed by the order, or otherwise affects the conditions of this contract, the HA shall make an equitable adjustment in the not-to-exceed amount, the hourly rate, the delivery schedule, or other affected terms, and shall modify the contract accordingly.
(c) The Contractor must assert its right to an equitable adjustment under this clause within 30 days from the date of receipt of the written order. However, if the HA decides that the facts justify it, the HA may receive and act upon a proposal submitted before final payment of the contract.
(d) Failure to agree to any adjustment shall be a dispute under clause Disputes, herein. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.
(e) No services for which an additional cost or fee will be charged by the Contractor shall be furnished without the prior written consent of the HA.

3. Termination for Convenience and Default

(a) The HA may terminate this contract in whole, or from time to time in part, for the HA's convenience or the failure of the Contractor to fulfill the contract obligations (default). The HA shall terminate by delivering to the Contractor a written Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall: (i) immediately discontinue all services affected (unless the notice directs otherwise); and (ii) deliver to the HA all information, reports, papers, and other materials accumulated or generated in performing this contract, whether completed or in process.
(b) If the termination is for the convenience of the HA, the HA shall be liable only for payment for services rendered before the effective date of the termination.
(c) If the termination is due to the failure of the Contractor to fulfill its obligations under the contract (default), the HA may require the Contractor to deliver to it, in the manner and to the extent directed by the HA, any work as described in subparagraph (a)(ii) above, and compensation be determined in accordance with the Changes clause, paragraph 2, above; (ii) take over the work and prosecute the same to completion by contract or otherwise, and the Contractor shall be liable for any additional cost incurred by the HA; (iii) withhold any payments to the Contractor, for the purpose of off-set or partial payment, as the case may be, of amounts owed to the HA by the Contractor.
(d) If, after termination for failure to fulfill contract obligations (default), it is determined that the Contractor had not failed, the termination shall be deemed to have been effected for the convenience of the HA, and the Contractor shall be entitled to payment as described in paragraph (b) above.
(e) Any disputes with regard to this clause are expressly made subject to the terms of clause titled Disputes herein.

4. Examination and Retention of Contractor’s Records

(a) The HA, HUD, or Comptroller General of the United States, or any of their duly authorized representatives shall, until 3 years after final payment under this contract, have access to and the right to examine any of the Contractor's directly pertinent books, documents, papers, or other records involving transactions related to this contract for the purpose of making audit, examination, excerpts, and transcriptions.

Public Reporting Burden for this collection of information is estimated to average 0.08 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Office, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600; and to the Office of Management and Budget, Paperwork Reduction Project (2577-0157), Washington, D.C. 20503. Do not send this completed form to either of these addressees.
(b) The Contractor agrees to include in first-tier subcontracts under this contract a clause substantially the same as paragraph (a) above. “Subcontract,” as used in this clause, excludes purchase orders not exceeding $10,000.

(c) The periods of access and examination in paragraphs (a) and (b) above for records relating to:
   (i) appeals under the clause titled Disputes;
   (ii) litigation or settlement of claims arising from the performance of this contract; or,
   (iii) costs and expenses of this contract to which the HA, HUD, or Comptroller General or any of their duly authorized representatives has taken exception shall continue until disposition of such appeals, litigation, claims, or exceptions.

5. Rights in Data (Ownership and Proprietary Interest)

   The HA shall have exclusive ownership of, all proprietary interest in, and the right to full and exclusive possession of all information, materials and documents discovered or produced by Contractor pursuant to the terms of this Contract, including but not limited to reports, memoranda or letters concerning the research and reporting tasks of this Contract.

6. Energy Efficiency

   The contractor shall comply with all mandatory standards and policies relating to energy efficiency which are contained in the energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub.L. 94-163) for the State in which the work under this contract is performed.

7. Disputes

   (a) All disputes arising under or relating to this contract, except for disputes arising under clauses contained in Section III, Labor Standards Provisions, including any claims for damages for the alleged breach thereof of which are not disposed of by agreement, shall be resolved under this clause.
   (b) All claims by the Contractor shall be made in writing and submitted to the HA. A claim by the HA against the Contractor shall be subject to a written decision by the HA.
   (c) The HA shall, with reasonable promptness, but in no event in no more than 60 days, render a decision concerning any claim hereunder. Unless the Contractor, within 30 days after receipt of the HA’s decision, shall notify the HA in writing that it takes exception to such decision, the decision shall be final and conclusive.
   (d) Provided the Contractor has (i) given the notice within the time stated in paragraph (c) above, and (ii) excepted its claim relating to such decision from the final release, and (iii) brought suit against the HA not later than one year after receipt of final payment, or if final payment has not been made, not later than one year after the Contractor has had a reasonable time to respond to a written request by the HA that it submit a final voucher and release, whichever is earlier, then the HA’s decision shall not be final or conclusive, but the dispute shall be determined on the merits by a court of competent jurisdiction.
   (e) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the HA.

8. Contract Termination; Debarment

   A breach of these Contract clauses may be grounds for termination of the Contract and for debarment or denial of participation in HUD programs as a Contractor and a subcontractor as provided in 24 CFR Part 24.

9. Assignment of Contract

   The Contractor shall not assign or transfer any interest in this contract; except that claims for monies due or to become due from the HA under the contract may be assigned to a bank, trust company, or other financial institution. If the Contractor is a partnership, this contract shall inure to the benefit of the surviving or remaining member(s) of such partnership approved by the HA.

10. Certificate and Release

   Prior to final payment under this contract, or prior to settlement upon termination of this contract, and as a condition precedent thereto, the Contractor shall execute and deliver to the HA a certificate and release, in a form acceptable to the HA, of all claims against the HA by the Contractor under and by virtue of this contract, other than such claims, if any, as may be specifically excepted by the Contractor in stated amounts set forth therein.

11. Organizational Conflicts of Interest

   (a) The Contractor warrants that to the best of its knowledge and belief and except as otherwise disclosed, it does not have any organizational conflict of interest which is defined as a situation in which the nature of work under this contract and a contractor’s organizational, financial, contractual or other interests are such that:
      (i) Award of the contract may result in an unfair competitive advantage; or
      (ii) The Contractor’s objectivity in performing the contract work may be impaired.
   (b) The Contractor agrees that if after award it discovers an organizational conflict of interest with respect to this contract or any task/delivery order under the contract, he or she shall make an immediate and full disclosure in writing to the Contracting Officer which shall include a description of the action which the Contractor has taken or intends to take to eliminate or neutralize the conflict. The HA may, however, terminate the contract or task/delivery order for the convenience of the HA if it would be in the best interest of the HA.
   (c) In the event the Contractor was aware of an organizational conflict of interest before the award of this contract and intentionally did not disclose the conflict to the Contracting Officer, the HA may terminate the contract for default.
   (d) The terms of this clause shall be included in all subcontracts and consulting agreements wherein the work to be performed is similar to the service provided by the prime Contractor. The Contractor shall include in such subcontracts and consulting agreements any necessary provisions to eliminate or neutralize conflicts of interest.

12. Inspection and Acceptance

   (a) The HA has the right to review, require correction, if necessary, and accept the work products produced by the Contractor. Such review(s) shall be carried out within 30 days so as to not impede the work of the Contractor. Any
product of work shall be deemed accepted as submitted if the HA does not issue written comments and/or required corrections within 30 days from the date of receipt of such product from the Contractor.

(b) The Contractor shall make any required corrections promptly at no additional charge and return a revised copy of the product to the HA within 7 days of notification or a later date if extended by the HA.

(c) Failure by the Contractor to proceed with reasonable promptness to make necessary corrections shall be a default. If the Contractor’s submission of corrected work remains unacceptable, the HA may terminate this contract (or the task order involved) or reduce the contract price or cost to reflect the reduced value of services received.

13. Interest of Members of Congress

No member of or delegate to the Congress of the United States of America or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit to arise therefrom, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

14. Interest of Members, Officers, or Employees and Former Members, Officers, or Employees

No member, officer, or employee of the HA, no member of the governing body of the locality in which the project is situated, no member of the governing body in which the HA was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the project, shall, during his or her tenure, or for one year thereafter, have any interest, direct or indirect, in this contract or the proceeds thereof.

15. Limitation on Payments to Influence Certain Federal Transactions

(a) Definitions. As used in this clause:


"Covered Federal Action" means any of the following Federal actions:

(i) The awarding of any Federal contract;
(ii) The making of any Federal grant;
(iii) The making of any Federal loan;
(iv) The entering into of any cooperative agreement; and,
(v) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

Covered Federal action does not include receiving from an agency a commitment providing for the United States to insure or guarantee a loan.

"Indian tribe" and "tribal organization" have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450B). Alaskan Natives are included under the definitions of Indian tribes in that Act.

"Influencing or attempting to influence" means making, with the intent to influence, any communication to or appearance before an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.

"Local government" means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.

"Officer or employee of an agency" includes the following individuals who are employed by an agency:

(i) An individual who is appointed to a position in the Government under title 5, U.S.C., including a position under a temporary appointment;
(ii) A member of the uniformed services as defined in section 202, title 18, U.S.C.;
(iii) A special Government employee as defined in section 202, title 18, U.S.C.; and,
(iv) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, title 5, appendix 2.

"Person" means an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit or not for profit. This term excludes an Indian tribe, tribal organization, or other Indian organization with respect to expenditures specifically permitted by other Federal law.

"Recipient" includes all contractors, subcontractors at any tier, and subgrantees at any tier of the recipient of funds received in connection with a Federal contract, grant, loan, or cooperative agreement. The term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

"Regularly employed means, with respect to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement, an officer or employee who is employed by such person for at least 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract, grant, loan, or cooperative agreement. An officer or employee who is employed by such person for less than 130 working days within one year immediately preceding the date of submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

"State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-State, regional, or interstate entity having governmental duties and powers.

(b) Prohibition.

(i) Section 1352 of title 31, U.S.C. provides in part that no appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following:

- The awarding of any Federal contract;
- The making of any Federal contract, grant, loan, or cooperative agreement;
- The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(ii) The prohibition does not apply as follows:
(1) Agency and legislative liaison by Own Employees.
   (a) The prohibition on the use of appropriated funds, in paragraph (i) of this section, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement, if the payment is for agency and legislative activities not directly related to a covered Federal action.
   (b) For purposes of paragraph (b)(i)(1)(a) of this clause, providing any information specifically requested by an agency or Congress is permitted at any time.
   (c) The following agency and legislative liaison activities are permitted at any time only where they are not related to a specific solicitation for any covered Federal action:
      (1) Discussing with an agency (including individual demonstrations) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities; and,
      (2) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.
   (d) The following agency and legislative liaison activities are permitted where they are prior to formal solicitation of any covered Federal action:
      (1) Providing any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;
      (2) Technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and
      (3) Capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Public Law 95-507 and other subsequent amendments.
   (e) Only those activities expressly authorized by subdivision (b)(ii)(1)(a) of this clause are permitted under this clause.
(2) Professional and technical services.
   (a) The prohibition on the use of appropriated funds, in subparagraph (b)(i) of this clause, does not apply in the case of:
      (i) A payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action.
      (ii) Any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action. Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.
   (b) For purposes of subdivision (b)(ii)(2)(a) of clause, "professional and technical services" shall be limited to advice and analysis directly applying any professional or technical discipline.
   (c) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.
   (d) Only those services expressly authorized by subdivisions (b)(ii)(2)(a)(i) and (ii) of this section are permitted under this clause.
(iii) Selling activities by independent sales representatives.
   (c) The prohibition on the use of appropriated funds, in subparagraph (b)(i) of this clause, does not apply to the following selling activities before an agency by independent sales representatives, provided such activities are prior to formal solicitation by an agency and are specifically limited to the merits of the matter:
      (i) Discussing with an agency (including individual demonstration) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities; and
      (ii) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.
   (d) Agreement. In accepting any contract, grant, cooperative agreement, or loan resulting from this solicitation, the person submitting the offer agrees not to make any payment prohibited by this clause.
   (e) Penalties. Any person who makes an expenditure prohibited under paragraph (b) of this clause shall be subject to civil penalties as provided for by 31 U.S.C. 1352. An imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.
   (f) Cost Allowability. Nothing in this clause is to be interpreted to make allowable or reasonable any costs which would be unallowable or unreasonable in accordance with Part 31 of the Federal Acquisition Regulation (FAR), or OMB Circulars dealing with cost allowability for recipients of assistance agreements. Conversely, costs made specifically unallowable by the requirements in this clause will not be made allowable under any of the provisions of FAR Part 31 or the relevant OMB Circulars.
16. Equal Employment Opportunity

During the performance of this contract, the Contractor agrees as follows:

(a) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.

(b) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to (1) employment; (2) upgrading; (3) demotion; (4) transfer; (5) recruitment or recruitment advertising; (6) layoff or termination; (7) rates of pay or other forms of compensation; and (8) selection for training, including apprenticeship.

(c) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.

(d) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(e) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.

(f) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.

(g) The Contractor shall furnish all information and reports required by Executive Order 11246, as amended and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto. The Contractor shall permit access to its books, records, and accounts by the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(h) In the event of a determination that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part, and the Contractor may be declared ineligible for further Government contracts, or federally assisted construction contracts under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended, the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.

(i) The Contractor shall include the terms and conditions of this clause in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor. The Contractor shall take such action with respect to any subcontractor or purchase order as the Secretary of Housing and Urban Development or the Secretary of Labor may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

17. Dissemination or Disclosure of Information

No information or material shall be disseminated or disclosed to the general public, the news media, or any person or organization without prior express written approval by the HA.

18. Contractor's Status

It is understood that the Contractor is an independent contractor and is not to be considered an employee of the HA, or assume any right, privilege or duties of an employee, and shall save harmless the HA and its employees from claims suits, actions and costs of every description resulting from the Contractor's activities on behalf of the HA in connection with this Agreement.

19. Other Contractors

HA may undertake or award other contracts for additional work at or near the site(s) of the work under this contract. The contractor shall fully cooperate with the other contractors and with HA and HUD employees and shall carefully adapt scheduling and performing the work under this contract to accommodate the additional work, heeding any direction that may be provided by the Contracting Officer. The contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or HA employee.

20. Liens

The Contractor is prohibited from placing a lien on HA's property. This prohibition shall apply to all subcontractors.

21. Training and Employment Opportunities for Residents in the Project Area (Section 3, HUD Act of 1968; 24 CFR 135)

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

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

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

(d) The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.

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

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

22. Procurement of Recovered Materials

(a) In accordance with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, the Contractor shall procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition. The Contractor shall procure items designated in the EPA guidelines that contain the highest percentage of recovered materials practicable unless the Contractor determines that such items: (1) are not reasonably available in a reasonable period of time; (2) fail to meet reasonable performance standards, which shall be determined on the basis of the guidelines of the National Institute of Standards and Technology, if applicable to the item; or (3) are only available at an unreasonable price.

(b) Paragraph (a) of this clause shall apply to items purchased under this contract where: (1) the Contractor purchases in excess of $10,000 of the item under this contract; or (2) during the preceding Federal fiscal year, the Contractor: (i) purchased any amount of the items for use under a contract that was funded with Federal appropriations and was with a Federal agency or a State agency or agency of a political subdivision of a State; and (ii) purchased a total of in excess of $10,000 of the item both under and outside that contract.