

Summary of Changes (v16.08)

1. Paragraph 1.03D (DAGS Websites): Update DAGS website addresses.
2. Various paragraph formatting revisions (remove extraneous spaces, etc.).

**Special Conditions
TECHNICAL GUIDE**

TG 00800

1. COORDINATION ISSUES:

- 1.1 The information contained in and required by this section has serious contract implications. Ensure there are no errors in the final specification section.
- 1.2 If a Project requires that substitutions be allowed before bid opening, use the option paragraph in SECTION 00800 - SPECIAL CONDITIONS that allows substitutions. Obtain PWA approval. The standard for DPW is no provisions for pre-bid substitutions.

2. DESIGN ISSUES: (Not used)

3. DRAWING NOTES: (Not Used)

4. STANDARD DRAWINGS: (Not Used)

5. SPECIFICATION NOTES: (Not Used)

6. GUIDE SPECIFICATION: (Not Used)

- 6.1 SECTION 00800 - SPECIAL CONDITIONS is attached. Use this section with all projects.

SPECIFIER'S NOTE: Blue colored texts are Notes to the Specifier and should be completely deleted from the final text. Where [red colored text in brackets] is shown in this specification section, insert wording, numbers, etc. as appropriate and delete brackets. Where <Red colored text in brackets> is shown, choice is indicated. Make the appropriate choice and delete the brackets. Maintain footer notation in italics with the current version used (e.g. TG 00800 v163.08). Verify that section titles cross referenced in this Section correspond to this Project's specifications; Section titles may have changed.

Do not include the Project Name (etc.) line in the footer. Use the following format for the specification footer.

TG 00800 v163.08
DAGS Job No. [00-00-0000]

Special Conditions
00800 - 1

End Footer Sample

SECTION 00800 - SPECIAL CONDITIONS

PART 1 - GENERAL

1.01 GENERAL CONDITIONS

- A. As specified in SECTION 00700 - GENERAL CONDITIONS: The *GENERAL CONDITIONS* and these *SPECIAL CONDITIONS* shall govern all work specified in all Divisions and Sections.

SPECIFIER NOTES: Add paragraph 1.01 B. for matters affecting the basic legal rights that change or modify the GENERAL CONDITIONS and vary from one project to another.

- B. Revisions to the *GENERAL CONDITIONS*: The following conditions included in this paragraph 1.01 B. and subparagraphs shall govern respective items in the published *INTERIM GENERAL CONDITIONS 1999 Edition* and in SECTION 00700 - GENERAL CONDITIONS, paragraph entitled REVISIONS TO THE GENERAL CONDITIONS.

SPECIFIER'S NOTES: Under Section 00700, substitutions before bid opening are not allowed. Where directed by the Project Coordinator that substitutions before Bid opening are to be used insert the following subsections that modify SECTION 00700 - GENERAL CONDITIONS section 2.6.

- <1. Under ARTICLE 2 - PROPOSAL REQUIREMENTS AND CONDITIONS, Modify Section 2.6 - SUBSTITUTION BEFORE CONTRACT AWARD by deleting subsections 2.6.1 through 2.6.3 and substituting the following four new subsections:

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

2.6.2 Unless specifically required otherwise in the contract documents or in subsection 2.6.4, Offerors shall not submit products, materials, equipment, articles or systems for review or approval prior to submitting their Offers.

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

2.6.4 Obtaining Approval for Products with Variant Features: Prior to the bid opening, Offerors may submit only product with variant features to qualify as equivalent products. Offerors shall comply with these procedures:

2.6.4.1 The written substitution request shall be submitted to the Department and received no later than the time and date shown in the *SPECIAL CONDITIONS*. Submit three sets of the request, technical information and the description of variances. Address the request to the

Public Works Administrator; refer to the appendix for a sample form. Deliver the request in a sealed envelope to the Department of Accounting and General Services, Public Works Division, Oahu Office. Label the envelope with the words "SUBSTITUTION REQUEST". Offerors are responsible to assure their requests are received and time stamped at the Public Works Division Oahu Office prior to the submission deadline.

2.6.4.2 Offerors shall identify all deviations or variances of the proposed substituted product from the specified requirements of the bidding documents. Variances shall be clearly shown on technical information, descriptive sheets and other similar evidentiary item so that the Department may evaluate each variant feature listed.

2.6.4.3 Substitution requests that do not comply with the provisions of this subsection will be denied.">

SPECIFIER'S NOTE: GENERAL CONDITIONS subsection 3.11.1 modifications are to allow contractors the choice of ordering materials upon the receipt of the executed contract and a written authorization from the Contracting Officer before DAGS issues the formal NOTICE TO PROCEED (referred to as OPTION 1 in Solicitation, Offer and Contract Form Attachment A). For each project, Use OPTION 1 for standard bids. Make sure to coordinate the SCHEDULE FOR WORK article in the SOLICITATION, OFFER, AND CONTRACT FORM. Delete subsection 3.11.2 below if OPTION 1 is selected.

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

"3.11.1 After the contract is fully executed and signed by the Comptroller, the Contractor will be sent a letter allowing the ordering of approved materials before the formal Notice to Proceed letter is sent. Subsequently, the formal Notice to Proceed letter will be sent informing the Contractor of the date on which it shall proceed with the designated work. The Contractor shall be allowed ten (10) consecutive working days from said date to begin its work. In the event that the Contractor refuses or neglects to start the work, the Comptroller may terminate the contract in accordance with Section 7.27 TERMINATION OF CONTRACT FOR CAUSE.">

SPECIFIER'S NOTE: GENERAL CONDITIONS subsection 3.11.1 modifications are for short time frame construction projects with critical deadlines where the Award of Contract is concurrent with the Notice to Proceed (referred to as OPTION 2 in Solicitation, Offer and Contract Form Attachment A). For each project, The Public Works Administrator must approve this process. Make sure to coordinate the SCHEDULE FOR WORK article in the SOLICITATION, OFFER, AND CONTRACT FORM. Delete subsection 3.11.2 if OPTION 2 is selected.

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

"3.11.1 The Letter of Award also serves as the formal Notice to Proceed, and the Contractor is authorized to proceed with the work

immediately. In the event that the Contractor refuses or neglects to start the work within seven consecutive days from the Project Start Date, the Comptroller may terminate the contract in accordance with the *GENERAL CONDITIONS* "Termination of the Contract for Cause" section.">

SPECIFIER'S NOTE: Selection of time period from bid open to notice to proceed is required. This is a standard special condition to be included in all projects unless specifically directed otherwise. Project coordinator shall determine this time period. As a general guideline, no less than 120 days for projects that do not require a building permit, and no more than 180 days for projects that require a standard building permit.

SPECIFIER'S NOTE: For projects with special requirements where the time period is less than 120 days or more than 180 days the project coordinator shall obtain the approval of the PWA prior to preparing the final bid documents.

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

"3.11.4 In the event the Notice to Proceed is not issued within <one hundred and twenty (120)> <one hundred and eighty (180)> <[fill in the amount]> days after the date of the -bid opening, the Contractor may submit a claim for increased labor and material costs (but not overhead costs) which are directly attributable to the delay beyond the first <120><180><[fill in the amount]> days. Such claims shall be accompanied with the necessary documentation to justify the claim. No payment will be made for escalation costs that are not fully justified as determined by the State.">

SPECIFIER'S NOTE: For projects with Federal funding, verify with the Project Coordinator if HRS §103-55.6 (Act 17, SLH 2009) – Apprenticeship Agreement conflicts with federal law, or if the application of this section will disqualify the State from receiving Federal funds or aid. If there are conflicts, insert the following paragraph that deletes GENERAL CONDITIONS Section 7.9A – APPRENTICESHIP AGREEMENT CERTIFICATION.

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

SPECIFIER'S NOTE: For projects with Federal funding, verify with the Project Coordinator if Act 68, Session Laws of Hawaii 2010 - EMPLOYMENT OF STATE RESIDENTS REQUIRMENTS- conflicts with federal law, or if the application of this section will disqualify the State from receiving Federal funds or aid. If there are conflicts, insert the following paragraph that deletes GENERAL CONDITIONS Section 7.39 – EMPLOYMENT OF STATE RESIDENTS REQUIREMENTS.

- <5. Under ARTICLE 7 - PROSECUTION AND PROGRESS, delete Section 7.39 – EMPLOYMENT OF STATE RESIDENTS REQUIREMENTS. This project is federally funded and Act 68, Session Laws of Hawaii 2010 is in conflict with federal law, or the application of the apprenticeship agreement will disqualify the State from receiving Federal funds or aid. Therefore, Section 7.39 shall not apply.

SPECIFIER'S NOTE: For Projects that have a short construction period insert the following two paragraphs that revise GENERAL CONDITIONS subsections 7.21.5.2(a) and 7.21.8.6 to allow the Contractor to claim for Time Extensions due to bad weather days. Project Coordinators must determine if there is a need to adjust the 60 day Contract Time threshold as listed below.

- <6. Under ARTICLE 7 - PROSECUTION AND PROGRESS, modify section 7.21 - CONTRACT TIME by adding new subsection 7.21.5.2(a) as follows:

“7.21.5.2(a) For contracts that have a contract time less than 60 days, time extensions for bad weather conditions may be granted by the Contracting Officer. The Contractor shall notify the Contracting Officer and submit documentation showing the magnitude and duration of the weather conditions; and shall justify how this weather condition affected the critical construction activities and the project completion date. Comply with the notification requirements of paragraphs 7.21.5.1 and 7.21.5.3.”

7. Under ARTICLE 7 - PROSECUTION AND PROGRESS, modify section 7.21-CONTRACT TIME delete subsection 7.21.8.6 and substitute the following:

“7.21.8.6 Days the Contractor is unable to work due to normal rainfall or other conditions, except as noted in clause 7.21.5.2(a).”>

SPECIFIER NOTES: Use paragraph 1.02 B. if substitutions before bid are allowed.

1.02 SUBMITTAL DATES FOR CLARIFICATIONS [AND SUBSTITUTIONS]

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

[B. The written substitution requests must be received by the Public Works Division no later than 4:30 P.M. on _____.]

SPECIFIER NOTES: Fill in the name, position and telephone of the contacts.

1.03 PROJECT CONTACT PERSON AND DAGS CONTACTS

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

NAME: [Name]
POSITION OR TITLE: [Position/Title]
TELEPHONE NUMBER: (808) [xxx-xxxx]

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

Contracts Engineer, DAGS Staff Services Office
NAME Jolie Yee

FAX NUMBER (808) 586-0521
TELEPHONE NUMBER (808) 586-0512

C. Project Coordinator - Project Management Branch
NAME [Name]

D. Websites:

Public Works Division: <http://www.pwd.hawaii.gov/pwd>
DAGS: <http://www.dags.hawaii.gov/dags/>

E. Contacts During Construction: Address and process correspondence through the Public Works Administrator for O'ahu projects and the respective District Manager for the DAGS Office(s) on <Kaua'i><Maui><Hawai'i>.

SPECIFIER'S NOTE: Contact Project Coordinator for the appropriate amount of liquidated damages.

1.04 LIQUIDATED DAMAGES

A. In accordance with the *GENERAL CONDITIONS*, Article 7 - PROSECUTION AND PROGRESS, Section 7.26, FAILURE TO COMPLETE THE WORK ON TIME, upon failure to complete the work or any portion of the work within the time or times fixed in the contract or extension thereof, the Contractor shall pay liquidated damages to the State, in the amount of [\$ _____], per calendar day of delay.

SPECIFIER'S NOTE: In paragraphs 1.04 B. & C. below, confirm with Project Coordinator if the percentages to be used are different than the 10 percent and 5 percent shown. Public Works Administrator's approval is required to change any percentage.

B. In accordance with the *GENERAL CONDITIONS*, Article 7 - PROSECUTION AND PROGRESS, Section 7.32, PROJECT ACCEPTANCE DATE; upon failure to correct punch list deficiencies, within the time or times fixed in the contract or extension thereof, the Contractor shall pay liquidated damages to the State, in the amount equal to 10 percent of the liquidated damages, per calendar day of delay.

C. In accordance with the *GENERAL CONDITIONS*, Article 7 - PROSECUTION AND PROGRESS, Section 7.33, FINAL SETTLEMENT OF CONTRACT; upon failure to submit closing documents within the time or times fixed in the contract or extension thereof, the Contractor shall pay liquidated damages to the State, in the amount equal to five percent of the liquidated damages, per calendar day of delay.

1.05 SPECIALTY CONTRACTOR'S AND SUBCONTRACTOR'S LICENSE

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

SPECIFIER'S NOTE: In item 1.06, the normal working hours and days are identified for the Contractor to prepare its Bid. If other working times and conditions will be established, include the normal working hours and any restrictions in the Summary Section.

1.06 WORKING HOURS

- A. The regular working hours for this project are from 7:00 AM to 4:30 PM Monday through Friday, excluding State Holidays, unless otherwise noted or restricted under SECTION 01100 - PROJECT REQUIREMENTS. In the event of conflict, the working hours provisions of specification SECTION 01100 - PROJECT REQUIREMENTS shall govern over this item 1.06.
- B. The Contractor may be given approval to work beyond the regular hours including Saturdays, Sundays, State Holidays, night work, or after hours under the provisions of the GENERAL CONDITIONS, Article 7 - PROSECUTION AND PROGRESS, Section 7.10, OVERTIME AND NIGHT WORK and under specifications SECTION 01100 - PROJECT REQUIREMENTS.

SPECIFIER'S NOTE: For projects with subsurface investigations, reports, studies, boring logs, and other items that are not to be part of the Contract Documents; list these documents for the Contractor's information.

1.07 REPORTS, SITE AND SUBSURFACE INVESTIGATIONS, BORING LOGS

- A. The following reports, documents, and subsurface investigations are available for inspection at DAGS Public Works Division, [Branch, Room] [District Office]. These items are included for reference only and are not part of the contract documents.
 - 1. [Subsurface investigation and Boring Log report, dated _____ and prepared by _____.]
 - 2. [Weather Data Compilation, dated _____ and prepared by _____.]

SPECIFIER'S NOTE: If there are any Specific Project Requirements that modify or change the General Condition requirements or contractual relationships include in item 1.08 below. Other conditions should be located in SECTION 01100 - PROJECT REQUIREMENTS or SECTION 01500 - TEMPORARY FACILITIES AND CONTROLS. If there are no requirements, delete item.

For some projects, building, electrical and plumbing permits may not be required, therefore Contractor is not responsible to pay for or obtain the permits. Insert paragraph 1.08 B. only when deleting permit requirements. Modify paragraph for specific permits if applicable to the Project.

1.08 SPECIFIC PROJECT REQUIREMENTS

- A. Permits - [Building, Electrical and Plumbing permits] [Building permit] [Electrical permit] [Plumbing permit] <is> <are> not required for this project; therefore, the Contractor <is> <is not> responsible to pay for or obtain these permits.

1.09 COMPREHENSIVE ANNUAL FINANCIAL REPORTING

- A. For any project that involves work on multiple structures, including non-building structures, whether it be new work or renovation work, or when the project involves both site improvements and a structure, the Contractor shall provide the following information to the Contracting Officer for fixed asset allocation purposes:
 - 1. Within 30 calendar days of award as applicable to the project, the following shall be submitted:
 - a. The total cost of each individual structure;

- b. The total cost of on-site improvement work; and
 - c. The total cost of off-site improvement work.
2. After all work, including all change order work has been completed, and prior to a request for final payment, the following shall be submitted:
- a. The total cost of each individual structure including any related change order cost;
 - b. The total cost of on-site improvement work including any related change order cost; and
 - c. The total cost of off-site improvement work including any related change order cost.
3. The sum total cost of each category noted above shall total to the contract amount awarded, plus all change order work issued.
- a. The cost of each individual structure includes the cost of the structure and any work within five (5) feet of the structure or building line which may include, but is not limited to its foundation, foundation earthwork, and utility improvements within and immediately below the building line.
 - b. The on-site improvement cost includes all site improvement work from five (5) feet and beyond the building line and up to the project's property line, which may include but is not limited to clearing and grubbing, grading, drainage system, site utility, walkway, parking lot, and landscape improvements.
 - c. The off-site improvement cost includes all off-site improvement work outside the of the project's property line, which may include but is not limited to walkway, landscape, drainage, utility, and roadway improvements.

PART 2 - PRODUCTS (Not Used)

PART 3 – EXECUTION (Not Used)

END OF SECTION

QUESTIONS AND CLARIFICATIONS (WRITTEN REQUESTS ONLY)

PROJECT NAME: <Consultant to fill-in> _____
PROJECT TITLE: <Consultant to fill-in> _____
DAGS JOB NO.: <Consultant to fill-in> _____
PROJECT COORDINATOR: <Consultant to fill-in> _____

.....
BID OPENING DATE: _____ (This request must be received no less than
14 days prior to bid opening)

PERSON MAKING REQUEST: _____

COMPANY: _____

TELEPHONE NO.: _____ E-MAIL: _____

QUESTION OR CLARIFICATION (Be specific and list drawing/detail and specification section or paragraph that requires attention. Attach additional pages as necessary. FAX to (808) 586-0521 or deliver to the Public Works Administrator, Room 426, Kalanimoku Building, 1151 Punchbowl Street, Honolulu, Hawaii).