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**STATE OF HAWAII**  
**REQUEST FOR EXEMPTION FROM CHAPTER 103D, HRS**

TO: Chief Procurement Officer

STATE PROCUREMENT OFFICE  
STATE OF HAWAIIFROM: State Comptroller  
(Department/Division/Agency)

Pursuant to § 103D-102(b)(4), HRS, and Chapter 3-120, HAR, the Department requests a procurement exemption to purchase the following:

**Description of goods, services, or construction:**

Compensation of Maui Lani Partners (MLP), who is the Developer for the area surrounding the proposed Maui Lani Elementary School, for a portion of the Department of Education's (DOE) pro-rata share of costs of construction for off-site improvements relating to the School.

The off-site improvements involve the installation by MLP (and subsequent acceptance by the County of Maui) of traffic signal and other improvements as required by the County of Maui at the intersection of Kamehameha Avenue and Papa Street. The traffic at this intersection is anticipated to be partially impacted by the proposed Maui Lani Elementary School, which is currently in the design phase under DAGS Job No. 15-16-4434.

MLP is providing the land for the proposed school and is entering into various agreements with the DOE and DAGS. One of the agreements, titled "Maui Lani Offsite Agreement", (Attachment 1) specifies the portion of the DOE's pro rata share of off-site improvement costs to be paid to MLP. Per this agreement, DAGS (as the expending agency for the DOE) shall pay to MLP an amount equal to 75% of the cost of the aforementioned intersection improvements, up to a maximum of \$750,000.00.

(Note: The various agreements relating to the land transaction for the School site are being routed for final execution by MLP, DOE, DAGS, and the Department of the Attorney General)

<b>Name of Vendor:</b>	Maui Lani Partners	<b>Cost:</b> Maximum of \$750,000.00*
<b>Address:</b>	1100 Alakea Street, Suite 2200 Honolulu, HI 96813	*Cost shall be 75% of actual cost of intersection improvements, up to a maximum of \$750,000.00

<b>Term of Contract:</b>	<b>From:</b> **	<b>To:</b> **	<b>Prior Exemption Ref. No. (if applicable)</b>
**Payment is due to MLP within ninety (90) days of completion of the off-site improvements by MLP and acceptance by Maui County			

**Explanation describing how procurement by competitive means is either not practicable or not advantageous to the State:**

This request for exemption from Chapter 103D, HRS requirements is submitted to allow DAGS (as expending agency for the DOE) to execute a contract (or purchase order) and make payment(s) to MLP.

MLP is providing the land for the new Maui Lani Elementary School. Pursuant to the Education Contribution Agreement, which is one of the elements associated with the land transaction between MLP and the State, the DOE agreed to pay or cause payment to be made to MLP for a portion of the DOE's pro rata share of the cost of construction for the off-site improvements relating to the School.

Failure to execute a contract (or purchase order) with MLP would cause one of the conditions of the agreements to not be met, which could jeopardize the land transaction. This may also have an adverse effect on the DOE's targeted Maui Lani Elementary School opening of July 2006.

**Details of the process or procedure to be followed in selecting the vendor to ensure maximum fair and open competition as practicable:**

MLP is uniquely qualified for this project because of their involvement in the development of the Maui Lani subdivision(s), roads, infrastructure, etc. which surround/support the proposed Maui Lani Elementary School site.

**A description of the agency's internal controls and approval requirements for the exempted procurement:**

DAGS will continue to work with all relevant agencies, including the Department of Education and the Department of the Attorney General to review all documents before signature.

**A list of agency personnel, by position title, who will be involved in the approval process and administration of the contract:**

Russ K. Saito  
Comptroller, Department of Accounting and General Services

Ernest Y. W. Lau  
Public Works Administrator, Department of Accounting and General Services

Eric K. Nishimoto  
Branch Chief, Project Management Branch, Department of Accounting and General Services

Mark A. Yamabe  
Section Head, Project Management Branch, Department of Accounting and General Services

Tyler B. Fujiyama  
Project Coordinator, Project Management Branch, Department of Accounting and General Services

<b>Direct questions to:</b>	<b>Phone Number:</b>
Russ K. Saito Comptroller, Department of Accounting and General Services	(808) 586-0400

This exemption should be considered for list of exemptions attached to Chapter 3-120, HAR: Yes  No

**I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS, TO THE BEST OF MY KNOWLEDGE, TRUE AND CORRECT.**

Russ K. Saito 10/13/04  
Department Head or Designee Date

Comptroller, Department of Accounting and General Services  
Title (If other than Department Head)

Chief Procurement Officer's Comments:

Please ensure adherence to applicable administrative requirements.

APPROVED  DISAPPROVED

Adam J. F... 10/22/04  
Chief Procurement Officer Date

cc: Administrator,  
State Procurement Office