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STATE PROCUREMENT
STATE OF HAWAII

STATE PROCUREMENT OFFICE NOTICE OF AND REQUEST FOR EXEMPTION FROM CHAPTER 103D, HRS

- 1. TO: Chief Procurement Officer
- 2. FROM: DLNR, Division of Boating and Ocean Recreation, Engineering

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

3. Description of goods, services or construction:
 Construction of new wooden marginal wharf, including demolition work, wood decking, stringers, and railings, wood preservative treatment, rough carpentry, metal fabrication, cleats, environmental pollution controls, barricades, painting, all other incidentals, in place complete to replace the Makai portion of the existing wooden marginal wharf at the North Kawaihae Small Boat Harbor, Kawaihae, Island of Hawaii. The Mauka portion of the existing marginal wharf was contracted to Solutions Contracting, Inc. under DLNR Job No. B10XH70C, Repairs to Marginal Wharf Wharf at North Kawaihae Small Boat Harbor, Kawaihae, Hawaii.

4. Name of Vendor: Solution Contracting, Inc. Address: 68-1760 Laie Place Waikoloa, HI 96738	5. Price: \$131,000
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6. Term of Contract: From: Appr. Date To: 6/30/11	7. Prior Exemption Ref. No. 0
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8. Explanation describing how procurement by competitive means is either not practicable or not advantageous to the State:
 See Attachment

9. Details of the process or procedures to be followed in selecting the vendor to ensure maximum fair and open competition as practicable:
 See Attachment

10. A description of the agency's internal controls and approval requirements for the exempted procurement:
 See Attachment

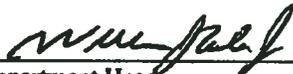
REQUEST FOR EXEMPTION FROM CHAPTER 103D, HRS (Cont.)

12 A list of agency personnel, by position, who will be involved in the approval process and administration of the contract:			
Name	Position	Involvement in Process	
Eric Yuasa	Boating Engineer	<input checked="" type="checkbox"/> Approval	<input checked="" type="checkbox"/> Administration
Dickey Lee	Branch Head, Engineerin Div.	<input checked="" type="checkbox"/> Approval	<input checked="" type="checkbox"/> Administration
Carty Chang	Chief Engineer, Engineering Div	<input checked="" type="checkbox"/> Approval	<input checked="" type="checkbox"/> Administration
Roger Masuoka	Section Head, Engineering Div.	<input checked="" type="checkbox"/> Approval	<input checked="" type="checkbox"/> Administration
Morris Ota	Inspector, Engineering Div.	<input type="checkbox"/> Approval	<input checked="" type="checkbox"/> Administration
		<input type="checkbox"/> Approval	<input type="checkbox"/> Administration

13 Direct inquiries to:	Department: Land and Natural Resources Contact Name: Eric Yuasa Phone Number: 587-0122 Fax Number: 587-1977
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Agency shall ensure adherence to applicable administrative and statutory requirements

14. I certify that the information provided above is, to the best of my knowledge, true and correct.


1/31/11

 Department Head Date

16 .Date Notice Posted <u>2/2/11</u>
The Chief Procurement Officer is in the process of reviewing this request for exemption from Chapter 103D, HRS. Submit written objections to this notice to issue an exemption from Chapter 103D, HRS, within seven calendar days or as otherwise allowed from the above posted date to: <p align="center"> Chief Procurement Officer State Procurement Office P.O. Box 119 Honolulu, Hawaii 96810-0119 </p>
Chief Procurement Officer's comments: <p>This approval is for the solicitation process only, HRS section 103D-310(c) and HAR section 3-122-112, shall apply and award is required to be posted on the Awards Reporting System.</p> <p>As a reminder, individual(s) participating in procurement activities are required to be in compliance with Procurement Delegation No. 2010-01 and Amendment 1, and Procurement Circular No. 2010-05, <i>Statewide Procurement Training</i>, as appropriate. As stated in Procurement Delegation No. 2010-01, Amendment 1, "... procurement requests submitted to the SPO from departmental personnel without written delegated procurement authority and the appropriate mandatory procurement training will be returned."</p>

18 **APPROVED** **DISAPPROVED** **NO ACTION REQUIRED**



 Chief Procurement Officer Date

SPO-07 Attachments for North Kawaihae Small Boat Harbor Marginal Wharf

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

It is not practicable or advantageous for the State to procure the demolition of the existing marginal wharf and construction of a new wooden marginal wharf to replace approximately 100 feet of the existing wooden marginal wharf (Makai portion) by competitive means because it would not be cost effective, expeditious and practicable to have two (2) different contractors working in the same area; and having to coordinate two (2) different projects.

The Division of Boating and Ocean Recreation (DOBOR) has determined that it is advantageous to contract Solution Contracting, Inc. herein referred to as the contractor by direct negotiations to demolish the existing marginal wharf and construct a new wooden marginal wharf to replace approximately 100 feet of the existing wooden marginal wharf (Makai portion). The existing wooden marginal wharf is approximately 200 feet long. The contractor has been contracted and is presently constructing a new wooden marginal wharf to replace the Mauka portion (first 100 feet) of the existing of marginal wharf.

The Makai portion of the existing marginal wharf was severely damaged in early January 2011 by severe storm surf and surge in the harbor. Recent inspections of damaged portions of the marginal wharf have revealed that the wooden stringers and wooden beams that support the decking are badly deteriorated and damaged. DOBOR personnel in consultation with the Engineering Division have determined that the wooden stringers and beams are damaged beyond repair and unable to support the new decking. Since the damaged decking can't be replaced, the Makai portion of the marginal wharf was determined to be unsafe and taken out of service. The contractor was contracted to remove the existing marginal wharf, as it was determined that the damaged marginal wharf posed an immediate danger to the public and vessels in the harbor. See the photos below taken on January 6, 2011.

Prior to January 2011, the Makai portion of the marginal wharf was functioning and provided mooring for three (3) commercial and recreational vessels. This portion of the marginal wharf was last inspected by the DOBOR Engineer on October 28, 2010 and found to be safe. See the photo below taken on October 28, 2010. Please note that the condition of the wooden stringers and beams were not evident during the last inspection because they were covered by the decking.

It is not practicable and feasible to delay the construction of the Makai portion of the marginal wharf project until the project could be repackaged, advertised and contracted, because the existing marginal wharf poses an immediate safety hazard to the public and boaters; and vessel mooring space is badly needed. The above process could take 8 to 12 months or longer if

the approval of new funding is delayed. Additional mooring space is needed for light draft vessels that are being displaced from the adjacent Deep Draft Harbor managed by the Department of Transportation (DOT). The management of these 23 light draft vessels moored in the Deep Draft Harbor was transferred from DOBOR to DOT at the end of 2010. DOT has indicated that they would be able to accommodate the commercial light draft vessels, however, they may be unable to accommodate the recreational light draft vessels.

The State would incur additional mobilization and demobilization costs if a second contractor is contracted to demolish the existing marginal wharf and to construct a new marginal wharf. Also, the second contractor would need to construct and/or purchase specialized equipment that are not normally needed for landside projects for this project. For example, the contractor has constructed a special floating platform that wraps around the existing steel pile and is designed to contain rust and debris generated during the cleaning of the steel pipe pile, removal and/or installation of the new steel brackets. See the photo below taken on October 28, 2010.

Approximately \$40,000 of the funding was saved in claims for the marginal wharf project. This funding could be used to fund a portion of the new marginal wharf if it is awarded to the contractor. If this request is disapproved the entire cost of the new marginal wharf would need to be funded by a new legislative appropriation or the Boating Special Fund, as the \$40,000 legislative appropriation lapsed on June 30, 2010, and will revert back to the State General Fund if not used by the contractor.

The contractor has the necessary skilled labor and specialized equipment, and expertise to construct the new marginal wharf. The contractor has demonstrated good workmanship and use of best management practices to minimize negative impacts to aquatic ecosystem during the construction of the Mauka portion of the marginal wharf.

The approval of this exemption will allow the State to construct the new marginal wharf in a timely manner. It will eliminate a potential public safety hazard and will provide vessel owners with an accessible, safe and fully functional docking facility.

Time is of the essence as the contractor is scheduled to complete work on the Mauka portion of the marginal wharf and demolition of the Makai portion of the marginal wharf in early February 2011.

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

The contractor, Solution Contracting, Inc. was selected by competitive sealed bids in accordance with HRS 103D for the construction of the Mauka portion of the marginal wharf. Their low bid of \$131,000 was nearly 35% less than the Engineer's Prebid cost estimate of \$200,000 and

\$19,875 less than the second lowest bidder (\$150,875). There were a total of eight (8) bids opened on May 20, 2010. The highest bid was \$522,130. See the attached Tabulation of Bids. The bidding climate has not significantly changed and it is highly unlikely that we would be able to get a lower price for the new marginal pier by competitive sealed bids. The negotiated cost of the Makai portion of the marginal wharf will be less than \$131,000.

The exact construction cost of the new marginal wharf can't be determined until the wooden beams are removed and the steel brackets connecting the beams to the steel pipe piles and concrete support blocks; and concrete support blocks are evaluated to determine if they can be reused. The contractor will include cost items to replace the steel brackets and concrete support blocks in their cost proposal, these items will be deleted if the existing steel brackets are reused.

The contractor will be required to provide the State with breakdown of all costs associated with the construction of the new marginal wharf. These costs will be evaluated by DOBOR and Engineering Division personnel.

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

Performance plans and specifications were prepared for the new marginal wharf (Mauka portion). The contractor will be required to comply with these plans and specifications for the construction of the new marginal wharf (Makai portion). The construction of the new marginal wharf will be monitored by our DOBOR and Engineering Division personnel. The contractor will be paid only upon acceptance of completed work.

North Kawaihae Small Boat Harbor Marginal Wharf Photos

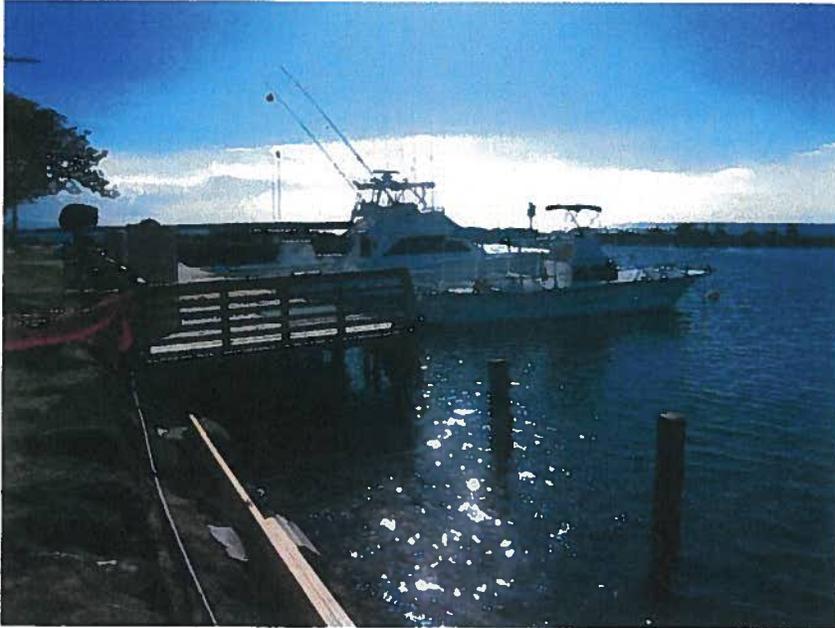


Photo of the Makai portion of the existing marginal wharf. Also, shown are the new inside wooden beam and existing outside piles that will support the new marginal wharf. Photo taken on 10-28-10.



Photo of the existing marginal wharf (Makai portion) that was damaged by severe ocean conditions. This portion of the marginal wharf was taken out of service because the dock was determined to be unsafe. Photo taken on 1-6-11.

North Kawaihae Small Boat Harbor Marginal Wharf Photos (Cont.)



Photo of existing marginal wharf damaged by severe ocean conditions. Photo taken on 1-6-11.



Photo of floating platform designed by the contractor to contain rust and debris generated during the cleaning of the steel pipe and removal and/or installation of the steel brackets. Photo taken on 10-28-10.

BULLETIN OF BIDS

State of Hawaii, Department of Land and Natural Resources
 Engineering Division

NR Project No.: **B10XH70C**

Est. Cost: \$200,000

Project: **Repairs to Marginal Wharf
 at North Kawaihae Small Boat Harbor**

Opening: **May 20, 2010**
 Oahu (Honolulu) and Hawaii (Kailua-Kona)

BIDDER / OFFEROR	BID BOND	TOTAL SUM BID
SOLUTION CONTRACTING, LLC	X	\$131,000.00
KONA KAU CONSTRUCTION SERVICES & SUPPLIES	X	\$150,875.00
SITE ENGINEERING INC.	X	\$163,900.00
PRO BUILDERS	X	\$177,725.00
SEA ENGINEERING, INC.	X	\$203,050.00
METZLER CONTRACTING	X	\$248,990.00
ISEMOTO CONTRACTING CO	X	\$284,314.74
JAS W GLOVER LTD	X	\$522,130.00

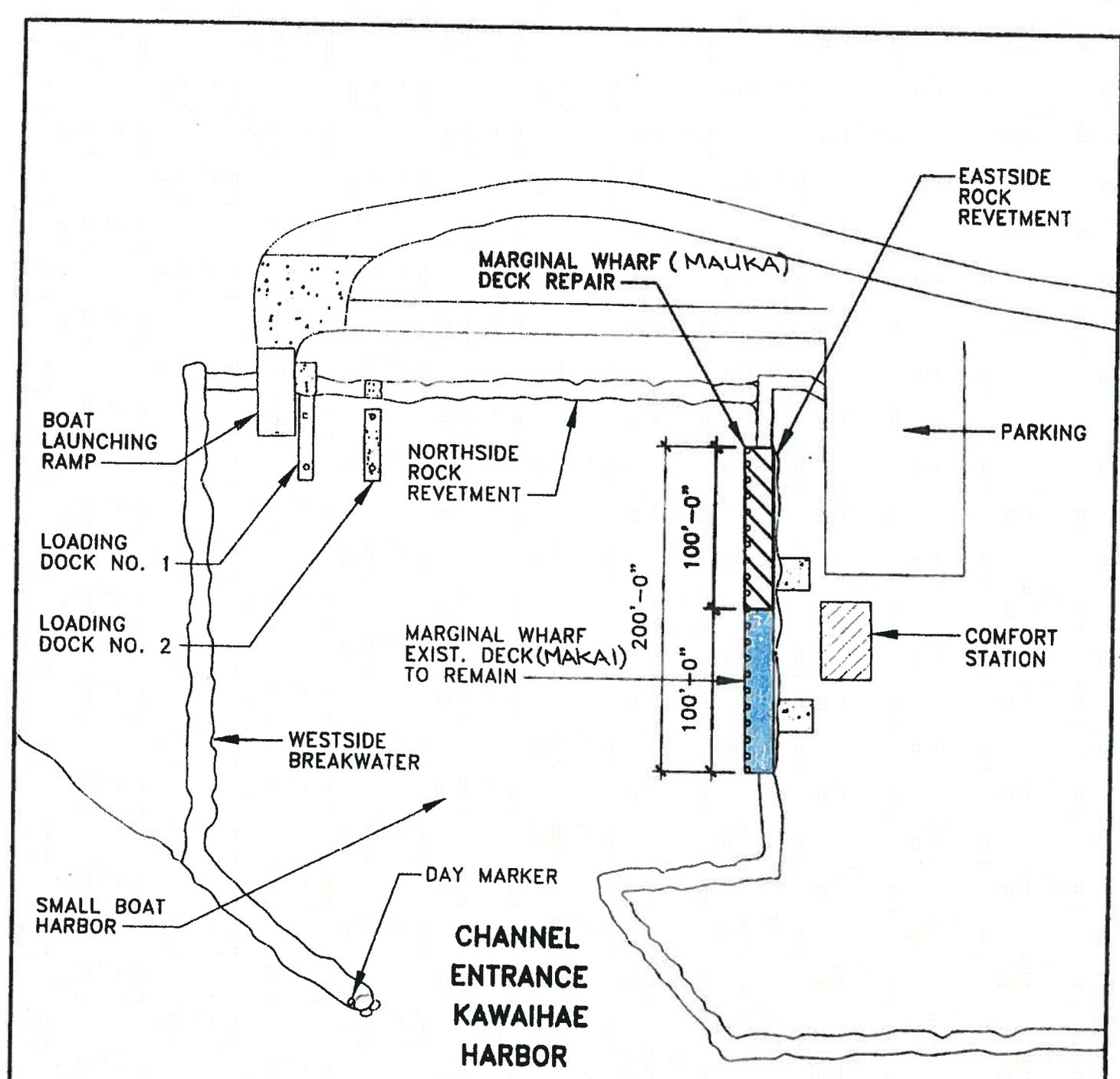
Bids Opened by: Gordon Chong Morris Ota

Order: Lisa Koishigawa Sally Geiger

Bids opened and read publicly at the following address(s):
 1151 Punchbowl Street, Room 221, Honolulu, HI 96813
 74-380 Kealahou Parkway, Kailua-Kona, Hawaii 96740

Lead Sub-Contractors for Solution Contracting, Inc.:

Welding & Steel Erection Land -n- Sea Welding, Inc.
 Painting Brush Pro LLC



PROJECT SITE PLAN
NOT TO SCALE

REPAIRS TO MARGINAL WHARF
AT NORTH KAWAIHAE SMALL BOAT HARBOR
KAWAIHAE, HAWAII

TMK: 6-1-03 : PORTIONS 23 & 45, 3RD DIVISION

