DEPARTMENT OF TRANSPORTATION

AIRPORTS DIVISION

LIABILITY AND INJURY INSURANCE

MINIMUM REQUIREMENTS

RFP No. EO1741-07

ATTACHMENT I

Department of Transportation
Airport Division
Liability and Injury Insurance
Minimum Requirements

RESPONSIBILITY FOR INJURY AND DAMAGE - The State, its elected officials, directors, officers, agents, employees, and any person acting for and on behalf of the Department shall not be held accountable in any manner for any actual or alleged loss or damage to the work or any part thereof, or for any of the materials and equipment used or employed in performing the work, or for any actual or alleged bodily injury (including death) or other personal injury to any person or persons, either workers or the public, or for any actual or alleged damage to property caused by the Contractor, a subcontractor or anyone working for the Contractor or a subcontractor. To the extent permitted by law, the Contractor shall be responsible for all liability for any actual or alleged bodily injury (including death) or other personal injury to any person or persons, either workers or the public, and/or for any actual or alleged damage to property from any cause whatsoever during the progress of the work or at any time before its completion and final acceptance. The Director shall not relieve the Contractor from any liability which may have accrued or may accrue as a result of the performance of the work by Contractor. The Contractor shall hold harmless, indemnify, defend, and insure the State, its elected officials, directors, officers, agents, employees, and any person acting for and on behalf of the Department from all claims, suits or other actions of every name, kind and description, brought for or on account of any injuries or damages actually or allegedly sustained by any persons or property caused by the Contractor, a subcontractor, their respective servants or agents, or by or on account of any act or omission of the Contractor, a subcontractor, or their respective servants or agents, regardless of whether such claims, suits, or actions are made or brought before or after the final acceptance of the work. In addition to any remedy authorized by law, the State may withhold payment of any money due to Contractor as shall be reasonable until disposition has been made of any claims, suits, or other actions for actual or alleged injuries or damages.

It is not the intention of the parties to this contract to make the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party hereto to maintain a suit for personal injuries or property damage based on a contract theory of liability.

NO PERSONAL LIABILITY - Neither the Director nor any elected official, director, officer, agent, employee, or other person acting for or on behalf of the Department shall be personally liable or personally responsible for any liability arising under the contract.

INSURANCE - Prior to commencing with the work, the Contractor shall, at its own expense, obtain and submit to the Department, in triplicate and in form and substance satisfactory to the Department, Certificates of Insurance issued by companies in good standing with the Insurance Division of the Department of Commerce and Consumer Affairs and authorized to transact insurance business in the State of Hawaii on an admitted or non-admitted basis, and of sound and adequate Financial Strength Rating and Financial Size Category all to the satisfaction of the Department, evidencing coverage for:

(a) Statutory Workers' Compensation and Employers' Liability: Statutory Limits for Workers' Compensation, not less than $1,000,000 for Employers' Liability with respect to Each Accident, Disease-Each Employee, and Disease-Policy Limit, or as otherwise required by applicable Federal and State Laws;

(b) Automobile Liability: Hawaii No-Fault Automobile Liability insurance, covering any auto (all owned, hired, and non-owned autos), with limits no lower than the following: (1) If operating outside of the restricted AOA of the Airport, then Combined Single Limits not less than $1,000,000 Each Accident (Bodily and Property Damage Combined); or

(c) (2) If entering and perating within the restricted AOA of the Airport, then Combined Single Limits not less than $5,000,000 Each Accident (Bodily Injury and Property Damage Combined), with the State of Hawaii and its elected officials, directors, officers, agents, employees named as Additional Insured;

(d) Commercial General Liability ("Occurrence Form"): Minimum limit of $1,000,000 Each Occurrence (Bodily Injury and Property Damage Combined), including Bodily Injury, Property Damage, Personal Injury, and Contractual Liability, with the State of Hawaii and its elected officials, directors, officers, agents, employees named as Additional Insured.

(e) (d) Professional Liability ("Claims Made" Form): Insurance appropriate to Contractor's profession, written on a "claims made" basis, with a limit of not less than $1,000,000 per claim and $2,000,000 in the aggregate, with the State of Hawaii and its elected officials, directors, officers, agents, employees named as Additional Insured. The retro date of the policy, if any, shall be prior to commencing with the work. This insurance or any replacement thereof shall be maintained during the term of this contract and for at least three consecutive years following the completion of the work, without any advancement of the aforementioned retro date, if any. Contractor shall submit annual written evidence of this coverage to the Department, including a copy of the claims reporting requirements contained within the policy.

All policies must provide that at least 30 days prior written notice of cancellation, non-renewal, or material change in coverage shall be given to the Department.

Except provided above, such insurance accepted by the Director shall remain unmodified throughout the entire term of the contract. Such insurance aforementioned shall cover the State for all work performed under the contract,

all work performed incidental thereto or directly or indirectly connected therewith, including other work performed outside of the work area, and all change orders.

Any delay in the submission and approval of insurance certificates shall not be justification of or grounds for a request by the Contractor postponing the issuance of a notice to proceed notwithstanding the fact that the Contractor shall not be allowed to proceed with the work until said certificates are submitted and approved.

Procurement of the aforementioned insurance or the delivery of policies or certificates evidencing the same shall not be construed as a limitation of Contractor's obligation to hold harmless, indemnify, defend, and insure the State, its elected officials, directors, officers, agents, employees, and any person acting for and on behalf of the Department.

Failure to obtain insurance in accordance with the Section, on the part of the Contractor, shall be considered a material breach of the contract; and should the State expend funds which would have been covered under the aforementioned insurance, the Contractor agrees to assume the liability for such funds and to indemnify and hold the State harmless.

WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY - From the beginning of the work until its final acceptance, the Contractor shall maintain statutory Workers' Compensation, and not less than $1,000,000 for Employers Liability with respect to Each Accident, Disease-Each Employee, and Disease-Policy Limit, or as otherwise required by applicable Federal and State laws, with respect to any workers directly or indirectly employed by the Contractor under this contract.