Job No. 27-03
Appendix D
Insurance

EXHIBIT D
INSURANCE REQUIREMENTS
BOARD OF WATER SUPPLY, COUNTY OF KAUA'I

Contractor shall procure and maintain, on primary basis and at its sole expense, at all times during the life of the contract insurance coverages, limits, including endorsements described herein against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work by the Contractor or the Contractor's agents, representatives, employees or subcontractors. The requirements contained herein, as well as the Department of Water, County of Kaua'i's (hereinafter "DOW") review or acceptance of insurance maintained by the Contractor is not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by the Contractor.

To the extent applicable, the amounts and types of insurance will conform to the minimum terms, conditions and coverage(s) of Insurance Service Office (ISO) policies, forms, and endorsements.

A. **General Conditions**

Waiver of Subrogation. Contractor shall agree by entering into a contract with the Board of Water Supply, County of Kaua'i (hereinafter "Board") to provide a Waiver of Subrogation for the Commercial General Liability, Automobile Liability, and Workers Compensation policies. When required by the insurer, or should a policy condition not permit Contractor to enter into a pre-loss agreement to waive subrogation without an endorsement, the Contractor shall agree to notify the insurer and request the policy be endorsed with a Waiver of Subrogation in favor of the Board. This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition specifically prohibiting such an endorsement, or voids coverage should Contractor enter into such an agreement on a pre-loss basis.

Additional Insured. Contractor shall agree to endorse the **BOARD OF WATER SUPPLY, COUNTY OF KAUA'I as an Additional Insured** with a CG026 Additional Insured – Designated Person or Organization endorsement, a copy of the applicable policy language, or similar endorsement to all required insurance policy(ies), except for Workers Compensation and Professional Liability.

Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the DOW. At the option of the DOW, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Board; or the Contractor shall provide a financial guarantee (audited financial statement) satisfactory to the Department guaranteeing payment of losses and related investigations, claim administration and defense expenses.

When a self-insured retention (SIR) or deductible exceeds $50,000, the Department reserves the right, but not the obligation, to review and request a copy of the Contractor's most recent annual report or audited financial statement.

Contractor's Responsibility. The Contractor is responsible for paying any portion of any loss not covered because of the operation of any deductible, co-insurance clause or self-insured retention applicable to the insurance required herein. If the Board is damaged by the failure of the Contractor to maintain insurance as required in this paragraph, then the Contractor shall bear all reasonable costs properly attributable to that failure.

Primary and Non-contributory. All policies required of the Contractor will be endorsed as primary and any insurance or self-insurance program maintained by the Board shall be non-contributory.

Certificate of Insurance. Concurrent with the execution of the contract, Contractor shall provide the Department a certificate of insurance completed by a duly authorized representative of their insurer certifying that the liability coverage(s) is written on an occurrence form. Immediately upon becoming aware that its insurance will be cancelled, non-renewed, or materially changed, Contractor will notify Department by providing written notice.

The Certificate Holder address shall read:

Board of Water Supply, County of Kauaʻi
4398 Pua Loke Street, Līhuʻe, HI 96766
Attention: Ryan Smith
Contract No.: TBD
Project Title: Job No. 27-03 Kōloa Well F Pump Replacement

Concurrent with the execution the contract the Contractor shall furnish the Department with original certificates and endorsements effecting required coverage(s). The Department reserves the right to require complete copies of all required insurance policies, including the policy declarations and endorsements affecting the coverage at any time.

Failure to secure and maintain the required insurance shall be considered as a material breach of the contract. Should the Board be forced to expend funds that would have been covered under the specified insurance, Contractor shall reimburse the Board for such funds. In the event the Board determines, in its sole and absolute discretion, that it is necessary to purchase the coverages herein required of the Contractor, and which the Contractor has failed to secure, the Contractor shall reimburse the Board for the expenditure of such funds.

Right to Revise or Reject. Department reserves the right, but not the obligation, to review and revise any insurance requirement, not limited to limits, coverages and endorsements based on insurance market conditions affecting the availability or affordability of coverage; or changes in the scope of work or specifications affecting the applicability of coverage. Additionally, the Department reserves the right, but not the obligation, to review and reject any insurance policies failing to meet the criteria stated

herein or any insurer providing coverage due to its poor financial condition or failure to operate legally.

B. **Minimum Insurance Coverage Requirements**

Unless otherwise approved by the Manager and Chief Engineer, the policy or policies of insurance maintained by the Contractor shall provide the following minimum limit(s) and coverage(s) as specified herein and be placed with an insurance carrier authorized to do business in the State of Hawai‘i and rated A-VII by A.M. Best:

☒ **Commercial General Liability.** The Contractor shall procure and maintain Commercial General Liability, with dedicated required limits, as set forth herein, written on occurrence form providing:

☐ Designated premises basis OR ☒ Per Project basis

The coverages shall include the following:

☒ Premises Operations
☒ Independent Contractors
☒ Products and Completed Operations
☒ Broad Form Property Damage including completed operations
☒ Blanket Contractual Liability
☒ Personal Injury
☒ Employees named as Additional Insured
☒ Severability of Interest
☐ Explosion, Collapse and Underground Property Damage

The minimum limits of liability may be satisfied by providing either:

Bodily Injury and Property Damage Combined Single Limit: • $2,000,000 per occurrence • $2,000,000 annual aggregate	**OR**	**Personal Injury:** • $1,000,000 per occurrence • $2,000,000 annual aggregate **AND** **Products and Completed Operations:** • $1,000,000 per occurrence • $2,000,000 annual aggregate

Contractor must provide evidence the Board is an Additional Insured for Products/Completed Operations coverage for both ongoing operations and after substantial completion of the work. This coverage may be provided by the ISO form CG

2010 (11 85) or an equivalent policy form. Coverage provided by a non-equivalent CGL form shall be specifically endorsed providing both the course of construction and products/completed operations. ISO CG 2010 (04 13) and ISO form CG 2037 (04 13) or an equivalent form is required from the Contractor. The Contractor and subcontractor(s), if any, shall provide evidence to the Department on an annual basis the products/completed operation coverage is in effect for two (2) years after substantial completion of the project.

☒ **Business Automobile Liability.** The Contractor shall procure and maintain Business Automobile Liability written on occurrence form for all Owned, Non-owned, and Hired automobiles. If the Contractor does not own automobiles, Contractor shall agree to maintain coverage for Hired & Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Automobile Liability. Coverage shall be for automobile contractual liability, uninsured and underinsured motorist coverage, basic no-fault, and personal injury protection, as required by Hawaii law with the following limits:

Bodily Injury

$1,000,000 per person
$1,000,000 per occurrence

Property Damage

$1,000,000 per accident

☒ **Workers' Compensation and Employer's Liability.** The Contractor shall procure and maintain at all times during the term of the contract the following insurance liability coverage: Workers' Compensation, Temporary Disability Insurance (TDI), and similar insurance that is required by the State of Hawaii or federal laws. Self-insurance is permitted subject to submission of a copy of the appropriate governmental authorization and qualification by the Contractor and subcontractor(s).

The minimum limits of liability to be maintained are as follows:

Coverage A: State of Hawaii Workers' Compensation Law:

Statutory Limits

Coverage B: Employer's Liability:

Bodily Injury from each accident	$1,000,000
Bodily Injury from disease	$1,000,000
Bodily Injury from disease aggregate	$1,000,000

☐ **Builder's Risk.** The Contractor shall procure and maintain an Inland Marine

Builder's Risk policy providing coverage to protect the interests of the Board, Contractor, sub-contractors, architects, and engineers, including property in transit and property on or off-premises, which shall become part of the building, or Project. Coverage shall be written on an **All Risk**, **Replacement Cost**, and **Completed Value Form** basis in an amount at least equal to 100% of the projected completed value of the Project as well as subsequent modifications of that sum, unless an agreed amount is otherwise stated between the Department and the Contractor. The policy shall insure all work, labor, and materials furnished by the Contractor and the Contractor's subcontractors against loss occasioned by fire, lighting, windstorm, theft, vandalism, malicious mischief, flood, earthquake, and collapse.

The amount of coverage for the perils of flood and earthquake may be subject to a sub-limit. The sub-limit shall provide coverage of at least 25% of the full replacement cost.

The policy shall also include coverage for debris removal and reasonable compensation for architect's and engineer's services and expenses required as a result of an insured loss. The Contractor shall endorse the policy with a manuscript endorsement eliminating the automatic termination of coverage in the event the building is occupied in whole or in part, or put to its intended use, or partially accepted by the Department. The manuscript endorsement shall amend the automatic termination clause to only terminate coverage if the policy expires, is cancelled, the Board's interest in the building ceases, or the building is accepted or insured by the Board.

The Contractor shall name the Board of Water Supply, County of Kauaʻi as a loss payee on the Builder's Risk policy.

☐ **Installation Floater.** The Contractor shall procure and maintain an Installation Floater policy providing coverage to protect the interests of the Board, Contractor, sub-contractor(s), architects, and engineers, including property in transit and property on or off-premises, which shall become part of the project.

Coverage shall be written on an All Risk, Replacement Cost, and Completed Value Form basis in an amount at least equal to 100% of the projected completed value of the Project as well as subsequent modifications of that sum, unless an agreed amount is otherwise stated between the Department and the Contractor. The policy shall insure all work, labor, and materials furnished by the Contractor and the Contractor's subcontractors against loss occasioned by fire, lighting, windstorm, theft, vandalism, malicious mischief, flood, earthquake, and collapse.

The amount of coverage for the perils of flood and earthquake may be subject to a sub-limit. The sub-limit shall provide coverage of at least 25% of the full replacement cost.

The policy shall also include coverage for debris removal and reasonable compensation for architect's and engineer's services and expenses required as a result of an insured loss. The Contractor shall endorse the policy with a manuscript endorsement eliminating the automatic termination of coverage in the event the building is occupied in whole or in

part, or put to its intended use, or partially accepted by the Department. The manuscript endorsement shall amend the automatic termination clause to only terminate coverage if the policy expires, is cancelled, the Board's interest in the building ceases, or the building is accepted or insured by the Board.

The Contractor shall name the Board of Water Supply, County of Kauai as a loss payee on the Installation Floater policy.

☐ **Professional Liability (Errors and Omissions).** The Contractor and its subcontractors shall procure and maintain Professional Liability Insurance (Errors and Omissions Insurance) that covers all such activities under the contract. Such insurance shall have these minimum limits and coverage(s):

$1,000,000 per occurrence
$2,000,000 annual aggregate

For policies written on a "Claims-Made" basis, Contractor warrants the retroactive date equals or precedes the effective date of the contract. In the event the policy is canceled, non- renewed, switched to an Occurrence Form, retroactive date advanced; or any other event triggering the right to purchase a Supplemental Extended Reporting Period (SERP) during the life of the contract, Contractor shall agree to purchase Supplement Extended Reporting Period (SERP) with a minimum reporting period not less than two (2) years. The requirement to purchase a SERP shall not relieve Contractor of the obligation to provide replacement coverage.

☐ **Pollution Legal Liability.** The Contractor shall procure and maintain Pollution Liability or similar Environmental Impairment Liability at a minimum limit not less than:

$1,000,000 per occurrence
$2,000,000 annual aggregate

The policy shall provide coverage for damages against, but not limited to, third-party liability, clean-up, corrective action including assessment, remediation and defense costs.

☐ **Contractor's Pollution Liability.** Contractor shall procure and maintain pollution liability insurance when the Scope of Work involves removal, abatement, encapsulation or other treatment, disposal or remediation of asbestos or other hazardous materials or an exposure to pollutants or impairment of the environment. The policy shall provide coverage for third party liability, clean-up, and corrective action including assessment remediation and defense costs. The policy may be written on either an occurrence form or claims made. The minimum limits of liability shall be:

$1,000,000 per occurrence
$2,000,000 annual aggregate

☐ **Crime Insurance or Commercial Fidelity Bond.** Contractor shall procure and

maintain Commercial Crime Insurance or Fidelity Bond providing Employee Dishonesty on a blanket basis covering all of the Contractor's employees with a minimum amount of insurance at least equal to the amount of the contract. The policy shall be endorsed to cover "Third-Party Liability" including a third-party beneficiary clause in favor of the Board. The policy shall include a minimum twelve (12) month "Discovery Period" when written on a Loss Sustained basis.

☐ **Property.** The Tenant or Lessee, shall agree to maintain property insurance including flood and windstorm written on a replacement cost basis in an amount not less than 100% of the replacement cost of the building(s) and contents, including betterments and improvements made by the Tenant or Lessee, located on the premises. Contractor shall agree to be fully responsible for any deductible or self-insured retention, and to provide this coverage on primary basis.

Umbrella or Excess Liability. Contractor may satisfy the minimum liability limits required above under an Umbrella or Excess Liability policy with $1,000,000 per occurrence and $2,000,000 aggregate. If Contractor is using its Umbrella or Excess Liability Insurance policy to satisfy the minimum requirements, Contractor shall agree to endorse the Board of Water Supply, County of Kaua'i as "Additional Insured" on the Umbrella or Excess Liability policy, or shall confirm in writing that its Umbrella or Excess Liability policy "follows form."