

**RFP No.: RFP-11-HHL-003**



REQUEST FOR PROPOSALS

## **Single-Family Homes**

at

## **Various Maui Subdivisions**

Requesting Agency  
State of Hawaii

### **Department of Hawaiian Home Lands**

91-5420 Kapolei Parkway  
Kapolei, Hawaii 96707

**RFP No.: RFP-11-HHL-003**

**May, 2011**

*NOTE: Interested Offerors may complete the Request for Proposals (RFP) Sign-In Sheet (included with this solicitation) and fax, mail or email to the Project Manager. All bid Addenda will be issued on the Department of Hawaiian Home Lands (DHHL) website. Therefore, all interested Offerors should check the website from now through bid opening. It is the sole responsibility of the interested Offeror to be knowledgeable of all addenda related to this procurement. The DHHL shall not be responsible for any missing addenda, attachments or other information regarding this RFP if an offer is submitted from an incomplete RFP.*

**NOTICE TO DEVELOPERS  
REQUEST FOR PROPOSALS**

**RFP NO.: RFP-11-HHL-003**

SEALED PROPOSALS for RFP No.: RFP-11-HHL-003, **SINGLE-FAMILY HOMES AT VARIOUS MAUI SUBDIVISIONS**, will be received by the Department of Hawaiian Home Lands (DHHL), at Hale Kalaniana'ole, 91-5420 Kapolei Parkway, Kapolei, Hawaii 96707, until 2:00 p.m., Hawaii Standard Time (H.S.T.) July 15, 2011.

Sealed Proposals received after the time fixed for opening or delivered anywhere other than as specified above will not be considered and returned, subject to any addenda issued.

This project consists of designing, financing, constructing and marketing twenty four (24) single-family homes in various Hawaiian Home Lands subdivisions in Maui, including but not limited to Kula Residence Lots Unit 1 and Waiehu Kou Residence Lots, Phase 3. Offeror is responsible to determine the site work requirements and may request subsidies from DHHL.

To be eligible to submit a proposal, the Offeror and its subcontractors must possess all required valid State of Hawaii licenses and specialty licenses needed to perform the work for this project. A surety bid bond shall be required for this RFP.

This project is subject to Section 103D, Hawaii Revised Statutes, and to the payment of not less than the prevailing salaries and wages promulgated by the State of Hawaii, Department of Labor and Industrial Relations.

RFP documents may be examined at or obtained from DHHL at:

Department of Hawaiian Home Lands Web site:  
<http://hawaii.gov/dhhl/procurement>

There is no fee assessment to download the RFP documents from the DHHL Web site. **It is the responsibility of Interested Offerors to monitor the DHHL Web site for any addenda issued by DHHL.**

A PRE-PROPOSAL CONFERENCE will be held at 10:00 a.m., H.S.T, on June 9, 2011, at the Paukukalo Community Center, 655 Kaunualii Street, Wailuku, Maui, Hawaii 96793, for a briefing on this RFP and its requirements. There will also be on-site visits to the various subdivisions and lots for house construction following the PRE-PROPOSAL CONFERENCE.

All potential interested offerors, subcontractors and union representatives are invited to attend. Attendance is not

mandatory. Persons needing special accommodations due to a disability may submit such requests to Mr. Stewart Matsunaga, Land Development Division, via facsimile at (808) 620-9299.

A written NOTICE OF INTENTION TO SUBMIT AN OFFER is required and must be received by DHHL, Land Development Division, at 91-5420 Kapolei Parkway, Kapolei, Hawaii 96707, no later than ten (10) calendar days prior to the time advertised for the SUBMITTAL OF OFFERS. Submittal of a NOTICE OF INTENTION TO SUBMIT AN OFFER via facsimile at (808) 620-9299 is acceptable. NOTICE OF INTENTION TO SUBMIT AN OFFER must be received no later than 2:00 p.m., July 5, 2011.

A properly executed and notarized STANDARD QUALIFICATION QUESTIONNAIRE FOR OFFERORS, SPO Form-21 ("Questionnaire"), must be submitted to the DHHL for evaluation no later than ten (10) calendar days prior to the time advertised for the submittal of offers. The Questionnaire can be downloaded at the State Procurement Office website: [www.spo.hawaii.gov](http://www.spo.hawaii.gov), under Forms for Vendors/ Contractors/Service Providers.

Offers must comply with the requirements of this RFP. Offers that do not comply with the RFP may be subject to disqualification. DHHL reserves the right to amend this RFP by written addenda, to reject any and all offers, or to waive any defects in said offers where DHHL deems it is in the best interest of the State.

Questions regarding RFP No.: RFP-11-HHL-003, shall be in writing and be directed to Mr. Stewart Matsunaga, Land Development Division, DHHL, 91-5420 Kapolei Parkway, Kapolei, Hawaii 96707 or via facsimile at (808) 620-9299.

Dated at Honolulu, Hawaii, this 26th day of May, 2011.

DEPARTMENT OF HAWAIIAN HOME LANDS

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Albert "Alapaki" Nahale-a, Chairman  
Hawaiian Homes Commission

Advertised - DHHL Website: May 26, 2011. Internet Posting at [www.spo.hawaii.gov](http://www.spo.hawaii.gov)

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**EXHIBITS**

- Exhibit 1: RFP Process Flowchart
- Exhibit 1.1 Notice of Intention to Submit an Offer
- Exhibit 2: Proposal Checklist and Proposal Forms
- Exhibit 3: Developer's Application and Qualification Form
- Exhibit 4: Available Lots for Turnkey
- Exhibit 5: Tax Map Keys Kula Residence Lots Unit 1
- Exhibit 6: Tax Map Keys Waiehu Kou Phase 3
- Exhibit 7: File Plan 2321 Kula Residence Lots Unit 1
- Exhibit 8: File Plan 2392 Waiehu Kou Phase 3
- Exhibit 9: Grading and Drainage Plans
- Exhibit 10: Residential Telecommunications and Inside Wiring Specification
- Exhibit 11: DHHL Market Data
- Exhibit 15: Sample Development Agreement
- Exhibit 16: Green Building
- Exhibit 17: Undivided Interest Awards, HOAP, & NAHASDA Programs
- Exhibit 18: Lessee, Undivided Interest, & Lot Selection Process
- Exhibit 19: HUD Fiscal Year 2010 Area Median Income
- Exhibit 20: Sample Project Labor Agreement
- Exhibit 21: Master Agreement Covering Carpenters in the State .  
of Hawaii
- Exhibit 22: Master Agreement Covering Drywall, Acoustical  
Workers and Lathers in the State of Hawaii
- Exhibit 24: Sample Interim Lenders Agreement
- Exhibit 25: Waiehu Kou 3 Declarations of Covenants Conditions &  
Restrictions (DCC&R's)
- Exhibit 26: General Conditions (Rev. 4/15/09) and DHHL Interim  
General Conditions, dated 8/16/2005  
Amendments to DHHL Interim General Conditions  
(Supplemental Special Conditions), dated 2/17/2011.  
Insurance Requirements
- Exhibit 27: Surety Bid Proposal Bond Form

# 1 Proposal Submittal

## 1.1 PROPOSAL DUE DATE

A written Notice of Intention to Submit an Offer is required and must be received on the date shown in the Notice to Developers. The form "Notice of Intention to Submit an Offer" is included as Exhibit 1.1.

The Proposals are due by 2:00 p.m. on the dates shown for "Proposals Due" in Section 1.2.

Proposals must be delivered by that date and time to the Reception Desk of the DHHL Main Office at 91-5420 Kapolei Parkway, Kapolei, Hawaii 96707. All proposals received by the deadline will be held unopened. Late Proposals shall not be considered and shall be returned to the Offeror unopened. The official time shall be that which is recorded on the DHHL Main Office time stamp clock. The Offeror shall be responsible to ensure that the time stamp is applied to its offering envelope. These conditions apply regardless of whether a Proposal is mailed or hand-delivered.

Proposals shall be placed in a sealed envelope or container marked with the name and address of the Offeror, the project name, and the proposal's due date and time. Exhibits, renderings, large charts, etc., need not be sealed but must be boxed or wrapped, clearly marked and presented with the sealed Proposal.

An Offeror may modify or withdraw their proposal prior to the established proposal due date in writing to the contact person. The modifications or withdrawal may be mailed, hand-delivered or transmitted by facsimile machine. Modifications or withdrawals must be accompanied by a duly executed certificate of resolution authorizing the signer to modify or withdraw the proposal.

Any modification received after the due date and time shall not be considered and shall be returned to the Offeror with a letter explaining the reason(s) for its return. The official time for receipt of a modification shall be that which is recorded by the DHHL time stamp clock. The Offeror is responsible to be sure the time stamp is applied to its modifications or withdrawal.

**1.2 SIGNIFICANT DATES**

Publication of RFP	May 26, 2011
Deadline for DHHL to receive Written Inquiries to be answered at Pre-Proposal Conference Time:           2:00 p.m. Submit to:   Hale Kalanianaʻole 91-5420 Kapolei Parkway Kapolei, Hawaii 96707	June 6, 2011
Pre-Proposal Conference Time:           10:00 a.m. Location:   Paukukalo Community Center 655 Kaumualii Street, Wailuku, Maui, Hawaii	June 9, 2011
Site Inspection Time:           Immediately following Pre-Proposal Conference Location:   Waiehu Kou Phase 3 then Kula Residence Lots Unit 1	June 9, 2011
Final Deadline for Written Inquiries	June 27, 2011
Response to Written Inquiries mailed	July 1, 2011
Standard Qualification Questionnaire Time:           2:00 p.m. Location:   Hale Kalanianaʻole 91-5420 Kapolei Parkway Kapolei, Hawaii 96707	July 5, 2011
Notice of Intention to Submit an Offer Time:           2:00 p.m. Location:   Hale Kalanianaʻole 91-5420 Kapolei Parkway Kapolei, Hawaii 96707	July 5, 2011
Proposals Due Time:           2:00 p.m.	July 15, 2011



Location: Hale Kalanianaʻole 91-5420 Kapolei Parkway Kapolei, Hawaii 96707	
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Issuing Office and Contact Person

### 1.3

This RFP is issued by the Department of Hawaiian Home Lands. The Department's Issuing Officer's name, address, telephone number, and facsimile number are as follows:

Albert "Alapaki" Nahale-a, Chairman	Mailing Address:
Department of Hawaiian Home Lands	P. O. Box 1879
91-5420 Kapolei Parkway	Honolulu, Hawaii
Kapolei, Hawaii 96707	96805
(808) 620-9501	
(808) 620-9529 (facsimile)	

All communications with DHHL during the Proposal and Evaluation phases by the Offeror, their officers, employees, consultants, and agents shall be directed to the Department's Contact Person, whose name, address, telephone number, and facsimile number are as follows:

Stewart Matsunaga	Mailing Address:
Project Manager	P. O. Box 1879
Department of Hawaiian Home Lands	Honolulu, Hawaii
91-5420 Kapolei Parkway	96805
Kapolei, Hawaii 96707	
(808) 620-9283; (808) 620-9299 (facsimile)	
Email: <a href="mailto:stewart.t.matsunaga@hawaii.gov">stewart.t.matsunaga@hawaii.gov</a>	

Please note that copies of documents transmitted by Offerors via facsimile machines shall be limited to Notification of Intention to Submit an Offer, written inquiries, confirmation of receipt of addenda, and to the modification or withdrawal of an offer.

## 2 DEFINITIONS

Addendum - A written document which may be issued by the Chairman during the solicitation period establishing changes to the request for proposals.

Hawaii Administrative Rules (HAR) - Hawaii Administrative Rules for the Hawaiian Homes Commission Act and Chapter 103-D of the Hawaii Revised Statutes as amended. Title 10, Title 3, Subtitle 11.

Advertisement - A public announcement inviting proposals for work to be performed or materials to be furnished.

Area Median Income (AMI) - the median income for a County as defined by HUD, and as adjusted for family size.

Chairman - Chairman of the Hawaiian Homes Commission. The Chairman also serves as the Director of the Department of Hawaiian Home Lands.

Commission - The Hawaiian Homes Commission (HHC).

Contact Person - The person designated by the Department to receive various communications in writing to the Department in conjunction with the project.

Contractor - The entity or person retained by the Developer to design, finance, market and construct the residential dwellings.

Department of Hawaiian Home Lands (DHHL or Department) - A public body responsible for administering the day-to-day operations of the Hawaiian Homes Commission Act of 1920, as amended.

Developer - The entity or person retained by the Department through this Development Agreement to design, finance, market and construct the residential dwellings.

Development Agreement - The binding agreement between DHHL and the selected Developer that contains the details of responsibilities and commitments of both parties for the completion of the Keokea-Waiohuli Development Phase 1 project.

Developer-Built Homes - A development process in which the Developer and/or contractor obtains a construction loan, designs, builds the homes, markets, and then conveys the finished homes to beneficiary families who desire and can afford that particular model.

FHA - The Federal Housing Administration

Green Built - Contractor must propose houses to be built using various products, methods and technologies to conserve natural resources and reduce waste per the "User Guide for Home Builder Checklist" (Building Industry Association of Hawaii & Department of Business, Economic Development and Tourism, June 2006 and revisions) and the "Hawaii Built Green - Home Builders Self-Certification Checklist", June 2006 Program Version 1.4b (061306) and revisions.

Hawaiian Home Lands Trust Fund - The trust fund created by Act 14, Special Session Laws of Hawaii, 1995, which established a trust fund within the State Treasury to which all specified appropriations from the State legislature shall be deposited therein.

Hawaiian Homes Commission Act of 1920, as amended (HHCA) - The Act of July 9, 1921, c 42, 42 Stat. 108, which is now part of the Hawaii State Constitution, and is subject to amendment or repeal as prescribed in Article XII of the Hawaii State Constitution.

Housing Ownership Assistance Program (HOAP) - The Department's program that partners with various non-profit organizations to provide lessees with homebuyer education, financial literacy training, one-on-one credit counseling, and other services to financially prepare beneficiaries for home ownership.

Inspector - The person assigned to make detailed inspections of contract performance and services supplied.

Laws - All Federal, State, County laws, ordinances, rules and regulations including any amendments thereto effective as of the date of the solicitation for sealed proposals.

The Native American Housing Assistance and Self Determination Act of 1996 (NAHASDA) - A program of block grant assistance to

Native Hawaiians administered by HUD, which targets families whose incomes do not exceed 80% of the Area Media Income.

Native Hawaiian - Defined as any descendant of not less than one-half (50%) part of the blood races inhabiting the Hawaiian Islands previous to 1778.

Offeror - Any individual, partnership, corporation, joint venture, or other legal entity submitting a proposal in response to this RFP.

Off-site Infrastructure - Physical facilities and improvements located outside the boundary of the lots within the Project, which provide access and support to the Project. Such physical facilities and improvements include, but are not limited to, roads and main lines for water, electricity, drainage, telephone, and cable television.

On-Site Infrastructure - Physical facilities and improvements located within the boundaries of each of the lots in the Project, including, but not limited to, clearing and grubbing, mass grading of the property to building pad sub-grade elevation, and lines for water, electricity, drainage, telephone, and cable television.

Project - The homes and other improvements being developed pursuant to this RFP (i.e., houses that the Developer builds), as described in Sections 3 "Objectives and Project Overview" and includes the furnishing of all professional services, labor, materials, equipment and other incidentals necessary for the successful completion of the homes on the selected lots, and the execution of all the duties and obligations imposed by the Development Agreement.

Proposal - A document submitted by an Offeror in the prescribed manner to develop the project in response to this RFP.

Responsible Managerial Employee (RME) - The individual who is designated by the Developer to be responsible for all work of the Project and is authorized by the Developer to receive and fulfill instructions and notices from the Department.

Selection Committee - A committee consisting of a maximum of four (4) persons, appointed by the Chairman, which will evaluate

proposals and recommend the Selected Developer for this Project to the Chairman for approval.

Selected Developer - The Offeror(s) selected by the Selection Committee and approved by the Chairman.

State - The State of Hawaii acting through its authorized representative.

Subcontractor - An individual, partnership, firm, corporation, joint venture or other legal entity, as covered in Chapter 444, Hawaii Revised Statutes, which enters into an agreement with the Developer to perform a portion of the work for the Developer.

Surety - The qualified individual, firm or corporation other than the Developer, which executes a bond for the benefit of the Developer and the Department to insure acceptable performance of the Development Agreement.

Undivided Interest (UI) Program - A Program that provides an award to Hawaiian Home Lands native Hawaiian applicants with a 99-year lease for a large parcel of land that is not subdivided. There are no financial pre-qualification requirements for the awardees/lessees. The large piece of property is subsequently subdivided and developed in phases. During the Development period, lessees work toward qualifying for their home mortgage loans, while having the rights and benefits under the homestead lease. Upon meeting the requirements for home ownership or lot ownership, undivided interest leases are amended to articulate the legal terms for an individual lease.

United States Department of Housing and Urban Development (HUD) - a public body whose mission it is to increase homeownership, support community development and increase access to affordable housing free from discrimination.

### 3 OBJECTIVES AND PROJECT OVERVIEW

#### 3.1 DHHL PROJECT OBJECTIVES

This Request for Proposals (RFP) is being issued by the Department of Hawaiian Home Lands ("DHHL") to solicit proposals from interested housing developers who meet the qualifications described herein to design, finance, build, and market twenty four (24) single-family homes in the various Hawaiian Home Lands subdivisions on Maui, including Kula Residence Lots, Unit 1 and Waiehu Kou Residence Lots, Phase 3.

The Department of Hawaiian Home Lands may increase the number of single-family homes to build and may include other subdivisions on Maui.

Proposals shall take into consideration DHHL's overall objectives for this Project, which are summarized as follows:

- 1) To achieve a creative balance between affordable prices, quality design and construction and low cost of ownership of single-family homes for Undivided Interest (UI) lessees.
- 2) To develop single-family houses that respond to the opportunities and constraints of the site and respect and harmonize with adjacent land uses, which may include agricultural, cultural, preservation and residential uses.
- 3) To utilize planning and design standards and concepts that will foster a sense of community interaction and identity, in line with existing subdivision Kanawai, and/or Declaration of Covenants, Conditions and Restrictions, as applicable.
- 4) To incorporate "Green Build" technologies and materials.

Offeror's proposals should include developer-built homes to fulfill the needs and financial capabilities of the lessees as shown in the DHHL Market data provided in this RFP in Exhibit 11.

The Offeror shall provide at least four (4) house models, a two-bedroom plan, a three-bedroom plan, a four-bedroom plan, and a

five bedroom plan with outline specifications. The Offeror shall propose base house prices that may be subject to negotiation. Homes to be constructed in unsewered subdivisions shall include individual wastewater systems. Offeror may also propose various upgrades and options with the base models.

Offeror shall submit on a per lot basis, proposed costs for grading improvements that meet HUD-FHA guidelines for lot drainage, embankment and allowed driveway slope.

The Offeror shall submit a proposal security equivalent to no less than 5% of the highest house cost, multiplied by the total number of homes being proposed, plus the installation of wastewater systems, the costs of lot grading, and other certain improvements required for the lots. Security Bid Proposal Bond Form is attached as Exhibit 27.

#### Green Build Features

The Department supports the use of green building practices to minimize environmental impact, maximize the quality of homes and reduce the cost of home ownership. Offeror shall include in the proposal a green building approach to meet or exceed these objectives.

Solar water heating systems will be required for each house. The Offeror shall indicate how any tax credits and rebates will be implemented. Please refer to Section 4.3.13 and Exhibit 16 for other specific requirements, preferred approaches, and resources to support residential green building in Hawaii.

#### Homeownership Assistance Program (HOAP)

The market population for this home building program is comprised of 320 Waiohuli Undivided Interest lessees. DHHL created the Home Ownership Assistance Program (HOAP) to assist these Undivided Interest Lessees by providing financial literacy training and addressing credit and savings issues needed for them to financially qualify for a home loan.

Developers shall consider the financial capability of this Waiohuli Undivided Interest population when proposing its home building program. Proposed house prices offered shall reflect the financial capabilities of these 320 Undivided Interest Lessees, as shown on the most recent DHHL/HOAP data provided

with this RFP. Please note that this information is dated and the DHHL is not responsible for changes in the data.

### Marketing

The selected Developer will be responsible for marketing the homes to a group of approximately 320 native Hawaiian lessees who hold Undivided Interest leases with the Department.

DHHL has contracted a marketing consultant, James Kometani, Inc., Realtor, to survey the Lessee's housing needs and to provide a general assessment of their borrowing capabilities. These analyses were based on the Lessee's income and debt only, with the Lessee's tax returns, pay stubs, bank statements, and monthly recurring charges. No credit histories or bank prequalification letters were obtained for their study(s). The selected Developer shall develop their proposed house construction program with consideration of the market data provided in this RFP.

The data in this market study is provided for informational purposes only, and represents a one-time snapshot of unverified financial information. Therefore, DHHL is not liable for any errors contained in the data, or any changes that may have occurred over time. Regardless of whether an Offeror decides to use James Kometani, Inc. or any other marketing entity, their proposal and house pricing shall include marketing, sales, closing and escrow services. The contract amount for this portion will be negotiated with the selected Developer based on services to be provided.

### DHHL Assistance

Offeror may request DHHL assistance in their proposal. Funds from the Native American Housing and Self Determination Act of 1996 (NAHASDA) may also be available for Lessees who qualify under the NAHASDA family income requirements of being at or below 80% of the area median income. Offeror may request through its proposal lot development costs for extraordinary grading (cuts and fills), drainage and other utilities.



## 3.2 Project Overview

Kula Residence Lots, Unit 1,

The Kula Residence Lots, Unit 1 is a 321-unit residential subdivision having half-acre minimum lot size. File Plan 2321 is attached as Exhibit 7. This subdivision is unsewered and individual wastewater systems must be approved by the Department of Health. Water source fees are paid by DHHL. Overhead electrical and underground telecommunication system is constructed.

Waiehu Kou Residence Lots, Phase 3 is a 118-unit residential lot subdivision having a minimum lot size of 7,000 square feet. File Plan 2392 is attached as Exhibit 8. This subdivision is sewerred and water facility fees have been paid by the Department. Overhead electrical and underground telecommunication system is constructed.

Other residential lots within the subdivisions listed above, as well as other Maui subdivisions may be added for house construction. Conversely, lots provided in this RFP may be withdrawn if site development costs render lots unfeasible to build.

Offerors are required to submit a minimum of 4 models as described in the Project Objectives. Offerors may opt to provide more models than the required minimum. Offerors may opt to provide separate models for Waiehu Kou 3 lots, given its lot size and DCCRs. Offerors may conduct their own market study and are not obligated to use the data in Exhibit 11. The Department shall not be held liable for any dated information.

The Lessees have been working with HOAP representatives, DHHL's marketing consultant, and lenders to assess their financial situations and prepare them for home ownership. Additional information on DHHL's UI and HOAP programs may be found in Exhibit 17 of this RFP. The homes in this project shall be marketed and sold to these Undivided Interest Lessees who are financially qualified. A list of the Undivided Interest Lessees shall be provided to the selected Developer.

The start of house construction is projected for the 4<sup>th</sup> quarter of 2011. The number and distribution of models will be based on the selection of models to be offered to the list of Waiohuli

Undivided Interest lessees. The Offeror shall indicate in its Offer how long prices will be held, and provide an escalation schedule.

The intent of this RFP is to solicit proposals for the design, financing, construction, and marketing twenty four (24) single-family turnkey homes in the various subdivisions identified above. Offerors are not guaranteed sales of a minimum, nor maximum number of types of models proposed.

### **3.3 LOTS AVAILABLE FOR TURNKEY**

The list of available lots within the subdivisions are provided in Exhibit 4.

## **4 PROPOSAL REQUIREMENTS**

### **4.1 MINIMUM QUALIFICATIONS FOR OFFERORS**

At the time the proposal is submitted:

- 1) A principal member of the Offeror's company must have at least five (5) years of residential housing design and development experience in the State of Hawaii; and
- 2) The Offeror shall name the Responsible Managerial Employee (RME) who will be responsible for day-to-day operations and oversight throughout the design and construction of the Project. The RME shall have had substantial responsibility, or been materially involved in the development of at least three (3) separate residential housing projects with at least one project consisting of **thirty (30)** or more units in the State of Hawaii; and
- 3) The Offeror shall provide evidence of credit worthiness and financial resources to complete the design and construction of the Project lien-free;
- 4) The Offeror must be authorized to do business in the State of Hawaii and have all licenses necessary to carry out the housing design and construction of the Project. All persons and entities to be used on the design and construction shall possess all required professional and other licenses issued by the State of Hawaii including, but not limited to, architects, engineers, contractors, subcontractors, lenders, and others; and

- 5) At the time the Offeror submits their proposal, and executes the Development Agreement, the Offeror must provide a State and Federal Tax Clearance Certificate, DCCA certificate of good standing, and DLIR certificate of compliance, as described in Section 4.3.3.
- 6) At the time the Offeror submits a proposal, the Offeror shall not be in default or have failed to perform under any contract, agreement, development or design-build agreement, or lease with the State of Hawaii, and not have any outstanding judgments;
- 7) At the time the Offeror submits a proposal, the Offeror shall submit a letter of interest from a lending institution that expresses interest in providing construction financing for the Project.
- 8) The Offeror shall provide with their proposal, two (2) of its most recent audited annual financial statements or a statement of financial net worth.

New entities without a financial history need to provide proof of their viability, with experience and financial capabilities. They must include in their proposal, (1) a letter or certificate from a bonding company to show they are "bondable," (2) a letter or certificate from a lending institution to show they can get financing, and (3) resumes of the individuals that are part of the new entity to show a history of reliable, quality work.

- 9) Native Hawaiian developers are encouraged to participate in this Project and shall provide verification as to its qualification as a "native Hawaiian" developer.

#### **4.2 DEVELOPER'S APPLICATION AND QUALIFICATION**

The Offeror shall submit to DHHL information about their development team, as shown in the "Developer's Application and Qualification Form" attached hereto as Exhibit 3, and include documentation to support the statements made therein.

New entities do not need to be formed when the proposal is submitted. However, Offeror shall provide qualification information on all principal and major entities who will be involved in the project implementation. A single-purpose Limited Liability Company shall be acceptable as the development entity.

All financial information submitted to the Department will become the Department's property. The Offeror authorizes the Department to obtain credit information as part of the evaluation process.

DHHL understands that certain financial information may be sensitive and proprietary. It is the Offeror's responsibility to identify those documents they wish to keep confidential and restricted from public review. Confidential information need not be bound with the other parts of the proposal, but must be clearly marked. It will be DHHL's responsibility to review such requests and make the final judgment based on the Office of Information Practices regulations. No aspect of the proposals shall be made public until the Development Agreement is signed by the parties.

### **4.3 OFFERORS' PROPOSALS**

#### **4.3.1 GENERAL REQUIREMENTS FOR SUBMITTING PROPOSALS**

- A) Proposal shall include a completed Contractor's Application and Qualification Form as shown in Exhibit #3, which includes the provisions of names, positions, and resumes of all the Contractor's staff that will be directly involved in the administration and coordination of the project. The form should also list all contractors and subcontractors to be used in the Project.
- B) Proposals must provide the information listed in the Checklist provided as Exhibit 2.
- C) Proposal must include a current Tax Clearance form, DCCA Certificate of Good Standing, and a DLIR labor certificate or a current Certificate of Vendor Compliance from Hawaii Compliance Express, as provided below in Section 4.3.3.
- D) Proposals shall describe the time and the manner in which the Offeror proposes to construct the houses in summary and schedule form. Summary form should provide a written description of the construction/production method that homes will be built and a list of projects (name, # of units) where the contractor used this method in Hawaii within the last 5 years. Proposal shall be consistent with the form identified as Exhibit 2 in this RFP.

- E) Proposals shall include a budget pro forma showing DHHL funds and developer funds.
- F) Proposals shall provide a matrix showing model type, sales price, bedrooms, bathrooms, square footage of the living area, and square footage of the entire house.
- G) Proposal shall include outline specifications cut sheets and other details regarding upgrades and options.
- H) Proposal shall include a bid security as described in Section 4.3.8 (below).

#### **4.3.2 PREVAILING WAGE RATES**

For all proposals, Offerors shall assume that State of Hawaii "prevailing wage rate" shall apply throughout the entire development. Should Federal grants, loans, or other Federal financial assistance be available for this Project, then Federal labor provisions will apply.

#### **4.3.3 COMPLIANCE WITH ACT 216 OF THE 2004 LEGISLATIVE SESSION**

Pursuant to Act 216, all Offerors shall submit the following with their proposal:

- 1) a valid State and Federal tax clearance,
- 2) Department of Commerce and Consumer Affairs (DCCA) certificate of good standing, and
- 3) Department of Labor and Industrial Relations (DLIR) certificate of compliance.

Original certificates, certified copies, Compliance Express certifications will be accepted. Failure to submit the required certificates will be sufficient grounds for the Department to refuse to consider the prospective Offeror's proposal.

#### **4.3.4 GENERAL EXCISE TAX (GET)**

This project qualifies as an affordable housing project. Therefore, applicable project costs will be exempt from State General Excise Tax, subject to approval. Offeror's proposal shall include General Excise Tax. If the selected Developer's GET exemption application (Department of Taxation Form G-37) is

approved, the Developer's GET amounts will be removed from, or reallocated within the Development Agreement.

#### **4.3.5 Financing Plan**

Offerors shall provide a financing plan for the construction of the homes identified in this RFP, including a "Letter of Interest" from a bank or other financial institution regarding construction financing.

Offerors shall use the "Submittal Checklist and Proposal Form," attached as Exhibit 2 to provide information on their financing proposal, proposed budgets, proposed prices and feasibility analysis for the Project. Include information on grants, tax credits, or other non-conventional sources of funds. The Financial Plan should also note any specific application deadlines that must be met.

#### **4.3.6 FEASIBILITY ANALYSIS**

Offeror shall provide estimates of costs and financing for the project. Offerors shall be required to provide a letter of interest from a lending institution to finance the Project.

#### **4.3.7 CONDITIONS**

Offeror shall provide a list of any conditions associated with the proposal to develop and manage the project.

#### **4.3.8 BID SECURITY**

A bid security equivalent to no less than five percent (5%) of the highest house cost, multiplied by the total number of homes being proposed, plus the installation of wastewater systems, the cost of lot grading, and other certain on-site improvements that may be required on the lots. The project is exempt from general excise tax, and therefore should not be factored in the bid security.

Offeror may submit the required amount of the offer guaranty in any of the following forms:

1. Legal tender;
2. Surety bid bond; or,

3. Certificate of deposit, share certificate, cashier's check, treasurer's check, teller's check, or official check drawn by, or certified check accepted by a bank, savings institution or credit union insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

If the surety bond is selected, Offeror's bond shall be in the form attached as Exhibit 27.

If any of the forms of deposit listed in 3 above is submitted, each instrument shall not exceed \$100,000. If the required amount of the offer guaranty is over \$100,000, more than one instrument of \$100,000 or less by different financial institutions shall be acceptable.

Certificate of deposit or share certificate submitted as an offer guaranty shall be: (1) in the name of Offeror's company; (2) for the sum of the offer guaranty amount, plus the savings, institutions' maximum penalty for early withdrawal; and (3) assigned to the Chief Election Officer, at the time of the offer submittal. Offerors may obtain an assignment form from the State Procurement Office. Failure to include the maximum penalty for early withdrawal and/or failure to do the assignment shall result in the Offeror's offer being rejected.

#### **4.3.9 CERTIFICATION**

Offeror shall certify their understanding of and agreement with procedures for submittal of proposals and developer selection.

#### **4.3.10 HOUSING CONSTRUCTION GUIDELINES**

HUD guidelines shall be followed in the construction of the homes. Waiehu Kou 3 DCC&R's, attached as Exhibit 25, and Design Guidelines shall also be adhered to with respect to that project site.

#### **4.3.11 SPECIAL DESIGN FEATURES**

Slopes, soils, and drainage conditions may require special design elements, particularly in the Kula Residence Lots, Unit 1 subdivision. Drainage and soils information is available at the

Department; however, this information is dated. Offerors are responsible to conduct its own site inspection and due diligence and conduct any studies at Offerors expense

Offerors shall also include conduits and junction box for future installation of an electrical outlet suitable for charging electric vehicles. Offerors shall include telecommunication systems in accordance with Sandwich Isles Communication specifications, provided in Exhibit 10.

#### 4.3.12 SPECIFIC GUIDELINES – DEVELOPMENT PROPOSAL

- A) Offeror's shall submit their Developer's Application and Qualification Form (Exhibit 3).
- B) House Plans and Models- Offerors shall submit as a minimum, one (1) model type of a two-bedroom, three-bedroom, four-bedroom and five-bedroom home
- C) House Prices- The house prices shall be for the base model including an 18 feet long driveway. **Lot grading**, extended driveways, septic tank and leach field, drainage facilities, and **retaining walls**, if needed, shall be listed separately

Offerors shall hold their proposed house prices from the time of the execution of the contract up through the start of house construction and until the last house is completed and accepted by DHHL and the last buyer.

- D) Site costs will include extraordinary grading, drainage improvements and grade adjustment features. Site work should be itemized in the Offeror's proposal for evaluating purposes.

Grading and Drainage Plans and Costs for Each Lot-  
Offerors shall be responsible to price the grading of each lot specific to the house pad and/or designs, and will not be required to grade the entire lot. Offerors shall also be responsible to ascertain drainage requirements, and shall consider that drainage must flow to a drainage collection system by way of flowage easements, cut-off ditches, swales, detention features etc, and not impact adjacent house lots or those located further downstream.



Offeror will be responsible to ascertain the subsurface condition of each lot in unsewered subdivisions to determine the costs for individual wastewater systems and its associated leaching feature.

- D) Schematic Site Plans and model availability for each of the lots:
  - a. placement of houses on the lots;
  - b. driveways and walkways;
  - c. location of septic tank and leaching feature;
  - d. drainage features; and
  - e. finish grading, including any retaining walls, if needed.
- E) Proposed drawings and plans should be printed on standard size sheets (24"x36").
- F) Wastewater disposal- Offerors shall price septic systems for the Kula Residence Lots, Unit 1 project, assuming all rock. Actual payments to selected Developer shall be subject to verification of soil substrate on a per lot basis. The Waiehu Kou Phase 3 subdivision has active sewer lines, and therefore do not require septic systems. Sewer facility charges are the responsibility of DHHL
- G) Schedule- Offerors shall consider the start of construction to take place by the first quarter of 2012. Offerors may provide a schedule showing any price escalation beyond the proposed Notice to Proceed date. Offeror shall provide any conditions and exclusions as it relates to its pricing and scheduling. The schedule for the RFP is subject to change and may be subject to a Best and Final offer process.
- H) Financing plan to construct houses, including a "Letter of Interest" from a bank or other financial institution regarding possible construction financing. Proposed financing plans for construction shall specify the following:

- a) The source and cost of construction financing as supported by lending institutions licensed to do business within the State of Hawaii;
  - b) Terms and conditions of other government financing assistance needed or required.
  - c) A variety of financing programs may be considered as creative financial tools. State and Maui County Affordable housing credits and in-lieu fees may be used as financing tools. The proposed treatment of any "affordable housing credits" should be addressed in Exhibit 2: RFP Submittal Checklist and Proposal Form, Section H-Conditions of the proposal form.
- I) The development proposal shall include a budget for and description of other project construction elements that the Offeror will be responsible for, including:
- A typical Plot Plan
  - Utilities hook-ups
  - Driveways, retaining walls
  - On-site drainage features
- Telecommunications specifications are contained in Exhibit 8.
- J) Lenders- The Developer shall organize a team of lenders, and may establish a project lead lender, notwithstanding the Lessee's right to use any lender of their choosing. One or more lenders should be able to provide conventional loans, HUD's FHA insured loans, and HUD 184A loans that are offered specifically to native peoples. Master Appraisal Reports are no longer acceptable for HUD-FHA loan programs and fee for appraisals shall be included in mortgage loan costs.
- K) Provide a summary for a marketing program. Unless conditioned in the Offerors proposal, all models shall be constructable on all lots. DHHL will assist the

Developer with conducting the prequalification process, and orientation and lot selection meetings

#### **4.3.13 SPECIFIC GUIDELINES – GREEN BUILDING PROPOSAL**

##### Built Green Checklist

DHHL has identified a minimum “one star” rating using the Hawaii BuiltGreen Self Certification Checklist (or the demonstrated equivalent) as the desired baseline standard for all developer-built homes. Pursuant to the Home Builder Self-Certification checklist, naturally ventilated homes must earn a minimum of 35 points, while air-conditioned homes must earn a minimum 45 points. Offerors shall submit a completed Hawaii BuiltGreen Checklist that shows proposed measures to be included in all developer-built homes to achieve or exceed this goal. Developers must comply with the Maui County Code for insulation requirements. Any alternative building systems must also comply with County of Maui building code.

##### Solar Water Heating and Photovoltaic Systems

Solar water heating systems are required for all homes. The Offeror shall describe how State and/or Federal tax credits and installation rebates, if any, for solar water heating and photovoltaic systems will be provided to the homebuyer.

##### Built Green Narrative

Offerors shall also submit a brief (not to exceed one page) narrative justification for the green building approach and a separate, brief narrative on how the design will promote building orientation-related benefits. Please read Exhibit 16 “Green Building” for more information on Hawaii BuiltGreen; a list of preferred strategies; resources that support residential green building in Hawaii, and a copy of the Hawaii BuiltGreen Checklist.

#### **4.4 MODIFICATION OR WITHDRAWAL OF PROPOSALS**

Offerors may modify or withdraw their proposal prior to the established due date by submitting the following documents to the Department’s contact person:

- 1) Modification of Proposals

- A) A written notice accompanying the actual modification stating that a modification to the proposal is submitted; or,
  - B) A written notice accompanying the actual modification by facsimile machine pursuant to section 3-122-9, HAR.
- 2) Withdrawal of Proposals
- A) A written notice to withdraw their proposal(s); or
  - B) A notice by facsimile machine pursuant to section 3-122-9, HAR.

Any notice of modification received after the established due date will not be accepted and shall be returned to the Offeror unopened with a letter explaining the reason(s) for its return. The official time shall be that recorded on the DHHL time stamp clock. These conditions apply regardless of whether a modification is mailed, hand-delivered, or received by facsimile machine.

An Offeror may withdraw their proposal, by written request, at any time before the due date for proposals. Negligence on the part of the Offeror in preparing their proposal confers no right of withdrawal or modification of the proposal after such proposal has been opened.

#### **4.5 DISPOSITION OF PROPOSALS**

All proposals become the property of the Department and will be retained in the project file maintained by the Department. The successful proposal will be incorporated into the Development Agreement by reference.

#### **4.6 DISQUALIFICATION OF OFFERORS**

Any one or more of the following causes will be considered as sufficient for the disqualification of an Offeror and the rejection of their proposal or proposals:

- 1) Non-compliance with Subsection 4.3.3 "Compliance with Act 216"
- 2) Evidence of collusion among Offerors.

- 3) More than one proposal for the same work from an individual, firm, partnership, corporation or joint venture under the same or different name.
- 4) Delivery of proposals after the deadline specified in the advertisement calling for proposals.
- 5) Debarment or suspension pursuant to Section 103D-702, Hawaii Revised Statutes.

*(Remainder of this page is intentionally left blank)*

## 5 REQUEST FOR PROPOSAL (RFP) PROCESS

### 5.1 RFP PROCEDURES AND DEVELOPMENT PROCESS

The design and construction of the Project may be facilitated through DHHL's exercise of the powers granted to it under the HHCA and Title 10, Chapters 1-6.1, Hawaii Administrative Rules HAR). The procedure for developing the Project may be generally described as follows:

- 1) Notice to Developers - A Notice to Developers will be posted on the State of Hawaii Procurement web site, and the Department of Hawaiian Homes (DHHL) website. Interested developers may obtain the RFP document from DHHL website free of charge.
- 2) Pre-Proposal Conference - DHHL will hold a Pre-Proposal conference and site inspection to inform all interested developers about various Project details. For additional information, see Section 5.2.1 "Pre-Proposal Conference" and Section 5.2.2 "Site Inspection."
- 3) Proposals shall be submitted to DHHL no later than the date and time set forth in section 1.2. Proposals shall provide plans for the houses/lots and other information as set forth in Exhibit 2, including general financing plan, proof of bonding capacity, and a "Letter of Interest" from a bank or other financial institution. Offerors should submit five (5) copies of their proposal to DHHL for evaluation.
- 4) Opening of Proposals - After the deadline for receipt of the proposals, the proposals shall not be opened publicly but shall be opened in the presence of two or more procurement officers. The Department will prepare a register of the proposals received. For additional information, see Section 5.3.1 "Register of Proposals Received."
- 5) Notice to Offerors - All proposals shall be initially classified as acceptable, potentially acceptable or unacceptable. DHHL will review each proposal and determine, no later than ten (10) days after the date set forth for submittals, the Offeror(s) who meet the criteria for selection, and shall then provide all Offerors with a Notice of Qualification/Disqualification, within seven (7)

working days of such determination. During this period, Offeror(s) may be required to submit additional information.

- 6) Priority List of Proposals - The Evaluation Committee will rank each proposal and list them accordingly. If there is a tie, or if two or more proposals are scored very closely together by the Evaluation Committee, an invitation may be issued to the respective Offerors to submit "Best and Final" offers. Alternately, if one proposal is clearly superior to all others, DHHL may elect to proceed directly to the selection of a developer. The Department will establish a date and time for the best and final offer if the date in Section 1.2 is no longer applicable. For additional information, see Section 5.3.3 "Best and Final Offer."
- 7) The Offerors must follow the format set forth in the "Submittal Checklist and Proposal Forms" and "Developer's Application and Qualification Form," as Exhibits 2 and 3, respectively. Completed Proposals in response to this RFP must be submitted no later than the date and time set forth in Section 1.2.
- 8) Selection of Developer - The Evaluation Committee shall evaluate the qualified proposals and make its recommendation to the Chairman who makes the final selection of a developer.
- 9) Chairman's Approval and Authorization to Execute Development Agreement - After a developer and the developer's proposal have been selected by the Chairman, DHHL will issue a "Notice of Developer Selection" and will work with the selected Developer to resolve a final Development Agreement. For additional information, see Section 5.3.4 "Chairman's Approval and Authorization to Execute Development Agreement."
- 10) Project Approvals - After entering into a fully executed Development Agreement contract, certification of any funds and receipt of a "Notice to Proceed" from DHHL, the selected Developer shall proceed forthwith with the design and construction of the Project, including completion of the construction plans and specifications, and securing required approvals from various government agencies or departments having jurisdiction over the Project.

- 11) Construction Financing Requirements -The selected Developer shall secure interim construction financing for the Project.
- 12) Construction - The selected Developer shall begin construction after lot selection and designation of model types. During construction of the Project, the selected Developer will provide DHHL and other inspectors access to inspect the sitework and houses that are being constructed.

## **5.2 PROPOSAL PREPARATION**

### **5.2.1 PRE-PROPOSAL CONFERENCE**

A Pre-Proposal Conference will take place at the date, time, and place specified in Section 1.2. Offerors may submit written inquiries to be answered at the Pre-Proposal Conference by the date specified in Section 1.2 under "Deadline for DHHL to receive Written Inquiries to be answered at Pre-Proposal Conference." These inquiries, and new oral questions as time permits, will be answered at the Pre-Proposal conference. Spontaneous answers to these oral questions will be provided by DHHL; however, Offerors are informed that responses to the oral questions will not be binding on DHHL.

If an Offeror wishes to receive a formal answer to oral questions arising from discussions at the Pre-Proposal Conference, the Offeror must submit such questions to the Contact Person by the Final Deadline for Written Inquiries as specified in Section 1.2. All official responses will be provided in writing and included with the Response to Offerors' Written inquiries by the deadline specified in Section 1.2.

### **5.2.2 SITE INSPECTION (VARIOUS SITES)**

Immediately following the Pre-Proposal Conference, the Offeror may inspect the sites of the Kula Residence Lots, Unit 1 and, Waiehu Kou Phase 3. Offerors shall carefully examine the sites in connection with the proposal requirements and any documents or items referenced therein. The submission of a proposal constitutes an acknowledgment by the Offeror of the conditions at the site, or as they may eventually be found to exist and unconditionally warrants and represents that the proposal can and will be performed under such conditions. The removal of



unknown hazardous material, if any, or accommodating any unknown archaeological features will be considered extra work.

### **5.2.3 WRITTEN INQUIRIES**

Written inquiries concerning this RFP shall be submitted to the Contact Person at the Contact Person's address no later than 2:00 p.m. by the date specified in Section 1.2.

Written inquiries must be received by the Contact Person by those dates, not simply postmarked. Written inquiries must state the page, paragraph, and line or sentence of the RFP to which the question relates.

Written inquiries not received by the deadline for "Written Inquiries to be answered at the Informational Conference" will not be included in the Informational Conference, but will be addressed in DHHL's other written responses.

All written inquiries received by the final deadline for Written Inquiries specified in Section 1.2 shall receive a written response that shall be issued as an addendum to the RFP.

### **5.2.4 ADDENDA**

The terms and requirements of this Request for Proposal cannot be changed prior to the date for receipt of proposals except by a duly issued written addendum which shall be posted on the DHHL website. Offerors are responsible for monitoring the DHHL website for any addendum(s) issued prior to the due date for proposals. No addenda shall be posted no less than eight (8) calendar days before the date of receipt of proposals.

## **5.3 RFP PROCESS ADDITIONAL DETAILS**

### **5.3.1 REGISTER OF PROPOSALS RECEIVED**

A register of proposals will be prepared after the deadline for receipt of proposals has passed. The register will include:

- 1) The name of the Offeror;
- 2) The number of modifications received, if any; and
- 3) A description sufficient to identify the design and construction services offered.

The register will not be open to public inspection until after the Development Agreement is executed. Proposals shall be open to public inspection after the Development Agreement is signed by all parties.

An Offeror may request in writing any non-disclosure of designated trade secrets, personal information or property data. The data shall accompany the proposal, be clearly marked and be readily separable from the proposal to facilitate eventual public inspection of the non-confidential part of the proposal.

### **5.3.2 PRIORITY LIST OF PROPOSALS**

DHHL will review all proposals and come up with a priority list of proposals based on the evaluations of the Evaluation Committee. The Evaluation Committee may select two or more Offerors to submit a "Best and Final Offer". Offerors must use the "Submittal Checklist and Proposal Form," (attached as Exhibit 2 to provide information on their financing proposal, proposed budgets, proposed prices and feasibility analysis for the Project. Include information on grants, tax credits, or other non-conventional sources of funds.

Offerors may be required to submit additional information to:

- 1) Promote better understanding of the Offeror's proposal,
- 2) Promote understanding of the Department's requirements and the priority listing of Offerors, and,
- 3) Facilitate arriving at a Development Agreement that will be most advantageous to the Department

The Department will establish procedures and schedules for conducting discussions and shall make a record of the date, time and place of the meeting and those in attendance.

Proposals may be accepted for evaluation without any discussion.

All Offerors will be accorded fair and equal treatment with respect to any opportunity for discussions and revisions of the proposal.

- Any substantial oral clarification of a proposal shall be documented in writing by the Offeror.
- If during discussions there is a need for any substantial clarification or change in the RFP, the Department shall issue an addendum to only the priority listed Offerors who shall then be invited to submit new proposals or amend their proposal already submitted.

The content of any proposal shall not be disclosed or made available to other Offerors during the discussion or negotiation process.

A proposal may be withdrawn in writing at any time without obligation to any party before best and final offers are received.

### **5.3.3 BEST AND FINAL OFFER**

Best and final offers will be received on the date stated in Section 1.2., or as provided in writing by DHHL. The following provisions shall be applied to best and final offers:

- A) No discussion of or change in the best and final offer shall be allowed prior to the award.
- B) After best and final offers are received, the priority listed proposals, any modifications, addenda and the best and final offers shall be reviewed by the Evaluation Committee, which may make comments and recommendations. The comments and recommendations, if any, shall be submitted to the Chairman, who shall select the Developer or make appropriate comments or direct action.
- C) A proposal may not be withdrawn after the best and final offer has been submitted. The Chairman shall have one hundred twenty (120) days from the date of the best and final offer to make his selection.

DHHL will select a preferred Developer and will engage in final negotiations in order to set forth the details of a Development Agreement. If during these negotiations the designs or prices of the homes should change significantly from the preferred Developer's original proposal, DHHL shall have the right to cancel further negotiations and to enter into negotiations with the Offeror that received the next highest evaluation score.

#### **5.3.4 CHAIRMAN'S APPROVAL AND AUTHORIZATION TO EXECUTE DEVELOPMENT AGREEMENT**

- 1) The selected Developer and DHHL will negotiate, develop, and refine the architectural plans, construction specifications, project schedule, financing plans, etc., to a level where project design and construction costs can be identified and agreed to.
- 2) Substantial deviation from the original proposal or substantial increase in cost and schedule as initially submitted by the selected Developer at the proposal stage may result in rejection of the amended proposal, as determined by the Chairman.
- 3) DHHL and the selected Developer shall negotiate the terms and conditions of a Development Agreement.

#### **5.3.5 SUPPORTING DOCUMENTATION**

Offerors wishing to examine available documents in preparation of their proposal may do so by making an appointment with the Contact Person for viewing at DHHL, 91-5420 Kapolei Parkway, Kapolei, Hawaii 96707, during normal business hours (7:45 a.m. to 4:30 p.m.), Monday through Friday.

The following documents concerning DHHL are on file and are available for review, upon request:

- o Hawaiian Homes Commission Act of 1920, as amended.
- o Title 10, Department of Hawaiian Home Lands, Hawaii Administrative Rules.

The following documents for the various sites are available, upon request:

- o As-Built construction plans for Kula Residence Lots, Unit 1.
- o As-Built construction plans for Waiehu Kou Phase 3.

## 5.4 Evaluation and Selection Procedures for Proposals

### 5.4.1 EVALUATION AND SELECTION PROCEDURES

The "Evaluation and Selection Procedures" sets forth the process by which the selection is made from among the proposals received through this RFP initiated by DHHL. The Procedures provide both general parameters and specific requirements. It is the intent of the Procedures to provide the fairest method for the selection of the best proposal in the interest of DHHL.

The Chairman will consider a proposal based on the recommendation from the Evaluation Committee. The Evaluation Committee shall be responsible for determining the most responsive proposal and for making a recommendation for selection of a developer to the Chairman.

The Procedures outlined herein will be applied as a guide in all cases where one or more proposals are submitted for consideration.

### 5.4.2 REVIEW AND ACCEPTANCE OF PROPOSALS

Sealed proposals must comply with the RFP, and must be submitted to DHHL within the time set forth in the foregoing "Notice to Developers." Proposals that have been submitted in accordance with the Notice to Developers will be reviewed in the following manner:

- Each proposal that is submitted will be time-stamped on the day and time it is received.
- Each proposal that is submitted in a timely manner will be reviewed for compliance with this RFP. Those proposals that do not comply with the requirements of the RFP will be rejected from further consideration. A Notice of Disqualification shall be sent to those Offerors whose proposals are disqualified.
- Qualified proposals will be evaluated by the Evaluation Committee and rated based on the proposal information furnished by the Offeror.
- The evaluation Committee may request additional information from the Offerors and may enter into discussions with priority-listed Offerors. These

discussions are intended to answer any questions the Selection Committee may have regarding the proposals and correct any deficiencies noted. If discussions occur, DHHL may request a best and final offer from one or more Offerors, after which DHHL would complete the comparative evaluation of the proposals.

#### 5.4.3 Evaluation Committee

Proposals submitted in response to this RFP shall be evaluated by an Evaluation Committee established by the Chairman, including Department staff with experience in planning and/or development. Any Evaluation Committee member who finds themselves in a conflict of interest, as defined by the rules of the Ethics Commission, shall be immediately replaced.

*(Remainder of this page intentionally left blank)*

**5.4.4 EVALUATION CRITERIA FOR PROPOSALS.**

Proposal Evaluations will be based on the following point distribution.

Criteria Description		Points
1.	Offeror's qualifications, experience, financial strength, creativity, and track record in house construction projects of a similar nature.	30
2.	Proposed housing product types, costs and proposed prices.	30
3.	Amount of DHHL funds required for lot improvements/grading	10
4.	Proposed housing designs/outline specifications, compatibility with the adjacent community, and overall design theme.	5
5.	Proposed financing plan, commitments from lenders/ investors for interim financing, subsidy proposal, or other low-cost financing programs to reduce the cost of the units to lessees.	15
6.	Proposed project schedule.	5
7.	Effectiveness of proposed green building approach in meeting project objectives	5
8.	Unusual or unacceptable terms and conditions (potential penalty of up to 10 points)*	
<b>TOTAL POSSIBLE POINTS</b>		<b>100</b>

\*Examples of unusual or unacceptable terms and conditions would include, but not be limited to, illegal or unlawful acts, house designs that are not in compliance with the County of Maui building code, or conditions contrary to the purposes of the Hawaiian Homes Commission Act of 1920.

## 5.5 Final Development Proposal and Development Agreement

Evaluation of proposals and selection of a developer occurs independently of developers and their proposals for previous projects. The selected Developer's proposal becomes public after the execution of a Development Agreement.

The proposal that is selected will be subject to a "pre-development phase," wherein further discussion, negotiation, and revision, will take place as may be required. The selected Developer will be subject to further requirements, some of which are described in this RFP under Section 6.3, "Additional Guidelines for the Selected Developer."

Should DHHL and selected Developer fail to reach an agreement in the "pre-development phase," DHHL further reserves the right to cancel negotiations with the selected Developer and enter into a "pre-development phase" with the next highest rated Offeror or cancel this RFP and reject any and all proposals when it is in the best interest of the DHHL, regardless of circumstances.

The purposes of the Development Agreement are:

- 1) to establish the terms and conditions under which the selected Developer will proceed to develop the Project;
- 2) to set forth the responsibilities and roles of DHHL and the selected Developer; and
- 3) to have an understanding between DHHL and the selected Developer concerning the financial risks and other obligations to be assumed by each party, particularly with respect to up-front costs, which may be incurred and may not be recaptured in the event the development is terminated.
- 4) This agreement will contain no less than the following:
  - A) the purpose of the Development Agreement;
  - B) a description of the roles and responsibilities of DHHL, the Developer, and any other persons holding by, through, or under the Developer;
  - C) project concept and cost;



- D) proposed financing;
- E) development schedule;
- F) rate of dwelling unit production;
- G) insurance and bonding/surety requirements;
- H) inspection requirements and procedures;
- I) a preliminary project pro forma, including design and construction costs, operating costs, interim loan payments, and income;
- J) the security given by the Developer to insure the timely payment and performance of the Developer's obligations to complete the design and construction of the Project lien-free;
- K) matters relating, but not limited to, default by the Developer, indemnity, severability, termination, and assignments; and
- L) starting date and ending date of the agreement.

The terms stated in the sample Development Agreement (Exhibit 15) are provided to inform Offerors of the terms and conditions which may be required for the Project. The DHHL reserves the right to modify the Development Agreement at its discretion.

DHHL will enter into the Development Agreement with the selected Developer after the conceptual proposal has been further refined, and the terms and conditions of the design and construction have mutually been agreed upon.

A period of not more than one hundred eighty (180) days from the date of the Chairman's approval of the selected Developer shall be allowed for the refinement of the conceptual proposal and the execution of the Development Agreement. If DHHL and the selected Developer do not execute a Development Agreement by the end of the 180-day period, DHHL may, at its own discretion, immediately terminate negotiations and thereafter may reconsider proposals submitted by other Offerors, or may solicit new proposals from other Offerors.

## 5.6 Terms and Conditions

This RFP is subject to the following terms and conditions:

### 5.6.1 ACCEPTANCE/REJECTION OF PROPOSALS

DHHL reserves the right to accept or reject all or any part of a proposal or to request that revisions be made to a proposal when it is in the best interest of DHHL. An Offeror is not under any obligation to resubmit the proposal with the revisions requested. However, the Offeror may risk having the proposal rejected if such revisions are not submitted.

### 5.6.2 EXECUTION OF AGREEMENT

The selected Developer will be required to enter into a formal written Development Agreement with DHHL in accordance with the laws, rules, and regulations of the State of Hawaii. A sample Development Agreement, along with a copy of the General Conditions, dated April 15, 2009, and DHHL's Interim General Conditions, dated August 16, 2005, as amended are attached as Exhibit 26.

Offerors warrant and represent that they have read and are familiar with the site and its conditions, the contractual requirements set forth in this RFP, and any exhibits and addenda, the provisions of which are expressly incorporated into this RFP by reference as though fully set forth at length herein. The Development Agreement shall include all terms and requirements of the RFP, any and all addenda and/or amendments to the RFP and the Developer's proposal.

At the time of the award, the Developer will be required to submit a Department of Labor Certificate of Compliance, a DCCA Certificate of Good Standing, and a valid state and federal tax clearance.

### 5.6.3 APPROVALS

Any Development Agreement arising out of this offer is subject to the approval of the Department of the Attorney General as to form, and to all further approvals required by statutes, regulations, rules, orders, or other directives.

**5.6.4 DHHL'S RIGHT TO AMEND VIA DEVELOPMENT AGREEMENT**

DHHL reserves the right to amend the proposal of the selected Developer during negotiations for the Development Agreement, and any such changes or amendments shall not nullify the selection process that was used to select the Developer for the Project.

**5.6.5 RIGHT TO AMEND OR SUPPLEMENT DOCUMENTS**

DHHL reserves the right to amend or supplement this RFP at any time prior to the closing date for the final revised proposals.

**5.6.6 RESPONSIBILITY FOR EXPENSES IN PREPARING PROPOSALS**

Offerors that respond to this RFP shall be solely responsible for all costs and expenses incurred in connection with responding to this RFP, including but not limited to the amount of preliminary engineering costs it will incur for the development of its proposal. The selected Developer shall be responsible for whatever costs they may incur up to the time of execution of the Development Agreement.

**5.6.7 NO ASSIGNMENTS**

The selected Developer may not assign the Development Agreement without DHHL's written consent. If the selected Developer desires to assign the Development Agreement, the assignee must submit a "Developer's Application and Qualification Form," meet all requirements imposed by DHHL, and must be acceptable to DHHL. If DHHL shall consent to an assignment of the Development Agreement, DHHL shall not be required to release the selected Housing Developer, including any guarantor nor security which secures the payment and performance of the selected Developer's obligations under the Development Agreement.

**5.6.8 RELATIONSHIP BETWEEN THE DEVELOPER AND DHHL**

There will be no partnership, joint venture, employer and employee, master and servant, or other agency relationship between DHHL and selected Developer. The selected Developer, inclusive of any person acting by, through, under, or for the benefit of the Developer such as, for example, any real estate broker or sales person, will not represent or hold itself out as being a partner, joint venture, employee, servant, or agent of DHHL, nor will the selected Developer, inclusive of any person acting by, through, under, or for the benefit of selected Developer, have any authority to bind, act for, or represent

DHHL in any respect. The selected Developer will be developing the Project in the selected Developer's own behalf and will pay, indemnify, defend, and hold DHHL harmless from all claims, demands, lawsuits, judgments deficiencies, damages (whether paid by DHHL as part of a settlement or as a result of a judgment), and expense, including attorney's fees, and all costs of suit, made against DHHL or incurred or paid by DHHL arising out of or in connection with selected Developer's design and construction of the Project and of the dwelling units therein.

*(Remainder of this page intentionally left blank)*

## **6 Roles and Responsibilities After Developer has Been Selected**

### **6.1 DHHL'S RESPONSIBILITIES**

DHHL shall be responsible for the following:

- 1) Grant building rights to the selected Developer for the construction of the houses.
- 2) Provide for the completion of site construction and infrastructure in accordance with civil engineering plans. DHHL shall be responsible for the planning, design, and funding of on and off-site infrastructure for the projects and related common areas.
- 3) Provide market analysis. The market analysis, though dated, will provide information on qualified buyers and the size house they wish to buy.
- 4) Provide Lessees with financial counseling and other homeowner related assistance.
- 5) Pay for water and sewer facility charges, if any.
- 6) Coordinate an orientation meeting for potential home buyers to inform them of the design and prices, and lot selection process.
- 7) Inspect house construction to insure compliance with approved plans and specifications.
- 8) If there are uncommitted houses after lot selections by the Undivided Interest Lessees, the Department will provide access to the entire Maui island-wide waiting list.
- 9) Provide utilities up to the property line for each lot.

### **6.2 REQUIREMENTS FOR LESSEES**

- 1) Purchase of Homes
  - A) Agree to commit to and participate in the Undivided Interest and Home Ownership Assistance Program.
  - B) Prequalify for a developer-built home.

- C) Select a lot and model home that fits the lessee's income and lot. Order of selection will be based on the lessee's rank on the waiting list.
- D) Apply for and secure permanent financing for the home and purchase the home from the developer after it has been built.
- E) Conduct final inspection and close escrow on homes per sales agreement.

### **6.3 ADDITIONAL GUIDELINES FOR THE SELECTED DEVELOPER**

The Developer that is selected by DHHL for the Project will be responsible for the design and construction of houses and completion of the Project lien-free. In that respect, potential developers are herein provided in advance, additional guidelines and requirements that will be required of the selected Developer. The following information should be carefully considered in the Offerors' overall assessment of Project feasibility.

#### **6.3.1 DEVELOPER'S RESPONSIBILITIES**

The selected Developer shall be responsible for, but not limited to, the following:

- 1) Assemble and coordinate a development team for the Project. Identify the Responsible Managerial Employee who shall be the authorized representative for the entire Project.
- 2) Formulate a financial plan to address costs and sources of construction financing in accordance with the Development Agreement. Arrange sources and funds for all design and construction capital necessary to complete the homes in accordance with the Development Agreement. Explore alternative funding mechanisms including, affordable housing tax credits, and grants or loans from other public agencies or private sources.
- 3) Provide the architectural plans, drawings, and specifications for the single-family homes, and site the houses on the lots provided in this RFP. All homes shall be designed to meet all County of Maui building code requirements on all lots designated for this RFP. Every house should fit on

- every lot. If this is not possible, the Developer shall identify which houses do not fit on which lots.
- 4) The architect(s) of the Developer shall develop house designs that take into account a soils engineer's recommendations.
  - 5) The Developer shall work with the County of Maui Department of Water Supply for water requirements and obtain water meters.
  - 6) The Developer shall work with Maui Electric Company for power requirements.
  - 7) The Developer and their development team shall participate in a green building work session, as described in Section 6.1, Task (5), to develop the Project Green Building Strategy.
  - 8) The architect(s) shall develop house designs and specifications to support implementation of the Project Green Building Strategy. Particularly, the designs and specifications for each developer-built home type shall support achievement of a minimum one star Hawaii BuiltGreen certification level (or demonstrated equivalent). Actual certification is not required.
  - 9) The Developer shall obtain at their own cost all building permits and approvals required for the Project, in accordance with the requirements of the County of Maui and other agencies having jurisdiction over the Project. There are no known impact fees associated with this project.
  - 10) The Developer shall contract with a qualified construction company(ies) to construct the homes per approved plans and specifications, and in accordance with the building code.
  - 11) The construction company(ies) shall enter into Project Labor Agreements with the Hawaii Carpenters Union, Local 745. Each successful bidder and any and all levels of subcontractors covered by said agreements, as a condition of being awarded a contract or subcontract, must agree to, enter into, and abide by the provisions of the Project Labor Agreement. The successful bidder will be bound by the provisions of that agreement in the same manner as any other provision of the contract. A sample Project Labor Agreement may be found in Exhibit 20.

- 12) The Developer shall take into account infrastructure systems that will be constructed by DHHL and others, and connect the houses to the appropriate utilities, including Sandwich Isles Communications.
- 13) Provide site security.
- 14) If archaeological sites are discovered on any of the lots, the Developer shall immediately cease from any construction activity at or near the site and notify DHHL and the State Historic Preservation Office. The mitigation process will depend on what is discovered. The discovery of human remains will be guided by the Native American Graves Protection and Repatriation Act, in which there will be a 30-day holding period on construction activity around any inadvertent burial finds. Selecting a replacement lot for construction may be considered. DHHL cannot guarantee that all archaeological features have been identified within the project sites.
- 15) The Developer shall maintain the landscape of each lot until the houses are sold.
- 16) The Developer shall maintain existing swales in and between lots. Typical swale section requires no grading within lots other than that at roadway cuts and fills. See drainage plans for topography and directional flow of drainage. Current site conditions may require changes to the grading plan and drainage swales. Swale section will depend upon each individual location, topography, drain area, and water flow through lot. Drains may be earth swales or concrete swales, depending on slope and runoff volume. Developer will have to determine the site requirements for drainage.
- 17) Upon completion of houses, the Developer shall repair any damage caused to any improvements within the road right-of-ways.
- 18) Provide geotechnical inspections. Written reports shall be provided to DHHL.
- 19) Provide landscaping that's specifically required for slope maintenance in compliance with any grading ordinance. Otherwise, general landscaping for each lot is not mandated. The placement of topsoil or replacement of any



- aggregate material is determined by Offeror as it relates to construction of house foundation.
- 20) Provide construction management and special inspections. Provide written reports to the Department.
  - 21) The Developer shall coordinate construction of the Project with other activities taking place in the Project area. The Developer shall be responsible for repairing or paying for the costs of repairing any damage that their activities may cause to any infrastructure within the Project area.
  - 22) Provide any other services or functions the Developer deems necessary for the unique circumstances of their proposal.
  - 23) Allow DHHL access for inspections and other purposes.
  - 24) Market and sell all homes. Participate in applicant notification, orientation and lot selection meetings.
  - 25) The Developer will be responsible for producing display boards, brochures, and other sales materials for orientation meetings. During the orientation meeting, the Developer will make a presentation describing the various models and any special features, including available options.
  - 26) The Developer shall organize a team of lenders and establish a project lead lender. At least one lender in the lending team should have available to the Lessees a Federal Housing Administration 184A loan program for permanent financing.
  - 27) The Developer shall be required to maintain their ownership of each house until purchase of the home by a lessee takes place.
  - 28) The Developer shall be responsible to turn-over homes with property pins clearly marked. Developer shall be responsible to employ a professional surveyor to reestablish any missing property pins.
  - 29) Provide warranties to ensure correction of construction defects during the warranty period. Provide a homeowners orientation class and manual for each home.

### **6.3.2 Project Costs and Feasibility**

- 1) General Requirements - The total design and construction and operating cost of the Project will be of material

importance to DHHL. The development costs that will be included in the Development Agreement must be fixed and must not be subject to subsequent increase or other adjustment for inflation or other reason or risk.

The selected Developer will be solely responsible for completing the design and construction of the Project lien-free within the design and construction budget that is approved by DHHL.

- 2) State GET Exemption -It is intended that gross income derived from the construction, and financing of all housing units will be certified for exemption from Hawaii general excise taxes pursuant to Section 201H-36 H.R.S. The pro forma budget for the Project shall include GET.
- 3) Management - Developer shall be responsible for all costs to manage the development work, including construction quality control and all work incidental to the completion of the entire project.
- 4) Insurance - The Developer shall have in place the insurance coverage described in the sample Development Agreement on the date the Developer executes the Development Agreement. The level of insurance required will be subject to the latest State Procurement Office requirements.
- 5) Prevailing Wage Rates - The Developer shall be responsible for compliance with Chapter 104, HRS, for the payment of minimum prevailing wages to mechanics and laborers employed on the Project for the corresponding work classifications as determined by the Department of Labor and Industrial Relations.
- 6) Inconsistencies - The Developer shall be responsible for ensuring that there are no inconsistencies between this RFP and any proposed programs. If there are any inconsistencies between the requirements of the RFP and other program requirements, the more restrictive requirement shall control.
- 7) Surety Bond - The selected Housing Developer shall be required to provide a Surety Bond to cover the cost of their proposed 10 to 60 houses, wastewater systems, lot grading, and other certain improvements required for the lots.

- 8) Project Development Schedule - The Developer shall develop a realistic schedule for construction of the 10 to 60 homes.