

INFORMATION PACKET

**Public Notice of Proposed Disposition for
Mixed-Use (Light Industrial and/or Business including Commercial)
Development by Project Development Agreement
of Approximately 184.359 Acres
TMK: (2) 2-3-08:008, 035 and 036
Pulehunui (Puunene), Wailuku
Island of Maui, State of Hawaii**

Requesting Agency

**State of Hawaii
Department of Hawaiian Home Lands**

91-5420 Kapolei Parkway
Kapolei, Hawaii 96707

December 30, 2011

INFORMATION PACKET
Notice of Proposed Disposition for Mixed-Use
Development By Project Development Agreement
of 184.359 Acres of Hawaiian Home Lands
TMK: (2) 3-8-08:008, 035 and 036
Pulehunui (Puunene), Wailuku, Island of Maui, State of Hawaii

LISTING OF ITEMS CONTAINED IN INFORMATION PACKET: **Page**

I.	Introduction, Objectives and General Information.....	1-3
II.	Legal Public Notice of Proposed Disposition	4-6
III.	Applicant Criteria & Qualification Guidelines.....	7-10
IV.	Application & Qualification Form & Request For Trust Land.....	11-18
V.	Conduct of Disposition.....	19-20
VI.	General Property Information.....	21-22

APPENDICES:

Exhibit "A" - Legal Descriptions of the Property and Survey Maps

Exhibit "B" - Tax Map

Exhibit "C" - Copy (Proforma) of Standard General Lease Document

Exhibit "D" - Sublease Rent Participation Policy

LIST OF ITEM AVAILABLE FOR REVIEW IN DHHL KAPOLEI OFFICE

1. Appraisal Report – May 29, 2011 (effective date)

NOTE: While the data in the Information Packet, the appraisal report, and all other reports or information provided to prospective applicants have been obtained by DHHL from reputable and professional sources, it is not guaranteed. DHHL bears no responsibility for Applicant's actual reliance on the data provided. Applicant should make his/her own independent study to verify the accuracy of the information and determine its usefulness to applicant's project

I. INTRODUCTION, OBJECTIVES AND GENERAL INFORMATION

For Mixed-Use (Light Industrial and Business including Commercial) Development
Of Hawaiian Home Lands by Project Development Agreement

TMK: (2) 3-8-08:008, 035 and 036 Pulehunui (Puunene)

Island of Maui, State of Hawaii

Introduction

The Department of Hawaiian Home Lands (DHHL) is soliciting proposals from individuals or businesses (applicants) interested in entering into a "Project Developer Agreement"¹ and general (ground) lease (the "Lease") for the development of Hawaiian Home Lands situate at Pulehunui and Waikapu, Wailuku, County of Maui, State of Hawaii and more particularly described as Tax Map Key Nos. (2) 3-8-08:008, 035 and 036, having a total acreage of approximately 184.359 acres. **The term of the Lease must be for a minimum of twenty-five (25) years and a maximum of sixty-five (65) years.** A proposal submitted by an interested party must indicate the length of lease preferred by the prospective developer that falls within the minimum and maximum term limits as indicated above.

The applicant's proposal may be based on the entire 184.359 acre site **or** on one or more of the three tax map parcels **or** on a portion only of one or more of the three parcels being described in the Legal Public Notice of Proposed Disposition attached as Part II of this Information Packet, and more particularly described in Exhibit "A" of the Appendices to the Information Packet. Development of the site on an incremental basis (phased development) may be negotiated and is permitted by DHHL.

To be eligible for consideration, applicants are required to submit a proposal with details describing their conceptual planned use and other criteria as further described in this Information Packet, for development of the property. A two step process will be used to determine the successful bidder.

First, all applications received by the deadline **April 12, 2012**, as stated in the Legal Public Notice of Proposed Disposition, attached as Part II of this Information Packet, will be reviewed to determine if the application is complete, and all materials required have been included, e.g. a separate sealed rent proposal and earnest money deposit, and that the applicant's proposal meets DHHL's selection criteria (as further described in this Information Packet).

Should only one applicant be deemed qualified for selection, DHHL may then begin to negotiate the details of a Project Developer Agreement and General Lease terms with the "qualified" (the criteria for "qualified" is described further in this Information Packet) applicant. If there are two or more "qualified" applicants who meet the objectives and criteria for selection, DHHL may set additional criteria and may consider any additional information requested and submitted by the applicant. DHHL reserves the right to select more than one "best" proposal for negotiation if the selected "qualified" applicants propose to develop different portions of the site.

Secondly, DHHL will review the conceptual planned use, experience, financial capability and all other relevant facts of the proposals submitted from each "qualified" applicant. The "qualified" applicant who submits the "best" (the criteria for "best" is described further in this

Information Packet) development proposal that meets or exceeds DHHL's objectives and criteria, and that meets or exceeds the minimum upset rent (base rent) for the first twenty-five (25) years of the lease, as determined by independent appraisal, will be selected to negotiate a Project Developer Agreement and Lease for the site, or portions of the site, requested by the "qualified" applicant.

General Objectives and Criteria

DHHL wishes to lease the Pulehunui parcels as indicated above for development at their highest and best use, which DHHL has identified as use for Light Industrial or Business (including Commercial) uses, as such uses are defined under the County of Maui's Zoning Code. Proposed uses that are controversial or incompatible with the character of the surrounding neighborhood as indicated on DHHL's Maui Island Plan may be denied by DHHL. Long term revenue generation for the Hawaiian Home Lands Trust, job creation and training for native Hawaiians, and a sustainable development that recognizes the need to accommodate changing demographics, market conditions and community needs over the long term are the goals of DHHL. DHHL has deemed this land not suitable for residential development; therefore, proposals for residential development will not be accepted.

General Information

Application. Applicants must submit a completed Application and Qualification Form, and DHHL Land Request Form, attached as Part IV of this Information Packet, together with all information that satisfies the Qualifications, attached as Part III of this Information Packet. DHHL will review all applications to determine if the applicant and proposed development meet all qualifications for further consideration, a "qualified" applicant.

Review of Qualified Proposals. From the list of all "qualified" applicants, DHHL will select the "best" development proposal. The applicant submitting the best proposal will then negotiate with DHHL the terms and conditions on which the applicant will lease and develop the parcel(s). In determining which is the "best" qualified proposal submitted, DHHL will consider the following selection criteria:

- Revenue generation not limited to the minimum upset rent (such as: lease premiums, sublease rent participation or percentage rent).
- Quality of project design and development plan.
- Applicant's experience and qualifications in land development and experience in sustainable developments in similar master planned projects.
- Applicant's ability to finance the proposed project.
- Applicant's experience and qualifications with coordinating LEED project certification processes.
- Job creation and training program delivery and promotion of native Hawaiian socio-economic advancement.
- Approach and methodology in dealing with agency and public comments and concerns expressed in the proposed development.

DHHL reserves the right to select more than one "best" proposal for negotiation if the selected applicants propose to lease and develop different portions of the site. Should DHHL make changes that affect the developable area of the property, the rent will be adjusted based on the same rent per square foot as made in the proposal selected as "best" development proposal.

DHHL's selection of any proposal as a "best" proposal shall not constitute DHHL's acceptance of any term or condition included in the proposal.

Hawaii Revised Statutes 343. Prior to commencement of any demolition or construction at the site, compliance with Chapter 343, Environmental Impact Statement of the Hawaii Revised Statutes, as amended, which requires that an assessment be made to determine the impact the proposed development may have on the surrounding environment, is required. Such compliance shall be considered completed upon the issuance of a Finding of No Significant Impact (FONSI) or, final approval and acceptance of an Environmental Impact Statement (EIS), whichever is applicable.

Community Benefit. Applicants must agree to provide training and job opportunities for native Hawaiians in a manner consistent with applicable federal and state labor such as: Job training and placement, and educational and/or cultural programs. A community benefit package must be submitted with completed applications.

Telecommunications. Telecommunications to the site will be provided by Sandwich Isles Communications, Inc., (SIC) a native Hawaiian owned telecommunications corporation.

State Funds. The proposed lessee will be responsible to obtain all funds needed to develop the property. No State of Hawaii funds shall be used to develop the property.

Please contact DHHL's Land Management Division for answers to any and all questions to determine a specific type of use for a proposed development or for any other information that may be required. Contact information is noted in the Legal Notice of Proposed Disposition attached as Part II of this Information Packet.

¹ The term "Project Developer Agreement", as used herein, has the meaning given it in §220.5, Hawaiian Homes Commission Act, 1920, as amended.

II. **LEGAL PUBLIC NOTICE of PROPOSED DISPOSITION BY PROJECT DEVELOPER AGREEMENT**

For Mixed-Use Development of Hawaiian Home Lands
TMK: (2) 3-8-08:008, 035 and 036 Pulehunui (Puunene), Wailuku
Island of Maui, State of Hawaii

Pursuant to §220.5, Hawaiian Homes Commission Act, 1920, as Amended, the State of Hawaii, Department of Hawaiian Home Lands (DHHL) invites interested persons to submit applications to be selected as the developer to lease and develop all or portions of the 184.359 acre site described herein. Persons interested in developing the land as described below shall have ninety (90) days from the date this "**LEGAL PUBLIC NOTICE OF PROPOSED DISPOSITION**" is last published, that date being **January 13, 2012**, in which to submit their completed applications and development proposals for DHHL consideration.

Only completed applications and development proposals submitted to DHHL **by 4:00pm on Thursday, April 12, 2012**, shall be reviewed to determine which applicants have met all DHHL's criteria for qualification for selection as a potential developer of the property. Within the next forty-five (45) days, but no later than **Tuesday, May 29, 2012**, DHHL's review of applications shall be completed, including the review of any additional information requested by DHHL. Within seven (7) days of completing said review, but no later than **Tuesday, June 5, 2012**, notices will be sent to all applicants informing them if they are qualified or not qualified to be selected as a potential developer(s) of the property.

Should only one applicant be qualified for selection, DHHL may then begin to negotiate the details of a Project Developer Agreement and General Lease terms with the qualified applicant. If there are two or more qualified applicants who meet the objectives and criteria for selection, DHHL will select the "BEST" proposal. DHHL may set additional criteria and may consider any additional information requested and submitted. DHHL reserves the right to select more than one "BEST" proposal for negotiation if the selected applicants propose to lease and develop different portions of the site. DHHL's selection of any proposal as a "BEST" proposal shall not constitute DHHL's acceptance of any term or condition included in the proposal.

DHHL will select, by no later than **Friday, July 20, 2012**, the qualified applicant who submitted the "BEST" proposal. DHHL shall then negotiate the details of the Project Developer Agreement and the General Lease. These negotiations may include rent provisions above the minimum upset rent (base rent), lease premiums, sublease rent, percentage rent and benefits that promote native Hawaiian socio-economic advancement; provided that, the rent negotiated will not be less than the base rent initially proposed by the selected applicant.

Information Packets. Information Packets containing an application form, property information, DHHL objectives and criteria and other requirements for completing the application process are available on DHHL's website: <http://hawaii.gov/dhhl/commercial> or can be picked-up by prospective applicants during regular office hours at **DHHL's Kapolei Office located at 91-5420 Kapolei Parkway, Kapolei, Oahu or at DHHL Offices located on the neighbor islands. Please call (808) 620-9457 for information about neighbor island DHHL locations.**

Land to be Disposed. The parcels of land to be disposed are three (3) contiguous parcels totaling approximately 184.359 acres identified on State of Hawaii Tax Maps as (2) 3-8-08:008, 035 and 036. The parcels are located south of the Animal Shelter Facility at Pulehunui, in South Central Maui between Mokulele Highway and Mehamaha Loop. Parcel 036 has a 1-acre

easement over the north corner of the parcel where a Sandwich Isles Communications, Inc., telecommunications site is located. Most of the acreage is currently in sugar cane cultivation, leased to Hawaiian Commercial and Sugar Company on a month to month basis.

Purpose/Use. The property is being offered for business (including commercial) and/or light industrial development as defined under the Maui County Zoning Code and all applicable permit requirements consistent therewith, except that proposals for residential development will not be considered. The details of any other necessary zoning that may be a requirement for a small portion of the “BEST” development may be negotiated and the base upset rent will be adjusted accordingly.

Term. The term of the lease must be a minimum of twenty-five (25) years but not to exceed a maximum of sixty-five (65) years. The Applicant’s proposal must indicate the length of lease desired within the above parameters.

Rent. The minimum market upset ground rent for the first 25-years of the lease are as follows:

YEARS	35 ACRES	75 ACRES	185 ACRES
10	\$1,098,000	\$2,094,000	\$4,524,000
5	\$1,405,550	\$2,680,529	\$5,791,172
5	\$1,846,892	\$3,522,216	\$7,609,601
5	\$2,426,817	\$4,628,191	\$9,999,015

The qualified applicant must bid at or above the minimum upset rent for the first twenty-five (25) years of the lease. The qualified applicant may bid for the entire acreage or a portion of the acreage. The minimum upset rent for smaller parcels can be calculated at the fee simple value of \$12.00 per square foot with a 6% rate of return.

Rent Step-ups. After the initial ten (10) year lease period, rent step-ups are at each five (5) year interval, increased at the rate of 2.5% per annum, for the first twenty-five (25) years of the lease (as indicated above).

Rent Reopenings. Should the term of the lease extends beyond twenty-five (25) years, the rent shall be redetermined by an independent fair market appraisal prior to the commencement of the twenty-sixth, thirty-six, forty-sixth, fifty-sixth year of the lease with rent step-ups at each five-year interval.

Water. There are County of Maui water lines along Mehamaha Loop and Mokulele Highway. DHHL has not obtained a commitment for water from County of Maui, Department Water to the property due to demands for water within Central Maui have reached capacity. DHHL is currently in the process of the acquisition of a private water source with development of water storage and distribution lines for the first phase of a Pulehunui development and will continue to pursue private and public sources for full development of the parcels. **Please contact DHHL for further information.**

Wastewater. County of Maui wastewater lines are not located within the project vicinity. DHHL will be requesting proposals in the near future for the development of a private wastewater system. The system will be developed by DHHL and the surrounding governmental land owners for the Pulehunui region. **Please contact DHHL for further information.**

Design Guidelines. The goal of DHHL is to achieve an integrated commercial, light industrial, pedestrian friendly and interconnected development of these parcels. **Please contact DHHL for further information.**

Sustainable Building. Sustainable building designs must be used in the development of the parcels. **Please contact DHHL for further information.**

Appraisal Report. The Appraisal Report, which is the basis for setting the minimum upset rent shown herein, may be reviewed during DHHL's working hours at DHHL's Kapolei office but may not be removed from the Kapolei Office. **Please contact carolyn.i.darr@honolulu.gov or call 808-620-9457, on Oahu for further information.**

Telecommunication Service. Sandwich Isles Communications, Inc. (SIC), will provide telephone and broadband services to the project as such time these services are required.

Chapter 343. Environmental Impact Statement. The successful bidder will be required to complete compliance with Chapter 343 of the Hawaii Revised Statutes, as amended, prior to the start of any demolition or construction activity on the site. Such compliance shall assess the impacts that the proposed development will have on the surrounding environment, such as infrastructure, traffic, parking, noise, archaeological sites, etc.

For any questions and or clarification of this notice, to request an Information Packet electronically or hard copy, to schedule a site inspection, or for any additional information, PLEASE CONTACT CAROLYN DARR, LAND AGENT, LAND MANAGEMENT DIVISION at 808-620-9457 on Oahu or email carolyn.i.darr@hawaii.gov.

DHHL reserves the right to cancel, postpone, or modify this Disposition at its sole discretion.

Date: Honolulu, Hawaii _____

State of Hawaii
DEPARTMENT OF HAWAIIAN HOME LANDS

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

Star Advertiser
Maui News (Local Newspaper)
Dates: 12/30/11, 1/6/12, 1/13/12

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DHHL reserves the right to cancel, postpone, or modify this Disposition at its sole discretion.

Date: Honolulu, Hawaii 12/20/11

State of Hawaii
DEPARTMENT OF HAWAIIAN HOME LANDS

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

Star Advertiser
Maui News (Local Newspaper)
Dates: 12/30/11, 1/6/12, 1/13/12

III.

APPLICATION CRITERIA & QUALIFICATION GUIDELINES

For Mixed-Use Development of Hawaiian Home Lands
TMK: (2) 3-8-08:008, 035 & 036, Pulehunui (Puunene), Wailuku
Island of Maui, State of Hawaii

All parties interested in being selected as developer for the subject property shall have until 4:00 p.m. on Thursday, April 12, 2012 for delivery of a completed application to the Department of Hawaiian Home Lands (DHHL) at 91-5420 Kapolei Parkway, Kapolei, Hawaii 96707 or at DHHL's Maui District Office at 655 Kaumualii Street, Wailuku, Hawaii 96793. All applications received after this deadline will not be considered.

1) Any person or (including any business entity) may submit a completed application, except a person that:

- a) Is in arrears in the payment of taxes, rents or other obligations owing to the State of Hawaii or to any of its political subdivisions;
- b) Is a minor; or
- c) Has had during the five (5) years, preceding 2012 any sale, lease, license, permit or easement covering public lands cancelled for failure to satisfy the terms, conditions and covenants thereof.

2) A "completed application" shall consist of:

- a) A separate sealed envelope containing the rent the applicant proposes to pay for the first twenty-five (25) years of the lease.

Qualifying Criteria: The proposed rent for each of the first twenty-five (25) years cannot be less than the minimum upset rent as stated in the Legal Notice (Section II of this Information Packet) except as follows:

- i) a minimum reasonable time may be proposed for the completion of due diligence and/or construction of improvements during which the applicant would pay no rent or reduced rent; and

- ii) a phased development demising more than 10 acres may propose separate reasonable rent commencement dates for each phase of the project.

In comparing the rents to be paid under two or more proposals, however, DHHL will calculate the present value of the applicant's proposed rents for the first twenty-five (25) years of the Lease term so that any free or reduced rent periods proposed may affect the competitive position of the applicant's bid.

Any proposal not meeting or exceeding the above-described minimum upset rent shall be immediately disqualified.

- b) A development plan, including conceptual drawings and a draft set of Design Guidelines with sufficient detail to depict the improvements to be constructed on the site and purpose for which such improvements will be used.

Qualifying Criteria: The development plan shall be evaluated for its efficient use of the site, high standards of quality that will be maintained throughout the project's life, and visual harmony by maintaining an appropriate architectural character, and by integrating appropriate landscape, signage, lighting improvements and incorporating sustainable design standards. Additional consideration may be given for other perceived or proposed benefits to the community, such as long-term employment, access to "convenience" shopping or services, and project design that reflects a Hawaiian "sense of place".

- c) A completed Application and Qualification Form which is included in Section V of this Information Packet.
- d) A development budget with a breakdown of the costs of major components of the development plan and the method of recovery of development costs.
- e) Information that demonstrates Applicant's financial capacity for completing the development plan as envisioned and budgeted, including, but not limited to applicant's current financial statements, funding commitments, letters of credit and development costs for other projects completed by the applicant.

Qualifying Criteria: Evaluation of applicant's financial strength and capacity for implementation of the development plan as proposed and budgeted.

- f) A statement of experience, with supporting documentation (brochures, etc.), if any, in developing projects similar to that which the applicant proposes for the subject property.

Qualifying Criteria: Evaluation of applicant's experience and knowledge pertaining to implementation of the development plan as envisioned and budgeted.

- g) An "earnest money deposit"² in the form of a certified or cashier's check made payable to DHHL in the amount of **\$452,400.00** (or adjusted to 10% of the annual upset rent if bidding on less than the entire 3 - parcels).

Qualifying Criteria: Demonstrates applicant's commitment to the proposal for entering into a Project Developer Agreement.

- h) Any proposed benefits to promote native Hawaiian socio-economic advancement. Additional consideration may be given for any proposed benefits deemed significant by DHHL.
- i) Any other information that the supports the applicant's proposed development plan, such as correspondence with government agencies, feasibility studies,

² The required **Earnest Money Deposit** is an amount, equal to 10% of the annual upset rent for the first year. This gives some assurance that the applicants are dealing in good faith. All earnest money deposit checks, except those immediately returned to applicants that are not "qualified", shall remain uncashed and in the possession of DHHL until a project developer has been selected. The selected project developer's earnest money deposit shall then be deposited and become non-refundable once negotiations for a Project Developer Agreement and Lease commence. If negotiations are successfully completed, the deposit shall be applied to future lease rents. All earnest money deposit checks from qualified applicants not selected as project developer shall be returned uncashed.

surveys reports, funding approvals, and agreements with other potential occupants or subtenants of the site.

Qualifying Criteria: Strengthens potential for success of applicant's proposed development plan.

- j) An estimated schedule or timeline of significant development events as envisioned by the applicant, to include, but not limited to, HRS Chapter 343 compliance, execution of Lease, completion of construction drawings, permits, commencement and completion of construction, etc.

All prospective applicants are responsible for thoroughly reading and understanding the terms, covenants, reservations and conditions of this offering by reviewing a copy of the **Legal Notice of Proposed Disposition**, all data contained in the **Information Packet**, and other informational items made available by contacting DHHL's Land Management Division at 808-620-9457, located at 91-5420 Kapolei Parkway, Kapolei, Oahu. Out-of-state or off-island applicants can make arrangements to obtain information by also contacting DHHL's Land Management Division at 808-620-9457 or email carolyn.i.darr@hawaii.gov.

Prospective applicants are encouraged to physically inspect the property provided the applicant executes an agreement to indemnify and hold DHHL harmless from personal injury or damages that result from such property inspection. You may make an appointment for a site inspection by contacting Carolyn Darr, Land Agent, at DHHL's Land Management Division 808-620-9457.

Chronological List of Activities Regarding This Disposition:

- a) Legal Public Notice published **December 30, 2011, January 6, 2012, and January 13, 2012;**
- b) Completed applications received by no later than **4:00pm, Thursday, April 12, 2012;**
- c) Within the next forty-five (45) days, beginning on **April 12, 2012, and ending May 29, 2012**, only complete applications will be reviewed by DHHL to determine which applicants qualify to be selected as developer(s) for the subject property. The sealed rent bids shall be opened within this 45-day review period, but only after DHHL has reviewed all applications and pre-qualified (or disqualified) applicants based on the other information submitted. Once pre-qualified on the criteria other than the proposed rent, an applicant can be disqualified if the proposed rent is less than the minimum upset rent as stated in the Legal Notice;
- d) Upon DHHL completing its review of all completed applications, but by no later than **July 20, 2012** all applicants shall be notified as to whether or not each is "qualified" to be selected as developer of the project;
- e) If only one (1) applicant is "qualified", that applicant may be selected as the project developer and negotiations of the Project Developer Agreement and Lease shall commence;

- f) If there are two (2) or more "qualified" applicants, DHHL may request additional information and/or set additional criteria to be met by all qualified applicants and shall then consider all of the relevant facts of the disposition or contract, including, but not limited to, each "qualified" applicant's response, initial proposal, experience and financial capability. Although the rent proposed by each "qualified" applicant shall not be the sole factor in determining which proposal is selected, if there two or more proposals are determined to be equally qualified and desirable, the higher rent may determine which proposal is deemed "best".
- g) Within 45 days of determining which applicants qualify for selection as developer, but by no later than **4:00 p.m. Friday, July 20, 2012**, DHHL shall select the "qualified" applicant ("Selected Developer") who submitted the "best" proposal and commence negotiations of the Project Developer Agreement and Lease. DHHL reserves the right to select more than one "best" proposal for negotiation if the selected applicants propose to lease and develop different portions of the site.
- h) The Earnest Money Deposit submitted by the Selected Developer shall then be deposited and become non-refundable. All other checks submitted as Earnest Money Deposits shall be returned uncashed to those applicants not selected.
- i) Negotiations of the Project Developer Agreement shall be completed and a Lease executed within one hundred eighty (180) days from the date the applicant became the Selected Developer

DHHL reserves the right to negotiate with respect to any and all terms and conditions of the Project Developer Agreement and Lease, including all rent provisions such as, but not limited to lease premiums, pre-payment, sublease participation, and percentage rent, provided, however, that any negotiated adjustments to the rent do not result in such the adjustments being less than the amount of rent offered by the selected developer for the first twenty-five (25) years of the Project Developer Agreement and Lease.

IV.

APPLICATION & QUALIFICATION FORM

For Mixed-Use Development of Hawaiian Home Lands
TMK: (2) 3-8-08:008, 035 & 036, Pulehunui (Puunene), Wailuku
Island of Maui, State of Hawaii

_____ Name of Applicant	_____ Person to Contact / Title
_____ Applicant's Address	_____ Contact Person's Address
_____ City, State, Zip Code	_____ City, State, Zip Code
_____ Applicant's Telephone No.	_____ Contact Person's Telephone No.
_____ Applicant's Email Address	_____ Contact Person's Email Address

List of Corporate Officers and Directors or Individual Partners, Joint Ventures or Owners:

Name:_____	Name:_____
Title:_____	Title:_____
Ph No:_____Email:_____	Ph No:_____Email:_____
Address:_____	Address:_____
_____	_____
Name:_____	Name:_____
Title:_____	Title:_____
Ph No:_____Email:_____	Ph No:_____Email:_____
Address:_____	Address:_____
_____	_____

Corporate Shareholders / Partners Holding 25% or More of the Outstanding Shares:

Name: _____

Title: _____

Ph No: _____ Email: _____

Address: _____

Name: _____

Title: _____

Ph No: _____ Email: _____

Address: _____

Name: _____

Title: _____

Ph No: _____ Email: _____

Address: _____

Name: _____

Title: _____

Ph No: _____ Email: _____

Address: _____

NOTE: Please attach a separate page(s) if necessary. Should any information change during the proposal evaluation, selection, and award process, it is the responsibility of the applicant to update DHHL in writing of such changes.

Applicant intends to bid on the following Parcel(s):

Include a narrative and any supportive materials to provide information pertaining of the proposed development at the subject property. Attach additional pages to this application, if necessary. See Application Criteria & Qualification Guidelines attached as Part III of this Information Packet for list of requested information.

TMK No. _____

Intended Use(s) _____

Project Description:

TMK No. _____

Intended Use(s) _____

Project Description:

TMK No. _____

Intended Use(s) _____

Project Description:

Project Development Team

	Company / Address	Contact/Person Telephone No. Email address
Developer		
Architect		
Civil Engineer		
Site Contractor		
Contractor		
Financing		

Financial Information

Note: Financial information submitted to DHHL shall be kept confidential and shall not be considered as a public record as defined in Chapter 92, Hawaii Revised Statutes. Financial information shall not be released without the express written consent of the applicant.

1. All Applicants shall include the following:
 - (a) If applicable a certified copy of the Articles of Incorporation.
 - (b) If applicable a certified copy of the By-Laws.
 - (c) If applicable, a certified copy of the Corporation Resolution.
 - (d) If applicable, a certified copy of the Partnership Certificate.
 - (e) If applicable, a certified copy of the Joint Venture Agreement.

- (f) A current Certificate of Good Standing from the Department of Commerce and Consumer Affairs.
- (g) A current Tax Clearance from the Department of Taxation and Internal Revenue Service.
- (h) Applicant's proposed plan within 36 month construction period.
- (i) Detailed budget / cost estimate showing the estimated cost of construction.
- (j) If applicable, a description of any financial default, modification of terms, and conditions of financing to avoid default, or legal actions taken or pending against the applicant and borrowing and guaranteeing entities and their principals.

Please attach a description of the Applicant's company experience which supports the foregoing requirement and which includes the following information:

- (a) A list of industrial / commercial projects developed;
- (b) The role of the applicant in developing the above listed industrial/commercial projects;
- (c) A brief description of the industrial/commercial projects;
- (d) If applicable, a description of all industrial/commercial projects or facilities owned and operated by the applicants;
- (e) If applicable, a statement of the applicant's past or current involvement with the State of Hawaii and/or the Department of Hawaiian Home Lands (DHHL);
- (f) THE UNDERSIGNED APPLICANT understands that DHHL is relying on the information provided herein to qualify the undersigned as an eligible developer under the Hawaiian Homes Commission Act, 1920, as amended. The undersigned represents and warrants that the information provided is true and complete and that DHHL may consider the information as continuing to be true and correct until a written notice of a change is given to DHHL by the undersigned. The Undersigned agrees to provide any other information that DHHL should deem necessary to determine the qualifications of the applicant.

Name of Company

By: _____

Signature _____

Title _____ Date _____

By: _____

Signature _____

Title _____ Date _____

Request for Trust Lands from the Hawaiian Home Land Trust
Department of Hawaiian Home Lands

This application is completed by an interested party in requesting lands designated as Hawaiian home lands under the Hawaiian Homes Commission Act (HHCA). HHCA lands are to be used for homesteading purposes for beneficiary native Hawaiians (residential, agricultural or pastoral), and when necessary, in the best interest of the trust and its beneficiaries, for public purpose, commercial and multipurpose use.

Section I: Name of Applicant Requesting Trust Lands

Name of Requesting Organization: _____

Address of Organization: _____

Officers and/or Principal Representatives:

Mission of Organization:

Date Incorporated: _____ **State of Incorporation:** _____

Section II: Type of Organization

☐ **Requesting Organization – Non-Profit**

Type of Non-Profit:

- ☐ Private Nonprofit – governed by self appointed board
☐ Member Nonprofit – governed by voting members
☐ *Homestead Organization – governed by HHCA beneficiary

members

*Non-profit is Democratically Elected by and for HHCA Beneficiaries or a Subsidiary thereof

Capacity Assessed by DHHL Kulia Ika Nuu Program: ☐ Yes ☐ No

Current Capacity and Service to HHCA Beneficiary Community: _____

☐ **Requesting Organization – Individual or Business**

- ☐ Individual ☐ Sole Proprietorship ☐ Partnership
☐ Corporation ☐ Limited Liability Corporation ☐ Other

Is an Individual HHCA Beneficiary/is Owned by an HHCA Beneficiary ☐ Yes ☐ No

☐ Requesting Organization – Government Agency

☐ Federal

☐ State

☐ County

Section III: Land Request Instrument, Terms & Purpose

Applicant requests the following land transaction instrument:

☐ Right of Entry

☐ Revocable Permit

☐ Easement:

☐ License

☐ General Lease

☐ Other:

Land Description: _____

Island: _____ **Tax Map Key No.:** _____

Term: _____

Payment Amount: ☐ Undetermined ☐ Market value land rents

☐ Gratis/or Less than Market value land rents ☐ \$ _____

*If Gratis or Less than Market – Explain Why the Trust Should Not be Compensated: _____

Land Use or Purpose: _____

Land Use Benefit to the Trust and/or its Beneficiaries: _____

If Applicant is Not a Homestead Beneficiary Organization or a Subsidiary Thereof, Describe How the Applicant is Partnered with Such Organizations:

Section IV. Relevant HHCA Sections to Non-Homesteading Trust Land Disposition

The HHCA addresses non-homesteading public purpose licenses, such as community facilities, commercial or multi-purpose functions, when such purpose supports the overall mission and well-being of the trust and its HHCA beneficiaries.

Section 207(c) – This application relates to which of the following four categories under Section 207(c) of the Hawaiian Homes Commission Act wherein a License may be issued:

☐ Section 207(c)(1) – Railroads, Telephone Lines, Electric/Utility Lines, Gas Mains, etc; OR

- ☐ Section 207(c)(1)(A) – Churches, hospitals, public schools, post offices and other improvements for public purposes; OR
- ☐ Section 207(c)(1)(B) – Theatres, garages, service stations, markets, stores and other mercantile establishments (all of which shall be owned by native Hawaiians or by organizations formed and controlled by native Hawaiians); OR
- ☐ Section 207(c)(2) – Reservations, roads and other right of way, water storage and distribution facilities and practice target ranges of the United States;
- ☐ None of the Above

Section 204(a)(1) – Lands not required for leasing under 207(a) (homesteading), DHHL may issue a general lease for public, commercial or multipurpose use. This application is a commercial or multipurpose use:

- ☐ Land use or improvements will generate commercial profit to the applicant
- ☐ Land use or improvements will not generate commercial profit to the applicant

Section 204(a)(2)/220.5– Lands not required for leasing under 207(a) (homesteading), DHHL is expressly authorized to negotiate, prior to negotiations with the general public, the disposition of Hawaiian home lands or any improvements thereon to a native Hawaiian, or organization or association owned or controlled by native Hawaiians, for commercial, industrial or other business purposes in accordance to section 171HRS.

- ☐ This Land Request IS made by an *HHCA Homestead Beneficiary Organization.
- ☐ This Land Request IS NOT made by an *HHCA Homestead Beneficiary Organization or individual or business owned and controlled by HHCA Beneficiaries.

Section V. Beneficiary Consultation, Applicant Capacity and Land Use Benefit Analysis

Trust Lands represent a finite amount of land, with thousands of HHCA eligible beneficiaries awaiting an award under the Residential, Agricultural or Pastoral Homesteading program, as well as dozens of Homestead Associations controlled by HHCA Beneficiaries working on homestead based development projects.

As a result, the applicant acknowledges that part of the process of considering applications for trust lands should include the following:

1. Beneficiary Consultation

- a. A Notice of All Land Requests to License/Lease Hawaiian Home Lands for non-homesteading purposes should be sent to all Homestead Associations with an opportunity for beneficiaries of the trust to comment and provide input.
- b. All input received should be provided to the Hawaiian Homes Commission.

2. Applicant Capacity

- a. If a Nonprofit Organization – should be assessed by DHHL Kulia i ka Nuu capacity program to determine financial, programmatic, governance and leadership capacity and determine legal structure. Additional information may be required to be submitted to DHHL.
- b. If an Individual/Business – should be assessed by DHHL to determine financial and leadership capacity and legal structure. Additional information may be required to be submitted to DHHL.

3. Land Use Benefit Analysis

- a. The land requested should have a direct or significant indirect benefit to the trust or to the beneficiaries of the trust. Additional information may be required to be submitted to DHHL.
- b. The land requested should comply with the spirit and intent of Section 207(c) and Section 204(a)(2)/220.5 of the Hawaiian Homes Commission Act, as amended, by engaging beneficiary organizations. Additional information may be required to be submitted to DHHL to determine how Beneficiary Organizations are directly connected to the land request use.

The following authorized representative, submits this request for Hawaiian home lands:

Print Individual or Organization Name

Date

Authorized Representative Name & Title

Signature

V.

**CONDUCT OF DISPOSITION
BY PROJECT DEVELOPER AGREEMENT**

For Business Mixed-Use Development of Hawaiian Home Lands
TMK: (2) 3-8-08:008, 035 & 036, Pulehunui, (Puunene), Wailuku
Island of Maui, State of Hawaii

Following the determination of the best proposal and the Selected Applicant(s) being deemed the "Project Developer", the following responsibilities, procedures, terms and conditions shall apply to the negotiation of a Project Developer Agreement, and Lease (Refer to Exhibit "C" copy of DHHL's Standard General Lease document.

Any proposed disposition of a general lease may be cancelled, postponed or continued by order of the Chairman, Hawaiian Homes Commission.

A. STATUTORY REQUIREMENTS: Any general lease negotiated and entered into pursuant to §220.5 of the Hawaiian Homes Commission Act of 1920, as amended, shall include the following:

1. Within one (1) working day of being formally notified that it has been deemed the Project Developer, said Project Developer shall execute an affidavit stating that the Project Developer is not in arrears in the payment of taxes, rents or any other obligations owing the State of Hawaii or any of its political subdivisions, and that, within the preceding five (5) years, the Project Developer has not had any leases, licenses or permits issued by the State of Hawaii or its political subdivisions, rescinded, cancelled or terminated due to the Project Developer's lack of performance.
2. The Project Developer Agreement and Lease shall not become effective until the subject property is deemed a legally subdivided lot.
3. The Project Developer shall file with DHHL a good and sufficient bond, assuring the Project Developer's full and faithful performance of all the terms, covenants, and conditions of the Lease. In lieu of a bond, the Project Developer may provide a cash deposit equal to one-fourth of the annual rent then due which shall be held, without interest, by DHHL throughout the entire term of the lease.
4. The use or uses to which the land will be put.
5. The Project Developer shall comply with Chapter 343 of the Hawaii Revised Statutes prior to commencing any construction activities, including the demolition of existing structures.
6. The dates by which the Project Developer must submit to DHHL for approval preliminary plans, and final plans and specifications for the total development. No construction shall commence until DHHL has approved the final plans and specifications; provided that construction on an incremental basis may be negotiated and permitted by DHHL.
7. The date of completion of the total development, including the date of completion of any permitted incremental development.

8. The minimum requirements for off-site and on-site improvements that the Project Developer must install, construct, and complete by the date of completion of the total development.
9. The term of the general lease may not exceed sixty-five (65) years.
10. The lands under the general lease shall be subject to withdrawal at any time during the term of the lease, with reasonable notice; and provided that the rental shall be reduced in proportion to the value of the portion withdrawn and the Project Developer shall be entitled to receive from DHHL the proportionate value of the Project Developer's permanent improvements so taken in the proportion that they bear to the unexpired term of the agreement; or the Project Developer, in the alternative, may remove and relocate the Project Developer's improvements to the remainder of the lands occupied by the Project Developer.
11. Other terms and conditions statutorily required in general leases by DCCA.
12. Any other terms and conditions deemed necessary by the State of Hawaii and Department of Hawaiian Home Lands (DHHL).

B. RENT

1. The rent shall commence upon execution of the Lease by the Project Developer (Lessee) unless the Project Developer's development proposal proposes a free or reduced rent period during construction or due diligence or in connection with a phased development.
2. Upon signing of the Lease, the Earnest Money Deposit shall be applied to the initial rent due under the Lease. Additionally, Lessee will also be required to reimburse DHHL for its out-of-pocket expenses for this disposition such as; appraisal, environmental studies, legal fees and any and all consultant fees or out-of-pocket expenses associated with this disposition.

C. CANCELLATION

DHHL requires that lease negotiations are concluded and a lease signed no later than one hundred eighty (180) days following the formal written notification that the Selected Applicant has been deemed the Project Developer. For good cause shown, an extension of time to the negotiation period may be granted with approval of the Chairman of the Hawaiian Homes Commission.

In the event the Project Developer fails to comply with the requirements as described above, DHHL may, at its option, declare default on the part of the Project Developer, terminate all further negotiations, withdraw the offer of a general lease for the subject property, and retain any amounts paid by the defaulted Project Developer as damages. The foregoing shall not exclude any other remedies available to DHHL.

VI.

GENERAL PROPERTY INFORMATION

For Mixed-Use Development of Hawaiian Home Lands
TMK: (2) 3-8-08:008, 035 & 036, Pulehunui (Puunene), Wailuku
Island of Maui, State of Hawaii

The parcels of land (the "Property") being offered for general (ground) lease are located in South Central Maui between Mokulele Highway and Mehamaha Loop Road (road is owned by Alexander & Baldwin, Inc.). The Property is currently identified on State of Hawaii Tax Maps as Pulehunui and Waikapu, Wailuku, Maui, Division 2, Zone 3, Section 08, Plats 008, 035, and 36 (Refer to Exhibit "B")

The Property is generally trapezoid-shaped and offers extensive roadway frontage along Mokulele Highway. Across the highway from the property is the Army National Guard Armory and County of Maui's recreational facilities. To the north of the property is Maui's Humane Society. Just south of the animal shelter is a one-acre easement licensed by DHHL for a relay station and equipment storage yard for telecommunications, to Sandwich Isles Communications, Inc.

The Property is part of a land planning study, the "Pulehunui Master Plan", currently ongoing. When completed, this Plan will set forth a framework for the long term development of state land in South Central Maui. Several State of Hawaii agencies have been working together, in coordination with the County of Maui, for the purpose of land use developments that support business, commercial, and industrial endeavors alongside public facilities and recreational parks in the Pulehunui area.

PROPERTY DATA

Land Transfers – January 16, 2002, Parcel 36, consisting of 80-acres, was transferred from the State of Hawaii, Department of Land and Natural Resources ("DLNR") to DHHL. Then, on February 1, 2011, Parcels 008 and 035 were also transferred from DLNR to DHHL for a total of 184.359 acres consisting of three contiguous parcels at Pulehunui under DHHL ownership.

County of Maui – The property is designated as Project District 10 by the Kihei-Makena Community Plan which calls for moderate expansion of light industrial uses along Mokulele Highway in Central Maui.

Legal Descriptions and Acreage by Parcel (Refer to Exhibit "A")

Property History – Historical, the Property was used for sugar cane cultivation until the mid 1930's when the lands were utilized by the military during World War II. Remnants of old military usage is still evident today with the presence of several structures that are considered to be over 50 years old, scattered throughout the Property. Currently, most of the acreage of the Property is currently in sugar cane cultivation demised to Hawaiian Commercial & Sugar (Alexander & Baldwin, Inc.) on a short term permit basis.

County Zoning – DHHL is, in general, exempt from County Zoning Codes. The subject site is to be developed as M-1 Light Industrial Use. (Refer to Maui County Codes: Chapter 129.24 M-1 Light Industrial District.) Should potential developers plans include some portion of the property that does not conform to the M-1 zoning code, the ground lease rent of that portion of the developer's project will be determined during lease negotiations with DHHL.

Flood Hazard Districts – Flood Hazard districts are delineated on Flood Boundary and Floodway Maps and the Federal Insurance Rate maps prepared by the Federal Insurance Administration and Federal Emergency Management Agency. The subject property is located within an area designated Zone X (outside the 500-year floodplains).

Water - Preliminary information indicates that there are County of Maui water lines along Mehamaha Loop and Mokulele Highway. To date, DHHL has not obtained a commitment for water from County of Maui, Department of Water, to the property. Demand for water within Central Maui has reached capacity. DHHL is currently in the process of acquiring a private water source and investigating various other options for development of water, storage and distribution facilities to the Pulehunui Property.

Wastewater - There is no municipal sewer system adjacent to the property. DHHL will issue a Request for Proposal for the design, build, operate and finance a private wastewater system as soon as the wastewater needs of the proposed development of the site are determined. It is anticipated that the wastewater treatment plant will produce R-1 water for use for all irrigation needs of the development(s).

Electricity - Electric Service will be provided by Maui Electric Company (MECO) through a 12KV line that runs along Mokulele Highway.

Telecommunications – State-of-the-art telephone and broadband communication services will be provided by Sandwich Isles Communications, Inc. (SIC), a native-Hawaiian telecommunications corporation, at such time when these services are required.

PROPERTY CONDITION

Geology –_Located on the broad flat plain of the Central Maui isthmus, the topography is generally flat with an average elevation of approximately 20 feet above mean sea level.

Soils Condition – According to ISDA Soil Conservation Survey, the site consists of well-drained Ewa Silty clay soil and the substratum is coral limestone, sand or gravelly alluvium. A detailed geotechnical study of soils and sub-soils has not yet been conducted on the Property.

Archaeological Sites – Preliminary archaeological studies are currently in progress on the sites.

Existing Structures – Approximately five (5) existing concrete structures are located within the property that may be over 50-years old.

ENVIRONMENTAL

Hazardous Materials/Contaminants – An assessment or investigation for possible hazardous material or contamination has not been conducted on the property.

Air Quality – Windborne smoke and dust from sugar cane harvesting and/or other sources from the surrounding properties may have an impact on the air quality of the Property. An assessment or investigation for possible hazardous or contaminated air quality has not been conducted for the property.



STATE OF HAWAII
SURVEY DIVISION
DEPT. OF ACCOUNTING AND GENERAL SERVICES
HONOLULU

C.S.F. No. 25,026

December 20, 2010

(REVISED – DECEMBER 2010)
PORTION OF
THE LANDS OF PULEHUNUI AND WAIKAPU

LOT A

Pulehunui and Waikapu, Wailuku, Maui, Hawaii

Comprised of the following parcels of land conveyed to the Territory of Hawaii by the United States of America by Quit-Claim Deed dated December 31, 1948 and recorded in Liber 2199, Pages 461-479 (Land Office Deed 8663).

- A. Portion of Land Patent 8140, Land Commission Award 5230 to Keaweamahi.
- B. Portion of Grant 3152 to Henry Cornwell.

Beginning at the south corner of this parcel of land and on the west side of Mokulele Highway, Federal Aid Project No. NH-0900(59), the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU HELE" being 343.67 feet South and 12,555.02 feet East, thence running by azimuths measured clockwise from True South:-

1. Along the east side of Mehameha Loop on a curve to the left with a radius of 2100.00 feet, the chord azimuth and distance being:
157° 46' 59" 647.35 feet;
2. 148° 55' 722.80 feet along the east side of Mehameha Loop;

EXHIBIT "A"

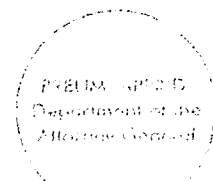
3. Thence along the south side of Mehameha Road on a curve to the left with a radius of 520.00 feet, the chord azimuth and distance being:
291° 29' 54" 265.63 feet;
4. 276° 42' 426.50 feet along the south side of Mehameha Road;
5. Thence along the southwest corner of the intersection of Mehameha Road and Mokulele Highway, Federal Aid Project No. NH-0900(59) on a curve to the right with a radius of 30.00 feet, the chord azimuth and distance being:
321° 42' 42.43 feet;
6. 6° 42' 342.11 feet along the west side of Mokulele Highway, Federal Aid Project No. NH-0900(59);
7. Thence along the west side of Mokulele Highway, Federal Aid Project No. NH-0900(59) on a curve to the left with a radius of 5749.58 feet, the chord azimuth and distance being:
3° 12' 50" 699.22 feet
to the point of beginning and containing an AREA
OF 6.926 ACRES.

Vehicle access shall not be permitted into and from Mokulele Highway, Federal Aid Project No. NH-0900(59) over and across Courses 6 and 7 of the above-described parcel of land.

SUBJECT, HOWEVER, to Perpetual Non-Exclusive Waterline Easement C covered by Grant of Easement: State of Hawaii to the County of Maui dated November 8, 1978 and recorded in Liber 13,338, Page 561 (Land Office Deed S-26,985) as shown on plan attached hereto and made a part hereof and more particularly described as follows:

Beginning at the south corner of this easement and on the west side of Mokulele Highway, Federal Aid Project No. NH-0900(59), the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU HELE" being 206.38 feet South and 12,556.01 feet East, thence running by azimuths measured clockwise from True South:-

1. 148° 54' 49" 179.94 feet;

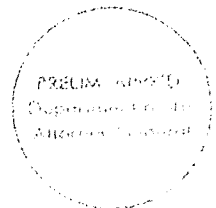


2. Thence along the east side of Mehameha Loop on a curve to the left with a radius of 2100.00 feet, the chord azimuth and distance being:
155° 11' 20" 228.72 feet;
3. 328° 54' 49" 367.92 feet;
4. Thence along the west side of Mokulele Highway, F.A.P. No. NH-0900(59) on a curve to the left with a radius of 5749.58 feet, the chord azimuth and distance being:
1° 19' 35.5" 46.63 feet
to the point of beginning and containing an AREA
OF 6371 SQUARE FEET.

RESERVING, HOWEVER, to the State of Hawaii, its successors and assigns, Perpetual Non-Exclusive Waterline Easement W-2 as shown on plan attached hereto and made a part hereof and more particularly described as follows:

Beginning at the southeast corner of this easement and on the west side of Mokulele Highway, Federal Aid Project No. NH-0900(59), the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU HELE" being 80.88 feet South and 12,559.78 feet East, thence running by azimuths measured clockwise from True South:-

1. 92° 18' 15.01 feet;
2. 58° 55' 30.59 feet;
3. 148° 54' 49" 15.00 feet;
4. 238° 55' 35.09 feet;
5. 272° 18' 19.54 feet;

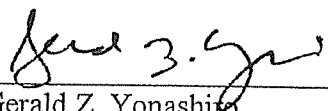


C.S.F. No. 25,026

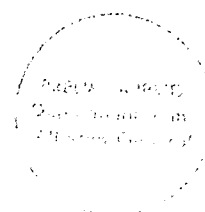
December 20, 2010

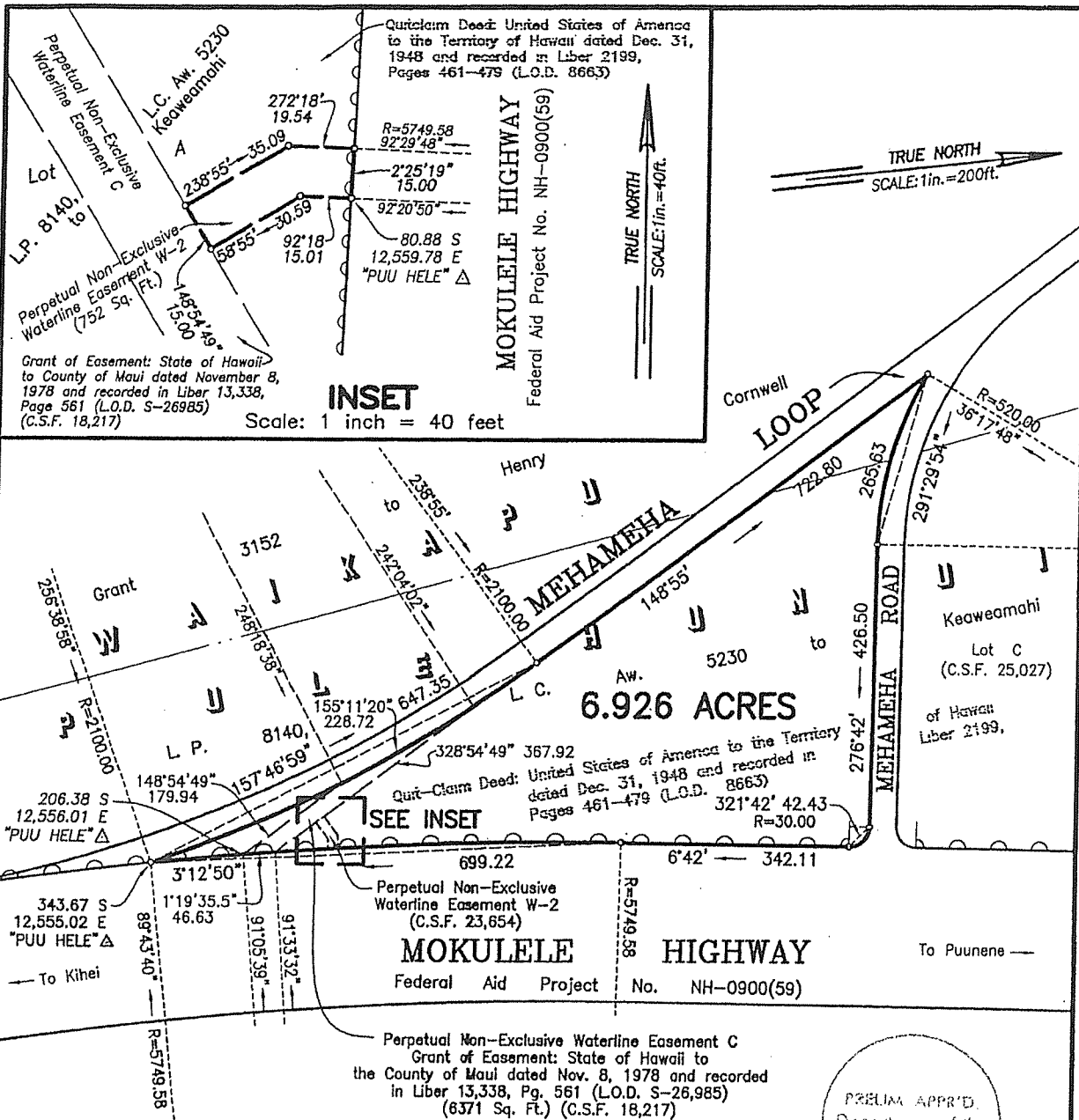
6. Thence along the west side of Mokulele Highway, F.A.P. No. NH-0900(59) on a curve to the left with a radius of 5749.58 feet, the chord azimuth and distance being:
2° 25' 19" 15.00 feet
to the point of beginning and containing an AREA
OF 752 SQUARE FEET.

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

By: 
Gerald Z. Yonashiro
Land Surveyor ry

Compiled from CSF 23132
and other Govt. Survey Records.





Notes:

denotes access permitted
 denotes no vehicle access permitted

REDUCED NOT TO SCALE

(REVISED-DECEMBER 2010)
 PORTION OF
 THE LANDS OF PULEHUNUI AND WAIKAPU
 LOT A

Pulehunui and Waikapu, Wailuku, Maui, Hawaii

Scale: 1 inch = 200 feet

JOB Ma-364(10)

C. BK.

TAX MAP 3-8-08: 08

C.S.F. NO. 25,026

SURVEY DIVISION
 DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
 STATE OF HAWAII

GZY December 20, 2010



STATE OF HAWAII
SURVEY DIVISION
DEPT. OF ACCOUNTING AND GENERAL SERVICES
HONOLULU

C.S.F. No. 25,027

December 20, 2010

(REVISED – DECEMBER 2010)
PORTION OF
THE LANDS OF PULEHUNUI AND WAIKAPU

LOT C

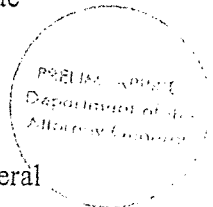
Pulehunui and Waikapu, Wailuku, Maui, Hawaii

Comprised of the following parcels of land conveyed to the Territory of Hawaii by the United States of America by Quit-Claim Deed dated December 31, 1948 and recorded in Liber 2199, Pages 461-479 (Land Office Deed 8663).

- A. Portion of Land Patent 8140, Land Commission Award 5230 to Keaweamahi.
- B. Portion of Grant 3152 to Henry Cornwell.

Beginning at the northeast corner of this parcel of land and on the west side of Mokulele Highway, Federal Aid Project No. NH-0900(59), the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU HELE" being 3854.33 feet North and 13,005.36 feet East, thence running by azimuths measured clockwise from True South:-

- 1. 6° 42' 3081.83 feet along the west side of Mokulele Highway, Federal Aid Project No. NH-0900(59);



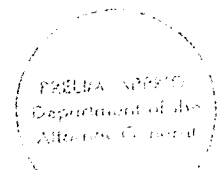
2. Thence along the northwest corner of the intersection of Mokulele Highway, Federal Aid Project No. NH-0900(59) and Mehamaha Road on a curve to the right with a radius of 30.00 feet, the chord azimuth and distance being:
51° 42' 42.43 feet;
3. 96° 42' 426.50 feet along the north side of Mehamaha Road;
4. Thence along the north side of Mehamaha Road on a curve to the right with a radius of 480.00 feet, the chord azimuth and distance being:
122° 48' 30" 422.47 feet;
5. 148° 55' 818.00 feet along the east side of Mehamaha Loop;
6. Thence along the east side of Mehamaha Loop on a curve to the right with a radius of 1155.00 feet, the chord azimuth and distance being:
171° 16' 30" 878.72 feet;
7. 193° 38' 1442.92 feet along the east side of Mehamaha Loop;
8. 276° 42' 1396.57 feet along the remainder of Grant 3152 to Henry Cornwell and along the remainder of L.P. 8140, L.C. Aw. 5230 to Keaweamahi to the point of beginning and containing an AREA OF 97.433 ACRES.

Vehicle access shall not be permitted into and from Mokulele Highway, Federal Aid Project No. NH-0900(59) over and across Course 1 of the above-described parcel of land.

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

By: Gerald Z. Yonashiro
Gerald Z. Yonashiro
Land Surveyor ry

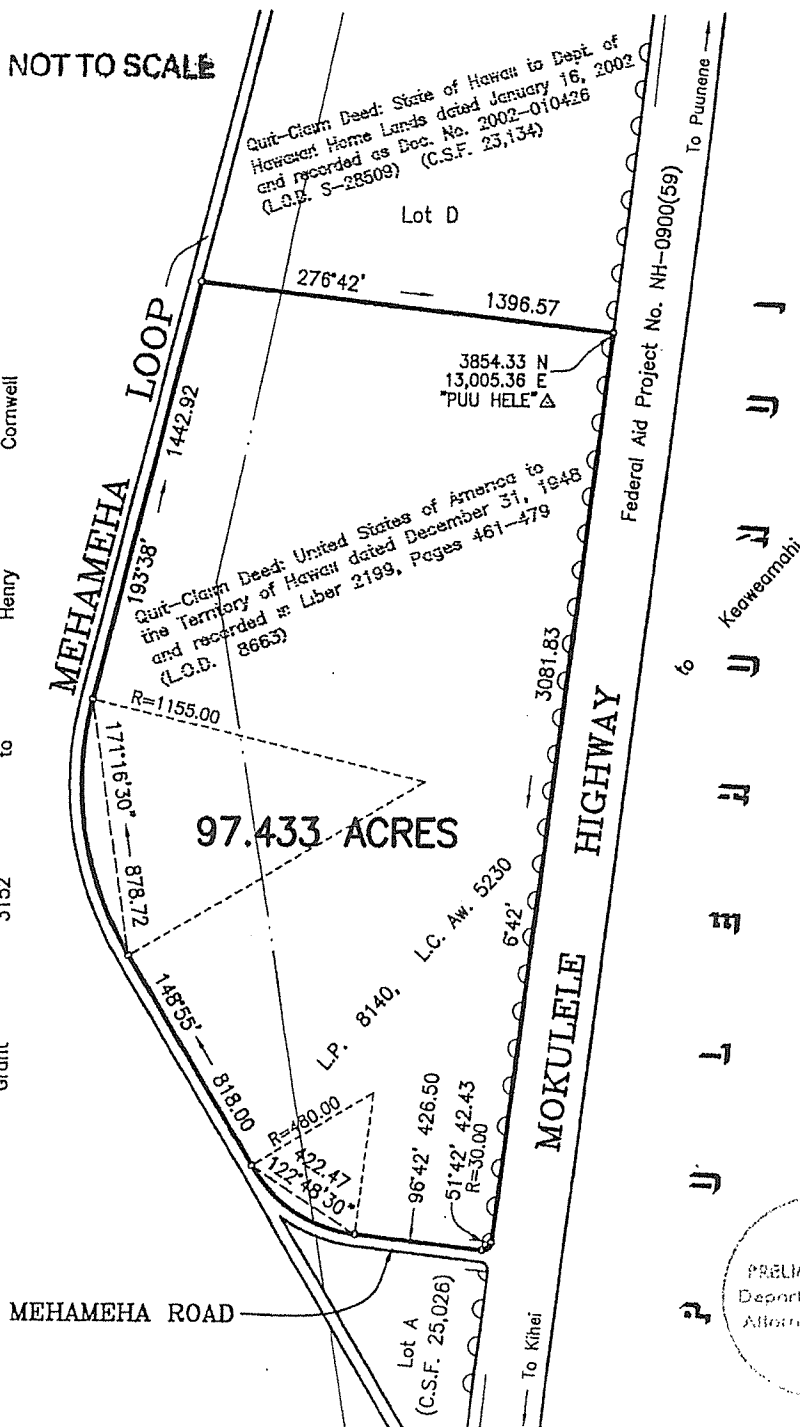
Compiled from CSF 23133
and other Govt. Survey Records.



TRUE NORTH
Scale: 1 inch = 500 feet

REDUCED NOT TO SCALE

W A J K A P U
Grant 3152 to Henry Cornwell



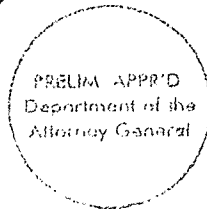
Notes:

denotes access permitted
denotes no vehicle access permitted

(REVISED-DECEMBER 2010)
PORTION OF
THE LANDS OF PULEHUNUI AND WAIKAPU
LOT C

JOB Ma-364(10)
C. BK.

Pulehunui and Waikapu, Wailuku, Maui, Hawaii
Scale: 1 inch = 500 feet



TAX MAP 3-8-08: 35

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

C.S.F. NO. 25,027

GZY December 20, 2010



STATE OF HAWAII

SURVEY DIVISION

DEPT. OF ACCOUNTING AND GENERAL SERVICES

HONOLULU

C.S.F. No. 23,134

June 27, 2001

PORTION OF
THE LANDS OF PULEHUNUI AND WAIKAPU

LOT D

Pulehunui and Waikapu, Wailuku, Maui, Hawaii

Being portions of the Lands of Pulehunui covered by Land Patent 8140, Land Commission Award 5230 to Keaweamahi and Waikapu covered by Grant 3152 to Henry Cornwell conveyed to the Territory of Hawaii by the United States of America by Quit-Claim Deed dated December 31, 1948 and recorded in Liber 2199, Pages 461-479 (Land Office Deed 8663).

Beginning at the southeast corner of this parcel of land and on the west side of the Proposed Mokulele Highway Widening, Federal Aid Project No. NH-0900(59), the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU HELE" being 3854.33 feet North and 13,005.36 feet East, thence running by azimuths measured clockwise from True South:-

1. 96° 42' 1396.57 feet along Lot C of the Lands of Pulehunui and Waikapu;
2. 193° 38' 2130.88 feet along the east side of Mehameha Loop;

3. Thence along the east side of Mehameha Loop on a curve to the right with a radius of 950.00 feet, the chord azimuth and distance being:
211° 17' 30" 576.35 feet;
4. 228° 57' 663.83 feet along the east side of Mehameha Loop;
5. 318° 57' 220.00 feet along the Animal Shelter Facility;
6. 263° 39' 10" 229.54 feet along the Animal Shelter Facility;
7. 281° 00' 35.73 feet along the Animal Shelter Facility;
8. 5° 55' 893.68 feet along the west side of the Proposed Mokulele Highway Widening, Federal Aid Project No. NH-0900(59);
9. 5° 55' 40.00 feet along the west side of the Proposed Mokulele Highway Widening, Federal Aid Project No. NH-0900(59);
10. 5° 55' 1338.29 feet along the west side of the Proposed Mokulele Highway Widening, Federal Aid Project No. NH-0900(59);
11. 6° 42' 760.21 feet along the west side of the Proposed Mokulele Highway Widening, Federal Aid Project No. NH-0900(59) to the point of beginning and containing an AREA OF 80.000 ACRES.

June 27, 2001

Vehicle access shall not be permitted into and from the Proposed Mokulele Highway Widening, Federal Aid Project No. NH-0900(59) over and across Courses 8, 10 and 11 of the above-described parcel of land.

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

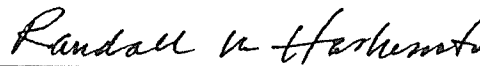
By: 

Stanley T. Hasegawa

Licensed Land Surveyor No. 3632

gm

Reviewed and Approved by:

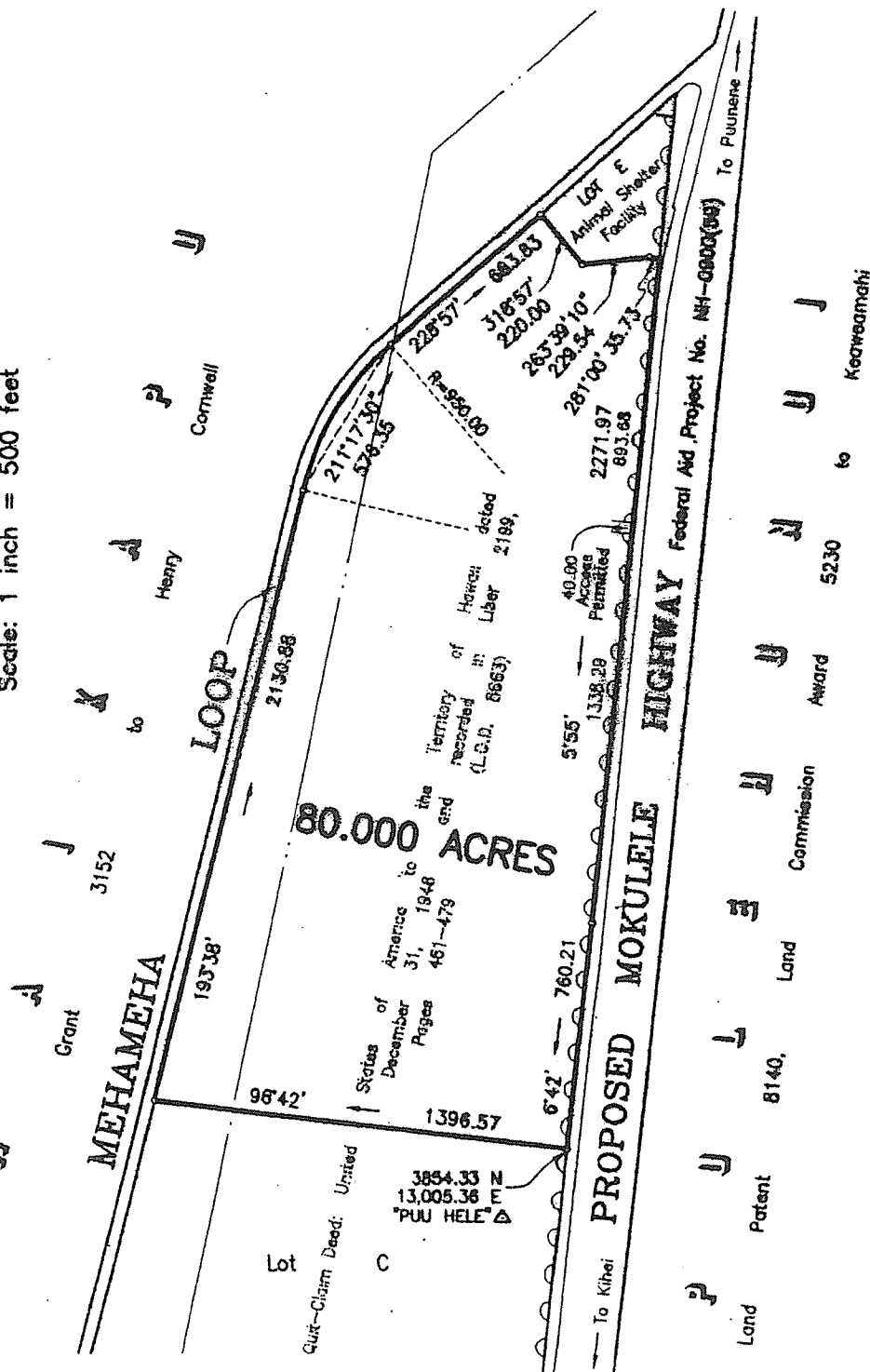


Randall M. Hashimoto

State Land Surveyor

Compiled from CSFs 15045,
15456, 20365, 20366, 22301
and other Govt. Survey Records.
TMK: 3-8-08:por. 8

TRUE NORTH
Scale: 1 inch = 500 feet



Notes:

denotes access permitted
denotes no vehicle access permitted

REDUCED
NOT TO SCALE

PORTION OF THE LANDS OF PULEHUNUI AND WAIKAPU LOT D

Pulehunui and Waikapu, Wailuku, Maui, Hawaii

Scale: 1 inch = 500 feet

JOB S-19(95)

C. BK.

TAX MAP 3-8-08: Por. 8

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

STATE OF HAWAII

C.S.F. NO. 23,134

ET June 27, 2001

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

GENERAL LEASE NO. _____

between

STATE OF HAWAII

and

covering

HAWAIIAN HOME LANDS

situate at

Island of _____, Hawaii

EXHIBIT "C"

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE ONE DEMISE.....	1
1. Lease	1
2. Term.....	1
ARTICLE TWO RESERVATION AND RIGHT OF WITHDRAWAL.....	1
1. Minerals and Waters	1
2. Prehistoric and Historic Remains.....	2
3. Right of Withdrawal	2
4. Reservation of Easements in Favor of LESSOR	2
5. Compensation for Takings, Withdrawal and other Entry or Actions Reserved in Favor of LESSOR.....	3
ARTICLE THREE RENTAL.....	3
1. Annual Base Rental.....	4
2. Reopening of Annual Base Rental	4
ARTICLE FOUR 	5
1. Payment of Rent.....	5
2. Taxes and Assessments.....	5
3. Utility Services.....	6
4. Improvements Required by Law.....	6
5. Observance of Laws.....	6
6. Inspection of Premises	6
7. Improvements	7
(a) Governmental Approvals and Permits	7
(b) Construction of Improvements	7
(c) Bond and Financial Information	7
(d) Compliance with the Americans with Disabilities Act of 1990	8
(i) Applicable Laws	8
(ii) Responsibility for Compliance	8
8. Repairs to Improvements	9
9. Assignment	9
(a) No Assignment Without Consent	9
(b) Assumption of Lease.....	9
(c) Compliance with Hawaii Revised Statutes §171-36(a)(5).....	9

TABLE OF CONTENTS
(continued)

	<u>Page</u>
(d) No Change of Use	9
(e) LESSOR's Response	9
(f) "Assignment" Defined	9
10. Subletting	10
11. Liens	10
12. Permitted Uses	10
13. Indemnity	11
14. Costs of Litigation	11
15. Insurance	11
(a) Commercial Property Insurance	11
(i) Coverage	11
(ii) Trust	12
(iii) Use of Proceeds	12
(b) Liability Insurance	12
(i) Commercial General Liability Insurance	12
(1) Limits	13
(2) Deductible	13
(3) Application of General Aggregate	13
(ii) Workers' Compensation and Employers' Liability Insurance	13
(iii) Business Auto Policy	13
(c) Umbrella Liability	13
(d) Builder's and Installation Risk	13
(e) General Policy Terms	14
(f) Periodic Review of Insurance Coverages	14
16. Landscaping	14
17. Surrender	14
18. Processing Fees/Documentation	15
19. Hazardous Materials	16
20. Underground Storage Tank (UST)	17
21. Non-warranty	17

TABLE OF CONTENTS
(continued)

	<u>Page</u>
ARTICLE FIVE	17
1. Mortgage	17
2. Breach	21
3. Rights of Holder of Record of a Security Interest	22
4. Condemnation	22
5. Right to Enter	23
6. Inspection by Prospective Bidders	23
7. Payment or Acceptance of Rent Not a Waiver	23
8. Extension of Time	23
9. Quiet Enjoyment	24
10. Interest, Costs and Fees	24
11. Hawaii Law/Filing	24
12. Partial Invalidity	24
13. Notice	24
14. Definitions	25

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

GENERAL LEASE NO. _____

THIS INDENTURE OF LEASE (the "Lease"), is made as of the _____ day of _____, 200____, but shall be effective on the date set forth below, by and between THE STATE OF HAWAII, by its DEPARTMENT OF HAWAIIAN HOME LANDS, whose principal place of business is 1099 Alakea Street, 20th Floor, Honolulu, Hawaii 96813, and whose post office address is P. O. Box 1879, Honolulu, Hawaii 96805, hereinafter called "LESSOR," and _____, a _____ corporation, whose business and mailing address is _____, hereinafter called "LESSEE."

W I T N E S S E T H:

ARTICLE ONE
DEMISE

1. Lease. LESSOR, for and in consideration of the rent to be paid and of the terms, covenants and conditions herein contained, all on the part of LESSEE to be kept, observed and performed, does lease to LESSEE, and LESSEE does lease from LESSOR, those certain premises located at _____, Island of _____, Hawaii, comprising _____ acres, more or less, of Hawaiian Home Lands, more particularly described in **Exhibit "A"**, and as shown on the map marked **Exhibit "B"**, both attached hereto and made a part hereof ("Premises").

2. Term. The Premises are demised unto LESSEE TO HAVE AND TO HOLD, together with all buildings, improvements, tenements, rights, easements, privileges appurtenant thereto, but subject to the terms and conditions of this Lease, for a term commencing on _____, 200____ (which shall be the Effective Date of the Lease), and ending as of midnight on _____, unless sooner terminated as hereinafter provided.

3. Community Benefits. LESSEE agrees to cooperate with and support LESSOR'S Home Ownership Assistance Program (HOAP) to provide training and job opportunities to native Hawaiians in a manner consistent with applicable federal and state labor law. LESSEE also agrees to include in its community support program support for community development, job training and placement, and educational and/or cultural programs for residents of Hawaiian home lands on the Island of _____.

ARTICLE TWO
RESERVATIONS AND RIGHT OF WITHDRAWAL

RESERVING UNTO LESSOR THE FOLLOWING:

1. Minerals and Waters.

(a) All minerals as hereinafter defined, in, on, or under the Premises, except that the right to prospect for, mine and remove such minerals shall be suspended during the term of this Lease. "Minerals," as used herein, shall mean any and all oil, gas, coal, phosphate, sodium, sulphur, iron, titanium, gold, silver, bauxite, bauxitic clay, diaspore, boehmite, laterite, gibbsite, alumina, all ores of aluminum and, without limitation thereon, all other mineral substances and ore deposits, whether solid, gaseous or liquid, including all geothermal resources, in, on, or under any land, fast or submerged; provided, that "minerals" shall not include sand, gravel, rock or other material suitable for use and when used in construction in furtherance of LESSEE's permitted activities on the demised Premises and not for sale to others. This provision is intended only to govern extraction of minerals and not to impair in any manner LESSOR's ownership of the mineral rights pursuant to Sections 171-58 and 182-2 of the Hawaii Revised Statutes.

(b) All surface waters, ground waters, and water systems, appurtenant to the Premises, provided that such reservation shall not include the right to enter the Premises to capture, divert, or impound the same or to occupy and use any of the Premises in the exercise of this reserved right.

2. Prehistoric and Historic Remains. LESSOR has reviewed its files and records and determined that it has no information, reports or inspections reflecting that there are any prehistoric or historic remains or sites of archaeological significance present at the Premises. If, however, any area is rendered unsuitable for development as a result of the discovery of sites of archaeological significance or prehistoric or historic remains, such sites or remains shall be excluded from the Premises demised to LESSEE with an equitable adjustment of the rental payable hereunder determined in the manner provided in Section 5 of this Article Two. Except as provided above, LESSEE assumes the risk of any sites of archaeological significance or prehistoric or historic remains found on the Premises, including the risk of any delays arising out of the investigation, or the protection or removal of such sites or remains.

3. Right of Withdrawal. The right to withdraw all or any portion of the Premises for the purposes of the Hawaiian Homes Commission Act, 1920 (the "Act"), as reserved by Section 204(a)(2) of the Act. The right to withdraw reserved under this Section 3 of Article Two shall be exercised only after not less than two (2) years prior written notice to LESSEE. As a condition to the exercise by LESSOR of any rights reserved in this Section 3 of Article Two, just compensation shall be paid to LESSEE for any of the Premises and/or LESSEE's improvements so withdrawn or rendered unsuitable for LESSEE's intended use, which amount is to be determined in the manner set forth in Section 5 of this Article Two, and the annual base rental under this Lease will also be proportionately reduced also as provided in Section 5 of this Article Two.

4. Reservation of Easements in Favor of LESSOR. LESSOR hereby reserves the right and option, with the reasonable consent of LESSEE, to create, designate, grant and relocate

from time to time, at its sole cost and expense, any and all necessary easements for underground utilities and services, including drainage, water, sewer, electricity and other utilities under, across and through the Premises, provided that (a) such easements do not cross through or under any permanent structures constructed on the Premises or planned to be constructed on the Premises, and (b) the work to construct and install any such easements shall be done, and the easement shall be utilized, in such a fashion as to cause no disruption with LESSEE's operations or use of the Premises. Upon completion of any such work by LESSOR the surface of the Premises shall be returned, at LESSOR's sole cost and expense, to substantially the same condition as it was prior to installation of any underground utility.

5. Compensation for Takings, Withdrawal and other Entry or Actions Reserved in Favor of LESSOR. In the event all or any portion of the Premises is taken or withdrawn, or LESSEE is denied the practical and economic use thereof by any other entry or actions or matters reserved to LESSOR under this Lease, then and in any such event, LESSEE and/or those claiming by, through or under LESSEE will be entitled to just compensation to the same extent and according to the same principles and rules of law as if the Premises and all improvements thereon, had been condemned by the State of Hawaii under its power of eminent domain. If at any time during the term, a portion, but not all, of the Premises should be taken or withdrawn, or LESSEE is denied the practical and economic use of such portion, then and in any such event, the annual base rental shall be proportionately reduced based upon the ratio between the fair market value of the Premises prior to such taking, withdrawal, or use denied to the fair market value of the Premises remaining after such taking, withdrawal, or use denial. In such event, LESSEE shall also be entitled to receive from LESSOR a portion of the value of LESSEE's permanent improvements situated on the taken, withdrawn, or use denied portion of the Premises in the proportion that the unexpired term of the Lease bears to the entire term of the Lease, provided, that LESSEE may, in the alternative, remove and relocate its improvements to the remainder of the Premises occupied by LESSEE. Where the portion taken, withdrawn, or use denied renders the remainder of the Premises unusable in LESSEE's reasonable determination, LESSEE shall have the option to surrender this Lease in accordance with Section 17 of Article Four below or partially surrender this Lease as to the portion of the Premises so affected, and be discharged and relieved from any further liability therefor. In the event LESSEE shall not exercise such option to surrender this Lease or partially surrender this Lease as to the portion of the Premises so affected, then the annual base rental for the balance of the term shall be abated and adjusted in an equitable manner as set forth above. In the event that LESSEE reasonably exercises its option to surrender this Lease or partially surrender this Lease as to the portion of the Premises so affected by reason of a partial taking, withdrawal or use denial, LESSEE shall be entitled to just compensation as if LESSOR had elected to take, withdraw or deny the use of the entire Premises or the portion of the Premises so affected under the Lease and LESSEE will be entitled to just compensation to the same extent and according to the same principles and rules of law as if the Premises or the portion of the Premises and all improvements thereon, had been condemned by the State of Hawaii under its power of eminent domain as more particularly set forth above.

ARTICLE THREE

RENTAL

LESSEE shall pay to LESSOR at the office of the Department of Hawaiian Home Lands, Honolulu, Oahu, State of Hawaii, a net annual rental as provided hereinbelow, payable in advance, without notice or demand and without any set-off or deduction, in equal monthly installments, as follows:

1. Annual Base Rental. Annual base rental shall be paid on the first day of each and every calendar month from and after the Rent Commencement Date by LESSEE to LESSOR at LESSOR's principal place of business first described above, in United States dollars, as follows:

Lease years 1 through 10: _____ Dollars (\$_____) per annum (\$_____) per month, from and after the Rent Commencement Date only);

Lease years 11 through 15: _____ Dollars (\$_____) per annum (\$_____) per month);

Lease years 16 through 20: _____ Dollars (\$_____) per annum (\$_____) per month); and

Lease years 21 through 25: _____ Dollars (\$_____) per annum (\$_____) per month).

Lease years 26 through 65: annual base rental shall be reopened as provided in Section 2 below.

Base rental payable for any month shall be proportionately reduced for any partial month during the term. The "Rent Commencement Date" is that date which is the earlier of (a) _____ or (b) the date on which LESSEE opens the Premises for business. The first lease year shall commence on the Effective Date with succeeding lease years commencing on each succeeding anniversary of such Effective Date.

LESSOR holds LESSEE's bid deposit in the amount of \$_____. This amount will be applied to pay the first rents coming due from LESSEE under the Lease.

2. Reopening of Annual Base Rental. The annual base rental hereinabove reserved shall be reopened and re-determined at the expiration of the twenty-fifth (25th) lease year of the term for the next ensuing ten-year period comprising lease years 26-35 and shall be reopened and redetermined at the expiration of the 35th, 45th and 55th lease years for each of the next ensuing three (3) ten-year periods comprising lease years 36-45, 46-55 and 56-65, respectively, to an amount equal to the then fair market rental value of the Premises at the commencement of such reopening period as if the Premises were unencumbered by this Lease and based on the use or uses then permitted to be made on the Premises under the applicable County zoning, as such uses may be further restricted by the terms of this Lease (referred to hereafter as the "fair market rental value" of the Premises), all as shall be determined by mutual agreement between LESSOR and LESSEE. If LESSOR and LESSEE fail to mutually agree upon the fair market rental value of the Premises which will be the annual base rental for the reopening period at least ninety (90) days prior to the commencement of each of the reopening periods, the proposed new annual base rental shall be determined by an appraiser whose services shall be contracted for by LESSOR

who shall determine the fair market rental value of the Premises; provided, that should LESSEE fail to agree upon the fair market rental value of the Premises as determined by LESSOR's appraiser, LESSEE shall promptly appoint its own appraiser and give written notice thereof to LESSOR, and in case LESSEE shall fail to do so within thirty (30) days after being advised of the fair market rental value as determined by LESSOR's appraiser, LESSOR may apply to any person then sitting as judge of the Circuit Court of the judicial circuit in which the Premises are located for appointment of a second appraiser, and the two appraisers thus appointed in either manner shall have thirty (30) days (or such additional time as LESSOR and LESSEE shall mutually agree) to resolve any disagreement on the fair market rental value determination and settle the reopened rent for the ensuing reopening period. Should both appraisers fail to agree upon the fair market rental value of the Premises within this 30-day period (as the same may be extended by mutual agreement of LESSOR and LESSEE), they shall appoint a third appraiser. In case of their failure to do so within fifteen (15) days, either party may have the third appraiser appointed by the judge and the fair market rental value of the Premises shall be determined by arbitration as provided in Chapter 658A, Hawaii Revised Statutes. Each appraiser, whether appointed by a party to the Lease or by the Circuit Court, shall have the following minimum qualifications: at least five (5) years experience in appraising commercial real property and hold a current MAI or SREA designation. The decision of the appraisers or a majority of them shall be final, conclusive and binding upon both parties hereto. The appraisers so appointed shall deliver their determination before the ninetieth (90th) day following appointment of the third appraiser, and, in the event they shall fail to do so and the time for delivery of such determination shall not have been extended by mutual agreement of LESSOR and LESSEE, the employment of the appraisers shall immediately terminate and, except as may be approved by LESSOR and LESSEE in the exercise of their sole and absolute discretion with respect thereto, the appraisers shall not be entitled to any payment for services or reimbursement of expenses incurred because of such appointment. In the event the employment of the appraisers shall be so terminated, new appraisers shall be appointed in the manner hereinbefore provided. LESSEE shall pay for its own appraiser, LESSOR shall pay for its appraiser, and the cost of the third appraiser shall be borne equally by LESSEE and LESSOR. Upon completion of the arbitration procedure, all appraisal reports shall become part of the public record of LESSOR. If the rental for any ensuing period has not been determined prior to the expiration of the preceding rental period, LESSEE shall continue to pay the rent effective for the previous rental period, but LESSEE shall, within thirty (30) days after the new rental has been so determined, make up the deficiency, if any plus interest thereon at the rate of ten percent (10.0%) per annum from the due date for each payment of the additional rent.

ARTICLE FOUR

THE PARTIES HEREIN COVENANT AND AGREE AS FOLLOWS:

1. Payment of Rent. LESSEE shall pay the rent to LESSOR at the times, in the manner and form provided in this Lease and at the place specified above, or at any other place LESSOR may from time to time designate, in legal tender of the United States of America.
2. Taxes and Assessments. (a) LESSEE shall pay or cause to be paid, when due, the amount of all taxes, rates, assessments and other outgoings of every description as to which the

Premises or any part, or any improvements, or LESSOR or LESSEE in respect thereof, are now or may be assessed by governmental authorities during the term of this Lease; provided, however, that with respect to any assessment made under any betterment or improvement law which may be payable in installments, LESSEE shall be required to pay only those installments, together with interest, which become due and payable during the term; (b) LESSEE shall reimburse to LESSOR, upon demand, any and all conveyance and transfer taxes payable with respect to this transaction, or with respect to any document to which LESSEE is a party, creating or transferring an interest or an estate in the Premises; and (c) LESSEE shall have the right to contest any tax, rate, assessment or other charge imposed against the Premises provided, however, that any such proceeding shall be brought by LESSEE only after payment by LESSEE as hereinabove provided of such taxes, assessments or other charges or impositions if required by law as a condition to bringing such proceeding, and if any such proceeding be brought by LESSEE, LESSEE shall defend, indemnify and save harmless LESSOR against any and all loss, costs or expenses of any kind that may be incurred by or imposed upon LESSOR in connection therewith. LESSOR agrees to reasonably cooperate with LESSEE in any application or proceeding to contest such tax, rate, assessment or other charge, provided that all reasonable costs and expenses of LESSOR incurred in connection therewith shall be paid by LESSEE.

3. Utility Services. LESSEE shall pay or caused to be paid all utility charges, duties, rates and, other similar outgoings, including water, sewer, gas, refuse collection, recycling, relocation of utility poles and lines or any other charges, as to which the Premises or any part, or any improvements, or LESSOR or LESSEE in respect thereof, may become liable for during the term, whether assessed to or payable by LESSOR or LESSEE. LESSEE, at its sole cost and expense, shall be responsible for bringing any and all necessary utility connections to the Premises for its contemplated improvements. Throughout the term of this Lease, LESSEE shall purchase all telecommunication services for the Premises from Sandwich Isles Communications, Inc. ("SIC").

4. Improvements Required by Law. LESSEE will, at LESSEE's own expense during the whole of the term, make, build, maintain and repair all fences, sewers, drains, roads, curbs, sidewalks and parking areas which may be required by law to be made, built, maintained and repaired upon or adjoining or in connection with or for the use of the Premises or any part thereof.

5. Observance of Laws. LESSEE will at all times during the term keep the Premises in a strictly safe, clean, orderly and sanitary condition, free of any nuisance or improper or offensive use, and observe and perform all laws, ordinances, rules and regulations now or hereafter made by any governmental authority for the time being applicable to the Premises or any improvement thereon or use thereof, and will defend, indemnify and hold harmless LESSOR against all actions, suits, damages and claims by whomsoever brought or made by reason of the nonobservance or nonperformance by LESSEE of said laws, ordinances, rules and regulations or of this covenant.

6. Inspection of Premises. Upon reasonable notice, LESSEE will permit LESSOR and its agents at all reasonable times during the term of this Lease to enter the Premises and examine the state of repair and condition of the Premises. LESSEE will repair and make good at

LESSEE's own expense all defects required by the provisions of this Lease to be repaired by LESSEE of which written notice shall be given by LESSOR or its agents within thirty (30) days after the giving of such notice, or if such defect is not reasonably susceptible to repair within said thirty (30) day period, LESSEE shall undertake to repair such defect within said thirty (30) day period and shall diligently and expeditiously proceed to complete the steps or action necessary to repair the defect. If for any reason LESSEE shall fail to commence and complete such repairs within the time period specified herein, LESSOR may, but shall not be obligated to, make or cause to be made such repairs and shall not be responsible to LESSEE or anyone claiming by, through or under LESSEE for any loss or damage to the occupancy, business or property of any of them by reason thereof (except to the extent such loss or damage is the result of the gross negligence or willful misconduct of LESSOR or LESSOR's agents or employees in effecting any such repairs), and LESSEE will pay to LESSOR, within ten (10) days following written demand by LESSOR, and as additional rent, all costs and expenses paid or incurred by LESSOR in connection with such repairs.

7. Improvements.

(a) Governmental Approvals and Permits. Before commencing any construction of buildings or improvements on the Premises, LESSEE shall seek and secure all approvals and permits which may be required from any governmental authority having jurisdiction thereof, including, without limitation, governmental requirements from time to time in effect regarding land, air and water use or emissions and noise emissions and Hazardous Materials. LESSEE shall bear all costs and expenses of obtaining the necessary approvals and permits.

(b) Construction of Improvements. LESSEE will not construct or place on the Premises any building or other improvement, including fences and walls, nor make any additions or structural alterations costing more than Fifty Thousand Dollars (\$50,000) to any building thereon, nor erect or place any signs or other exterior fixtures on the Premises, except in accordance with plans and specifications, including a detailed plot plan, which shall be prepared by a licensed architect, first submitted by LESSEE and approved in writing by LESSOR. In connection with any request for approval of plans by LESSEE, LESSOR may, but shall not be obligated to, retain the services of an architect and/or engineer, and the reasonable fees of such architect and/or engineer to LESSOR shall be reimbursed to LESSOR by LESSEE. LESSOR may without further reason withhold approval of any alterations, additions and improvements if the plans or specifications therefor are not acceptable to the architect or engineer (if any) retained by LESSOR to review the same. LESSOR's approval of any plans or suggestions for the revision thereof shall not be construed to be an agreement or representation on LESSOR's part of adequacy or suitability for their intended purpose, of the alterations, additions and improvements shown or their compliance with applicable building codes or other governmental requirements.

(c) Bond and Financial Information. LESSEE will before commencing construction of any improvements within the Premises in excess of FIFTY THOUSAND AND NO/100 DOLLARS (\$50,000.00) deposit with LESSOR either: (i) copies of a contractor's performance bond and a labor and materials payment bond naming LESSOR as an additional obligee thereunder in an amount equal to one hundred percent (100%) of the estimated

construction cost of the improvements to be made on the Premises, with a surety reasonably satisfactory to LESSOR, to assure the performance by the contractor of the contract for the construction of such improvement on the Premises, and the completion of such construction work, free and clear of all mechanics' and materialmen's liens; or (ii) a written guaranty of performance and payment of the construction contract(s) for the improvements planned for the Premises from a person or entity of size and substance satisfactory to LESSOR, in LESSOR's reasonable judgment, in favor of LESSOR, and guaranteeing the performance of the construction contract(s) and completion of such work free and clear of all mechanic's and materialmen's liens; or (iii) an irrevocable standby letter of credit issued by a recognized financial institution, as reasonably determined by LESSOR to be satisfactory, to assure performance of any construction contracts for and payment of all labor, materials, services or other work done by or on behalf of LESSEE (or any affiliated parties, contractors, materialmen or subcontractors) in connection with the improvements planned for the Premises. LESSEE shall also provide LESSOR with such information and evidence as LESSOR may reasonably require to assure LESSOR that LESSEE is able to and will make all payments required by the construction contract(s) for the improvements to be made to the Premises, as and when LESSEE is required to do so.

(d) Compliance with the Americans with Disabilities Act of 1990.

(i) Applicable Laws. LESSEE shall cause drawings and specifications to be prepared for, and shall cause to be performed, any construction, alteration or renovation of the Premises, including signage, in accordance with all applicable laws, ordinances and regulations of all duly constituted authorities, including, without limitation, Title III of the Americans with Disabilities Act of 1990 (the "ADA"), 42 U.S.C. 12181-12183, 12186(b)-12189, the ADA Accessibility Guidelines promulgated by the Architectural and Transportation Barriers Compliance Board, the public accommodations title of the Civil Rights Act of 1964, 42 U.S.C. 2000a et. seq., the Architectural Barriers Act of Rehabilitation Act of 1968, 42 U.S.C. 4151 et. seq., as amended, Title V of the Rehabilitation Act of 1973, 29 U.S.C. 790 et seq., the Minimum Guidelines and Requirements for Accessible Design, 36 C.F.R. Part 1190, and the Uniform Federal Accessibility Standards, as the same are in effect on the date hereof and may be hereafter modified, amended or supplemented (all such laws, ordinances, regulations and guidelines regarding access collectively called "Public Accommodations Laws").

(ii) Responsibility for Compliance. Notwithstanding LESSOR's review of such drawings and specifications, and whether or not LESSOR approves or disapproves such drawings and specifications, LESSEE and not LESSOR shall be responsible for the compliance of such drawings and specifications with all Public Accommodations Laws. LESSEE shall defend, pay, indemnify and hold LESSOR harmless against all reasonable costs and expenses (including reasonable attorney's fees), losses, damages and liabilities incurred by LESSOR which may be attributable to: (A) LESSEE's alleged failure to comply with any Public Accommodations Law or any other applicable governmental law, rule or regulation; (B) LESSOR's investigation and handling (including the defense) or LESSEE's failure to comply with any Public Accommodations Law or any other applicable governmental law, rule or regulation, whether or not any lawsuit or other formal legal proceeding shall have been commenced in respect thereof; (C) any amounts assessed against LESSOR pursuant to any Public Accommodations Law based upon LESSOR's ownership of the Premises; and (D)

LESSOR's enforcement of this paragraph, whether or not suit is brought therefore. All the above amounts shall constitute additional rent and shall be payable on demand with interest at the rate of ten percent (10.0%) per annum.

8. Repairs to Improvements. LESSEE shall at its own expense, keep, repair and maintain all buildings and other improvements now existing or hereafter constructed or installed on the Premises in good and safe order, condition and repair, reasonable wear and tear excepted.

9. Assignment.

(a) No Assignment Without Consent. LESSEE shall not assign this Lease without the prior written consent of LESSOR, which consent LESSOR shall not unreasonably withhold. Any assignment without LESSOR's prior express written consent shall be void.

(b) Assumption of Lease. Any assignment of this Lease shall be specifically made and therein expressly stated to be made subject to all terms, covenants and conditions of this Lease, and the assignee therein shall expressly assume and agree to all such terms, covenants and conditions.

(c) Compliance with Hawaii Revised Statutes §171-36(a)(5). LESSOR may withhold its consent to any assignment unless the assignment meets the requirements of Hawaii Revised Statutes §171-36(a)(5), or any other successor statute imposing conditions on the assignment of leases of Lessor's lands.

(d) No Change of Use. No assignment will be permitted if the assignee contemplates or proposes any change in the use of the Premises from that expressly permitted by this Lease.

(e) LESSOR's Response. LESSOR shall respond to any request for its consent to an assignment of this Lease within thirty (30) days following LESSOR's receipt of all financial statements, documents and other information reasonably necessary for LESSOR to make its determination (or within such longer time as may be reasonably required by it and of which it shall notify LESSEE within such thirty (30) day period). If LESSOR shall fail to approve or disapprove of a request for consent within the thirty (30) day period as the same may be extended, LESSOR's approval shall be conclusively presumed.

(f) "Assignment" Defined. The term "assignment" as used in this Lease shall mean and include one or more sales or transfers by operation of law or otherwise by which:

(i) if LESSEE is a corporation, an aggregate of fifty percent (50%) or more of the total common stock or any class of voting stock of LESSEE;

(ii) if LESSEE is a partnership, an aggregate of fifty percent (50%) or more of the total partnership interests of LESSEE or a change of control of any general partner of LESSEE;

(iii) if LESSEE is a limited liability company, whether member-managed or manager-managed, an aggregate of fifty percent (50%) or more of the total membership interests of LESSEE or a change of control of any managing member of LESSEE;

(iv) if the LESSEE is any other form of entity, an aggregate of fifty percent (50%) or more of the legal, beneficial or other cognizable interests therein or in the governance, administration or control thereof;

shall become vested in one or more individuals, firms, associations, corporations, partnerships, limited liability companies or other entities, or any derivative or combination thereof, who or which did not own directly not less than a ten percent (10%) interest, legally or equitably, in the LESSEE as of the Commencement Date or as of the date of LESSEE's subsequent acquisition of this Lease by assignment, with the ownership of such interests in LESSEE being determined in accordance with the principles enunciated in Sections 318 and 544 of the Internal Revenue Code of 1986; provided, however, that the foregoing definition shall not apply with respect to a corporate LESSEE whose capital stock is listed on a recognized stock exchange or on the NASDAQ; provided, however, that a merger or acquisition of fifty percent (50%) or more of the outstanding stock of any such LESSEE shall be construed to be an assignment and shall require Landlord's consent unless the successor or acquiring corporation has a net worth equal to or greater than LESSEE had at the time this Lease was executed, or at the time of any such merger or acquisition (whichever shall be the later); and provided further that, if LESSEE is a corporation, a change in ownership of the stock of LESSEE resulting from the death of a stockholder shall not be deemed a default hereunder if the decedent's shares pass to a surviving spouse and/or issue or to a trust for the primary benefit of such spouse or issue.

10. Subletting. LESSEE shall not, without the prior written consent of LESSOR, which consent will not be unreasonably withheld or delayed, have the right to sublease all or any portion of the Premises.

11. Liens. LESSEE will not commit or suffer any act or neglect by which the Premises or the respective estates of LESSEE or LESSOR therein shall at any time during the term become subject to any attachment, judgment, lien, charge or encumbrance whatsoever, including mechanics' and materialmen's liens, and will indemnify, defend, save and hold LESSOR harmless from and against all loss, cost and expense with respect thereto (including reasonable attorneys' fees). If any order directing the attachment of any lien for work, labor, services or materials done for or supplied to the Premises regardless of who contracted therefor is filed against the Premises, LESSEE shall have sixty (60) days from the date of filing in which to cause such lien to be discharged of record by payment, deposit or bond or otherwise stayed to the reasonable satisfaction of LESSOR. Subject to the foregoing, LESSEE may contest in good faith by any appropriate proceedings prosecuted in a diligent and timely manner, the amount or validity of any such attachment, judgment, lien, charge or encumbrance, and, if permitted by applicable law, upon making deposit or posting bond, may defer payment thereof until final determination of such contest. LESSEE's obligations under this Section 11 shall survive the termination of this Lease.

12. Permitted Uses. The Premises will be used only for the following purposes: _____. In no event shall the Premises be used for the construction of any residential lots, units or project.

13. Indemnity.

(a) LESSEE will indemnify and hold LESSOR harmless from and against all liens, claims and demands for loss or damage, including property damage, personal injury and wrongful death, from (i) any cause whatsoever arising out of or in connection with the use, occupancy and enjoyment of the Premises by LESSEE or any other person thereon or claiming under it, including, without limitation, any harm resulting therefrom to LESSOR, persons claiming under LESSOR, other tenants of LESSOR, third parties, the aquifer underlying the Premises, the water therein, the soil of the Premises and surrounding lands and the air, or (ii) any failure by LESSEE to keep the Premises and sidewalks in a safe condition. LESSEE will reimburse LESSOR for all of LESSOR's costs and expenses, including reasonable attorneys' fees, incurred in connection with the defense of any such liens, claims, and demands. LESSEE will hold all goods, materials, furniture, fixtures, equipment, machinery and other property whatsoever on the Premises at its sole risk and will hold LESSOR harmless from and against any loss or damage thereto by any cause whatsoever. The obligation to indemnify shall include all fines and penalties and all reasonable costs LESSOR may incur in connection with any such lien, claim and demand, including reasonable attorneys' fees and investigation costs, from the first notice that any lien, claim or demand is to be made or may be made. LESSEE shall satisfy LESSOR of its ability to so indemnify LESSOR by means satisfactory to LESSOR, which, at the discretion of LESSOR, may include any or all of insurance bonds, security deposits, sinking funds or such other means as may be approved in writing by LESSOR. LESSEE's obligations under this section shall survive the termination of other determination of this Lease and shall continue in full force and effect for the benefit of LESSOR.

(b) Immediately upon discovery thereof, LESSEE shall give written notice to LESSOR of any claims, actions or causes of action concerning the Premises, or any claims, actions or causes of actions that may subject LESSOR to liability, risk of loss or binding adjudication of rights.

14. Costs of Litigation. In case either party shall, without fault on its part, be made a party to any litigation commenced by the other party or against the other party (other than condemnation proceedings), the other party shall pay all costs, including reasonable attorney's fees and expenses incurred by or imposed on the party joined without fault on its part.

15. Insurance. At all times during the term of this Lease, LESSEE shall purchase and maintain, at LESSEE's sole expense, the following policies of insurance in amounts not less than the amounts specified below, or such other amounts as LESSOR may from time to time reasonably request, with insurance companies and on forms reasonably satisfactory to LESSOR:

(a) Commercial Property Insurance.

(i) Coverage. A policy or policies of commercial property insurance covering all buildings, structures and other improvements on the Premises, and including without limitation, all furniture, fixtures, machinery, equipment, stock and any other personal property owned and/or used in LESSEE's business, whether made or acquired at LESSEE's, LESSOR's or at another's expense, in an amount equal to their full replacement cost at time of loss, without deduction for depreciation. The insurance shall be written on an Insurance Services Office, Inc. ("ISO") Commercial Property Policy - "Special Form" Causes of Loss form as from time to time filed with the Hawaii Insurance Commissioner, or its equivalent, and at a minimum such policy shall insure against destruction or damage by fire and other perils covered under such an ISO policy, with additional coverage for risk of loss by flood, hurricane and tsunami (to the extent such coverage is available at commercially reasonable cost), perils normally insured under a policy of boiler and machinery insurance, and such other hazards or risks which a prudent business person would insure against. The policy(ies) required under this Lease shall provide replacement cost coverage (exclusive only of excavation, foundations and footings), and shall include Building Ordinance/Law coverage (for increased costs of demolition and repair due to changes in building codes or zoning ordinances). Except with LESSOR's prior written consent, which shall not be unreasonably withheld, the policy shall not have a deductible amount in excess of \$10,000 for any one occurrence.

(ii) Trust. In the event that proceeds for loss or damage are paid under any property insurance policy required by this Lease and unless otherwise agreed to in writing by LESSOR, all such loss payment proceeds shall be deposited with a trust company designated by LESSOR to receive all such proceeds, which trustee shall have its principal office in Honolulu and be authorized to exercise corporate trust powers in the State of Hawaii. The trustee shall have no obligation whatsoever to effect, maintain or renew such insurance nor to attend to any claim for lesser damage thereunder or the collection of any proceeds thereof nor to incur any expense therefor, and shall be responsible only for the proper custody and application as herein provided of all such proceeds that actually shall come into its possession. LESSEE shall pay all fees and expenses of such trustee for or in connection with its services.

(iii) Use of Proceeds. In every case of loss, all proceeds of such insurance (excluding the proceeds of any rental value or use and occupancy insurance of LESSEE) shall be immediately available to and be used as soon as reasonably possible by LESSEE for rebuilding, repairing or otherwise reinstating the same improvements in good and substantial manner according to the plan and elevation of the improvements so destroyed or damaged or according to such modified plan as shall have been first approved in writing by LESSOR. In the event that such insurance proceeds shall be insufficient, LESSEE shall make up any deficiency from its own funds; provided, however, that if the principal improvement on the Premises shall be destroyed at any time during the last ten (10) years of the term of this Lease (or any extension hereof), LESSEE shall have the option, exercisable within sixty (60) days after such casualty, to surrender this Lease subject to compliance with the provisions of Section 17 of Article Four and thereby forfeit all interest in such insurance proceeds and in any improvements remaining on the Premises, all of which shall thereupon be payable to and be the sole property of LESSOR.

(b) Liability Insurance.

(i) Commercial General Liability Insurance. Commercial general liability or commercial general liability and excess or umbrella liability insurance written on an “occurrence” form covering the use, occupancy and maintenance of the Premises and all operations of Lessee including: Premises Operations; Independent Contractors; Products - Completed Operations; Blanket Contractual Liability; Personal and Advertising Injury; Fire Legal Liability; Employees Named as Additional Insureds; Medical Expense; elevator collision; and incidental medical malpractice. Such insurance shall be written on an ISO Commercial General Liability Policy form or its equivalent.

(1) Limits. Limits for such coverage shall be not less than the following for the specified categories: Bodily Injury and Property Damage Combined Single Limit — \$3,000,000 per occurrence, subject to \$3,000,000 general aggregate per policy year; \$3,000,000 Products and Completed Operations aggregate per policy year; Personal and Advertising Injury — \$1,000,000 per person/organization per policy year, subject to \$3,000,000 general aggregate per policy year; Fire Legal Liability — \$250,000 per fire, subject to \$3,000,000 general aggregate per policy year; and Medical Expense — \$5,000 each injury.

(2) Deductible. Except with LESSOR’s prior written approval which shall not be unreasonably withheld, the policy shall not have a deductible amount in excess of \$10,000 for any one occurrence.

(3) Application of General Aggregate. The policy(ies) of insurance shall further contain a provision that the general aggregate limit applies exclusively to the Premises and the operations conducted thereon.

(ii) Workers’ Compensation and Employers’ Liability Insurance. Workers’ Compensation and Employers’ Liability insurance as required by HRS Chapter 386 and regulations thereunder, as the same may be amended from time to time, for all employees of LESSEE.

(1) Limits for such coverage shall be not less than the statutory limits for Workers’ Compensation and the following for Employers’ Liability: \$1,000,000 Each Accident; \$1,000,000 Disease - Policy Limit; and \$1,000,000 Disease - Each Employee.

(2) The policy shall further contain an endorsement providing a waiver of subrogation in favor of LESSOR and its employees.

(iii) Business Auto Policy. Automobile Liability Insurance covering owned, non-owned, and hired autos including Contractual Liability, written on a Business Auto Policy form or its equivalent. Limits for such coverage shall be not less than the following: Bodily Injury -- \$1,000,000 each person and \$1,000,000 each accident; Property Damage -- \$1,000,000 each accident; and Personal Injury Protection/No-Fault -- Hawaii statutory limits.

(c) Umbrella Liability. Umbrella Liability Insurance providing excess coverage over Commercial General Liability, Employer’s Liability, and Automobile Liability Insurance. The Umbrella Liability policy shall be written on an “occurrence” form with a limit

of liability of not less than \$5,000,000 per policy year and a self-insured retention and/or deductible no greater than \$10,000.

(d) Builder's and Installation Risk. Builder's and installation risk insurance while the Premises or any part thereof are under construction, written on the Builder's Risk Completed Value form (nonreporting full coverage), including coverage on equipment, machinery and materials not yet installed but to become a permanent part of the Premises.

(e) General Policy Terms. All policies of insurance required to be maintained pursuant to this section covering loss or damage to any of LESSEE's property shall provide that the insurer is required to provide LESSOR with at least thirty (30) days (or not less than ten (10) days in the case of nonpayment of premiums) prior written notice of cancellation or non-renewal of any such insurance policy. LESSEE will pay all premiums thereon when due and will from time to time deposit promptly with LESSOR current policies of such insurance or certificates thereof. All public liability and property damage policies shall be in the joint names of and for the mutual and joint benefit and protection of LESSOR, LESSEE, and LESSEE's mortgagee(s), as their respective interests may appear, and shall contain a provision providing that LESSOR, although named as an additional insured, shall not be denied any recovery under the policy(ies) for any loss occasioned to it, its servants, agents and employees by reason of the acts, omissions and/or negligence of LESSEE which recovery would be possible if LESSOR were not named as an additional insured. As often as any such policy shall expire or terminate, LESSEE shall procure and maintain renewal or additional policies in like manner and to like extent. All general liability, property damage and other casualty policies shall be written as primary policies, not contributing with and not in excess of coverage which LESSOR may carry.

(f) Periodic Review of Insurance Coverages. LESSOR shall retain the right at any time, but not more frequently than once every three (3) years, to review the coverage, form, and amount of the insurance required by this Lease. If, in the reasonable judgment of LESSOR, the insurance provisions in this Lease do not provide adequate protection for LESSOR in light of then prevailing practices under leases of similar properties in the State of Hawaii, LESSOR may require LESSEE to obtain insurance sufficient in coverage, form, and amount to provide such additional protection. LESSOR's requirements shall be reasonable and shall be designed to assure protection for and against the kind and extent of the risks which exist at the time a change in insurance is required. LESSOR shall notify LESSEE in writing of changes in the insurance requirements and LESSEE shall deposit copies of acceptable insurance policies or certificates thereof with LESSOR incorporating the reasonably required changes within sixty (60) days of receipt of such notice from LESSOR.

16. Landscaping. LESSEE shall, at all times during the term of the Lease, landscape the open areas of the premises in the same or similar fashion as shown on LESSEE's landscape plan dated _____. LESSOR acknowledges and agrees that (a) LESSEE may change the landscaping from time to time without LESSOR's consent and (b) comparability, not precise compliance, with the above-referenced landscape plan is all that is required.

17. Surrender. At the end of the term or other sooner determination of all or a portion of this Lease, LESSEE will peaceably deliver up to LESSOR possession of the land hereby

demised, including all buildings and other improvements upon or belonging to the same, by whomsoever made, in good repair, order and condition, except for reasonable wear and tear, and in strictly clean, safe and sanitary condition; provided, however, that if LESSEE is not in default hereunder, it may then remove any trade fixtures installed by it on the Premises but shall repair promptly to LESSOR's satisfaction all damage caused by such removal; provided, further, that if LESSOR, in its sole discretion, shall determine that such improvements or portions thereof should be removed and shall give LESSEE written notice of such determination within thirty (30) days of such termination, LESSEE, at no cost to LESSOR and with as little damage to the Premises as is reasonably possible, shall remove promptly said improvements or portions thereof in accordance with applicable law and shall leave the Premises in clean and orderly condition free of all debris.

Upon such termination or sooner determination, LESSEE shall, at LESSEE's cost and expense, provide LESSOR with evidence satisfactory to LESSOR that LESSEE has fully complied with all applicable law or orders by any governmental authority having jurisdiction therefor, including, without limitation, full compliance with any closure plan filed or required to be filed with any such governmental authority and removal from the Premises of all Hazardous Materials and other materials that may cause damage or injury to the environment or health.

If, within thirty (30) days after such termination or sooner determination of this Lease, such evidence shall not have been provided LESSOR, or if LESSOR shall have requested removal of improvements and LESSEE shall not have removed said improvements, LESSOR may effect such full compliance or removal on behalf of LESSEE. All costs incurred by LESSOR in effecting such compliance or removal shall be at LESSEE's expense and LESSEE will, within thirty (30) days from LESSEE's receipt of demand by LESSOR, reimburse LESSOR for such costs, together with interest as provided in Section 10 of Article Five of this Lease. Until such full compliance or removal is completed, either by LESSEE or LESSOR, and all costs therefor have been paid by LESSEE or reimbursed by LESSEE to LESSOR, together with interest thereon, if any, the Premises and this Lease shall not be deemed surrendered even though LESSEE has vacated the Premises, and LESSEE shall continue to incur and pay annual rent on the Premises or portion thereof being surrendered in an amount equal to twice (2X) the total of annual rent paid by LESSEE during the Lease year just preceding termination, prorated for the period of time from termination to the time surrender is completed.

LESSEE shall not be relieved of its obligations under this Lease until surrender is completed in accordance with the provisions of this section. Final inspection and release of the Premises by concerned governmental agencies, if any, and by LESSOR shall be a condition precedent to completion of surrender and termination of LESSEE's obligations hereunder. Nothing herein shall be deemed to relieve LESSEE of an obligation, such as the obligation to indemnify LESSOR, which by its specific terms survives termination.

18. Processing Fees/Documentation. LESSEE agrees to pay to LESSOR, LESSOR's standard fees for commercial tenants for LESSOR's processing of consents and assignments and providing documents required or authorized by the terms, covenants, and conditions of this Lease.

19. Hazardous Materials.

LESSEE shall not use, generate, manufacture, treat, handle, refine, produce, process, store, discharge, release, dispose of or allow to exist on, under or about the Premises any Hazardous Materials, except in compliance with all applicable Hazardous Materials Laws.

LESSEE shall immediately advise LESSOR in writing of (i) any and all enforcement, clean up, removal, mitigation or other governmental or regulatory actions instituted, contemplated or threatened pursuant to any Hazardous Materials Laws affecting the Premises, (ii) all claims made or threatened by any third party against LESSEE or the Premises relating to damage, contribution, cost recovery, compensation, loss or injury resulting from any Hazardous Materials, (iii) LESSEE's discovery of any occurrence or condition on the Premises or any real property adjoining or in the vicinity of the Premises which could subject LESSEE, LESSOR or the Premises to any restrictions on ownership, occupancy, transferability or use of the Premises under any Hazardous Materials Laws.

LESSEE shall cause any Hazardous Materials on the Premises to be (A) remediated on-site in accordance with applicable Hazardous Materials Laws, or (B) removed from the Premises for remediation or disposal and to be transported solely by duly licensed Hazardous Materials transporters to duly licensed disposal facilities for final disposal to the extent required by and in accordance with applicable Hazardous Materials Laws, and shall deliver to LESSOR copies of any hazardous waste manifest reflecting the proper disposal of such Hazardous Materials. Except in emergencies or as otherwise required by law, LESSEE shall not take any remedial or removal action in response to the presence, release or threatened release of any Hazardous Materials on or about the Premises without first giving written notice of the same to LESSOR and obtaining LESSOR's written consent thereto.

LESSEE shall not enter into any legal proceeding or other action, settlement, consent decree or other compromise with respect to any Hazardous Materials claims without first notifying LESSOR of LESSEE's intention to do so and affording LESSOR the opportunity to join and participate, as a party if LESSOR so elects, in such proceedings. Except as provided above, LESSEE shall be solely responsible for and shall indemnify, defend and hold harmless LESSOR and LESSOR's employees, agents, successors and assigns from and against any loss, damage, cost, expense or liability directly or indirectly arising out of or attributable to LESSEE's use, generation, manufacture, treatment, handling, refining, production, processing, storage, release, threatened release, discharge, disposal or presence of Hazardous Materials, on, under or about the Premises (except those released on the Premises prior to the commencement of this Lease, or after such commencement by LESSOR or its agents), including (A) the costs of any required or necessary removal, repair, cleanup or remediation of the Premises, and the preparation and implementation of any closure, removal, remedial or other required plans; and (B) all reasonable costs and expenses incurred by LESSOR in connection therewith, including, without limitation, reasonable attorneys' fees.

Within thirty (30) days of receipt thereof, LESSEE shall provide LESSOR with a copy of any and all environmental assessments, audits, studies and reports regarding LESSEE's past or

current activities on the Premises or the environmental condition of the Premises, in each case, in LESSEE's possession or control.

The covenants of this Section 19 of Article Four, including, without limitation, the indemnification provisions, shall survive the expiration or termination of this Lease, or any termination of LESSEE's interest in the Premises.

20. Underground Storage Tank (UST). A UST is any tank, including underground piping connected to the tank, that has at least ten percent (10%) of its volume underground and is used for the storage of certain regulated substances like petroleum or certain hazardous chemical. Prior consent and approval from LESSOR is required for the installation of any UST on the Premises, which consent and approval shall not be unreasonably withheld or delayed. All USTs are considered trade fixtures and are to be removed upon termination or expiration of the Lease by LESSEE. IF LESSEE has installed a UST, then and in such event, LESSEE shall arrange, at its sole cost and expense, for the removal of any such UST at the end of the term of this Lease and upon such removal shall arrange to be provided to LESSOR within ninety (90) days after the end of such Lease term a satisfactory UST closure report prepared by a recognized Hawaii environmental engineer and accepted by the Department of Health of the State of Hawaii. If any clean up procedures and/or remediation is necessary as a result of the installation of such UST then and in such event, LESSEE shall arrange to have all such work done, at LESSEE's sole cost and expense, by an environmental engineering company reasonably acceptable to LESSOR, in accordance with all then applicable regulations and requirements of the State of Hawaii, Department of Health.

21. Non-warranty. LESSOR does not make any warranties with respect to the condition of the Premises, and the Premises are being leased "AS IS". LESSEE acknowledges that (a) the Premises may require additional soil compaction, filling, grading and site preparation and may have expansive soils, boulders, cavities and other such soils conditions, and (b) LESSOR's surrounding lands may be subdivided, developed, improved, sold, operated and otherwise used in any lawful way and LESSOR makes no warranty or representation, express or implied, as to the subdivision, development, improvement, sale, operation and use of the LESSOR's surrounding lands by it or others. Any provisions of this Lease which permit or provide for abatement of the annual base rental in specified circumstances shall not be deemed to be warranties.

ARTICLE FIVE

IT IS HEREBY UNDERSTOOD AND AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:

1. Mortgage. Upon due application and with the written consent of LESSOR, which consent shall not be unreasonably withheld or delayed, LESSEE may mortgage this Lease, or any interest therein. LESSOR covenants and agrees to promptly review any request by LESSEE for consent to a mortgage to finance any portion of the construction of the improvements or facilities to be developed and constructed on the Premises under this Lease and any permanent loan or loans replacing any such construction loans. Any mortgage consented to by LESSOR

pursuant to this Section 1 of Article Five shall be deemed an "Approved Mortgage" for purposes of all other provisions of this Lease. If the mortgage or security interest is to a recognized lending institution, authorized to do business as such in either the State of Hawaii or elsewhere in the United States, the consent shall extend to foreclosure and sale of LESSEE's interest at the foreclosure to any purchaser, including the Mortgagee, without regard to whether or not the purchaser is qualified to lease, own or otherwise acquire and hold the Premises or any interest in the Lease. The interest of the Mortgagee or holder shall be freely assignable. The term "holder" shall include the Mortgagee and an insurer or guarantor of the obligation or condition of the mortgage, including the Department of Housing and Urban Development through the Federal Housing Administration, the Federal National Mortgage Association, the Veterans Administration, the Small Business Administration, Farmers Home Administration, or any other federal agency and their respective successors and assigns or any lending institution authorized to do business in the State of Hawaii or elsewhere in the United States; provided, that the consent to mortgage to a non-governmental holder shall not confer any greater rights or powers in the holder than those which would be required by any of these federal agencies.

If an Approved Mortgagee of this Lease (the "Mortgagee") shall deliver to LESSOR an executed counterpart of the leasehold mortgage (the "Mortgage") with the recording information duly noted thereon as certified by a title company doing business in the State of Hawaii, together with a written notice setting forth the name and address of Mortgagee, then, until the time, if any, that the Mortgage shall be satisfied or Mortgagee shall give to LESSOR written notice that the Mortgage has been satisfied, the following provisions shall be applicable:

(a) no mutual cancellation, surrender, acceptance of surrender or modification of this Lease shall be binding upon Mortgagee or affect the lien of the Mortgage, without the prior written consent of Mortgagee.

(b) No notice, demand, election or other communication required or permitted to be given under the Lease (all of the foregoing hereinafter collectively being referred to as "notices", and each of them as a "notice") which shall be given by LESSOR to LESSEE shall be binding upon or affect Mortgagee, unless a copy of said notice shall be given to Mortgagee within the time when such notice shall be required or permitted to be given to LESSEE. In the case of an assignment of the Mortgage or change in address of Mortgagee, the assignee thereof or the Mortgagee, by notice to LESSOR, may change the address to which copies of notices are to be sent as herein provided. LESSOR shall not be bound to recognize any assignment of the Mortgage unless and until LESSOR shall be given a notice of such assignment, including a copy thereof in the form proper for recording, together with the name and address of assignee and, thereafter, until a further assignment, the assignee named in such assignment shall be deemed to be "Mortgagee" for all purposes under this Lease. If the Mortgage is held by more than one person, corporation or entity, no provision of this agreement requiring LESSOR to give a notice or copy of any notice to Mortgagee shall be binding upon LESSOR unless and until all of the holders of the Mortgage shall designate in writing one of their number to receive all notices and copies of notices and shall have given to LESSOR an original executed counterpart of the designation in form proper for recording. All notices and copies of notices to be given to Mortgagee as provided in this section shall be given in the same manner as is provided in this Lease in respect of notices to be given by LESSOR or LESSEE.

(c) Mortgagee shall have the right (but not the obligation) to perform any term, covenant, condition or agreement and to remedy any default by LESSEE under the Lease, and LESSOR shall accept such performance by Mortgagee with the same force and effect as if furnished by LESSEE; provided, however, that Mortgagee shall not thereby or hereby be subrogated to the rights of LESSOR.

(d) If LESSOR shall give a notice of default to LESSEE pursuant to the provisions of this Lease, and if such default shall not be remedied within the applicable cure period provided for in this Lease, and LESSOR shall thereby, or otherwise, become entitled to give a notice of election to terminate the Lease, then, before giving any such notice of election to terminate the Lease, LESSOR shall give to Mortgagee not less than sixty (60) days' additional written notice of LESSEE's failure to cure the default, and shall allow Mortgagee such additional sixty (60) days within which to cure the default, provided, however, that (i) if the default can be cured by the payment of money, the additional time for Mortgagee to cure shall be limited to thirty (30) days, and provided further (ii) if the default cannot practicably be cured by Mortgagee without taking possession of the Premises, Mortgagee shall proceed diligently to obtain possession of the Premises as Mortgagee (through appointment of a receiver or otherwise), and, upon obtaining possession, shall promptly commence and duly prosecute to completion such action as may be necessary to cure such default. Mortgagee shall not be required to continue to proceed to obtain possession, or to continue in possession as mortgagee, of the Premises pursuant to this subsection (d), if and when such default shall be cured. Nothing herein shall preclude LESSOR from exercising any of its rights or remedies with respect to any other default by LESSEE during any period when LESSOR shall be forbearing in the termination of this Lease as above provided, but in such event Mortgagee shall have all of the rights and protections herein provided.

(e) LESSEE may delegate irrevocably to Mortgagee the authority to exercise any or all of LESSEE's rights under this Lease, but no such delegation shall be binding upon LESSOR unless and until either LESSEE or Mortgagee shall deliver to LESSOR a signed counterpart, in form proper for recording, of a written instrument effecting such delegation. Such delegation of authority may be effected by the terms of the Mortgage itself, in which case the service upon LESSOR of an executed counterpart of the Mortgage in accordance with this Section, together with a written notice specifying the provisions therein which delegate such authority to Mortgagee, shall be sufficient to give LESSOR notice of such delegation. Any provision of this Lease which gives to Mortgagee the privilege of exercising a particular right of LESSEE hereunder on condition that LESSEE shall have failed to exercise such right shall not be deemed to diminish any privilege which Mortgagee may have, by virtue of a delegation of authority from LESSEE, to exercise such right without regard to whether or not LESSEE shall have failed to exercise such right.

(f) In the event of the commencement of a bankruptcy proceeding by or against LESSEE, the Mortgagee shall have the option, and LESSOR shall recognize the Mortgagee's right, within the statutory time period or any extension thereof provided under Section 365 of the Bankruptcy Code for the rejection or assumption of lease, to obtain or cause LESSEE and/or trustee in bankruptcy to obtain:

(i) An extension of the period during which the Lease may be assumed or rejected; or

(ii) An abandonment of the leasehold estate by LESSEE and/or trustee in bankruptcy court pursuant to Section 554 of the Bankruptcy Code, as amended; or

(iii) An assumption of the Lease pursuant to Section 365 of the Bankruptcy Code, as amended.

In the event of the commencement of a bankruptcy proceeding by or against LESSEE, LESSOR agrees and acknowledges for the exclusive benefit of the Mortgagee and any person or entity acquiring an interest in the Lease in or in lieu of the foreclosure of the Mortgage, that the actual or deemed rejection of the Lease under Section 365 of the Bankruptcy Code (11 United States Code Section 365) or any other law having similar effect, shall not effect a termination of the Lease or affect or impair the Mortgagee's lien thereon or rights with respect thereto, provided however, that this provision is not intended and shall not be deemed to confer any rights or benefits upon LESSEE or LESSEE's bankruptcy trustee, and upon written request of the Mortgagee delivered to LESSOR within thirty (30) days following the Mortgagee's receipt of written notice of such actual or deemed rejection of the Lease, LESSOR will, at the option of the Mortgagee, execute and deliver to the Mortgagee or its designee an instrument (in form acceptable to Mortgagee or its designee) recognizing, confirming and giving legal effect to the continued existence of the Lease, with its original validity and priority, in favor of the Mortgagee or its designee (hereinafter called the "Confirmation of Lease"), subject to the lien of the Mortgage and any lien or encumbrance prior to the lien of the Mortgage, upon and subject to the following terms and conditions:

(i) The Mortgagee shall pay or cause to be paid to LESSOR at the time of the execution and delivery of the Confirmation of Lease, any and all sums which are at the time of execution and delivery thereof due under the Lease and, in addition thereto, all reasonable expenses, including reasonable attorneys' fees, which LESSOR shall have incurred by reason of the actual or deemed rejection of the Lease and the execution and delivery of the Confirmation of Lease;

(ii) The Mortgagee or its designee shall undertake, by accepting the Confirmation of Lease, to perform all covenants and conditions of the Lease reasonably capable of performance by the Mortgagee or such other person or entity. The Mortgagee or its designee, as the case may be, may assign the Lease or may foreclose upon the Mortgage without further consent of LESSOR and the Mortgagee or its designee shall thereupon be released from all liability for the performance or observance of the covenants and conditions in such Lease contained and on LESSEE's part thereunder to be performed and observed from and after the date of such assignment by the Mortgagee or its designee or upon foreclosure, provided that a certified copy of such assignment be provided to LESSOR; and

(iii) The Mortgagee or its designee under the Lease shall be entitled to and shall have the same right, title and interest in and to the Premises and the buildings and improvements thereon as LESSEE had under the Lease prior to its rejection and LESSOR shall

use commercially reasonable efforts to obtain the cooperation of all parties in interest such that any Confirmation of Lease made pursuant to this Agreement shall be prior to any mortgage or other lien, charge or encumbrance on the fee of the Premises which mortgage, lien, charge or encumbrance was junior to the Lease.

2. Breach. Time is of the essence of this agreement and if LESSEE shall become bankrupt, or shall abandon the Premises, or if this Lease and the Premises shall be attached or taken by operation of law, or if any assignment is made of LESSEE's property for the benefit of creditors, or if LESSEE shall fail to observe and perform any of the material terms, covenants and conditions contained in this Lease and on its part to be observed and performed, LESSOR shall deliver a written notice of the breach or default by service, as provided by Section 634-35, or 634-36, Hawaii Revised Statutes, or by registered mail, or certified mail to LESSEE at its last known address, and to each mortgagee or holder of record having a security interest in the Premises, making demand upon LESSEE to cure or remedy the breach or default within sixty (60) days from the date of receipt of the notice [if such default is by its nature not reasonably susceptible of being cured within such 60 day period, such 60 day period may be extended as necessary to provide LESSEE the opportunity to cure the default, provided LESSEE within said period commences and thereafter diligently proceeds to cure such default without interruption until such cure is completed]; provided that where the breach involves a failure to make timely rental payments pursuant to the Lease, the written notice shall include a demand upon LESSEE to cure the breach within less than sixty (60) days, but not less than five (5) business days, after receipt of the notice. Upon failure of LESSEE to cure or remedy the breach or default within the time period provided herein, or within such additional period as LESSOR may allow for good cause, but subject to the provisions of Section 171-21, Hawaii Revised Statutes, and subject also to Sections 1(d) and 1(f) of Article Five above, LESSOR, in addition to all other rights and remedies LESSOR may have under this Lease, shall have the following rights:

(a) The right to declare the term of this Lease (or any extension) ended, to re-enter the Premises and take possession thereof and to terminate all of the rights of LESSEE in and to the Premises.

(b) The right, without declaring the term of this Lease (or any extension) ended, to re-enter the Premises and to occupy the same or any portion thereof and/or to lease the whole or any portion thereof, all for and on account of LESSEE as hereinafter provided.

(c) The right, even though LESSOR may have re-let all or any portion of the Premises, at any time thereafter to elect to terminate this Lease for such previous defaults on the part of LESSEE and to terminate all of the rights of LESSEE in and to the Premises.

Pursuant to said rights of re-entry, LESSOR may, but shall not be obligated to, (i) remove all persons from the Premises using such force as may be necessary therefor, (ii) remove all personal property therefrom, including, but not limited to, LESSEE's property, and (iii) enforce any rights LESSOR may have against said personal property, or store the same in any public or private warehouse or elsewhere at the cost and for the account of LESSEE or the owners or owner thereof. After sixty (60) days, personal property so stored shall be considered abandoned. Anything contained herein to the contrary notwithstanding, LESSOR shall not be deemed to

have terminated this Lease or LESSEE's liability hereunder (whether such liability accrues before or after LESSOR exercises its rights hereunder) by any such re-entry or other action to obtain possession of the Premises, except as LESSOR may otherwise expressly provide in writing. LESSEE covenants and agrees that the service by LESSOR of any notice in unlawful detainer and the surrender of possession pursuant to such notice shall not be deemed to be a termination of this Lease or of any liability of LESSEE hereunder, except as LESSOR may otherwise expressly provide in writing.

3. Rights of Holder of Record of a Security Interest. In the event LESSOR seeks to forfeit the privilege, interest, or estate created by this Lease, each recorded holder of a security interest may, at its option, cure or remedy the default or breach, if the same can be cured or remedied by the payment of money or, if such is not the case, by performing or undertaking in writing to perform all of the terms, covenants and conditions contained in the Lease on LESSEE's part to be performed, capable of performance by the holder, as determined by LESSOR, within the time period provided in Section 171-20, Hawaii Revised Statutes, or within any additional period allowed under Sections 1(d) and 1(f) of Article Five above, and add the cost to the mortgage debt and the lien of the mortgage. Upon failure of the holder to exercise its option, LESSOR may: (a) pay to the holder from any monies at its disposal the amount of the mortgage debt, together with interest and penalties, and secure an assignment of the debt and mortgage from the holder or if ownership of the privilege, interest or estate shall have vested in the holder by way of foreclosure, or action in lieu thereof, LESSOR shall be entitled to the conveyance of the privilege, interest or estate upon payment to the holder of the amount of the mortgage debt, including interest and penalties, and all reasonable expenses incurred by the holder in connection with the foreclosure and preservation of its security interest, less appropriate credits, including income received from the privilege, interest or estate subsequent to the foreclosure; or (b) if the property cannot be reasonably reassigned without loss to LESSOR, then terminate the outstanding privilege, interest or estate without prejudice to any other right or remedy for arrearages of rent or for any preceding or other breach or default and use its best efforts to redispense of the affected land to a qualified and responsible person free and clear of the mortgage and the debt secured; provided that a reasonable delay by LESSOR in instituting or prosecuting its rights or remedies under this provision and Section 171-21 of the Hawaii Revised Statutes shall not operate as a waiver of these rights or to deprive it of the remedy when it may still otherwise hope to resolve the problems created by the breach or default involved. The proceeds of any disposition under subparagraph (b) above shall be applied as follows: first, to reimburse LESSOR for costs and expenses in connection with the disposition; second, to discharge in full any unpaid purchase price, indebtedness or damages owing LESSOR in connection with the privilege, interest or estate terminated; third, to Mortgagee to the extent of the value received by LESSOR upon disposition which exceeds the fair market lease value of the land as previously determined by LESSOR's appraiser; and fourth, to the owner of the privilege, interest, or estate.

4. Condemnation. If at any time, during the term of this Lease, all or any portion of the Premises should be condemned, or required for public purposes by the State of Hawaii, or any county or city and county, or any other governmental agency or subdivision, then and in any such event, LESSEE and/or those claiming by, through or under LESSEE will be entitled to just compensation to the same extent and according to the same principles and rules of law as if the

Premises and all improvements thereon had been condemned by the State of Hawaii under its power of eminent domain, the amount of such just compensation to be determined in the manner set forth in Section 5 of Article Two. Nothing herein contained shall be construed as preventing LESSEE from being entitled to any separate award made to LESSEE for the taking of LESSEE's personal property, or from claiming all or any portion of its award directly against the condemning authority. The foregoing rights of LESSEE shall not be exclusive of any other to which LESSEE may be entitled by law. In the event that LESSEE reasonably determines that the remainder of the Premises are rendered unusable as the result of any such condemnation LESSEE shall have the right to surrender the Premises and terminate this Lease pursuant to Section 17 of Article Four upon the delivery of written notice to LESSOR.

5. Right to Enter. LESSOR and agents or representatives shall have the right to enter and cross any portion of the Premises other than the building for the purpose of performing any public or official duties; provided, however, in the exercise of these rights, LESSOR shall not interfere unreasonably with LESSEE or LESSEE's use and enjoyment of the Premises.

6. Inspection by Prospective Bidders. LESSOR shall have the right to authorize any person or persons to enter upon and inspect the Premises at all reasonable times following a published notice for its proposed disposition for purposes of informing and apprising that person or persons of the condition of the Premises prior to the proposed disposition; provided, however, that any entry and inspection shall be conducted during reasonable hours after notice to enter is first given to LESSEE, and shall, if LESSEE so requires, be made in the company of LESSEE or designated agents of LESSEE; provided, further, that no such authorization shall be given more than two (2) years before the expiration or termination of this Lease.

7. Payment or Acceptance of Rent Not a Waiver. The payment or acceptance of rent shall not be deemed a waiver of any breach by LESSOR or LESSEE of any term, covenant or condition of this Lease, nor of LESSOR's right to re-entry for breach of covenant, nor of the right to declare and enforce a forfeiture for any breach, and the failure of LESSOR or LESSEE to insist upon strict performance of any term, covenant or condition, or to exercise any option conferred, in any one or more instances, shall not be construed as a waiver or relinquishment of such term, covenant, condition or option.

8. Extension of Time. Whenever a party is required to perform an act under this Lease, other than the payment of money, by a certain time, said time shall be deemed extended so as to take into account events of "Force Majeure." "Force Majeure" is any of the following events that prevents, delays, retards or hinders a party's performance of its duties hereunder: act of God; fire; earthquake; volcanic eruption; flood; explosion; war; invasion; insurrection; riot; mob violence; sabotage; vandalism; inability to procure or general shortage of labor, equipment, facilities, materials or supplies in the open market; failure of transportation; strikes; lockouts; condemnation; requisition; acts of governmental, civil, military or naval authorities; or any other cause, whether similar or dissimilar to the foregoing, not within such party's control.

9. Quiet Enjoyment. LESSOR covenants and agrees with LESSEE that upon payment of the rent at the times and in the manner provided and the observance and performance of these terms, covenants and conditions on the part of LESSEE to be observed and performed,

LESSEE shall and may have, hold, possess and enjoy the Premises for the term of the Lease, without hindrance or interruption by LESSOR or any other person or persons by, through or under it. LESSOR shall defend the title to the Premises and the use and occupancy of the same by LESSEE against the claims of all persons, except those claiming by or through LESSEE.

10. Interest, Costs and Fees. The interest rate on any and all unpaid or delinquent rentals shall be at one percent (1%) per month, plus a service charge of FIFTY AND NO/100 DOLLARS (\$50.00) per month for each month of delinquency.

In case of any default by LESSEE in the performance of the terms, covenants and conditions herein contained, LESSEE shall pay to LESSOR any and all costs incurred in connection with the default, including reasonable attorneys' fees. In the event that any indebtedness arising hereunder is placed in the hands of a collector or an attorney for collection, or suit is instituted for collection, LESSEE shall pay, in addition to the indebtedness, reasonable collector's and/or attorneys' fees, together with all costs.

11. Hawaii Law/Filing. This Lease shall be construed, interpreted, and governed by the laws of the State of Hawaii. This Lease shall not be recorded although the parties agree to duly execute and file with the Bureau of Conveyances a memorandum of this Lease in substantially the form of **Exhibit "C"** attached hereto.

12. Partial Invalidity. If any term, provision, covenant or condition of this Lease should be held to be invalid, void or unenforceable, the remainder of this Lease shall continue in full force and effect and shall in no way be affected, impaired or invalidated thereby.

13. Notice. Except as otherwise required by Chapter 171, Hawaii Revised Statutes, any notice, request, offer, approval, consent or other communication required or permitted to be given by or on behalf of either party to the other shall be given or communicated in writing by personal delivery, reputable overnight courier service which keeps receipts of deliveries (i.e., Federal Express), or United States certified mail (return receipt requested with postage fully prepaid) or express mail service addressed to the other party as follows:

If to LESSEE:

If to LESSOR:

Department of Hawaiian Homes Land
1099 Alakea Street, 20th Floor
Honolulu, Hawaii 96813
Attention: _____
Fax: (808) 586-3923

And a copy to:

Attorney General's Office
465 South King Street, Basement
Honolulu, Hawaii 96813
Attention: George K. K. Kaeo, Jr., Esq.
Fax: (808) 587-2938

or at such other address as may be specified from time to time in writing by either party. All such notices hereunder shall be deemed to have been given on the date personally delivered or the date marked on the return receipt, unless delivery is refused or cannot be made, in which case the date of postmark shall be deemed the date notice has been given.

14. Definitions. As used herein, unless clearly repugnant to the context:

(a) "Chairman" shall mean the Chairman of the Hawaiian Homes Commission of the Department of Hawaiian Home Lands of the State of Hawaii or his/her successor.

(b) For the purpose of this Lease, the term "Hazardous Materials" as used herein shall include any substance, waste or material designated as hazardous or toxic or radioactive or other similar term by any present or future federal, state or local statute, regulation or ordinance, as amended from time to time, including but not limited to the following statutes and regulations promulgated pursuant to them ("Hazardous Materials Laws"):

Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 et seq.
("RCRA")

Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA") amended by Superfund Amendments and Reauthorization Act of 1986 ("SARA"), 42 U.S.C. 9601 et seq.

Clean Air Act, 42 U.S.C. Sections 7401 et seq.

Clean Water Act of 1977, 33 U.S.C. 1251 et seq.

Pesticide Act of 1978, 7 U.S.C. 13 et seq.

Toxic Substances Control Act ("TSCA"), 15 U.S.C. 2601 et seq.

Safe Drinking Water Act, 42 U.S.C. 300(f) et seq.

Hazardous Materials Transportation Act, 49 U.S.C. 1801 et seq.

Chapter 128D, Hawaii Revised Statutes

Chapters 342B through 342N, Hawaii Revised Statutes,

and including but not limited to petroleum, petroleum based substances, asbestos, polychlorinated-biphenyls ("PCBs"), formaldehyde, and also including any substance designated by federal, state or local regulation, now or in the future, as presenting a risk to human health or the environment.

(c) "Holder of record of a security interest" is a person who is the owner or possessor of a security interest in the Premises and who has filed with the Department of Hawaiian Home Lands and with the Bureau of Conveyances of the State of Hawaii a copy of this interest.

(d) "LESSOR" shall mean and include LESSOR herein, its successors or assigns.

(e) "LESSEE" shall mean and include LESSEE herein, its successors or permitted assigns.

(f) The "Premises" shall mean the land leased hereunder.

(g) The use of any gender shall include all genders, and if there be more than one lessee, then all words used in the singular shall extend to and include the plural.

(h) The paragraph headings throughout this Lease are for the convenience of LESSOR and LESSEE and are not intended to construe the intent or meaning of any of the provisions thereof.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed on the day and year first above written.

APPROVED BY THE HHC
AT ITS MEETING HELD ON

State of Hawaii
DEPARTMENT OF HAWAIIAN HOME LANDS

APPROVED AS TO FORM:

By _____
Micah A. Kane, Chairman
Hawaiian Homes Commission

Deputy Attorney General
State of Hawaii

LESSOR

_____,
a _____ corporation

By _____
_____,

LESSEE

Sublease Rent Participation Approved by the Hawaiian
Homes Commission on April 24, 1987

"That the Commission rescind its action of June 30, 1983 which adopted a sublease rent participation policy based on charging 10% of the gross sublease income for improvements (building space) and 20% of the general lessee's gross sublease income for raw land and that the following be approved effective August 1, 1982:

1. To limit the department's participation to only the land. To adopt the sublease rent participation formula shown on Exhibit "C".
2. In lieu of the sublease rent participation of 20% of the gross sublease income assessed for those subleases covering raw lands only, the department shall participate in 50% of the difference of the sublease income charged by the lessee that exceeds the proportionate base rent (less any general excise tax) under the terms of the lease.
3. All monies collected from current general lessees due to sublease rent participation be credited to future lease rental payments of the respective general lessee.
4. That for current subleasing activities approved by the Hawaiian Homes Commission (HHC), there shall be no increase in sublease rent participation due to the new policy."

Extract from Exhibit "C":

Gross Annual Sublease Rent	
LESS:	4% General Excise Tax (if paid by sublessor)
EQUALS:	Effective Annual Sublease Rent
LESS:	Allowances (costs and investment returns)
EQUALS:	Income Attributable to Land
LESS:	Allocated Basic Lease Rent
EQUALS:	Amount of Increase in Lease Rent Due to Subleasing (if any)
X 50% EQUALS:	Amount Due to DHHL

DEFINITION OF TERMS
Refer to Worksheet

I. SUBLEASING OF BUILDING SPACE

- Line 1: GROSS ANNUAL SUBLEASE RENT
The total sublease rent amount collected by a general lessee without any deductions.
- Line 2: LESS 4% GENERAL EXCISE TAX
State of Hawaii G.E. Tax; deducted only if not paid by a sublessee.
- Line 3: EFFECTIVE ANNUAL SUBLEASE RENT
Gross annual sublease rent less State G.E. Tax.
- Line 4: LESS ALLOWANCES
Allowances for costs incurred by a general lessee for construction and maintenance of improvements.
- Line 4a: MANAGEMENT, CREDIT LOSS
Applicable to rent collections, accounting, legal and miscellaneous property management expenses, and allowance for non-collection of sublease rent. A rate of ten percent (10%) of the Effective Annual Sublease Rent is used.
- Line 4b: REPAIR and MAINTENANCE
Expenses applicable to maintenance and repairs on building(s) and premises such as painting, refuse disposal, re-paving, utilities, landscaping, security, etc. If detailed expenses are not provided by the general lessee, such expenses will be estimated at two percent (2%) of Line 3.
- Line 4c: REAL PROPERTY TAXES
Per current real property tax bill or notice sent by appropriate County Real Property Tax Office.
- Line 4d: INSURANCE PREMIUMS
Premiums paid for fire/liability insurance policies.
- Line 4e: SURETY BOND PREMIUM
Premium paid for lease performance bond. Premiums paid for bonds are currently at a rate of \$20 per \$1,000 of the surety amount unless detailed expenses are provided by the general lessee.

Line 4f: RETURN OF INVESTMENT

Return of general lessee's cost of improvements over the term of the lease. If the actual cost is not determined, an estimated amount is obtained from appropriate County real property assessed valuations established within eighteen (18) months from completion of improvements.

Line 4g: RETURN ON INVESTMENT

A reasonable return on investment that a prudent general lessee expects. Return rate fluctuates with market and economic conditions. Rate currently in effect is twelve percent (12%). The rate may be adjusted to reflect the change in market and economic conditions.

Line 5: INCOME ATTRIBUTABLE TO LAND

The difference of Line 4 subtracted from Line 3 equals the rent collected that is attributable to subleasing of land only.

Line 6: ALLOCATED BASE RENT

The ratio of the subleased area to the total area of the leasehold premises multiplied by the base lease rent of the general lease to indicate the rent paid by a general lessee for the subleased area.

Line 7: INDICATED ADDITIONAL RENT

Line 5 (Annual Income Attributable to Land)
less
Line 6 (Alloted Annual Base Lease Rent)
indicates Additional Annual Rent. Amount
will not be less than zero.

Line 8: ADDITIONAL RENT PAYABLE TO DHHL

Fifty percent (50%) of Line 7 equals
Sublease Rent Participation Amount.

II. SUBLEASING OF VACANT ("RAW") LAND ONLY
(No subleasing of building space)

Line 1: GROSS ANNUAL SUBLEASE RENT

The total sublease rent amount collected by a general lessee without any deductions.

- Line 2: LESS 4% GENERAL EXCISE TAX
State of Hawaii G.E. Tax; deducted only if
not paid by a sublessee.
- Line 3: EFFECTIVE ANNUAL SUBLEASE RENT
Gross annual sublease rent less State G.E.
Tax.
- Line 4: ALLOCATED ANNUAL BASE LEASE RENT
The ratio of the subleased area to the total
area of the leasehold premises multiplied by
the base lease rent of the general lease to
indicate the rent paid by a general lessee
for the subleased area.
- Line 5: INDICATED ANNUAL ADDITIONAL RENT
Line 3 minus Line 4, but not less than zero.
- Line 6: ADDITIONAL ANNUAL RENT PAYABLE TO DHHL
Fifty percent (50%) of Line 5 equals
Sublease Rent Participation Amount.

SUBLEASE RENT PARTICIPATION

WORKSHEET

I. SUBLEASING OF BUILDING SPACE:

Line 1: Gross Annual Sublease Rent

\$ _____

Line 2: Less 4% General Excise Tax

(_____)

Line 3: EQUALS Effective Annual Sublease Rent

Line 4: Less Allowances:

a. Management, Credit Loss

\$ _____

b. Repair and Maintenance

c. Real Property Taxes

d. Insurance Premiums

e. Surety Bond Premium

f. Return OF Investment

g. Return ON Investment

Line 5: EQUALS Annual Income Attributable to Land

Line 6: Less Allocated Annual Base Lease Rent

Line 7: EQUALS Indicated Additional Annual Rent

TIMES 50%

X

0.50

Line 8: EQUALS Additional Annual Rent Payable to DHHL

II. SUBLEASING OF VACANT ("RAW") LAND ONLY:

Line 1: Gross Annual Sublease Rent

\$ _____

Line 2: Less 4% General Excise Tax

(_____)

Line 3: EQUALS Effective Annual Sublease Rent

Line 4: Less Allocated Annual Base Lease Rent

Line 5: EQUALS Indicated Annual Additional Rent

TIMES 50%

X

0.50

Line 6: EQUALS Additional Annual Rent Payable to DHHL

HYPOTHETICAL SUBLEASE OF VACANT LAND

Annual Base Lease Rent of General Lease:	\$8,000
Effective Annual Sublease Rent:	\$3,000
Total Land Area of Leasehold Premises:	24,000 sq. ft.
Subleased Land Area:	6,000 sq. ft.
RATIO: $\frac{6}{24} = .25 \times \$8,000 = \$2,000$ Allocated Annual Base Lease Rent	
Effective Annual Sublease Rent:	\$3,000
Allocated Annual Base Lease Rent:	- <u>2,000</u>
Indicated Additional Rent:	\$1,000
	Times 50% <u>.50</u>
SUBLEASE RENT PARTICIPATION AMOUNT PAYABLE TO DHHL	\$ 500