

**HAWAII PUBLIC HOUSING AUTHORITY  
NOTICE OF MEETING  
SPECIAL BOARD OF DIRECTORS MEETING  
October 6, 2008  
1:00 p.m.  
1002 N. School Street, Bldg. E  
Honolulu, Hawaii 96817**

**AGENDA**

**I. CALL TO ORDER / ROLL CALL**

**II. APPROVAL OF MINUTES**

- A. Regular Meeting, September 18, 2008
- B. Executive Session Meeting, September 20, 2007
- C. Executive Session Meeting, November 15, 2007
- D. Executive Session Meeting, December 20, 2007
- E. Executive Session Meeting, January 24, 2008
- F. Executive Session Special Meeting, Continued from February 15, 2008 to February 29, 2008
- G. Executive Session Meeting, February 29, 2008
- H. Executive Session Meetings, September 18, 2008

**III. PUBLIC TESTIMONY**

Public testimony on any agenda item shall be taken at this time. Pursuant to section 92-3, Hawaii Revised Statutes, and section 17-2000-18, Hawaii Administrative Rules, the Board may limit public testimony to three minutes.

**IV. DECISION MAKING**

- A. Decision Making: Approval to Enter into Lease Agreement with Department of Hawaiian Home Lands for Six Acres of Land in Ma'ili for Use as a Homeless Transitional Shelter for Families, with ancillary services, including a preschool.

**V. FOR INFORMATION/DISCUSSION**

- A. Report on Sale of HPHA owned Property located in Hana, Maui.
- B. Hawaii Public Housing Authority Outlook for 2009.

**VI. ADJOURNMENT**

If any person requires special needs (i.e. large print, taped materials, sign language interpreter, etc.), please call the Secretary to the Board at (808) 832-4690 by close of business two days prior to meeting date.

**FOR ACTION**

**SUBJECT: Approval to Enter into Lease Agreement with Department of Hawaiian Home lands for Six Acres of Land in Ma'ili for Use as a Homeless Transitional Shelter for Families, with ancillary services, including a preschool.**

**I. FACTS**

- A. In response to the growing ranks of homeless that were forced to reside on Oahu's beaches, particularly beaches on the Leeward Coast, Governor Lingle issued an emergency proclamation on July 6, 2006, to provide relief and protect the health, safety and welfare of Leeward Coast residents and homeless families living on Leeward Coast beaches.
- B. The proclamation was followed by supplementary proclamations on July 17, 2006, September 8, 2006, July 3, 2007, and June 27, 2008, in order to provide enough time to complete shelter construction projects to provide a safe and healthy environment for the homeless, as they participate in programs and services to remedy their homeless situation.
- C. The emergency proclamations provided the community and government with the opportunity to provide a rapid response effort to alleviate the health and safety issues of 2,534+ homeless individuals living on the Leeward Coast beaches and parks, with approximately 1,384 of them children.
- D. The Department of Hawaiian Home Lands (DHHL) responded to the critical need to find suitable sites for the shelter construction in Waianae by offering a limited term use of a portion on the 89 acres that is being conveyed to them in a land exchange with the Federal Government.
- E. The Governor's HEART Team through the Department of Accounting and General Services (DAGS) is developing a homeless transitional housing project called Villages of Ma'ili on 6.23 acres of this parcel.
- F. DAGS has contracted the Stanford Carr Development (i.e. SCD Ma'ili LLC) to construct the homeless transitional housing project.
- G. The project consists of:
  - o Five two-story transitional housing buildings with 16 units each for a total of 80 units (studio and 2-bedroom – approx. 40,000 square feet).
  - o Community learning center building with administration offices for the service provider, adult classrooms, kitchen, dining room, and early education classrooms (approx. 13,500 square feet).
  - o Estimated total project is \$14.7 million and completion is projected for October 2008
  - o The DHHL Recommended Motion/Action and parcel map are attached.

**II. DISCUSSION**

- A. The Hawaiian Homelands Commission has approved leasing the 6.23 acre project site to the Hawaii Public Housing Authority for a term of 10 years at no cost, with the option to extend based on mutual agreement. DHHL expects to receive all building improvements on site free and clear at the end of the lease term.
- B. This project is an important part of addressing homelessness on the Leeward Coast and provides a critical step toward helping people achieve permanent housing.
- C. The project provides the opportunity to deliver a full range of support services in comprehensive approach and at one location by creating its own village or community setting.
- D. Action by the board is needed at this meeting to allow for the opening of the project to begin to receive residents in the October-November 2008 time frame.
- E. According to the Department of Hawaiian Home Lands (DHHL), a receiving home for abused children is being built on an adjacent site. A 20 year lease is a condition to the charitable foundation contributing funds for the construction and operations of the receiving home. There is agreement in principle for this to occur.

**III. RECOMMENDATION**

That the HPHA Board of Directors approve to Enter into Lease Agreement with Department of Hawaiian Home lands for Six Acres of Land in Ma'ili for Use as a Homeless Transitional Shelter for Families, with ancillary services, including a preschool.

Prepared by: Russ K. Saito, Comptroller, Dept. of Accounting and General Services *Russ Saito by ejm*  
Reviewed by: Sandra J. Miyoshi, Homeless Programs Branch Administrator *SJM*

**Approved by the Board of Directors at its meeting on**  
OCT - 6 2008

**HOMELESS PROGRAMS SECTION**

**Please take necessary action**

*[Signature]*  
**EXECUTIVE DIRECTOR**

STATE OF HAWAII  
DEPARTMENT OF HAWAIIAN HOME LANDS

July 22, 2008

To: Chairman and Members, Hawaiian Homes Commission  
From: Linda Chinn, Administrator  
Land Management Division   
Subject: Issuance of General Lease, Hawaii Public Housing  
Authority, Waianae, Oahu

RECOMMENDED MOTION/ACTION

That the Hawaiian Homes Commission (HHC) grant its approval to the issuance of a ten (10) year general lease (GL) to the Hawaii Public Housing Authority (HPHA) for the Villages of Mailli transitional and affordable housing project in Waianae, Oahu. The project shall include a separate functioning multi use mix of transitional housing, and community center to be constructed on six (6) acres of an 89-acre parcel identified as the former Voice of America site and situate at Waianae, Oahu, Tax Map Key no. (1) 8-7-10:00' (Por) (See Exhibit "A").

The issuance of the GL shall subject to the following conditions:

1. The term of the general lease shall commence upon the completion of the conveyance of the subject parcel from the State Department of Land and Natural Resources (DLNR) thru the United States General Services Administration (GSA) to DHHL;
2. The leased area is approximately 6 acres and shall be subject to a land survey and metes and bounds description of the parcel;
3. The initial term of the general lease shall be for ten (10) years. DHHL will evaluate and review the lease agreement with HPHA and determine if an extension is needed;
4. The annual rental for the general lease shall be gratis;

5. The Department of the Attorney General shall review and approve the terms and conditions of the general lease document; and
6. The Chairman of the Hawaiian Homes Commission may set forth any additional terms and conditions which shall ensure and promote the purposes of the demised premises.

#### DISCUSSION

The Hawaii Public Housing Authority (HPIHA) requests that they be issued a ten-(10) year general lease (GL) to plan, construct, and manage the "Villages of Maili", an 80 unit transitional housing project and community center for those who have graduated from the Leeward Coast shelters. This facility is primarily for native Hawaiian homeless families that are currently housed in the Leeward Coast Shelters. With all the other transitional housing facilities being developed on the Leeward Coast, it is possible that the facility will have served its purpose by the end of ten years. DHHL will evaluate and review if the lease needs to be extended at the end of the lease term.

The 89 acre parcel, known as the Voice of America site, is in the process of being transferred to the DHHL under a three-way land exchange agreement with the Department of Land and Natural Resources (DLNR) and the United States General Services Administration (GSA). The transfer is anticipated to be completed in September 2008. This project is being developed on a 6-acre portion of this parcel.

The Villages of Maili is part of Governor Lingle's emergency proclamation to assist with the current homeless predicament on the leeward coast. The project shall consist of a separate multi use mix of 80 transitional housing units, and a Community center that will house a pre-school, a learning center, and a kitchen/dining area. In addition to the state funding for the construction, Kamehameha Schools is contributing \$2.5M for the construction of the learning center, and Office of Hawaiian Affairs will contribute funds for the programs and services for the adults and children. Both Queen Liliuokalani Children Center and Alu Like have agreed to participate with their current programs and services offered on the Leeward coast. The site will be managed under a contract with Catholic Charities.

Due to time constrain, the GSA has granted DLNR/DHHL a right-of-entry agreement to start site preparation and

construction work. The project is anticipated to be completed by September 2008.

In the 6-acre parcel, there will be a 15-bed facility home that is separate from the 80-unit transitional housing and community center. This facility is a receiving home facility for children that are separated from their parents and need to be assessed, matched, and housed for up to 45 days. State Department of Human Services (DHS), or its service provider Foster Family Programs, will operate this facility. This project is under construction and is set to be completed by the end of calendar year 2008. DHHL will have to negotiate another lease agreement with DHS and present it to the Hawaiian Homes Commission for approval.

Staff is recommending that rent be gratis due to the social benefits that this project will bring to the Leeward coast and statistic has supported that most of the families being helped in this transitional project are Hawaiians or part Hawaiians.

It is also agreed that at the end of the lease term, all building improvements on site will be reverted to DHHL free and clear. At the end of 10 years, the department will have a development with 80 housing units for its housing program.

#### AUTHORIZATION

Section 171 95, titled Disposition to government, governmental agencies, and public utilities, HRS, as amended, allows the department to lease to government agencies without public auction for terms up to, but not in excess of, 65 years at such rental and on such other terms and conditions as the commission may determine.

At this time, based on the department's current needs and priorities for homesteading, the site will not be required for immediate homesteading purposes.

#### RECOMMENDATION

Land Management Division requests approval of the motion as stated.

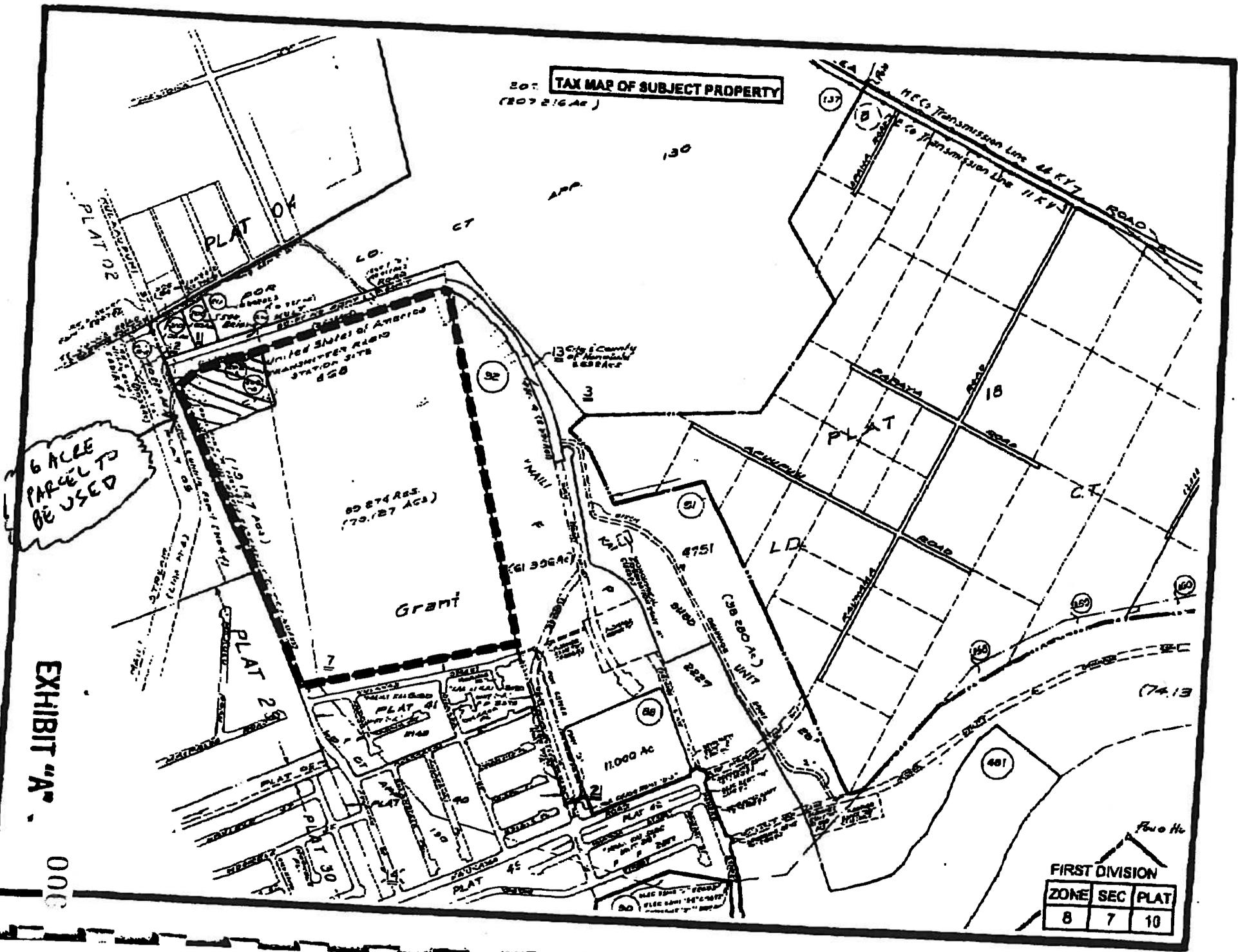


EXHIBIT "A" 000

**TO:** Hawaii Public Housing Authority Board of Directors  
**FROM:** Chad K. Taniguchi, Executive Director  
**DATE:** October 6, 2008  
**RE:** HPHA – DHHL Villages of Ma'ili Lease

Some issues for the HPHA Board to consider:

1. Approximately \$11.5 million in state funds were used for the Villages of Ma'ili improvements under the Governor's constitutional and legal authority to address the homeless problem. After 10 years the improvements built with state funds will be turned over to the Department of Hawaiian Home Lands (DHHL), which is another state agency, but can only serve a limited constituency, not the general public. What is the duty of HPHA and its Board regarding the public funds entrusted to it for homeless purposes?
2. Because this issue is being resolved quickly, has there been enough time for public input and thoughtful consideration to make sure the lease between DHHL and HPHA is being done right?
  - a. When will the conveyance of title from the U.S. Navy to DHHL occur?
  - b. When will construction be complete?
  - c. When will the non-profit service provider be able to start operations?
3. According to the DHHL, a receiving home for abused children is being built on the same 6.23 acre site. Does this site need to be subdivided out? The charitable foundation contributing funds for the construction and operations of the receiving home has asked for a 20-year lease, and there is agreement in principle for this to occur. Doesn't this set a baseline for other leases with DHHL on this property? What would justify the difference in lease terms for the homeless shelter and receiving home?
4. Should some criteria be developed and included in the lease to determine when or whether the homeless problem has been sufficiently addressed so the improvements should be turned over from homeless shelters/transitional housing to DHHL use? What statistics should serve as a baseline to see if other solutions have been developed after 10 years so that it is justified to put the improvements to DHHL uses instead of homeless uses?
5. Should there be an annual report to the DHHL commission and HPHA Board showing the number of users of the Villages, including how many Hawaiians use the facility?

The representation made to the Hawaiian Homes Commission is that "it is possible that the homeless facility will have served its purpose by the end of ten years (and) DHHL will evaluate if the lease term needs to be extended at the end of the lease term." Should there be a lease term added that says if the need for homeless housing still exists after ten years that DHHL shall not unreasonably withhold approval to extend the lease term for another ten years?

6. Should there be a 10 year rolling lease? After year 1, can DHHL consider renewing the lease for another 10 years based on the data, so the lease can be extended for up to 20 years, like the receiving home, assuming the need still exists?

7. Should there be a gradual turnover of units to DHHL after 10 years, rather than all at once? For example, would it work if in year 11 ten percent of the units would go to DHHL, year 12 another ten percent, so that after 20 years all would be under DHHL control, and give homeless providers opportunity to find other solutions?
8. Should there be a land exchange with DHHL so it can serve its beneficiaries and the Villages can remain as homeless shelter/transitional housing?
9. Should DHHL charge market rent for the land based on undeveloped status for 10 years, and should HPHA sell the improvements to DHHL at the end of the lease term for market price, including depreciated value?
10. Should there be a shorter lease term, say 6-12 months, so that these lease issues can be resolved over a longer period of time in a way that both DHHL and HPHA needs are considered appropriately?

After Recordation Return by: Mail ( ) Pickup ( ) To:

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STATE OF HAWAII  
DEPARTMENT OF HAWAIIAN HOME LANDS

GENERAL LEASE NO. \_\_\_\_\_

between

STATE OF HAWAII  
DEPARTMENT OF HAWAIIAN HOME LANDS

and

STATE OF HAWAII  
HAWAII PUBLIC HOUSING AUTHORITY

covering

HAWAIIAN HOME LANDS.

situate at

Waianae, Hawaii

Tax Map Key No. (1)8-7-10:007 (por)

STATE OF HAWAII  
DEPARTMENT OF HAWAIIAN HOME LANDS

GENERAL LEASE NO. \_\_\_\_\_

THIS INDENTURE OF LEASE, made this \_\_\_\_\_ day of \_\_\_\_\_, 2008, but effective \_\_\_\_\_, by and between the State of Hawaii, by its DEPARTMENT OF HAWAIIAN HOME LANDS, whose principal place of business is 91-5420 Kapolei Parkway, Kapolei, Hawaii 96707, and post office address is P. O. Box 1879, Honolulu, Hawaii 96805, hereinafter called "LESSOR," and State of Hawaii, Department of Human Services, Hawaii Public Housing Authority, whose mailing address is \_\_\_\_\_, hereinafter called "LESSEE."

W I T N E S S E T H:

WHEREAS, under section 204(a)(2) of the Hawaiian Homes Commission Act of 1920, as amended ("Act"), and section 10-4-1 of the Hawaii Administrative Rules, as amended, the Department of Hawaiian Home Lands, as LESSOR, is authorized to dispose of available lands not required for leasing to native Hawaiians under section 207(a) of the Act by lease on the same terms, conditions, restrictions, and uses applicable to the disposition of public lands pursuant to Chapter 171, Hawaii Revised Statutes ("HRS"); and

WHEREAS, the LESSOR has determined that the land described below is not immediately needed for leasing to native Hawaiians; and

WHEREAS, pursuant to section 171-95, HRS, the LESSOR may lease lands by direct negotiation, and without recourse to public auction, to government agencies for terms up to, but not in excess of 65 years, at such rental and on such other terms and conditions as the Hawaiian Homes Commission ("Commission") may determine; and

WHEREAS, the LESSEE has requested a lease of Hawaiian home lands in Waianae, island of Oahu to construct and operate a transitional housing project and community center, in furtherance of Governor Linda Lingle's emergency proclamation to assist with the current homeless situation on the Leeward coast; and

WHEREAS, the LESSOR has determined that leasing this land to the LESSEE will assist the LESSEE in effectuating its purpose, and be of benefit to the LESSOR'S beneficiaries; and

WHEREAS, the LESSOR has determined that this lease satisfies the requirements of the Act.

NOW THEREFORE, in consideration of the terms, covenants and conditions herein contained, all on the part of the LESSEE to be kept, observed and performed, does lease to the LESSEE, and the LESSEE does lease from the LESSOR, the premises located at Waianae, island of Oahu, Hawaii, Tax Map Key No. (1) 8-7-10:07 (portion), comprising of approximately six (6) acres of Hawaiian Home Lands, more particularly described in Exhibit "A" and shown on the map marked Exhibit "B," both attached hereto and made a part hereof, subject to the encumbrances described in Exhibit "A" ("Premises") and to the following reserved rights:

(1) Minerals and waters.

a. All minerals as hereinafter defined, in, on, or under the Premises, and the right, on its own behalf or through persons authorized by it, to prospect for, mine and remove such minerals and to occupy and use so much of the surface of the ground as may be required for all purposes reasonably extending to the mining and removal of such minerals by any means whatsoever, including strip mining. "Minerals," as used herein, shall mean any or 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 road construction in furtherance of the LESSEE'S permitted activities on the demised Premises and not for sale to others.

b. All surface waters, ground waters, and water systems, appurtenant to the Premises and the right on its own behalf or through persons authorized by it, to capture, divert or impound the same and to occupy and use so much of the demised Premises as may be required in the exercise of this right reserved.

c. As a condition precedent to the exercise by the LESSOR of any rights reserved in this paragraph 1, just compensation shall be paid to the LESSEE for any of the LESSEE'S improvements taken which amount is to be determined in the manner set forth in paragraph 3.

(2) Prehistoric and historic remains. All prehistoric and historic remains, including without limitation places, objects or

specimens, if any, which may be on the Premises, together with the right at all times to enter the Premises for the purpose of searching, exploring for and conducting research on objects, antiquities and specimens, of Hawaiian or other ancient art or handicraft or prehistoric, historic or archeological interest, and removing the same for preservation.

(3) Withdrawal. The right to withdraw all or any portion of the Premises for any public purpose (including but not limited to agricultural park development), and also reserves the right to withdraw any portion of the demised Premises for other than a public use, which demised Premises shall, at the time of withdrawal, constitute an economic unit, provided, that, the portion not withdrawn shall also be an economic unit. The right to withdraw reserved under this paragraph 3 shall be exercised only after a minimum one (1) years prior written notice is given to the LESSEE. The LESSEE will be entitled to compensation for those improvements made by the LESSEE on any portion of the premises withdrawn which have been approved by the LESSOR in an amount equal to the proportionate value of the LESSEE'S improvements so withdrawn in the proportion that it bears to the unexpired term of the lease; provided, that the LESSEE may, in the alternative, remove or relocate its improvements to the remainder of the demised Premises occupied by the LESSEE.

TO HAVE AND TO HOLD the same, together with all improvements, rights, easements, privileges and appurtenances belonging or appertaining to the LESSEE for the terms as defined below, unless the term shall be sooner terminated as provided in this lease, the LESSEE yielding and paying therefore all taxes, rates, assessments, and other charges hereunder payable by the LESSEE during the term as provided in the lease, on the following terms and conditions:

1. Term. The term of this lease shall be for ten (10) years, commencing on the 16<sup>th</sup> day of October 2008 up to and including the 15<sup>th</sup> day of October 2018, unless sooner terminated as hereinafter provided. This start date may change relative to the date that Lessor receives ownership to the subject property. In the event of changes the end date will change accordingly to provide for a period of ten (10) years. Prior to the expiration of this lease, the parties may extend the lease period by mutual written agreement.

2. Rent. The rent for the entire term of this lease shall be gratis.

3. Use. The LESSEE shall use the Premises for the 80-unit "Villages of Maili" transitional housing and community center project.

4. Quiet enjoyment. The LESSOR covenants and agrees with the LESSEE that, upon the LESSEE's observance and performance of the required terms, covenants and conditions contained in this lease, the LESSEE shall and may have, hold, possess and enjoy the Premises for the term of the lease, without hindrance or interruption by the LESSOR or any other person or persons lawfully claiming by, through or under it.

5. Utility services. The LESSEE shall pay, or cause to be paid, all charges, duties, rates and, other outgoings of every description, including water, sewer, gas, refuse collection, relocation of utility poles and lines or any other charges, as to which the Premises or any part, or any improvements, or the LESSOR or the LESSEE may become liable for during the term, whether assessed to or payable by the LESSOR or the LESSEE.

6. Issuance and relocation of utility easements. (a) The LESSEE may request an easement for utility purposes or relocation of an existing utility easement, and, if so approved by the LESSOR, the LESSEE shall pay all costs related to the issuance and installation of a new utility easement or relocation of an existing utility easement. (b) The LESSOR may issue utility easements or relocate existing utility easements without the LESSEE'S approval, provided that the issuance or relocation thereof does not unreasonably interfere with the LESSEE'S use of the Premises. In such event, the LESSOR shall pay for all costs related to the issuance and installation of a new utility easement or relocation of an existing easement, unless the issuance or relocation is done at the request of a utility company, in which case the utility company shall pay all related costs.

7. Sanitation, etc. The LESSEE shall keep the premises and improvements in a strictly clean, sanitary and orderly condition.

8. Waste and unlawful, improper or offensive use of premises. The LESSEE shall not strip or commit, suffer or permit to be committed any waste, nuisance, strip or unlawful, improper or offensive use of the Premises, or any part thereof, nor, without the prior written consent of the LESSOR, cut down, remove or destroy, or suffer to be cut down, removed or destroyed, any trees now growing on the premises.

9. Compliance with laws. The LESSEE shall, if applicable, comply with the requirements of any municipal, state and federal authorities and observe all municipal ordinances and state and federal statutes applicable to the premises.

10. Inspection of premises. The LESSEE will permit the LESSOR and its agents, at all reasonable times so as to cause as little interference with the LESSEE'S use of the Premises as is reasonably possible, to enter into and upon the Premises to inspect and examine the same and determine the state of repair and condition thereof, including, without limitation, the right to inspect the LESSEE'S records regarding compliance with all applicable rules and regulations.

11. Lessor's approval of improvements. The LESSEE shall not at any time during the term construct, place, maintain and install on the Premises any building, structure or improvement of any kind and description except with the prior written consent of the LESSOR and upon those conditions the LESSOR may impose, unless otherwise provided in the lease. The LESSEE may make nonstructural alterations not exceeding Twenty-Five Thousand Dollars (\$25,000.00) in cumulative costs per alteration during the term of this lease without the LESSOR'S consent. The LESSEE shall own these improvements until the expiration or termination pursuant to a breach of the lease, at which time the ownership shall automatically vest in the LESSOR.

12. Repairs to improvements. The 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 order, condition and repair, reasonable wear and tear excepted.

13. Assignments, etc. The LESSEE shall not transfer or assign this lease or any interest, either voluntarily or by operation of law; any unauthorized transfer or assignment shall be null and void; provided that, with the prior written approval of the LESSOR, the assignment and transfer of this lease or any portion thereof may be made if it is to the governmental or corporate successor of the LESSEE

14. Subletting. The LESSEE shall not rent or sublet the whole, or any part of, the Premises except to other non-profit organizations sharing common goals and serving similar functions as the LESSEE, and with the prior written approval of LESSOR.

If this paragraph is violated, the LESSEE shall relinquish all sublease rents collected from the Premises.

15. Termination. At the end of, or at earlier termination of this lease, the LESSEE shall peaceably deliver unto the LESSOR possession of the Premises, together with all buildings and other improvements of whatever nature or name, now or hereafter erected or placed upon same, in good order and condition, reasonable wear and tear excepted. Furthermore, should the LESSEE, upon the

expiration, termination, and/or revocation of this lease, fail to remove any and all of its personal property from the Premises, after notice thereof, the LESSOR may remove any and all personal property from the Premises and either deem the property abandoned and dispose of the property or place the property in storage at the cost and expense of the LESSEE, and the LESSEE does agree to pay all costs and expenses for the disposal, removal, and/or storage of the personal property.

16. Non-warranty. The LESSOR does not warrant the conditions of the Premises, as the same is leased "as is."

17. Abandonment by Lessee. The LESSEE agrees that, should the LESSEE breach this lease and abandon the premises, this lease shall continue in effect so long as the LESSOR does not terminate the lease or the LESSEE'S right to possession. The LESSOR may enforce all of its rights and remedies under this lease. Further, the LESSOR need not mitigate its damages in the event the LESSEE abandons the Premises and the LESSEE hereby expressly agrees to make the LESSOR whole in accordance with the terms of this lease.

18. Hazardous Materials Claims. The LESSEE shall immediately advise the LESSOR in writing of:

a) Any and all actual, alleged or threatened discharge, dispersal, release, escape, disposal or presence of pollutants or Hazardous Materials on, under or about the Premises, except such discharge, release or presence done in strict compliance with all applicable Hazardous Materials Laws and used by The LESSEE on the Premises in connection with the uses permitted by this lease.

b) Any and all enforcement, clean up, removal, mitigation, remediation or other governmental or regulatory actions instituted, contemplated or threatened pursuant to any Hazardous Materials Laws affecting the premises;

c) Any and all written claims made or threatened by any third party against the LESSEE or the Premises relating to damage, contribution, cost recovery, compensation, loss or injury resulting from any Hazardous Materials (the matters set forth in clauses (a) , (b) and (c) above are hereinafter referred to as "Hazardous Materials Claims"); and

d) The LESSEE'S discovery of any occurrence or condition on the Premises which could subject the LESSEE, LESSOR or the Premises to any restrictions on ownership, occupancy, transferability or use of the Premises under any Hazardous Materials Laws.

All Hazardous Material Claims shall be promptly investigated, and, if appropriate, remediated by an environmental consultant selected by the LESSEE and approved by the LESSOR, who shall perform all investigations, sampling and tests to the reasonable satisfaction of the LESSOR. The LESSOR shall have the right to join and participate in, as a party if it so elects, any settlements, remedial actions, legal proceedings or actions initiated in connection with any Hazardous Materials Claims. The LESSOR may participate in the investigation either directly or through one or more designated agents, employees, consultants or contractors, and shall have access to all information, raw data, opinions and test results generated by the investigation. With respect to any liability or potential liability under this Section 25 (Hazardous Materials), the LESSEE shall be responsible for damages and injury to the extent that the LESSEE's liability for such damage or injury has been determined by a court or otherwise agreed to by the LESSEE. The LESSEE shall pay for such damage or injury to the extent permitted by law and, provided that funds are appropriated, allotted or otherwise properly made available for that purpose. The LESSEE shall require the Developer, the Sub-lessee, any other sub-lessees, (except if such sub-lessee is the LESSEE or other State of Hawai'i government entities) to be responsible for any loss, damage, cost, expense, lien or liability directly or indirectly arising out of or attributable to the 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 by or through the LESSEE, Developer, and/or Sub-lessee, including without limitation the costs of any required or necessary repair, cleanup or detoxification of the Premises, and the preparation and implementation of any closure, remedial or other required plans.

19. Dispute Resolution. Except as otherwise expressly provided in this Lease, all disputes between the LESSOR and the LESSEE under this lease shall be subject to the provisions of this paragraph 19.

a) Notice. The party seeking relief or resolution of any dispute under this lease shall deliver to the other a written notice of the dispute, which notice shall provide a detailed explanation of the alleged dispute or matter for resolution ("Dispute Notice"). Following the delivery and receipt of the Dispute Notice, the parties shall attempt, in good faith, to resolve such dispute.

b) Submission to the Commission Chairman and Chairman of the HPHA Board of Directors. If, after the fifteenth (15<sup>th</sup>) calendar day following the delivery of the Dispute Notice, the parties have not been able to resolve the dispute which is the

subject of the Dispute Notice, either party may request, in writing, a meeting between the Commission Chairman and the Chairman of the HPHA Board of Directors ("HPHA Chairman"). Within 48 hours following the receipt of said request, the parties shall schedule a meeting between the Commission Chairman and the HPHA Chairman, or their designees, which meeting shall take place as soon as practicable, but not later than 30 days following the request for such meeting.

(1) Presentations. At such meeting, the LESSOR and the LESSEE shall present their opinions with respect to the subject matter of the disputes and the cause of the said dispute for resolution to the Commission Chairman and the HPHA Chairman (or their designees) and respond to questions.

(2) Decision. The Commission Chairman and the HPHA Chairman (or their designees) shall thereupon render a decision with regard to the dispute.

c) Governor's Decision. Should the Commission Chairman and the HPHA Chairman, or their designees, fail to agree, the matter will be submitted to the Governor for resolution.

d) Decision Binding. A decision or resolution of any dispute in the manner set forth in this paragraph 19 shall be binding on the LESSOR and the LESSEE. The decision of the Governor shall constitute a final determination of the matter, and shall not be appealable or otherwise subject to court challenge.

20. Hawaii Law. This lease shall be construed, interpreted, and governed by the laws of the State of Hawaii.

21. Exhibits - Incorporation in Lease. All exhibits referred to are attached to this lease and are deemed incorporated by reference.

22. 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.

23. Special Conditions. Upon termination of the lease, all on-site building improvements shall revert to the LESSOR, free and clear of all liens and defects.

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

State of Hawaii  
DEPARTMENT OF HAWAIIAN HOME LANDS

By \_\_\_\_\_  
Micah A. Kane, Chairman  
Hawaiian Homes Commission

APPROVED BY THE HAWAIIAN HOMES COMMISSION  
AT ITS AUGUST 19, 2008 MEETING

LESSOR

APPROVED AS TO FORM:

\_\_\_\_\_  
Deputy Attorney General  
State of Hawaii

State of Hawaii  
DEPARTMENT OF HUMAN SERVICES  
HAWAII PUBLIC HOUSING AUTHORITY

By \_\_\_\_\_

LESSEE

APPROVED AS TO FORM:

\_\_\_\_\_  
Deputy Attorney General  
State of Hawaii

STATE OF HAWAII  
CITY & COUNTY OF HONOLULU

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) SS  
)

On this \_\_\_\_\_ day of \_\_\_\_\_, 2008,  
before me appeared \_\_\_\_\_  
and \_\_\_\_\_ to me personally known, who  
being by me duly sworn, did say that \_\_\_\_\_ are the  
\_\_\_\_\_ and \_\_\_\_\_ are the  
of \_\_\_\_\_ and that the seal affixed to the  
forgoing instrument is the corporate seal of the corporation and  
that the instrument was signed and sealed on behalf of the  
corporation by authority of its Board of Directors, and the  
officer acknowledged the instrument to be the free act and deed  
of the corporation.

\_\_\_\_\_  
Notary Public, \_\_\_\_\_  
Judicial Circuit, State of Hawaii  
My commission expires: \_\_\_\_\_

Reviewed and Approved by the Executive Director CT  
October 6, 2008

**FOR INFORMATION**

SUBJECT: Report on Sale of HPHA Owned Property Located in Hana, Maui

Tentative schedule for the sale of the Hana Properties:

1. Issue Invitation for Bid (IFB) for Real Estate Broker ----- October 15, 2008
2. Bid submittal deadline ----- October 29, 2008
3. Bid Opening ----- October 29, 2008
4. Real Estate Broker Contract Start Date ----- December 15, 2008

Prepared by: Michael J. Hee, Contract Administration Section Chief MJH

Reviewed by: Stephanie Fo, Acting Property Management and Maintenance  
Services Branch Chief SF