



STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

RELEASE DATE: FEBRUARY 27, 2023

REQUEST FOR PROPOSALS
No. RFP-23-HHL-009

SEALED OFFERS
FOR

KAUPEA SUBDIVISION, PHASE 2, VILLAGES OF KAPOLEI, OAHU

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

WILL BE RECEIVED UP TO 2:00 P.M. (HST) ON APRIL 28, 2023

AT HALE KALANIANAOLE, 91-5420 KAPOLEI PARKWAY, KAPOLEI, HAWAII 96707. DIRECT QUESTIONS RELATING TO THIS SOLICITATION TO DARRELL ING, PROJECT MANAGER, TELEPHONE (808) 620-9276, FACSIMILE (808) 620-9299; E-MAIL AT darrell.h.ing@hawaii.gov.

A handwritten signature in black ink, appearing to read "Ikaika Anderson", is written over a horizontal line. The signature is stylized with a large "I" and "A".

IKAIKA ANDERSON

INTERIM CHAIRMAN, HAWAIIAN HOMES COMMISSION
PROCUREMENT OFFICER

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SECTION ONE

INTRODUCTION, TERMS AND ACRONYMS, KEY DATES

1.1 INTRODUCTION

The State Department of Hawaiian Home Lands (DHHL) is issuing this Request for Proposals (RFP) for the Kaupea Subdivision, Phase 2, Villages of Kapolei, Oahu, Hawaii. The selected developer's responsibilities shall include design and construction of on- and off-site infrastructure; and design, construction, financing, and marketing of an approximately 60-lot single-family residential subdivision. DHHL is specifically interested in design/build concepts that are "green build" in nature and affordable to buyers in the 80-120% AMI categories. Proposals that bring these often conflicting concepts together will be viewed in a better light.

1.2 CANCELLATION

The Request for Proposals (RFP) may be cancelled and any or all proposals rejected in whole or in part, without liability to the State, when it is determined to be in the best interest of the State.

1.3 TERMS AND ACRONYMS USED THROUGHOUT THE SOLICITATION

ADA	=	Americans with Disabilities Act
AMI	=	Area Median Income
BAFO	=	Best and Final Offer
CPO	=	Chief Procurement Officer
DA	=	Development Agreement
DAGS	=	Department of Accounting and General Services
DCAB	=	Disability and Communication Access Board
DHHL	=	Department of Hawaiian Home Lands
FHA	=	Federal Housing Administration
GC	=	103D General Conditions, issued by the Department of the Attorney General
GET	=	General Excise Tax
HAR	=	Hawaii Administrative Rules
HCE	=	Hawaii Compliance Express
HHC	=	Hawaiian Homes Commission
HRS	=	Hawaii Revised Statutes
HUD	=	Department of Housing and Urban Development.
NAHASDA	=	Native American Housing Assistance and Self Determination Act of 1996

RFP	=	Request for Proposals
UFAS	=	Uniform Federal Accessibility Standards
VA	=	Department of Veteran Affairs
VOK	=	Villages of Kapolei
VOKA	=	Villages of Kapolei Association

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

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

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

Chairman – Chairman of the Hawaiian Homes Commission. The Chairman also serves as the Director of the Department of Hawaiian Home Lands and is the Procurement Officer for the department.

Commission – The Hawaiian Homes Commission (HHC).

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

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

Developer – The entity or person retained by the Department to implement the Project.

Development Agreement – The contract through which the Offeror will implement the Project.

Developer-Built Homes – Houses constructed by the developer (as opposed to self-help, owner-builder, etc.).

Federal Labor Standards – U.S. Department of Housing and Urban Development form HUD-4010, as may be amended from time to time.

Federal Rate Schedule – HUD General Decision HI20230001 1/27/23 (Exhibit H), as may be amended from time to time.

Green building – Design and construction practices that minimize environmental impact, maximize the quality of homes and reduce the cost of maintenance and operation.

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

Hawaii BuiltGreen - A program for building-industry professionals enrolled in the Hawaii BuiltGreen Program of the Building Industry Association of Hawaii. It is designed to support the Self-Certification Checklist used to certify Hawaii BuiltGreen Home Builder projects.

Housing Contractor ("Contractor") – For the purpose of this RFP, a company whose primary or a significant portion of business is the construction of residential dwellings.

Infrastructure Contractor – For the purpose of this RFP, a company whose primary or a significant portion of business is the construction of sitework, roadways and utilities.

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

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

Native American Housing Assistance and Self Determination Act of 1996 (NAHASDA) – A program of block grant assistance to native Hawaiians administered by HUD.

native Hawaiian – Defined as any descendant of not less than one-half (50%) part of the blood races inhabiting the Hawaiian Islands previous to 1778 (a lower case "n" is commonly used in the phrase "native Hawaiian" when referring to Hawaiian Homes Commission Act beneficiaries. The upper case "N" is used when more generally describing persons with any percentage of Hawaiian ancestry).

Offeror – Any individual, partnership, firm, corporation, joint venture, or representative or agent, submitting an offer in response to this solicitation.

Project – Development of the DHHL property at Kapolei, Oahu, Hawaii. (see Section Two: Scope of Work, and Section Four: Contractor's Responsibilities)

Procurement Officer – The contracting officer for the State of Hawaii, Department of Hawaiian Home Lands.

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

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

Selection Committee – A committee consisting of at least three governmental employees, appointed by the Chairman, which will evaluate proposals and recommend the Selected Developer for this Project to the Chairman for approval.

Selected Developer – The Offeror selected by the Selection Committee and approved by the Chairman.

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

Subcontractor – An individual, partnership, firm, corporation, joint venture or other legal entity, as covered in Chapter 444, HRS, which enters into an agreement with the Contractor to perform a portion of the work for the Housing Contractor or Infrastructure Contractor.

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

Term Sheet – The agreement executed by DHHL and the successful Offeror that articulates basic terms and conditions that the parties agree to further negotiate and refine, and ultimately set forth in detail in the Development Agreement.

1.4 RFP SCHEDULE AND SIGNIFICANT DATES

The schedule set out herein represents the State's best estimate of the schedule that will be followed. All times indicated are Hawaii Standard Time (HST). If a component of this schedule, such as "Proposal Due" date is delayed, the rest of the schedule will likely be shifted by the same number of days. The approximate schedule is as follows:

Release of Request for Proposals.	February 27, 2023
Deadline for DHHL to receive written inquiries to be addressed at the Pre-proposal Conference Location: DHHL, 91-5420 Kapolei Parkway, Kapolei, HI 96707	March 3, 2023
Pre-proposal Conference Location: TEAMS Meeting	9:00am, March 6, 2023
Site Inspection: None	
Final deadline for written inquiries	April 14, 2023
Deadline for DHHL to receive written Notice of Intent to submit offer (Attachment 5)	April 14, 2023
DHHL's responses to offerors' written inquiries distributed via addendum	April 20, 2023
Proposals Due Location: DHHL, 91-5420 Kapolei Parkway, Kapolei, HI, 96707	2:00 pm, April 28, 2023
Notices of Compliance Qualification/Disqualification	May 5, 2023
Determination of "Priority List" Offerors	May 12, 2023
Discussion with Priority Listed Offerors (if necessary)	May 19, 2023
Best and Final Offer (if necessary)	June 2, 2023
Notice of Selection	June 9, 2023

Solicitation documents may be obtained at the State Procurement Office (SPO) Web site:

<https://hands.ehawaii.gov/hands/opportunities/>

There is no fee assessment to download the RFP documents from the SPO Web site. It is the responsibility of potential offerors to check the SPO Web site for any addenda issued by DHHL.

1.5 PRE-PROPOSAL CONFERENCE

The purpose of the pre-proposal conference is to provide Offerors an opportunity to be briefed on this procurement and to ask any questions about this procurement. Attendance at the pre-proposal conference is not mandatory, however, Offerors are encouraged to attend to gain a better understanding of the requirements of this RFP.

Offerors are advised that anything discussed at the pre-proposal conference does not change any part of this RFP. All changes and/or clarifications to this RFP shall be done in the form of an addendum.

The pre-proposal conference will be held as follows:

Date: March 6, 2023
Time: 9:00 am
Location: [TEAMS meeting only](#)

A site visit will **not** be conducted in conjunction with the pre-proposal conference. Access to the project land is not restricted. Potential offerors are encouraged to inspect the land at their convenience.

1.6 QUESTIONS AND ANSWERS PRIOR TO OPENING OF PROPOSALS

All questions shall be submitted by the due date specified in Section 1.4, *RFP Schedule and Significant Dates*, as amended.

The State will respond to questions through Addenda/Amendments by the date specified in Section 1.4, *RFP Schedule and Significant Dates*, as amended.

1.7 NOTICE OF INTENT TO SUBMIT OFFER

In accordance with Section 103D-310, Hawaii Revised Statutes, and Section 3-122-111, Hawaii Administrative Rules, a written notice of intention to submit an offer must be submitted to the Chairman. The notice may be faxed, hand carried, mailed or e-mailed to the office indicated in the Request for Proposals.

The written notice must be received by the office indicated in the Request for Proposals. The written notice will be time stamped when received. The time designated by the time stamping device in said office shall be official. If the written notice is hand carried, then the bearer is responsible to ensure that the notice is time stamped. If the notice is faxed,

the time of receipt by the Department fax machine shall be official. If the Notice is sent by email, the time indicated in the date and time field of the email as received by DHHL shall be official.

It is the responsibility of the prospective Offeror to ensure that the written notice of intention to bid is received in time and the Department assumes no responsibility for failure of timely delivery caused by the prospective Offeror or by any method of conveyance chosen by the prospective Offeror.

SECTION TWO

BACKGROUND AND SCOPE OF WORK

2.1 PROJECT OVERVIEW AND HISTORY

The Hawaiian Homes Commission Act of 1920, as amended, was enacted by the U.S. Congress to rehabilitate the lives of native Hawaiians. At Statehood, the people of Hawaii accepted the entirety of the Hawaiian Homes Commission Act of 1920 (“HHCA”) into the state's new constitution as a part of its compact for statehood with the United States. The Department of Hawaiian Home Lands (“DHHL”), created by the first Hawaii State Legislature, is tasked with administering certain public lands, called Hawaiian home lands, for homesteading by eligible native Hawaiians, being defined as individuals having at least fifty percent Hawaiian blood.

The 9.104-acre project site is located at Village 8 of the Villages of Kapolei, Oahu, designated as Tax Map Key: (1) 9-1-140: 159 (Exhibits I and J).

The proposed Kaupea Subdivision, Phase 2 Project includes the design, and construction of the infrastructure for a minimum of 60 single-family lots, and the development of housing units on those lots. In the development of the project, the Developer shall comply with all applicable Federal, State and County laws, regulations, and standards.

The Department has not determined the numbers, types, or prices of the house models; the offeror shall determine the mix it believes is appropriate. The design, pricing, and mix of the lots to be leased and housing units to be sold shall reflect as closely and as economically possible the particular needs and desires of applicants on the Department's Oahu Islandwide Residential waiting list (Exhibit K). Any proposed financing with loans or grants to reduce sales price is encouraged.

The mix of house development may include any, or all, of the following:

- Turn-key houses.
- Vacant lots for owner-builder.
- Self-help housing construction program.

In the proposal, each offeror shall fully explain the reasons for the mix of unit types it deems appropriate for this project and how it intends to market, finance, and implement the program.

The site plan shall include a parcel for centralized mail delivery, including relocation of cluster mailboxes serving the existing Kaupea subdivision – currently, three locations on Kama’aha Avenue for 326 addresses.

The existing Kaupe'a Homestead Association has requested that a park/recreation area be included in the development.

Off-site improvements shall include a new traffic signal at the intersection of Kapolei Parkway and Puainako Street.

All lots shall be leased to eligible native Hawaiians who at closing will be awarded a 99-year residential lot lease from Department for one dollar (\$1.00) a year.

2.1.1 Site Conditions

Landowner

State of Hawaii, Department of Hawaiian Home Lands.

City & County of Honolulu Zoning

R-3.5. The Department is not subject to County Zoning. DHHL shall declare that the Project will be designed and built in accordance with R-5 zoning standards.

Current Use of the Site

Vacant

Surrounding Uses

North: Kapolei Parkway

East and South: Kaupea Subdivision (Village 8 of the Villages of Kapolei)

West: Kapolei High School

Infrastructure

Utilities: See Exhibit P.

The City and County of Honolulu has approved a sewer connection application for up to 70 single-family dwellings for the parcel.

Access: From Kama'aha Avenue

Environmental Assessments

The Environmental Impact Statement (EIS) for The Villages of Kapolei, including the subject parcel, was accepted by the Governor in May 1988.

https://files.hawaii.gov/dbedt/erp/EA_EIS_Archive/1988-02-DD-OA-FEIS-Kapolei-Village.pdf

Beneficiary Survey

DHHL Beneficiaries Study Applicant Report, 2020 by SMS (Exhibit K) indicated that while a majority of applicants prefer a turn-key lot award (53.9%), there are some who prefer a lot with water, electricity and sewer, but no house (22.2%) or single-family house to rent with option to buy (8.9%).

2.2 SCOPE OF WORK

2.2.1 DHHL Project Objectives

- 1) To plan, design, and construct a residential neighborhood that considers the opportunities and constraints of the Department's waiting list and the existing site conditions, shows respect to the area, harmonizes with adjacent land uses, and will foster a sense of community interaction and identity.
- 2) To develop single-family lots and houses for applicants on the Department's Residential Waitlist who are financially qualified to purchase a turn-key house.
- 3) To provide applicants on the Department's Residential Waitlist an opportunity to choose an improved vacant lot for the purpose of constructing their house as owner-builders, or through a self-help housing construction program, within their financial capabilities.
- 4) To incorporate green building practices, including implementation of DHHL'S Ho'omalū Energy Policy (EXHIBIT L) into the design and construction of the facilities to achieve a lower cost of operation and maintenance by minimizing energy use.

2.2.2 Work Product

1) Infrastructure

Offerors shall provide an estimated cost (current market conditions) for off-site (including, but not limited to, a new traffic signal at the intersection of Kapolei Parkway and Puainako Street) and on-site infrastructure work, including costs for the design and construction of roadways and utilities for the subdivision, fine grading of the lots, and permitting fees. Actual costs shall be determined through competitive bidding on approved construction plans. Compensation to the developer would be the actual costs of items as detailed in the project budget.

Alternately, an offeror may propose a guaranteed maximum cost (GMC) in which case, competitive bidding would not be required. If an offer which includes a GMC is selected, the developer would be responsible for payment of any actual costs in excess of the GMC. The developer would not be allowed to increase house prices due to infrastructure costs exceeding the GMC.

2) Houses

Offerors shall provide proposed sale prices for each model type with the understanding that the quantity of each model of house to be constructed and the various options will not be known in advance of the proposal submission. The actual number of houses to be constructed will depend on the number of financially pre-qualified beneficiaries who execute sales contracts at lot selection. Prices shall reflect hard and soft costs related to house development only. The land shall be conveyed to the home buyers by lease pursuant the HHCA, as amended.

Offerors shall provide the cost estimate of each model "turnkey"/completed, vertical as well as lot improvements (including, but not limited to landscaping, driveway, utility connections, and rear and side fences. Cost estimates will include breakdown of profit and overhead per each model. Cost and price estimates shall be based on current wage and material costs ("baseline"). Actual prices shall be the baseline adjusted for increases at the time of submittal of house plans for permit approval.

The five house models to be proposed are:

Model	Number of Bedrooms	Approximate Living Area (Square Feet)	Desired Price Range (\$)
A	Two	750	\$225,000 – 250,000
B	Two	1,000	\$250,000 – 300,000
C	Three	1,200	\$275,000 – 350,000
D	Four	1,500	\$300,000 – 375,000
E	Five	1,700	\$375,000 – 425,000

The designs must include specifications to meet at least the minimum FHA requirements and standards, including but not limited to the following:

- Garbage Disposal (1/2 HP Minimum)
- Carpeting (Living Area)
- Sheet Vinyl or Vinyl Tile (Kitchen and Bathrooms)
- Roofing (minimum 25-Year Warranty)
- Free-Standing Range with Oven
- Range Hood with Ventilation Fan
- Solar Water Heater
- Concrete driveway (minimum 18 feet wide, by 20 feet long) and carport
- All appliances must be Energy Star rated.
- Conduits and junction box for the future installation of an electrical outlet suitable for charging electric vehicles (not an FHA requirement)
- Fencing at back and side yards (not an FHA requirement)

The design and features of Model A should meet only the minimum requirements. The intent is to offer a house at the lowest possible price. The design should allow relatively easy expansion to meet future needs and financial resources of the homeowner.

The proration of soft costs (consultants, overhead, marketing, etc.) and profits, among the house models should be balanced appropriately. House prices and/or developer compensation will not be revised due to changes in the mix of models.

Offerors shall indicate the minimum number of turn-key houses required to consider the project viable.

The Disability and Communication Access Board has determined that a surcharge may **not** be placed on a beneficiary with a disability (or a beneficiary with an expected occupant who has a disability) for accessibility features that comply with the minimum requirements of the 2010 ADA Standards or UFAS, whichever is more stringent.

2.2.3 Developer's Responsibilities

The Developer shall have exclusive responsibility for all aspects of development planning and execution. The Developer's responsibility shall include, but not be limited to, the design and construction of all off-site and on-site infrastructure improvements; the subdivision of lots; improvement and completion of lots; design and construction of the housing units; and marketing, promotion, and sales of the units to qualified native Hawaiians in a lien-free condition, including, but not limited to, the following.

- 1) Assemble and coordinate a development team for the Project. Identify the Responsible Managerial Employee who shall be the authorized representative for the entire project. Identify consultants and subcontractors to be employed in the Project.
- 2) Plan and design the infrastructure and houses in conformance with the VOK Design Guidelines (attached as Exhibit Q).
- 3) Prepare the preliminary and final subdivisions and file the subdivision application with the City's Department of Planning and Permitting Subdivision Branch (DPP-SB). Minimum residential lot size shall be 5,000 square feet. The subdivision shall include one common area lot for cluster mailboxes and parking spaces. Common area lots for other uses may also be proposed. Upon receipt of subdivision approval, record the subdivision at Land Court.
- 4) Perform the necessary water system, sewer system, storm drainage and storm water quality analyses in accordance with the City and County of Honolulu design standards.

- 5) Prepare the construction plans and submit to the DPP-SB for review and comment, along with the applicable calculations and reports for plan approval. Prepare the Storm Water Quality Report for review by Civil Engineering Branch if required. Revise construction plans per DPP-SB comments; submit for approval.
- 6) Prepare and file the NPDES-NOI with the State Department of Health.
- 7) Submit plans to the State Disabilities and Communications Access Board (DCAB) for review and approval.
- 8) If GMP is not proposed, solicit bids for site construction. Provide bid results to DHHL.
- 9) Execute contract for construction of subdivision improvements. Provide copy of construction contract, performance bond, payment bond, and liability insurance to DHHL.
- 10) Manage construction of the infrastructure improvements in accordance with DHHL Construction General Conditions (Exhibit D).
- 11) Submit monthly payment requests to DHHL with construction progress reports.
- 12) Provide house plans, which meet or exceed the quality of the DHHL requirements for the single-family homes. All homes shall be designed to meet all County code requirements on all lots. Every house model should fit on every lot (please indicate exceptions).
- 13) Provide house designs and specifications to support implementation of the Project Green Building Strategy. Particularly, the designs and specifications for each house shall achieve or exceed the minimum two star Hawaii BuiltGreen certification level, or equivalent.
- 14) Prepare Composite Plot Plans for each of the Project Lots. The Plot Plan shall show the location of the house and driveway relative to the property lines, finish elevation of the house, and fine grading, including individual lot swales around each house.
- 15) Obtain all permits (e.g., Building and Grading Permits) and approvals required for the construction of the homes, in accordance with the requirements of the County and other agencies having jurisdiction over the Project. Including a Fine Grading Permit for installation of the imported top soil on the Project Lots.
- 16) Construct houses per DHHL and County approved house plans and specifications, and according to applicable Codes.

- 17) Install water meter for each lot. Cost of water meter shall be included in house price. Water facility charges shall be reimbursed by DHHL.
- 18) Provide geotechnical inspections and compaction tests prior to concrete pours for the driveways and house foundations. Written reports and compaction test results shall be provided to DHHL.
- 19) Construct concrete driveways for the Project Lots. Driveways shall be a minimum of 18 feet in width and 20 feet in length.
- 20) Upon completion of each house, the Developer shall import and install top soil and grass all exposed areas around the house. Developer shall maintain all common area grassing within the subdivision until all houses are accepted by DHHL and lessees. Grassing and vegetation on each lot shall be cut just prior to homeowner move-in.
- 21) Provide construction management and coordinate all inspections with architect, structural engineer, City, State and federal agencies. Provide monthly written reports to the Department. Submit appropriate written documents for FHA/VA acceptance.
- 22) Install privacy fences at rear and side yards. Cost of fencing shall be included in prices for houses.
- 23) Be responsible for dust control, noise control, erosion control and related potential damages.
- 24) Close all permits (e.g., Building and Grading Permits) upon completion of construction.
- 25) Observe and comply with all provisions of Chapter 104, HRS, the significant requirements of which are emphasized in the Department of Labor and Industrial Relations Publication No. H104-3 entitled "Requirements of Chapter 104, Hawaii Revised Statutes, Wages and Hours of Employees on Public Works Law" and Federal Davis-Bacon Act (40 U.S.C. 276-276a-5 and Code of Federal Regulation (CFR) Title 29 and related Acts. Including, but not limited to, submittal of a certified copy of each weekly payrolls to the Department within seven calendar days after the end of each weekly payroll period. Failure to do so on a timely basis shall be cause for withholding of payments, termination of the contract, and/or debarment.
- 26) The Developer shall be responsible for the timely submission of certified copies of payrolls of all subcontractors. The certification shall affirm that payrolls are correct and complete, that the wage rates contained therein are not less than the

applicable rates contained in the wage determination decision, any amendments thereto during the period of the contract, and that the classifications set forth for each laborer and mechanic conform with the work they performed.

- 27) Maintain payroll records for all laborers and mechanics working at the site of the work during the course of the work and preserve for a period of four (4) years thereafter.
- 28) Provide any other services or functions that are necessary for successful completion of the proposed construction, including, but not limited to, final inspection of each house, turnover of each house to DHHL/Buyer, preparation and submittal of final Warranty Packages for each house to DHHL/Buyer, and any unique circumstances of the proposal.
- 29) Prepare and issue to each buyer a Homeowner's Manual consisting of warranty information (including claim filing procedures), important telephone numbers, recommendations for periodic maintenance, and community association information.
- 30) Formulate a financial plan to address costs and sources of construction financing in accordance with the contract. Arrange sources and funds for all design and construction capital necessary to complete the homes in accordance with the contract. Explore alternative funding mechanisms including, affordable housing tax credits, and grants or loans from other public agencies or private sources.
- 31) Market and sell all dwelling units, including applicant notification and conducting information/orientation meetings. The contractor will be required to maintain and protect each house until sale and loan closing, and turnover of the home to a lessee takes place.
- 32) Provide sufficient warranties to ensure correction of construction defects during the warranty period.
- 33) Allow DHHL access for inspections and other purposes.
- 34) Allow access to adjacent lots for construction by owner-builder or self-help.

2.2.4 DEPARTMENT OF HAWAIIAN HOME LANDS RESPONSIBILITIES

DHHL shall be responsible for the following:

- 1) Execute a Development Agreement with the Developer for the design, financing, construction, and marketing of the Project.

- 2) Submit to the DPP-SB a declaration that the Project shall be developed in accordance with R-5 zoning standards, and exemptions to other County requirements.
- 3) Pay the Developer monthly progress payments for infrastructure design and construction based on the value of services performed by the Developer, as estimated by the Developer and approved by DHHL.
- 4) Annexation to the Villages of Kapolei Association. DHHL shall prepare an Annexing Declaration for review and approval to the satisfaction of HUD and HHFDC that fulfills the requirements of the Declaration of Covenants, Conditions and Restrictions of Villages of Kapolei, as amended ("VOK Declaration"), for annexation of the Property to the VOKA. DHHL shall pay an annexing fee, if any, imposed in accordance with the VOK Declaration. HHFDC shall record the approved Annexing Declaration in accordance with the VOK Declaration.
- 5) Conduct initial mailout to applicants on the Oahu Island-wide Residential Waiting List.
- 6) May make Affordable Housing Credits available to the Developer.
- 7) May make interim construction loan funds available to the Developer. Loan would be at zero percent (0%) interest rate to reduce sales price to beneficiaries.
- 8) Certify the native Hawaiian qualification status of potential house buyers.
- 9) Assist with information/orientation meetings.
- 10) Request Hawaii Housing Finance and Development Corporation (HHFDC) assistance to certify the persons or entities who are contractually participating in the project for exemption from applicable Hawaii general excise taxes on gross income received from the Project pursuant to section 201G-116, HRS.

2.3 TERM OF CONTRACT

The term of contract shall be per the schedule submitted in response to this RFP.

Unless terminated, the State may extend the term of the contract for an additional period of up to one year or portions thereof without the necessity of re-bidding, upon mutual agreement in writing at least sixty (60) days prior to the expiration of the contract. The house prices for the extended period shall remain the same as described in the offer.

When interests of the State so require, the State may terminate the contract for convenience by providing six (6) weeks prior written notice to the Developer.

2.4 CONTRACT ADMINISTRATOR

For the purposes of this contract, Stewart Matsunaga, Acting Land Development Division Administrator, (808) 620-9283, or authorized representative, is designated the Contract Administrator.

SECTION THREE
PROPOSAL FORMAT AND CONTENT

3.1 OFFEROR'S AUTHORITY TO SUBMIT AN OFFER

The State will not participate in determinations regarding an Offeror's authority to sell a product or service. If there is a question or doubt regarding an Offeror's right or ability to obtain and sell a product or service, the Offeror shall resolve that question prior to submitting an offer.

3.2 REQUIRED REVIEW

- 3.2.1 Before submitting a proposal, each Offeror must thoroughly and carefully examine this RFP, any attachment, addendum, and other relevant document, to ensure Offeror understands the requirements of the RFP. Offeror must also become familiar with State, local, and Federal laws, statutes, ordinances, rules, and regulations that may in any manner affect cost, progress, or performance of the work required.
- 3.2.2 Should Offeror find defects and questionable or objectionable items in the RFP, Offeror shall notify the Department of Hawaiian Home Lands in writing prior to the deadline for written questions as stated in the RFP *Schedule and Significant Dates*, as amended. This will allow the issuance of any necessary corrections and/or amendments to the RFP by addendum, and mitigate reliance of a defective solicitation and exposure of proposal(s) upon which award could not be made.

3.3 PROPOSAL PREPARATION COSTS

Any and all costs incurred by the Offeror in preparing or submitting a proposal shall be the Offeror's sole responsibility whether or not any award results from this RFP. The State shall not reimburse such costs.

3.4 TAX LIABILITY

- 3.4.1 State GET Exemption – It is intended that gross income derived from the development of the Project will be certified for exemption from Hawaii General Excise Taxes pursuant to Section 201G-116 HRS. The proposed budget shall not include any provision for GET.
- 3.4.2 Federal I.D. Number and Hawaii General Excise Tax License I.D. Offeror shall submit its current Federal I.D. No. and Hawaii General Excise Tax License I.D. number in the space provided on Offer Form, page OF-1, thereby attesting that the Offeror is doing business in the State and that Offeror will pay such taxes on all sales made to the State, as applicable.

3.5 PROPERTY OF STATE

All proposals become the property of the State of Hawaii.

3.6 CONFIDENTIAL INFORMATION

3.6.1 If an Offeror believes that any portion of a proposal, offer, specification, protest, or correspondence contains information that should be withheld from disclosure as confidential, then the Offeror shall inform the Procurement Officer named on the cover of this RFP in writing and provided with justification to support the Offeror's confidentiality claim. Price is not considered confidential and will not be withheld.

3.6.2 An Offeror shall request in writing nondisclosure of information such as designated trade secrets or other proprietary data Offeror considers to be confidential. Such requests for nondisclosure shall accompany the proposal, be clearly marked, and shall be readily separable from the proposal in order to facilitate eventual public inspection of the non-confidential portion of the proposal.

3.7 EXCEPTIONS

Should Offeror take any exception to the terms, conditions, specifications, or other requirements listed in the RFP, Offeror shall list such exceptions in this section of the Offeror's proposal. Offeror shall reference the RFP section where exception is taken, a description of the exception taken, and the proposed alternative, if any. The State reserves the right to accept or not accept any exceptions.

No exceptions to statutory requirements of the AG General Conditions shall be considered.

3.8 PROPOSAL CONTENTS

3.8.1 To be considered responsive, the Offeror's proposal shall respond to and include all items specified in this RFP and any subsequent addendum. Any proposal offering any other set of terms and conditions that conflict with the terms and conditions providing in the RFP or in any subsequent addendum may be rejected without further consideration.

3.8.2 Proposals shall be organized into sections, following the exact format using all titles, subtitles, and numbering, with tabs separating each section described below. Each section must be addressed individually and pages must be numbered.

- 1) Transmittal letter confirming that the Offeror shall comply with the requirements, provisions, terms, and conditions specified in this RFP.

- 2) Offer Form, OF-1. Offer Form, OF-1 (Attachment 1) shall be completed using Offeror's exact legal name as registered with the Department of Commerce and Consumer Affairs.

The Offeror's authorized signature on the Offer Form, OF-1 shall be an original signature in ink. The submission of the proposal shall indicate Offeror's intent to be bound.

- 3) Offer Form OF-1A, Experience and Capabilities. Development team information shall be submitted on Offer Form OF-1A (Attachment 2).
- 4) Offer Form, OF-2. Proposed development and budgets shall be submitted on Offer Form OF-2 (Attachment 3).
- 5) Submit an original and three (3) copies of your proposal, for a total of four (4) sets, plus a set of electronic files of all documents on a flash drive.

3.8.3 Handwritten offers are not acceptable.

3.9 RECEIPT AND REGISTER OF PROPOALS

Proposals will be received and receipt verified by two or more procurement officials on or after the date and time specified in Section One, or as amended.

The register of proposals and proposals of the Offeror(s) shall be open to public inspection upon posting of award pursuant to section 103D-701, HRS.

3.10 BEST AND FINAL OFFER (BAFO)

If the State determines a BAFO is necessary, it shall request one from the Offeror. The Offeror shall submit its BAFO and any BAFO received after the deadline or not received shall not be considered.

3.11 MODIFICATION PRIOR TO SUBMITTAL DEADLINE OR WITHDRAWAL OF OFFERS

3.11.1 The Offeror may modify or withdraw a proposal before the proposal due date and time.

3.11.2 Any change, addition, deletion of attachment(s) or data entry of an Offer may be made prior to the deadline for submittal of offers.

3.12 MISTAKES IN PROPOSALS

3.12.1 When the Procurement Officer knows or has reason to conclude before award that a mistake has been made, the Procurement Officer should request the offeror to confirm the proposal. If the Offeror alleges mistake, the proposal may be corrected or withdrawn pursuant to this section.

- 3.12.2 Once discussions are commenced or after best and final offers are requested, any priority-listed Offeror may freely correct any mistake by modifying or withdrawing the proposal until the time and date set for receipt of best and final offers.
- 3.12.3 If discussions are not held, or if the best and final offers upon which award will be made have been received, mistakes shall be corrected to the intended correct offer whenever the mistake and the intended correct offer are clearly evident on the face of the proposal, in which event the proposal may not be withdrawn.
- 3.12.4 If discussions are not held, or if the best and final offers upon which award will be made have been received, an Offeror alleging a material mistake of fact which makes a proposal non-responsive may be permitted to withdraw the proposal if: the mistake is clearly evident on the face of the proposal but the intended correct offer is not; or the Offeror submits evidence which clearly and convincingly demonstrates that a mistake was made.
- 3.12.5 Mistakes shall not be corrected after award of contract.

Technical irregularities are matters of form rather than substance evident from the proposal document, or insignificant mistakes that can be waived or corrected without prejudice to other Offerors; that is, when there is no effect on price, quality, or quantity. If discussions are not held or if best and final offers upon which award will be made have been received, the Procurement Officer may waive such irregularities or allow an Offeror to correct them if either is in the best interest of the State. Examples include the failure of an Offeror to: return the number of signed proposals required by the request for proposals; sign the proposal, but only if the unsigned proposal is accompanied by other material indicating the Offeror's intent to be bound; or to acknowledge receipt of an amendment to the request for proposal, but only if it is clear from the proposal that the Offeror received the amendment and intended to be bound by its terms; or the amendment involved had no effect on price, quality or quantity.

SECTION FOUR

EVALUATION CRITERIA AND CONTRACTOR SELECTION

4.1 Scoring System

The award will be made to the responsible Offeror whose proposal is determined to be the most advantageous to the State based on the evaluation criteria listed in this section. The total number of points used to score this contract is 100. Evaluation of submitted proposals will be based on the following point distribution.

<i>Criteria Description</i>	<i>Points</i>
Offeror's qualifications, experience, financial strength, creativity, and track record in development projects of a similar nature.	35
Proposed house prices (including adjustments for preferences as applicable).	20
Proposed housing designs.	20
Proposed infrastructure layout and cost	15
Green building features.	5
Proposed financing	5
Unusual or unacceptable terms and conditions (potential penalty of up to 10 points).	
TOTAL POSSIBLE POINTS	100

The proposed infrastructure and house costs shall be considered baseline costs (current dollars) to compare proposals. Reimbursement for infrastructure costs shall be the actual costs determined through competitive bidding (if GMP is not submitted). Final house prices shall be determined through negotiations between DHHL and the developer allowing for increases in material and labor costs.

4.2 OFFEROR QUALIFICATIONS

Minimum Qualifications for Offerors, at the time the proposal is submitted:

- 1) A principal member of the Offeror's company must have at least five (5) years of single-family housing development experience in the State of Hawaii.

- 2) The Offeror shall name the Responsible Managerial Employee (RME) who will be responsible for day-to-day operations and oversight throughout the design and construction of the Project. The RME shall have had substantial responsibility, or been materially involved in the development and/or operation of at least three (3) separate subdivision development projects with at least one project consisting of thirty (30) or more units.
- 3) The Offeror shall show evidence of credit worthiness and financial resources to complete the design and construction of the Project lien-free;
- 4) At the time of the submittal of the proposal, the Offeror must be authorized to do business in the State of Hawaii and have all licenses necessary to carry out the design, construction, and management of the Project. All persons and entities to be used on the design and construction shall possess all required professional and other licenses issued by the State of Hawaii including, but not limited to, architects, engineers, contractors, subcontractors, sales agents, and lenders.
- 5) At the time of submittal of the proposal, the Offeror shall not be in default or have failed to perform under any contract, agreement, development or design-build agreement, or lease with the State of Hawaii, and not have any outstanding judgments.
- 6) The Offeror shall provide its two (2) most recent audited annual financial statements, a statement of financial net worth, or statement of bonding capacity.

4.3 DISQUALIFICATION OF OFFERORS

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

- 1) Non-compliance with Section 103D-310 HRS.
- 2) Evidence of collusion among Offerors.
- 3) More than one proposal for the same work from an individual, firm, partnership, corporation or joint venture under the same or different name.
- 4) Delivery of proposals after the deadline specified in the advertisement calling for proposals.
- 5) Debarment or suspension pursuant to Section 103D-702, HRS.

SECTION FIVE
CONTRACTOR SELECTION AND CONTRACT AWARD

5.1 EVALUATION OF PROPOSALS

The Procurement Officer, or an evaluation committee of at least three (3) qualified State employees selected by the Procurement Officer, shall evaluate proposals. The evaluation will be based solely on the evaluation criteria set out in Section Four of this RFP.

Prior to holding any discussion, a priority list shall be generated consisting of offers determined to be acceptable or potentially acceptable. However, proposals may be accepted without such discussions.

If numerous acceptable and potentially acceptable proposals are submitted, the evaluation committee may limit the priority list to the three highest ranked, responsible Offerors.

5.2 DISCUSSION WITH PRIORITY LISTED OFFERORS

The State may invite priority listed Offerors to discuss with their proposals to ensure thorough, mutual understanding. The State in its sole discretion shall schedule the time and location for these discussions, generally within the timeframe indicated in *RFP Schedule and Significant Dates*. The State may also conduct discussions with priority listed Offerors to clarify issues regarding the proposals before requesting Best and Final Offers, if necessary.

5.3 AWARD OF CONTRACT

Award will be made to the responsible Offeror whose proposal is determined to be the most advantageous to the State based on the evaluation criteria set forth in the RFP.

5.4 RESPONSIBILITY OF OFFERORS

Offeror is advised that in order to be awarded a contract under this solicitation, Offeror will be required, to be compliant with all laws governing entities doing business in the State including the following chapters and pursuant to HRS §103D-310(c):

1. Chapter 237, General Excise Tax Law;
2. Chapter 383, Hawaii Employment Security Law;
3. Chapter 386, Worker's Compensation Law;
4. Chapter 392, Temporary Disability Insurance;
5. Chapter 393, Prepaid Health Care Act; and
6. §103D-310(c), Certificate of Good Standing (COGS) for entities doing business in the State.

The State will verify compliance on Hawaii Compliance Express (HCE).

Hawaii Compliance Express. The HCE is an electronic system that allows vendors/contractors/service providers doing business with the State to quickly and easily demonstrate compliance with applicable laws. It is an online system that replaces the necessity of obtaining paper compliance certificates from the Department of Taxation, Federal Internal Revenue Service; Department of Labor and Industrial Relations, and Department of Commerce and Consumer Affairs.

Vendors/contractors/service providers should register with (HCE) prior to submitting an offer at <https://vendors.ehawaii.gov>. The annual registration fee is \$12.00 and the 'Certificate of Vendor Compliance' is accepted for the execution of contract and final payment.

Timely Registration on HCE. Vendors/contractors/service providers are advised to register on HCE soon as possible. If a vendor/contractor/service provider is not compliant on HCE at the time of award, an Offeror will not receive the award.

5.5 PROPOSAL AS PART OF THE CONTRACT

This RFP and all or part of the successful proposal may be incorporated into the contract.

5.6 PUBLIC EXAMINATION OF PROPOSALS

Except for confidential portions, the proposals shall be made available for public inspection upon posting of award pursuant to HRS §103D-701.

If a person is denied access to a State procurement record, the person may appeal the denial to the office of information practices in accordance with HRS §92F-42(12).

5.7 DEBRIEFING

Pursuant to HAR §3-122-60, a non-selected Offeror may request a debriefing to understand the basis for award.

A written request for debriefing shall be made within three (3) working days after the posting of the award of the contract. The Procurement Officer or designee shall hold the debriefing within seven (7) working days to the extent practicable from the receipt date of written request.

Any protest by the requestor following a debriefing, shall be filed within five (5) working days, as specified in HAR §103D-303(h).

5.8 PROTEST PROCEDURES

Pursuant to HRS §103D-701 and HAR §3-126-3, an actual or prospective Offeror who is aggrieved in connection with the solicitation or award of a contract may submit a protest. Any protest shall be submitted in writing to the Procurement Officer at:

Honorable Ikaika Anderson, Interim Chairman
Hawaiian Homes Commission
Department of Hawaiian Home Lands
91-5420 Kapolei Parkway
Kapolei, HI 96707

A protest shall be submitted in writing within five (5) working days after the aggrieved person knows or should have known of the facts giving rise thereto; provided that a protest based upon the content of the solicitation shall be submitted in writing prior to the date set for receipt of offers. Further provided that a protest of an award or proposed award shall be submitted within five (5) working days after the posting of award or if requested, within five (5) working days after the PO's debriefing was completed.

The notice of award, if any, resulting from this solicitation shall be posted on the Hawaii Awards & Notices Data System (HANDS), which is available on the SPO website: <https://hands.ehawaii.gov/hands/awards>.

5.9 APPROVALS

Any agreement arising out of this offer may be subject to the approval of the Department of the Attorney General, and to all further approvals, including the approval of the Governor, as required by statute, regulation, rule, order, or other directive.

5.10 CONTRACT EXECUTION

Successful Offeror receiving award shall enter into an agreement (Term Sheet) executed with DHHL that articulates basic terms and conditions that the parties agree to further negotiate and refine, and ultimately set forth in detail in the Development Agreement.

No work is to be undertaken by the Contractor prior to the effective date of contract. The State of Hawaii is not liable for any work, contract, costs, expenses, loss of profits, or any damages whatsoever incurred by the Contractor prior to the official starting date.

5.11 INSURANCE

5.11.1 Prior to the contract start date, the Developer shall procure at its sole expense and maintain insurance coverage acceptable to the State in full force and effect throughout the term of the Development Agreement. The Developer shall provide proof of insurance for the following minimum insurance coverage(s) and limit(s) in order to be awarded a contract. The type of insurance coverage is listed as follows:

<u>Insurance Coverage</u>	<u>Minimum Policy Limits</u>
General Liability	\$2,000,000.00 in the aggregate for property damage; \$1,000,000.00 per occurrence for injuries to or death of any one person in any accident in the aggregate
Workers' Compensation	As required by Hawaii laws
Fire and extended coverage	100% replacement value
Builder's risk covering the general contractor and all subcontractors	100% replacement value
Malicious mischief	100% replacement value
Flood insurance (if required)	Maximum coverage available

The insurance policies shall be in a form and substance including amounts of coverage, acceptable to DHHL.

Developer shall furnish DHHL with insurance policies and/or certificates, which shall name DHHL as an additional insured. Such insurance policies shall provide that the insurance company shall give DHHL no less than thirty (30) days prior written notice of any termination or cancellation of such insurance policies.

Developer acknowledges notice that it is free to procure all required insurance policies, from any insurance company authorized to do business in the state of Hawaii, pursuant to chapter 479, Hawaii revised statutes.

- 5.11.2 The Developer shall deposit with the DHHL, on or before the effective date of the Development Agreement, certificate(s) of insurance necessary to satisfy the DHHL that the provisions of the Contract have been complied with, and to keep such insurance in effect and provide the certificate(s) of insurance to the DHHL during the entire term of the Development Agreement. Upon request by the DHHL, the Developer shall furnish a copy of the policy or policies.
- 5.11.3 The Developer will immediately provide written notice to the DHHL should any of the insurance policies evidenced on its Certificate of Insurance form be cancelled, limited in scope, or not renewed upon expiration.
- 5.11.4 The certificates of insurance shall contain the following clauses:

1. "The State of Hawaii is added as an additional insured as respects to operations performed for the State of Hawaii."
 2. "It is agreed that any insurance maintained by the State of Hawaii will apply in excess of, and not contribute with, insurance provided by this policy."
- 5.11.5. Failure of the Developer to provide and keep in force such insurance shall constitute a material default under the Development Agreement, entitling the State to exercise any or all of the remedies provided in the Development Agreement (including without limitation terminating the Development Agreement). The procuring of any required policy or policies of insurance shall not be construed to limit the Developer's liability hereunder, or to fulfill the indemnification provisions of the Development Agreement. Notwithstanding said policy or policies of insurance, the Developer shall be responsible for the full and total amount of any damage, injury, or loss caused by the Contractor's negligence or neglect in the provision of services under the Development Agreement.

5.12 REQUIREMENTS FOR PERFORMANCE AND PAYMENT BONDS

Pursuant to HAR §3-122-224, before any construction contract is entered into, the Developer shall provide performance and payment bonds to the State. The bonds shall each be in the penal sum of one hundred percent (100%) of the amount of the contract awarded.

5.13 PAYMENT

Incremental payments for infrastructure design and construction work shall be made to the awarded Developer monthly, upon receipt of reports that meet the expectations of the RFP. The submittal of monthly reports shall be in accordance with the Development Agreement.

5.14 DEVELOPMENT AGREEMENT INVALIDATION

If any provision of this Development Agreement is found to be invalid, such invalidation will not be construed to invalidate the entire Development Agreement.

5.15 NO ASSIGNMENTS

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

5.16 RELATIONSHIP BETWEEN THE DEVELOPER AND DHHL

There will be no partnership, joint venture, employer and employee, master and servant, or other agency relationship between DHHL and Developer. The Developer, inclusive of any person acting by, through, under, or for the benefit of the Developer, such as, for example, any real estate broker or sales person, will not represent or hold itself out as being a partner, joint venture, employee, servant, or agent of DHHL, nor will the Developer, inclusive of any person acting by, through, under, or for the benefit of Developer, have any authority to bind, act for, or represent DHHL in any respect. The Developer will be constructing the Project in the Developer's own behalf and will release, indemnify, defend, and hold DHHL harmless from all claims, demands, lawsuits, judgments deficiencies, damages (whether paid by DHHL as part of a settlement or as a result of a judgment), and expense, including attorney's fees, and all costs of suit, made against DHHL or incurred or paid by DHHL arising out of or in connection with Developer's design, construction, management, and maintenance of the Project.

SECTION SIX
SPECIAL PROVISIONS

6.1 OFFER GUARANTY

A proposal security deposit is not required for this RFP.