5/26/11

CONDUCT OF SALE DOCUMENT

PROCEDURES AND CONDITIONS FOR THE PUBLIC SALE OF LEASEHOLD GOVERNMENT LAND TO AFFORDABLE PURCHASER(S) VACANT HOUSELOT AT MOHOULI SUBDIVISION, SEC. I WAIAKEA, SOUTH HILO, ISLAND OF HAWAII

1. Property Description. The Hawaii Housing Finance and Development Corporation (HHFDC) announces the availability of the following 6,510 square feet, vacant, undeveloped single-family houselot at the southwestern corner of the intersection of Hoopuni and Kumukoa Streets, between Hoopuni Street and Mohouli Park in the Mohouli Subdivision, Section 1, in Waiakea, South Hilo, Big Island, Hawaii, TMK (3) 2-4-059: 032; Lot 55, File Plan 1168, for sale in leasehold (Leasehold Property) to an affordable purchaser(s)—

   TMK (3) 2-4-059: 032
   Lot 55, File Plan 1168.

   According to public records, the zoning is RS-7.5.

   HHFDC is the owner of the Leasehold Property through the Hawaii Housing Authority. A copy of the deed from the State of Hawaii to the Hawaii Housing Authority, Land Patent Grant No. S-14,911, dated December 23, 1970 is enclosed in this Public Sale Packet for information. The property is ceded land.

2. Public Sale Packet. The Public Sale Packet, which contains descriptions and maps of the Leasehold Property and describes the terms and conditions to be observed and performed by the purchaser(s) are available for public viewing and pick-up at no charge at the offices of the HHFDC at Suite 300, 677 Queen Street, Honolulu, Hawaii, 96813, or at the HHFDC website at hawaii.gov/dbedt/hhfdc.

   The Public Sale Packet includes the following—

   a. Notice of Sale;
   b. Conduct of Sale;
   c. Tax Map Key Map;
   d. File Plan 1168;
   e. Title Report of the Leasehold Property (June 25, 2010);
   f. Land Patent Grant No. S-14,911 (December 23, 1970);
   g. HUD Income Limits for Hawaii for 2010;

h. Conveyance Tax Certificate (Form P-64A)(Rev. 2009);
i. Instructions for Form P-64A;
j. Purchase Agreement;
k. Application to Purchase Real Property Under 201H, HRS;
l. Residential Lease (Affordable Lessee); and
m. Right of Entry.

3. Inspection. Entry upon the Leasehold Property is not permitted without express written authorization from HHFDC in accordance with the following conditions—

a. Permission to enter the Leasehold Property shall be by Right of Entry in the form included in the Public Sale Packet approved by HHFDC.

b. Written requests to enter the Leasehold Property shall be made on the Right of Entry included in the Public Sale Packet, completed and executed by all entities and individuals requesting entry including the proposed date and time proposed for entry onto the Leasehold Property.

Each written request to enter the Leasehold Property must also be accompanied with a current Certificate of Insurance naming HHFDC and the State of Hawaii as additional insureds in the amounts described in the Right of Entry.

c. All entities and parties entering the Leasehold Property shall indemnify, defend, and hold harmless HHFDC, the State, its agencies, political subdivisions, officers, employees, and agents from and against any and all claims, demands, suits, actions, causes of action, judgments, liabilities, losses, damages, costs and expenses (including attorneys' fees), including, without limitation, any claims for injury to or death of persons or property damage, arising from or related to entry onto and presence within the Leasehold Property by such entering parties and entities, or any act or omission of such entering parties or entities in connection with their entering the Leasehold Property, including any activities conducted on the Leasehold Property.

4. Procedures. Persons interested in purchasing the Leasehold Property shall comply with the following procedure—

a. Complete and execute the Purchase Agreement;

b. Complete, attach all applicable supporting documentation, and execute the Application to Purchase Real Property Under 201H, HRS;

c. Submit the executed Purchase Agreement to HHFDC together with the following—

(1) Completed and executed Application to Purchase Real Property Under 201H, HRS; and
(2) Deposit of 10% of the proposed lease premium by certified or cashier's check made out to "Title Guaranty Escrow Services, Inc."

c. HHFDC, in its sole discretion, may accept, reject, or amend the proposed Purchase Agreement. If the Purchase Agreement is rejected, HHFDC will inform the proposed purchaser and return the purchaser's deposit.

d. Acceptance of the Purchase Agreement by HHFDC shall be subject to approval by the HHFDC Board of Directors.

e. The proposed purchaser may submit a written withdrawal of his Purchase Agreement at any time prior to acceptance by HHFDC. The proposed purchaser's deposit will be refunded, except any non-refundable escrow cancellation fees.

f. If the Purchase Agreement is accepted by HHFDC, HHFDC shall provide a copy to the purchaser and escrow. The balance of the lease premium and prepaid lease rent shall be paid by certified or cashier's check made out to "Title Guaranty Escrow Services, Inc." within sixty (60) calendar days of HHFDC's acceptance of the Purchase Agreement, or as otherwise provided in the Purchase Agreement.

g. The escrow for this sale shall be Title Guaranty Escrow Services, Inc. Purchaser shall be responsible for all costs incurred to complete the purchase of the property, including but not limited to all escrow and recording fees.

h. The deadline for offers shall be the earliest to occur of the following—

(1) June 30, 2012;
(2) Prior Sale of the Leasehold Property; or
(3) Withdrawal of this notice of sale by HHFDC, without notice and at HHFDC's sole and absolute discretion.

5. Terms and Conditions of Sale.

a. Sale of the Leasehold Property shall be limited to affordable purchasers who are "Qualified Residents" as the term is defined in Section 201H-32, HRS.

b. "Affordable" means 140% and below the HUD median income. The HUD median income for the island of Hawaii for 2010 is included in the Public Sale Packet and available on the HHFDC website at hawaii.gov/dbedt/hhfdc, click Info for Developers. For a family of four, 140% of the HUD median income per year for the island of Hawaii is $93,380 for 2010.

c. The affordable purchaser shall satisfy HHFDC's eligibility requirements to purchase a dwelling under Chapter 201H, HRS, and shall be approved by HHFDC.

d. The Leasehold Property shall be subject to HHFDC's buy-back and shared appreciation program restrictions.

e. Conveyance of the Leasehold Property shall be by residential lease, substantially in the form contained in the Public Sale Packet.

f. There is no upset price for the lease premium.

g. The residential lease shall be at one dollar ($1.00) per year for 65 years.

h. The lease premium and all of the annual lease rent shall be prepaid upon execution of the lease prior to the purchase deadline.

i. The lessee of the Leasehold Property shall also be responsible for additional lease rent to HHFDC in the amount of 20% of all rent that the lessee collects other than rent for use of the Leasehold Property as affordable housing as determined and with the prior written approval by HHFDC.

j. The lease rent shall escalate upon violation of the affordability restrictions or other terms of the residential lease.

k. The affordable purchaser shall complete the construction of a single-family dwelling on the Leasehold Property within three (3) calendar years of the date of the residential l ease in accordance with a County of Hawaii building permit and plans and specifications approved in writing by HHFDC, unless extended in writing within the sole discretion

of HHFDC. The purchaser shall submit a copy of the building permit to HHFDC prior to commencement of construction.

l. The purchaser shall comply with the requirements for an Environmental Assessment (EA) or Environmental Impact Statement (EIS) pursuant to Chapter 343, Hawaii Revised Statutes (HRS). If the Leasehold Property is not in an environmentally sensitive area, construction of a single-family dwelling less than 3,500 square feet thereon is exempt from the requirements for an EA or EIS pursuant to Chapter 343, HRS, under Exemption Class #3 as follows:

> "Construction and location of single, new, small facilities or structures and the alteration and modification of the same and installation of new, small, equipment and facilities and the alteration and modification of same, including, but not limited to:
>
> (A) Single-family residences less than 3,500 square feet not in conjunction with the building or two or more such units;
>
> …
>
> (7) Additions or new buildings or structures not exceeding 3,500 square feet."

Prior to submittal of plans and specifications to HHFDC for review, the purchaser shall submit to HHFDC an environmental report from a qualified environmental planner approved by HHFDC indicating whether the Leasehold Property is in an environmentally sensitive area.

m. All costs of the sale and closing, including fees customarily paid by the seller at closing shall be borne by the purchaser. These costs may include but are not limited to the following (as applicable)—

(1) All escrow and recording fees;
(2) Current title report and title insurance;
(3) Survey and boundary staking;
(4) Appraisal of the Leasehold Property;
(5) Notary fees;
(6) Purchaser's attorney's fees;
(7) Purchaser's loan fees and loan closing costs;
(8) Prorated real property taxes;
(9) General liability and property insurance; and
(10) Conveyance Taxes.

n. The Leasehold Property is sold in an "AS IS, WHERE IS" condition and the Leasehold Property shall be conveyed by residential lease. HHFDC, its officers, employees, and representatives make no warranty or representation with respect to the Leasehold Property,

including, without limitation, no warranty or representation as to (a) the suitability of the Leasehold Property for any particular use; (b) the physical condition of the Leasehold Property and any of the improvements thereon; (c) condition of title to the Leasehold Property; and (d) the presence of any hazardous materials on, under, or about the same. Furthermore, HHFDC makes no warranties about the marketability of the Leasehold Property and will not be responsible for clearing the Leasehold Property of structures, vegetation, or debris. HHFDC shall require the purchaser to provide written acknowledgement that the Leasehold Property is sold "AS IS, WHERE IS."

o. All minerals and surface and ground waters are reserved to the State of Hawaii. The Leasehold Property is also subject to rights of native tenants and regulatory rights and ownership rights (if any) of the State of Hawaii established pursuant to state law, including, without limitation, Chapter 6E, Hawaii Revised Statutes, over burial sites and prehistoric and historic remains found in, on, or under the Leasehold Property.

p. HHFDC also reserves the right to cancel the Purchase Agreement and HHFDC's obligation to convey the Leasehold Property to the successful purchaser(s) if HHFDC determines, at its sole discretion, it is in the best interests of HHFDC not to complete the conveyance of the Leasehold Property to the Purchaser(s). If HHFDC decides to so cancel the Purchase Agreement and HHFDC's obligation to convey the Leasehold Property, HHFDC shall be obligated to return deposits and other payments made by the purchaser(s) (less any amounts HHFDC deems necessary to reimburse HHFDC for any costs incurred by HHFDC to date and/or as a result of actions or omissions of the purchaser(s) and any non-refundable costs retained by escrow). The purchaser(s) will not be entitled to any other remedy for such cancellation.

q. In the event of the purchaser's failure to complete and consummate the sale of the Leasehold Property, including, without limitation, failure to perform and complete any of the terms or conditions of the Purchase Agreement to HHFDC's satisfaction, HHFDC may, at its sole option, cancel the sale and retain the sums of all portions thereof previously paid by the purchaser(s), including any deposits paid to HHFDC. The retention of said sums shall be in addition to any other rights or remedies to which HHFDC may be entitled.

r. The purchaser(s) and lessee(s) of the Leasehold Property shall comply with all applicable laws, statutes, rules, regulations, and ordinances

pertaining to the Leasehold Property, including but not limited to the following—

2) Compliance with Chapter 104, Hawaii Revised Statutes ("HRS"), for the payment of minimum prevailing wages to mechanics and laborers employed for the construction of the improvements on the demised premises for the corresponding work classifications as determined by the State of Hawaii Department of Labor and Industrial Relations;
3) Compliance with Section 103-50, HRS, and shall submit written evidence to HHFDC that the plans for improvements on the demised premises have been approved by the Disability and Communication Access Board ("DCAB") or a letter from DCAB indicating that Section 103-50, HRS does not apply to the proposed improvement, prior to start of construction of the proposed improvement; and
4) Compliance with Section 196-6.5, HRS, requiring a solar water heating system with the construction of a single-family dwelling unless a variance is granted by the energy resources coordinator.

[End of Conduct of Sale Document]