

STATE OF HAWAII
HAWAII COMMUNITY DEVELOPMENT AUTHORITY
KAKAAKO
Honolulu, Hawaii, 96813

June 7, 2017

Chairperson and Members
Hawaii Community Development Authority
State of Hawaii
Honolulu, Hawaii

HCDA Board Members:

SUBJECT: Shall the Authority Consent to a 12-Month Extension for the Sale of Na Lei Hulu Kupuna's Leasehold Interest to Mark Development, Inc. in Accordance with the Purchase and Sale Agreement Dated March 30, 2015?

SUMMARY:

Due to unforeseen delays, Mark Development, Inc. requests another 12-month extension to close the sale of Na Lei Hulu Kupuna. It is expected that the sale will close in the coming months, pending further negotiations with the City and County of Honolulu.

AUTHORITIES:

As the General Partner of the Limited Partnership which owns Na Lei Hulu Kupuna, the HCDA is responsible for the business and affairs of the Partnership, including any transfers in ownership.

BACKGROUND:

Na Lei Hulu Kupuna Apartments (Project) is a 75-unit senior affordable rental studio apartment building, located at 610 Cooke Street. It was built in 1991 with Low Income Housing Tax Credits (LIHTC) on land leased from the City and County of Honolulu (City) and the Hawaii Housing Finance Development Corporation (HHFDC).

The Project is owned by the Na Lei Hulu Kupuna Limited Partnership, comprised of the Hawaii Community Development Authority (HCDA) as 1% General Partner and Bank of Hawaii as the 99% Limited Partner (Partnership). The Project includes a manager's unit, laundry facilities, community room and security camera system. The studios are fully furnished, including beds, tables, chairs, TVs, and air conditioning units.

On September 30, 2014, Mark Development, Inc. (MDI) submitted a letter to the Partnership with a bid to purchase Na Lei Hulu Kupuna Senior Apartments "as is, where is," attached as Exhibit A.

The acquisition was contingent on MDI's ability to negotiate lease extensions with the City and HHFDC and to secure financing to acquire and rehabilitate the twenty-four-year-old Project.

The executed Purchase and Sale Agreement (PSA) set a closing deadline of June 30, 2016. In the PSA, MDI committed that all units at Na Lei Hulu Kupuna will remain as affordable senior rentals.

Holding the 99% interest position in the Partnership, Bank of Hawaii negotiated the "optimal" sales price based on the Project's performance and cash flows of rent revenue. The sales price was set at six hundred ninety-two thousand and four dollars (\$692,004.00) annually with rent controlled by HUD affordable guidelines. Bank of Hawaii expects net proceeds from the Sale to differ no more than 3% from the acquisition price after all consideration of any adjustments or transaction costs. This would yield net proceeds of no less than two million, seven hundred eighty-two thousand, nine hundred and thirty dollars (\$2,782,930.00), of which, 1% (or no less than twenty-seven thousand, eight hundred and twenty-nine dollars (\$27,829.00) would be due to the HCDA. HCDA staff received verbal confirmation that Bank of Hawaii has no current stake in re-syndication of the Project as contemplated by MDI; however, it did not guarantee that it would not respond to a solicitation or submit a proposal on the future project.

On February 11, 2015, the HCDA board voted to approve the sale in accordance with the proposed PSA for a price of two million, eight hundred sixty-nine thousand dollars (\$2,869,000.00). The executed copy of the PSA is attached hereto as Exhibit B. Board action further authorized the Executive Director to execute and deliver all related sales documents by May 2016.

In May 2016, MDI requested an 11-month extension of the PSA after facing delays related to financing. On June 1, 2016, the HCDA board approved the extension and authorized the delivery of all related sale documents by the new closing date of May 31, 2017.

MDI applied for the 9% LIHTC program in June 2016. During this time, MDI was informed of a Request For Proposals for the City and County of Honolulu's Housing Partnership Program for a grant from the City's Affordable Housing Fund (AHF). MDI responded to the AHF RFP on June 28, 2016, requesting three million eight hundred sixty-five thousand dollars (\$3,865,000) for property rehabilitation. MDI will fund acquisition of the project by way of a mortgage with American Savings Bank (ASB) in the amount of three million six hundred fifteen thousand dollars (\$3,615,000.00). The ASB mortgage requires the execution of the AHF Grant Contract as a condition of closing.

In September 2016, MDI accepted a preliminary award of the AHF Grant. MDI elected to decline a LIHTC award from HHFDC in favor of the AHF Grant.

On December 30, 2016, MDI assigned its Purchase and Sales Agreement to Na Lei Hulu Kupuna Senior Rentals, LP (NLHK SR). NLHK SR has been negotiating with HCDA, HHFDC, and the City and County of Honolulu since August 2016 for the acquisition and rehabilitation of Na Lei Hulu Kupuna using the ASB mortgage and City AHF Grant. In March 2017, HCDA and HHFDC had consented to NLHK SR's mortgage for the acquisition of Na Lei Hulu Kupuna.

In April 2017, the City raised concerns to the Grant contract with respect to the RFP requiring the recordation of restrictive covenants against all fee interests in the project property to provide

affordable housing in perpetuity. The issue of “perpetuity” in the City charter was changed during the November 2016 election to 60 years or more. Ongoing negotiations with the City’s Office of Corporation Counsel have delayed the closing schedule for Na Lei Hulu Kupuna.

On April 26, 2017, NLHK SR received a verbal confirmation from HHFDC that it will accept the City’s affordability restriction being recorded for 60 years against the City’s fee interest. As Lessee to the City, HHFDC would be required to Sub-Lease the subject property in accordance with the City’s affordability restriction. As the new Sub-Lessee to HHFDC, MDI would be required to operate the Na Lei Hulu Kupuna according to the AHF restrictions.

On May 3, 2017, NLHK SR received confirmation from HHFDC that its Deputy Attorney General approves of the City’s affordability restriction to provide housing to 50% AMI renters being recorded against the City-owned parcel.

ANALYSIS:

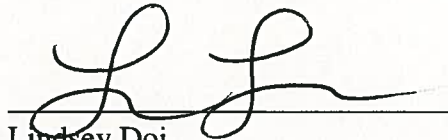
Closing the sale of a project involving multiple government agencies has proven to be a long, challenging process. MDI continues to negotiate with the City to have the 60-year restriction apply to the City-owned parcel on which Na Lei Hulu Kupuna is situated. MDI recognizes that time is of the essence and is eager to close the sale as soon as possible. Granting an extension will allow MDI to continue its negotiations with all required entities and execute the purchase of Na Lei Hulu Kupuna as soon as possible.

RECOMMENDATION:

HCDA staff recommends that the Board:

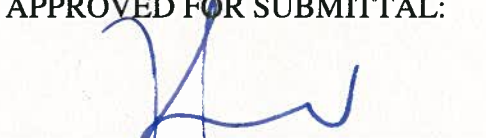
Consent to a 12-Month Extension for the Sale of Na Lei Hulu Kupuna’s Leasehold Interest to Mark Development, Inc. in Accordance with the Purchase and Sale Agreement Dated March 30, 2015.

Respectfully submitted,



Lindsey Doi
Asset Manager

APPROVED FOR SUBMITTAL:



Jesse K. Souki, Executive Director
Hawaii Community Development Authority

Attachments:

**Attachment A – Mark Development Inc. Letter Requesting Sale of Na Lei Hu Kupuna
dated September 30, 2014**

Attachment B – Executed Na Lei Hulu Purchase and Sale Agreement dated March 30, 2015

Attachment C – Na Lei Hulu Extension Letter Request dated May 12, 2017

EXHIBIT A



MARK DEVELOPMENT, INC.

3165 Waialae Avenue, Suite 200, Honolulu, Hawaii 96816

Ph: (808) 735-9099

e-Fax: (781) 295-3427

September 30, 2014

To: Anthony Ching
Executive Director
Hawaii Community Development Authority
461 Cooke Street
Honolulu, HI 96813

From: Craig Watase
President
Mark Development, Inc.
3615 Waialae Ave #200
Honolulu, HI 96816

Re: Purchase and Sales Agreement
Na Lei Hulu Kupuna

Attached to this cover letter is a signed Purchase and Sales Agreement (PSA) by Mark Development, Inc. (MDI) for the purchase and acquisition of the Na Lei Hulu Kupuna Senior Apartments (Project).

The basic terms of the PSA are as follows:

Date of Offer: September 30, 2014
Sales Price: Two Million Eight Hundred Sixty Nine Thousand Dollars
\$2,869,000

Closing Date: To be Determined as per the PSA

Subject to:

1. Acceptance of the PSA by the General Partner
2. Acceptable Due Diligence findings by MDI

3. Allocation of low income housing tax credits that raises \$3,853,512 of equity to the Buyer by HHFDC by June 30,2015
4. Additional terms of the Purchase and Sales Agreement

Overview of Purchase and Sale of Na Lei Hulu Kupuna:

Na Lei Hulu Kupuna is a valuable resource for the elderly affordable housing inventory for the state. In its present life cycle, the project has run its course of value to different entities and for different purposes. For the Limited Partner Owner the project has used up its useful value of the original tax credits. As an investment asset, the Limited Partner Owner is realizing minimal return on the invested dollars and potential equity. For the General partner there is minimal value on the management fees realized and generally not an efficient use of state resources to manage. For the tenants the Project is worn and in need of substantial rehabilitation of the units and the common areas.

The general partner awarded MDI the property management contract for the project in May of 2012. MDI's initial review of the project made clear several items: 1) the rents for the units were low in comparison to other elderly projects 2) no increases in rents had been made since the project's inception 3) the Project's substantial reserves when the management contract was awarded seemed positive until further review showed the project lacked in improvements, maintenance and was generally in poor condition 4) to date MDI has made \$598,000 in both capital improvements and repairs and maintenance to the Project.

The offered purchase price is based on several factors: 1) the proforma of the project at its current rents 2) the general partner made it clear that in order to consider a sale of the project no current tenants would be displaced by a sale

MDI has committed to no displacement with the sale. At the same time MDI has structured the set asides to meet the allowable rent ranges for the project. In fact, the proposed rents still put current tenants at rent levels substantially below allowable levels.

The lists below details the rehabilitation improvements MDI plans to make for the Project. The estimated dollar amount of interior and exterior

improvements is \$1,700,000 plus another \$266,000 for the cost of tenant relocation during the construction period. MDI has experience in acquiring and rehabbing both for elderly and non-elderly affordable projects. This experience will help mitigate any disruptions for the tenants and enhancing a project for a substantial time.

Benefits to Project:

1. Substantial Rehabilitation of the interior and exterior of the project

A. Project interior improvements at \$1,081,100 or \$14,400 per unit including:

- New flooring
- New appliances
- New air conditioning
- New granite countertops
- New cabinets
- New furniture
- New locks
- New screens
- New window coverings
- New vanity and toilet

B. Projected exterior improvements at \$659,800 or \$10,100 per unit including:

- Elevator modernization
- Rehab of recreation room
- New patio enclosure off recreation room
- Recreation room furniture
- Expanded security system
- Exterior painting
- New project monument signage
- Sub metering for electricity
- Fire Alarm system upgrade
- Unit entry doors
- Security bars on first floor units

Benefit to Tenants:

- No displacement of existing tenants
- Relocation during rehab at no cost to tenants (est. \$266,000)
- Rehabbed Recreation Center
- Additional Security

- New A/C
- Fully rehabbed units
- New Furniture
- New Appliances
- Elevator Modernization
- Upgraded Exterior

Benefit to Owner:

- Realize cash infusion
- Asset has used up its investment value
- Opportunity to reinvest into new assets

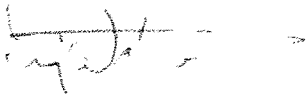
Benefit to State as General Partner:

- No displacement of existing tenants with sale
- Tenants provided with no cost relocation
- Upgraded project
- Additional improvements to Kakaako
- Release of oversight of project as general partner
- Maintaining stock of affordable elderly housing

Na Lei Hulu Kupuna is ready for major changes to assure its continued success as an affordable elderly housing project. The benefits of agreeing to this PSA will be positive to all parties involved.

MDI offers this PSA with the best intentions towards all parties and encourages you to accept this PSA and quickly move the sale through its due diligence, an allocation of tax credits and a successful closing.

Sincerely,



Craig Watase
President
Mark Development, Inc.

EXHIBIT B

PURCHASE AND SALE AGREEMENT

This Purchase and Sale Agreement (this "*Agreement*") is made this March 30, 2015 (the "*Effective Date*"), by and between the **NA LEI HULU KUPUNA LIMITED PARTNERSHIP**, a Hawaii limited partnership, whose address is 461 Cooke Street, Honolulu, Hawaii 96813-5415 ("*Seller*") and **MARK DEVELOPMENT INC.**, a Hawaii corporation, whose address is 3165 Waialae Avenue, Suite 200, Honolulu, Hawaii 96816 ("*Buyer*").

Seller and Buyer hereby agree as follows:

1. **Definitions.** The following terms shall have the following definitions in this Agreement:

(a) "*Assignment*": A limited warranty assignment of sublease is to be used by Seller to convey the Property to Buyer.

(b) "*Bureau*": The Bureau of Conveyances of the State of Hawaii.

(c) "*Closing*" or "*Closing Date*": September 29, 2015, being the time and date when the Assignment is recorded, as described in **Section 15**, which shall occur no later than one hundred twenty 120 days after the expiration of the Due Diligence Period; provided, however, Buyer shall have the one-time right to extend the Closing Date for up to nine (9) months by written notice to Seller not later than thirty (30) business days prior to the scheduled Closing Date.

(d) "*Escrow Agent*": Title Guaranty Escrow Services, Inc. — Main Branch.

(e) "*Event of Default*": Any of the events of default described in **Section 17**.

(f) "*Hazardous Materials*": Any flammable explosives, radioactive materials, asbestos, organic compounds known as polychlorinated biphenyls, chemicals known to cause cancer or reproduction toxicity, pollutants, contaminants, hazardous wastes, toxic substances or related materials, including, without limitation, any substances defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," or "toxic substances" under any Hazardous Materials Laws.

(g) "*Hazardous Materials Laws*": Any federal, state or local laws, ordinances or regulations, now or hereafter in effect, relating to environmental conditions, industrial hygiene or Hazardous Materials on, under or about the Property.

(h) "*HHFDC*": Hawaii Housing Finance and Development Corporation, formerly known as Housing Finance and Development Corporation.

(i) "*Land*": Those certain parcels of land having an address of 610 Cooke Street, Honolulu, Hawaii 96813 and bearing Tax Map Key Nos. (1) 2-1-051:004 and 038, as more particularly described in the Title Report.

(j) **"Lease"**: That certain Lease for a portion of the Land (as described in the Lease Agreement), by and between the City and County of Honolulu as Lessor and HHFDC as Lessee, dated November 14, 1991, and recorded in the Bureau as Document No. 91-169300.

(k) **"Property"**: Seller's leasehold interest in the Land demised by the Sub-Lease, subject to the Lease, encumbrances of record as described in the Title Report, any recorded and unrecorded tenant leases, licenses and agreements affecting the leasehold interest, and other encumbrances or restrictions disclosed by Seller to Buyer.

(l) **"Purchase Price"**: The sum of **Two Million Eight Hundred Sixty Nine Thousand Dollars (\$2,869,000)**.

(m) **"Sub-Lease"**: That certain Sub-Lease demising the Land, by and between HHFDC as Sublessor, and Seller as Sublessee, dated December 6, 1991, and recorded in the Bureau as Document No. 91-170018.

(n) **"Title Report"**: The preliminary report of title for the Property issued by Title Guaranty of Hawaii, Inc., attached hereto and made a part hereof as **Exhibit A**.

2. Purchase of Property. Seller hereby agrees to sell the Property to Buyer and Buyer hereby agrees to purchase the Property from Seller at the Purchase Price and on the terms, covenants and conditions set forth in this Agreement.

3. Escrow. Seller shall open an escrow with Escrow Agent within two (2) business days after the Effective Date and deliver to Escrow Agent an executed copy of this Agreement. The parties hereby instruct Escrow Agent to act in accordance with the terms of this Agreement. Buyer and Seller shall execute such further escrow instructions as may be required by Escrow Agent to consummate the transactions contemplated by this Agreement, but in the event of any conflict between the provisions of such escrow instructions and this Agreement, the provisions of this Agreement shall control.

4. Due Diligence.

(a) **Due Diligence Period.** Buyer shall have a period of sixty (60) calendar days following the Effective Date (the **"Due Diligence Period"**) to conduct or have its agents conduct such reasonable inspections, investigations, research, inquiry, testing and reports (**"Due Diligence"**) at Buyer's sole cost and expense as Buyer deems necessary or appropriate in connection with Buyer's purchase of the Property. Buyer's Due Diligence shall be subject to such conditions as Seller may require, including without limitation, restrictions on when, where, and what type of physical inspections of the Property may take place.

(b) **Due Diligence Materials; Necessity of Buyer's Own Due Diligence.** During the Due Diligence Period, Seller shall make available in electronic form and/or at Seller's offices or other location in Honolulu designated by Seller for inspection or review by Buyer and its representatives and consultants, copies of such records and contracts in Seller's possession relating to the construction, maintenance, operation and servicing of the Property, if any, but specifically excluding any internal materials (such as staff reports, appraisals, internal communications) or other materials that might be subject to attorney client privilege or work

product (the "***Due Diligence Materials***"). The Due Diligence Materials are provided by Seller for inspection or review by Buyer on a strictly "AS IS" and "WHERE IS" basis. Buyer is required to conduct its Own due diligence investigation of the Property.

(c) **Due Diligence Cut-Off.** Buyer may, at any time prior to 4:00 P.M. (Hawaii Standard Time) on the last day of the Due Diligence Period (the "***Due Diligence Cut-Off***"), cancel this Agreement by sending notice to Seller pursuant to **Section 18(h)** hereof if Buyer wishes to cancel for any reason. If Buyer properly cancels this Agreement, both Buyer and Seller shall be released from all further obligations hereunder other than their respective obligations that specifically survive any cancellation or termination of this Agreement. If Buyer cancels this Agreement as described herein or this Agreement is terminated for any reason, Buyer shall thereafter return to Seller all materials, including copies thereof, provided to Buyer by Seller during the Due Diligence Period and copies of all of Buyer's Due Diligence materials in Buyer's possession. If Buyer fails to give Seller the proper cancellation notice as set forth herein, Buyer shall be deemed to have waived its right to cancel and may not cancel this Agreement pursuant to this **Section 4(c)**.

(d) **Due Diligence Costs and Indemnity.** Buyer shall pay all costs, expenses or charges incurred by Buyer in its performance of any and all of the Due Diligence. Buyer agrees to indemnify, defend and hold harmless Seller and Seller's trustees, employees, representatives and agents from any actions, suits, liens, claims, damages, expenses, losses and liability for damage to any real or personal property or personal injury to the extent arising from or attributable to any acts performed by Buyer or any of Buyer's directors, officers, employees, representatives, consultants or agents with respect to Buyer's entry upon and inspection of the Property or exercise of its rights hereunder, including without limitation, reasonable attorneys' fees and costs. Buyer shall also be solely responsible for, and shall remedy and repair, any and all physical damage to the Property which may be caused by Buyer's physical inspections and tests performed by Buyer. If Buyer (1) does not elect to proceed with the purchase of the Property as provided herein, or (2) elects to purchase the Property but the Property is not conveyed to Buyer for any reason other than the default of Seller, Buyer shall cause the Property to be returned to substantially the same condition as it was prior to any testing done on or with respect to the Property. The terms of this **Section 4(d)** shall survive the Closing and the cancellation or termination of this Agreement.

5. Sale of Property "AS IS," "WHERE IS". Buyer understands and acknowledges that the Property is being sold, and agrees to purchase the Property, in "AS IS," "WHERE IS" condition, and "WITH ALL FAULTS AND DEFECTS" with no representations or warranties by Seller and no performance of any obligations by Seller after the Closing.

(a) **No Representations or Warranties by Seller.** Except as otherwise provided herein, Seller makes no representations or warranties with respect to the Property, whether express or implied. The Property is being sold in its existing condition and subject to the terms and conditions of the Lease. Further, Seller has not made any representations or warranties concerning any increase in the value of the Property, its investment value, or its resale value. Buyer acknowledges that neither Seller nor any agent, attorney, employee or representative of Seller has made or will make any such representations or warranties whatsoever regarding the Property or the subject matter of this Agreement, or any part thereof.

(b) Buyer's Reliance Solely on Its Due Diligence. Buyer hereby represents and warrants to Seller that Buyer will know, will have examined, and will have investigated, to the full and complete satisfaction of Buyer, the physical nature and condition of the Property, or Buyer will have waived such knowledge, examination and investigation. Specifically, if Buyer proceeds after the Due Diligence Period, Buyer agrees it has made or caused to be made all inspections, investigations and analyses deemed necessary or appropriate with respect to compliance of the Property with all health and environmental laws, Hazardous Materials Laws, and regulations, and Seller makes no representations or warranties, express or implied, concerning the Property's compliance with said applicable laws. Buyer agrees that Buyer has relied and will be relying solely on Buyer's own inspection, examination, investigation, and review of all aspects of the Property with respect to all of the foregoing matters.

(c) Buyer's Assumption of Risk and Release of Seller. Buyer accepts and assumes all risks with respect to the Property, and hereby releases and forever discharges Seller from and against any and all suits, administrative proceedings, claims, demands, causes of action, damages, consequential damages, losses, costs, and expenses of any kind arising from or in connection with Buyer's due diligence and subsequent purchase of the Property, if applicable.

(d) Buyer's Indemnity. Buyer shall indemnify, defend and hold harmless Seller from and against any and all claims, demands, actions, losses, damages, penalties, liabilities, costs and expenses for loss or damage, including attorneys' fees and costs, based upon or arising out of or in connection with: (1) Buyer's breach of this Agreement; (2) Buyer's or its consultants' performance of due diligence, including but not limited to, Buyer or its consultants' entry upon the Property for investigations, inspections and tests; (3) any other act or omission in an way relating to or arising out of this Agreement (collectively, "Covered Claims"). This provision shall survive the termination of this Agreement.

6. Title Report. The Title Report dated July 17, 2014 is attached hereto and made a part hereof as **Exhibit A**. Seller shall have no obligation to remedy, cure or resolve any matter disclosed by the Title Report and conveyance of the Property will be made subject to the Lease and any matters disclosed by the Title Report. The Property will also be conveyed subject to any and all encumbrances that may affect the Lease.

7. Seller Representations. Seller makes the following representations and warranties to Buyer, which representations and warranties are true and correct as of the Effective Date and will be true as of the Closing. Except as otherwise provided in this Agreement, Seller makes no other representations or warranties whatsoever, and none shall be implied with respect to the Property.

(a) Seller is not a "foreign person" as that term is used Section 1445(b)(2) of the Internal Revenue Code of 1986, as amended, nor a "nonresident person" as that term is used in Section 235-68, Hawaii Revised Statutes, as amended, and related regulations.

(b) Seller is duly formed and validly existing, and has all requisite power and authority to enter into this Agreement and consummate the transaction contemplated hereby in accordance with the terms hereof.

(c) All documents to be executed by Seller pursuant to this Agreement are, and at Closing will be: (1) duly authorized, executed and delivered by Seller; (2) legal, valid and binding obligations of Seller; and (3) not in violation of the terms of any agreement or undertaking to which Seller is a party or by which Seller is bound or otherwise subject.

8. Buyer Representations. Buyer makes the following representations and warranties to Seller, which representations and warranties are true and correct as of the Effective Date and will be true as of the date of Closing. Except as otherwise provided in this Agreement, Buyer makes no other representations or warranties whatsoever, and none shall be implied with respect to the Property:

(a) Buyer is duly formed and validly existing, and has all requisite power and authority to enter into this Agreement and consummate the transaction contemplated hereby in accordance with the terms hereof.

(b) All documents to be executed by Buyer pursuant to this Agreement are, and at Closing will be: (1) duly authorized, executed and delivered by Buyer; (2) legal, valid and binding obligations of Buyer; and (3) not in violation of the terms of any agreement or undertaking to which Buyer is a party or by which Buyer is bound or otherwise subject.

9. Closing Obligations.

(a) **Seller's Closing Obligations.** On or before 3:00 P.M. on the day which is three business days before the Closing Date, Seller shall:

(1) Deliver to Escrow Agent the following: (i) two (2) original counterparts of the Assignment and all other documents necessary to consummate the transactions contemplated by this Agreement, executed and notarized by Seller; (ii) Seller's closing costs and prorations as provided herein; (iii) a Conveyance Tax Certificate for the Property executed by Seller; and (iv) written certifications in compliance with both the federal Foreign Investment in Real Property Tax Act and the Hawaii Real Property Tax Act; and

(2) Perform and satisfy, or cause to be performed and satisfied, all other obligations and conditions on the part of Seller to be performed or satisfied as of the Closing Date under this Agreement.

(b) **Buyer's Closing Obligations.** On or before 3:00 P.M. on the day which is three (3) business days before the Closing Date, Buyer shall.

(1) Deposit with Escrow Agent sufficient cash to cover the Purchase Price and Buyer's prorations and closing costs described herein;

(2) Execute and acknowledge the Assignment and all other documents necessary to consummate the transactions contemplated by this Agreement; and

(3) Perform and satisfy, or cause to be performed and satisfied, all other obligations and conditions on the part of Buyer to be performed or satisfied as of the Closing Date under this Agreement.

(c) **Buyer's Pre-Closing Obligations.** Seller may terminate this Agreement if Buyer does not satisfy the following Pre-Closing Obligations within thirty (30) days following the end of the Due Diligence Cut-Off:

(1) Buyer shall provide Seller with evidence, reasonably satisfactory to Seller, that Buyer has applied to HHFDC for the allocation of federal and Hawaii low income housing tax credits in the amount of at least \$385,351 per year, for the acquisition and rehabilitation of the Property;

(2) Buyer shall provide Seller with evidence, reasonably satisfactory to Seller, that Buyer has applied to HHFDC and RHTF for the appropriate financing for Buyer's acquisition of the Property and for Buyer's substantial rehabilitation of the interior and exterior of the Property as described in Buyer's letter dated September 30, 2014; and

(3) Buyer shall provide Seller with evidence, reasonably satisfactory to Seller that Buyer has applied to HHFDC for an extension of the term of the Sublease and HHFDC has applied to the City & County of Honolulu for an extension of the term of the Lease to at least December 31, 2070.

10. Buyer's Conditions to Closing. Buyer's obligation to purchase the Property hereunder shall be subject to the satisfaction of the following conditions (collectively, "**Buyer's Conditions**"):

(a) All covenants and agreements made by Seller which are to be completed on or before Closing shall have been performed in all material respects;

(b) Seller has performed Seller's Closing Obligations as set forth in **Section 9(a)** in all material respects;

(c) Buyer has received an allocation of low income housing tax credits sufficient to raise \$3,853,512 in equity for the rehabilitation of the Property;

(d) The term of the Lease and Sublease shall have been extended to December 31, 2070 at no cost or expense to Seller;

(e) All representations and warranties made in this Agreement by Seller shall be true and correct in all material respects at the time made and as of the Closing Date.

11. Failure of Buyer's Conditions. In the event that any of Buyer's Conditions are not satisfied on or before the Closing Date, Buyer, at its election may either (a) by written notice to Seller terminate this Agreement, or (b) proceed with Closing as scheduled. Notwithstanding the foregoing, if Buyer proceeds with Closing, then Buyer shall be deemed to have waived its rights and remedies for any breach by Seller of any of Seller's covenants, representations and warranties with respect to any such Buyer's Condition.

12. Seller's Conditions to Closing. Seller's obligation to sell the Property hereunder shall be subject to the satisfaction of the following conditions (collectively, "**Seller's Conditions**"):

(a) All covenants and agreements made by Buyer which are to be completed on or before Closing shall have been performed in all material respects;

(b) Buyer has performed Buyer's Closing Obligations as set forth in **Section 10(b)** in all material respects;

(c) Seller has obtained all necessary consents to convey the Property;

(d) All representations and warranties made in this Agreement by Buyer shall be true and correct in all material respects at the time made and as of the Closing Date; and

(e) All other conditions to Closing by Seller have been satisfied by Buyer.

13. Failure of Seller's Conditions. In the event that any of Seller's Conditions are not satisfied on or before the Closing Date, Seller, at its election, may (a) by written notice to Buyer terminate this Agreement or (b) proceed with Closing as scheduled.

14. Closing Costs; Prorations. It is the intent of Seller that the Purchase Price is the net amount to be received by Seller excepting only the specific costs that Seller agrees to pay for as provided in this **Section 14**. Expenses in connection with the transactions contemplated by this Agreement shall be paid as follows:

(a) **Buyer's Costs.** Buyer shall pay for the following: (1) Buyer's notary fees; (2) the conveyance tax due on the conveyance of the Property to Buyer; (3) Escrow Agent's fees; (4) all recording and filing fees; (5) Buyer's attorneys' fees; (6) the cost of obtaining any title insurance and endorsements that Buyer elects to obtain for the Property; (7) the cost of obtaining a survey that Buyer elects to obtain for the Property or that Escrow Agent may require in connection with the issuance of any title insurance and endorsements; (8) all costs associated with Buyer's Due Diligence; and (9) all costs associated with the extension of the Lease, the Sublease and the allocation of tax credits.

(b) **Seller's Costs.** Seller shall pay for the following: (1) Seller's notary fees; (2) Seller's attorneys' fees; and (3) the cost of the Title Report.

(c) **Lease Rent.** Rent under the Sublease shall be prorated between Buyer and Seller as of the Closing Date. Buyer must pay, at Closing, any overdue rent under the Sublease, and any overdue property taxes.

(d) **Tenant Rents.** Tenant rents and rights thereto and any related rental subsidies shall be prorated between Buyer and Seller as of the Closing Date. Buyer will cooperate with Seller in collecting delinquent or unpaid tenant rents accruing through the Closing Date. Prior to Closing, Buyer will assist Seller in preparing tenant lists and notifying tenants of the change of ownership of the Property.

15. Closing. Provided this Agreement has not been cancelled, and no Event of Default exists, the Closing of this transaction shall occur as soon as practicable but no later than the Closing Date. Upon each party's performance of all of its respective closing obligations specified herein on or prior to the Closing Date, and notification of Escrow Agent of such

performance by both parties and upon Escrow Agent's receipt of documents and funds required herein, Escrow Agent shall cause the Assignment to be recorded in the Bureau of Conveyances of the State of Hawai'i and/or the Land Court of the State of Hawai'i, as applicable, and as soon as practicable thereafter cause certified copies of the Assignment and all other Closing documents to be released to Buyer and Seller, and the Purchase Price to be released to Seller. Risk of loss and responsibility for insurance coverage shall pass to Buyer at Closing.

16. Condemnation; Damage or Destruction. If, prior to Closing, all or any portion of the Property is taken or condemned by any authority having power of eminent domain, this Agreement shall terminate and Buyer shall have no interest in the Property nor any standing to appear in or contest any proceedings. All proceeds of any condemnation instituted prior to Closing shall belong to and be the sole property of Seller without apportionment to Buyer. If, prior to Closing, all or any portion of the Property or improvements on the Property are damaged or destroyed by casualty or any other cause, such damage or destruction shall not affect Buyer's obligations under this Agreement to purchase the Property, and Buyer shall not be entitled to any reduction of the Purchase Price by the amount of such damage or destruction or to delay Closing.

17. Default and Remedies.

(a) **Events of Default.** The following shall constitute "Events of Default" under this Agreement:

(1) Buyer shall fail to pay or deposit with Escrow Agent any sum of money when due under this Agreement and such failure shall not be cured within two (2) business days of the specified due date; or

(2) Seller or Buyer shall fail to observe or perform any other term or provision to be observed or performed by such party under this Agreement, and such failure is not cured or otherwise remedied within five (5) business days after receipt of notice of such failure or default is provided to the defaulting party.

(b) **Remedies.** If any Event of Default shall occur with respect to the buyer, then the other party may terminate this Agreement, and the defaulting party shall reimburse the non-defaulting party for all out of pocket expenses the non-defaulting party may have incurred in negotiating, drafting, executing and fulfilling the requirements of this Agreement, including without limitation, reasonable attorneys' fees, and shall reimburse Escrow Agent for all expenses incurred by Escrow Agent in complying with the requirements of this Agreement. The non-defaulting party shall also be entitled to all other legal or equitable remedies available to the non-defaulting party because of the default. No remedy herein reserved to the non-defaulting party is intended to be exclusive of any other remedy, but each and every remedy shall be cumulative and shall be in addition to any other remedy given hereunder or now or hereafter existing at law or in equity.

18. Miscellaneous Provisions.

(a) **Time is of the Essence.** Time is hereby expressly declared to be of the essence of this Agreement. Unless otherwise specified herein, the due date for the receipt of any notice or sum of money shall be 4:00 P.M., Hawaii Standard Time, of each respective day.

(b) **Survival of Terms.** All of the agreements, representations, warranties and obligations of the parties set forth in this Agreement shall survive the Closing Date and the conveyance of the Property to Buyer, and shall continue thereafter to be binding upon and inure to the benefit of the parties hereto, and their respective successors, successors in trust, and permitted assigns.

(c) **Hawaii Law; Waiver of Trial by Jury.** This Agreement shall be governed by and construed under the laws of the State of Hawaii. Any legal action hereunder shall be filed in the Hawaii judicial system only, and Seller and Buyer hereby unconditionally submit themselves to the jurisdiction of the courts of the State of Hawaii and the United States District Court for the District of Hawaii. Seller and Buyer each hereby voluntarily and knowingly waives and relinquishes its right to a trial by jury in any action, proceeding or counterclaim brought by either against the other as to any matter whatsoever arising out of or in any way connected with this Agreement.

(d) **Attorneys' Fees.** Seller shall be entitled to recover from the defaulting party all costs and expenses, including reasonable attorneys' fees, incurred by the Seller in enforcing any of the terms and provisions of this Agreement, in remedying any breach by the buyer, collecting any sum due hereunder or in connection with any litigation commenced by the seller or against the buyer to which the seller, without any fault on its part, shall be made a party.

(e) **Interpretation of Agreement.** The parties acknowledge that they have been represented and advised by legal counsel in the negotiation and legal effects of this Agreement, and that they have caused this Agreement to be reviewed and approved by legal counsel of their own choice. Seller and Buyer agree that no party shall be deemed to be the drafter of this Agreement and, further, that if this Agreement is ever construed by a court of law, such court shall not construe this Agreement or any provision thereof against either party as the drafter of this Agreement.

(f) **Parties; Joint and Several Liability.** The term "Seller," whenever used in this Agreement, will include Seller and its successors in trust and assigns. The term "Buyer" will include Buyer and Buyer's successors, successors in trust, and permitted assigns, and as the context requires, the plural. If there is more than one person who is "Buyer" under this Agreement, then each person will be jointly and severally liable for all of the obligations of Buyer under this Agreement (this means that each Buyer is fully responsible for all of the obligations of "Buyer" under this Agreement). If there is more than one person who is "Buyer" under this Agreement, then the knowledge, approval or consent of one person will be deemed to be the knowledge, approval and consent of all the persons who are "Buyer."

(g) **Sole Agreement; Partial Invalidity.** This is the sole agreement between the parties related to the purchase and sale of the Property. Any and all prior oral or written representations, correspondence, letters of intent and agreements are merged into and superseded by this Agreement and shall be of no force or effect. Any modifications of this Agreement must be in writing and signed by the parties hereto. If any provision hereof is held invalid or not enforceable to its fullest extent, such provision shall be enforced to the extent permitted by law, and the validity of the remaining provisions hereof shall not be affected thereby.

(h) Notices. All notices, requests, demands or documents which are required or permitted to be given or served hereunder shall be in writing and personally delivered, or sent by registered or certified mail, postage prepaid, addressed as follows:

To **SELLER** at:

Aedward Los Banos, Asset Manager
Hawaii Community Development Authority
461 Cooke Street
Honolulu, HI 96813
Off: 808-594-0343
Fax: 808-594-0290
Aedward.O.LosBanos@hcdaweb.org

and

To **BUYER** at:

Craig Watase
Mark Development, Inc.
3165 Waiialae Ave., Suite 200
Honolulu, HI 96816
Off: 808-735-9099 ext. 11
Fax: 1-781-295-3427
cwatase@hawaii.rr.com

To **ESCROW AGENT** at:

Title Guaranty Escrow Services, Inc. - Main Office
235 Queen Street
Honolulu, Hawaii 96813
Fax: (808) 394-5250

Such addresses may be changed from time to time by the addressee by serving notice as heretofore provided. Service of such notice or demand shall be deemed complete on the date of actual delivery as shown by the addressee's registry or certification receipt or at the expiration of the third (3rd) day after the date of mailing (whether or not actually received by the addressee), whichever is earlier in time.

(i) Brokers; Broker's Commissions. By signing this Agreement, Seller agrees that Seller is not being represented by any broker or sales agent. Buyer may retain its own broker or sales agent but Seller will pay no commissions to Buyer's broker or sales agent. Any such broker or sales agent retained by Buyer shall be solely the representative or agent of Buyer and will not be a representative or agent of Seller. Any arrangement Buyer makes with a

broker or sales agent is separate and apart from Seller's sale of the Property to Buyer. Accordingly, Buyer agrees that the payment of any commissions or fees to Buyer's broker or sales agent shall be done outside of the escrow established under this Agreement. Buyer also agrees not to enter into any agreement with a broker or sales agent that requires Buyer to instruct Escrow Agent to pay any commissions or fees from the escrow account established under this Agreement.

(j) **Headings of Sections.** The headings of sections and subsections herein are inserted only for convenience and reference and shall in no way define, limit or describe the scope or intent of any provision of this Agreement.

(k) **Relationship of Parties.** Seller and Buyer agree that Seller in no event and for no purpose are partners of Buyer in the conduct of any of Buyer's businesses or other affairs or joint ventures or members of a joint enterprise with Buyer or a principal and agent or other association.

(l) **Other Parties; No Assignment.** Nothing in this Agreement shall be construed as giving any person, firm, corporation or other entity, other than the parties hereto, their successors, successors in trust, and permitted assigns, any right, remedy or claim under or in respect of this Agreement or any provision hereof. Buyer may not assign its rights and obligations under this Agreement without Seller's consent, which may be withheld by Seller in its sole discretion, except as provided herein. No such assignment shall relieve Buyer of liability to Seller under this Agreement. Seller may withhold Seller's consent for any reason whatsoever. Seller may charge Buyer a reasonable consent fee for the right to assign this Agreement to cover the administrative cost of processing the request to assign this Agreement. Notwithstanding anything to the contrary contained herein, Buyer may, without the consent of Seller and without any consent fee, but upon written notice to Seller no later than ten (10) days prior to Closing, assign Buyer's rights and obligations under this Agreement to an affiliate of Buyer or a limited partnership with a general partner that is a non-profit corporation. Buyer agrees that Seller may, without having to obtain Buyer's consent, assign this Agreement and rights and obligations under this Agreement to any person or entity including, without limitation, to any parent, subsidiary or affiliate of Seller.

(m) **Counterparts; Facsimile Signatures.** This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same instrument. Facsimile reproductions of the signatures affixed to this Agreement shall constitute an original signature and shall signify an agreement of and an acceptance of this Agreement.

(n) **Computation of Deadlines.** If a due date determined herein falls on a Saturday, Sunday or official state or federal holiday, such due date will be deemed to be on the next business day.

(o) **No Waiver.** The waiver by one party of the performance of any covenant, condition or promise shall not invalidate this Agreement nor shall it be considered a waiver by such party of any other covenant, condition or promise hereunder. The waiver by the other or both parties of the time for performing any act shall not constitute a waiver of the time for

performing any other act or identical act required to be performed at a later time. The exercise of any remedy provided by law and the provisions of this Agreement for any remedy shall not exclude other consistent remedies unless they are expressly excluded.

19. Post Closing Covenants of Buyer. Buyer makes the following covenants, all of which shall survive Closing:

(a) No tenants at the Project will be displaced by Buyer's rehabilitation of the Property. Buyer will be responsible for any necessary relocation of tenants during the rehabilitation, at Buyer's expense.

(b) Buyer shall operate the Property in compliance with the Declaration of Restrictive Covenants For Low-Income Housing Credits dated as of November 15, 1992 and recorded at the Bureau of Conveyances on January 22, 1993 as Document Number 93-011165 ("Declaration"). Buyer shall indemnify, defend and hold Seller, Hawaii Community Development Authority ("HCDA"), Bank of Hawaii and their respective agents, affiliates, officers, directors, employees and independent contractors harmless from and against any and all claims, causes of action, damages, losses (including without limitation recapture of tax credits) and reasonable attorney's fees arising from or in connection with the failure or alleged failure of the Property to be operated in in compliance with the Declaration from and after Closing through the end of the Extended Use Period (as defined in the Declaration).

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

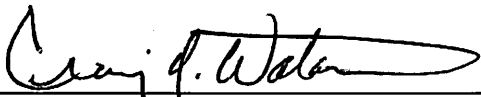
**NA LEI HULU KUPUNA LIMITED
PARTNERSHIP**, a Hawaii limited partnership

By: Hawaii Community Development Authority,
its General Partner

By: _____
Name:
Title:

"Seller"

MARK DEVELOPMENT INC., a Hawaii
corporation

By:  _____
Name: Craig Y. Watase
Title: President

"Buyer"

EXHIBIT A

Preliminary Title Report Attached

DATE PRINTED: 7/24/2014

STATEMENT OF ASSESSED VALUES AND REAL PROPERTY TAXES DUE

TAX MAP KEY

DIVISION ZONE SECTION PLAT PARCEL HPR NO.
(1) 2 1 051 038 0000

CLASS: RESIDENTIAL

AREA ASSESSED:

9,900 SF

ASSESSED VALUES FOR CURRENT YEAR TAXES: 2014

The records of this division show the assessed values and taxes on the property designated by Tax Key shown above are as follows:

BUILDING	\$	4,753,500
EXEMPTION	\$	4,753,500
NET VALUE	\$	0
LAND	\$	1,534,500
EXEMPTION	\$	1,534,500
NET VALUE	\$	0
TOTAL NET VALUE	\$	0

Installment (1 - due 8/20; 2 - due 2/20) Tax Info As Of - 8/20/2014

Tax Year	Installment	Tax Amount	Penalty Amount	Interest Amount	Other Amount	Total Amount	
2014	2	150.00				150.00	PENDING
2014	1	150.00				150.00	PENDING
2013	2	150.00				150.00	PAID
2013	1	150.00				150.00	PAID
2012	2	150.00				150.00	PAID
2012	1	150.00				150.00	PAID
Total Amount Due:						300.00	

Penalty and Interest Computed to: 8/20/2014

DATE PRINTED: 7/24/2014

STATEMENT OF ASSESSED VALUES AND REAL PROPERTY TAXES DUE

TAX MAP KEY

DIVISION ZONE SECTION PLAT PARCEL HPR NO.
(1) 2 1 051 004 0000

CLASS: RESIDENTIAL

AREA ASSESSED:

6,937 SF

ASSESSED VALUES FOR CURRENT YEAR TAXES: 2014

The records of this division show the assessed values and taxes on the property designated by Tax Key shown above are as follows:

BUILDING	\$	0
EXEMPTION	\$	0
NET VALUE	\$	0
LAND	\$	1,057,800
EXEMPTION	\$	1,057,800
NET VALUE	\$	0
TOTAL NET VALUE	\$	0

Installment (1 - due 8/20; 2 - due 2/20) Tax Info As Of - 8/20/2014

Tax Year	Installment	Tax Amount	Penalty Amount	Interest Amount	Other Amount	Total Amount	
2014	2	150.00				150.00	PENDING
2014	1	150.00				150.00	PENDING
2013	2	150.00				150.00	PAID
2013	1	150.00				150.00	PAID
2012	2	150.00				150.00	PAID
2012	1	150.00				150.00	PAID

Total Amount Due: 300.00

Penalty and Interest Computed to: 8/20/2014

GUIDELINES FOR THE ISSUANCE OF INSURANCE

- A. Taxes shown in Schedule B are as of the date such information is available from the taxing authority. Evidence of payment of all taxes and assessments subsequent to such date must be provided prior to recordation.
- B. Evidence of authority regarding the execution of all documents pertaining to the transaction is required prior to recordation. This includes corporate resolutions, copies of partnership agreements, powers of attorney and trust instruments.
- C. If an entity (corporation, partnership, limited liability company, etc.) is not registered in Hawaii, evidence of its formation and existence under the laws where such entity is formed must be presented prior to recordation.
- D. If the transaction involves a construction loan, the following is required:
 - (1) a letter confirming that there is no construction prior to recordation; or
 - (2) if there is such construction, appropriate indemnity agreements, financial statements and other relevant information from the owner, developer, general contractor and major sub-contractors must be submitted to the Title Company for approval at least one week prior to the anticipated date of recordation.

Forms are available upon request from Title Guaranty of Hawaii.

- E. Chapter 669, Hawaii Revised Statutes, sets forth acceptable tolerances for discrepancies in structures or improvements relative to private property boundaries for various classes of real property. If your survey map shows a position discrepancy that falls within the tolerances of Chapter 669, call your title officer as affirmative coverage may be available to insured lenders.
- F. The right is reserved to make additional exceptions and/or requirements upon examination of all documents submitted in connection with this transaction.
- G. If a policy of title insurance is issued, it will exclude from coverage all matters set forth in Schedule B of this report and in the printed Exclusions from Coverage contained in an ALTA policy or in the Hawaii Standard Owner's Policy, as applicable. Different forms may have different exclusions and should be reviewed. Copies of the policy forms are available upon request from Title Guaranty of Hawaii or on our website at www.tghawaii.com.

GENERAL NOTES

1. There is hereby omitted from any covenants, conditions and reservations contained herein any covenant or restriction based on race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law. Lawful restrictions under state or federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.
2. Land Court Order No. 131893, filed June 30, 1998, sets forth HOUSING FINANCE AND DEVELOPMENT CORPORATION, a public body and body corporate and politic of the State of Hawaii, now known as HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII.
3. Land Court Order No. 166725, filed July 3, 2006, sets forth HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII, a public body and body corporate and politic of the State of Hawaii, now known as HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION;
4. Land Court Order 166726, filed July 3, 2006, sets forth HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII, a public body and body corporate and politic of the State of Hawaii, now known as HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION; and

"2. Act 180, Session Laws of Hawaii 2006 ("Act 180") effective July 1, 2006, separates and divides the HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII into two separate state agencies, to be known as the HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION and the HAWAII PUBLIC HOUSING AUTHORITY."

-Note:- Attention is invited to the following:

Title Guaranty of Hawaii, Incorporated is unable to determine which Entity holds title.

SCHEDULE C CONTINUED

4. 141° 40' 150.13 feet along Lot 6-B of the Kakaako Community District, Improvement District No. 3, along remainder of R.P. 4483, L.C.Aw. 7712, Apana 6, No. 1 to M. Kekuanaoa for V. Kamamalu, along Government Land of Puunui, and along a jog on the southeast side of Coral Street;
5. 217° 19' 20" 4.00 feet along the southeast side of Coral Street;
6. Thence along same, on a curve to the left with a radius of 358.03 feet, the chord azimuth and distance being:
- 218° 01' 51" 100.09 feet;
7. 26° 37' 52.24 feet along remainder of R.P. 5569, L.C.Aw. 10,605, Apana 3 to Iona Piikoi;
8. 325° 40' 202.28 feet along same, to the point of beginning and containing an area of 9,900 square feet, more or less.

Said above described parcel of land having been acquired by the City and County of Honolulu, by Resolution No. 78-62 adopted by the City Council on February 22, 1978, pursuant to Section 264-1, HRS, as set forth in instrument dated July 18, 1978, recorded in Liber 13136 at Page 465.

END OF SCHEDULE C

SCHEDULE C CONTINUED

DATED : August 1, 1991
RECORDED : Document No. 91-162240

-ITEM II:-

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Royal Patent 4483, Land Commission Award 7712, Apana 6, No. 1 to M. Kekuanaoa for V. Kamamalu, and Royal Patent 5569, Land Commission Award 10,605, Apana 3, to Iona Piikoi) situate, lying and being at Kaakaukui and Pualoalo, City and County of Honolulu, Oahu, State of Hawaii, being LOT R-1 of the "KAKAAKO COMMUNITY DEVELOPMENT DISTRICT, IMPROVEMENT DISTRICT 3" and thus bounded and described:

Beginning at the southeast corner of this parcel of land, on the northwest side of Cooke Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUNCHBOWL" being 4,556.49 feet south and 2,849.08 feet west, as shown on Division of Land Survey and Acquisition Parcel Map File No. 16-11-4-114, and running by azimuths measured clockwise from true South:

1. Along the northwest side of Cooke Street, on a curve to the left with a radius of 830.00 feet, the chord azimuth and distance being:

41° 32' 40.5" 41.41 feet;
2. 140° 30' 56.42 feet along Lots 4-B and 5-B of the Kakaako Community Development District, Improvement District 3, along remainder of R.P. 4483, L.C. Aw. 7712, Apana 6, No. 1 to M. Kekuanaoa for V. Kamamalu;
3. 230° 30' 2.20 feet along Lot 6-B of the Kakaako Community Development District, Improvement District 3, along remainder of R.P. 4483, L.C. Aw. 7712, Apana 6, No. 1 to M. Kekuanaoa for V. Kamamalu;

SCHEDULE C CONTINUED

-PARCEL FOURTH:-

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Royal Patent Number 4483, Land Commission Award Number 7712, Apana 6, Part 1 to M. Kekuanaoa for V. Kamamalu) situate, lying and being at Honolulu, City and County of Honolulu, State of Hawaii, being PARCEL 6B-2, and thus bounded and described:

Beginning at the south corner of the parcel of land, at the east corner of Parcel 6A-2 of Halekauwila Street Realignment and on the northwest side of Lana Lane, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUNCHBOWL" being 4,563.97 feet south and 2,936.74 feet west, thence running by azimuths measured clockwise from true South:

1. 140° 30' 62.10 feet along Parcel 6A-2 of Halekauwila Street Realignment;
2. 207° 54' 38.20 feet along the Government Land of Puunui;
3. 321° 40' 76.79 feet along the southwest side of Halekauwila Street;
4. 50° 30' 33.70 feet along a jog on the southwest side of Halekauwila Street and along the northwest side of Lana Lane to the point of beginning and containing an area of 2,388 square feet, more or less.

-AS TO PARCELS THIRD AND FOURTH:-

BEING THE PREMISES ACQUIRED BY DEED

GRANTOR : STATE OF HAWAII, by its Board of Land and Natural Resources

GRANTEE : HOUSING FINANCE AND DEVELOPMENT CORPORATION, a body corporate and a public instrumentality of the State of Hawaii

SCHEDULE C CONTINUED

-PARCEL THIRD:-

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Government Land of Puunui) situate, lying and being at Honolulu, City and County of Honolulu, State of Hawaii, being PARCEL 6B-1, and thus bounded and described:

Beginning at the north corner of this parcel of land and at the south corner of the intersection of Halekauwila Street and Coral Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUNCHBOWL" being 4,424.85 feet south and 3,003.80 feet west, thence running by azimuths measured clockwise from true South:

1. 321° 40' 73.24 feet along the southwest side of Halekauwila Street;
2. 27° 54' 38.20 feet along R.P. 4483, L.C. Aw. 7712, Ap. 6, Part 1 to M. Kekuanaoa for V. Kamamalu;
3. 140° 30' 79.90 feet along Parcel 6A-1 of Halekauwila Street Realignment;
4. Thence along Parcel 6A-1 of Halekauwila Street Realignment on a curve to the right with a radius of 8.00 feet, the chord azimuth and distance being:
185° 30' 11.31 feet;
5. 230° 30' 28.75 feet along the southeast side of Coral Street to the point of beginning and containing an area of 2,882 square feet, more or less.

Excepting and reserving 72 square feet, being more particularly described in instrument dated July 16, 1992, recorded as Document No. 92-116021.

SCHEDULE C CONTINUED

Beginning at the west corner of this parcel of land, on the northwest side of Lana Lane, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUNCHBOWL", being 4,563.97 feet south and 2,936.74 feet west and running by azimuths measured clockwise from true South:

1. 230° 30' 31.50 feet along portion of R.P. 4483, L.C. Aw. 7712, Ap. 6, No. 1 to M. Kekuanaoa for V. Kamamalu (Mother Waldron Playground, Executive Order No. 383);
2. 320° 30' 8.00 feet along southwest side of Halekauwila Street;
3. 50° 30' 31.50 feet along Lot 13, Block 12 of the "Kakaako Subdivision";
4. 140° 30' 8.00 feet along portion of Lana Lane, being Parcel 5A of Kakaako Improvement District 3, to the point of beginning and containing an area of 252 square feet, more or less.

-AS TO PARCELS FIRST AND SECOND:-

BEING THE PREMISES ACQUIRED BY DEED

GRANTOR : HAWAII COMMUNITY DEVELOPMENT AUTHORITY, STATE OF HAWAII

GRANTEE : HOUSING FINANCE AND DEVELOPMENT CORPORATION, STATE OF HAWAII

DATED : October 14, 1991

RECORDED : Document No. 91-169299

SCHEDULE C CONTINUED

Beginning at the east corner of this parcel of land, on the southwest side of Halekauwila Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUNCHBOWL", being 4,587.49 feet south and 2,876.55 feet west and running by azimuths measured clockwise from true South:

1. Along remainder of Lot 13, on a curve to the left with a radius of 830.00 feet, the chord azimuth and distance being:

39° 50' 40" 7.85 feet;
2. Thence along same, on a curve to the right with a radius of 20.00 feet, the chord azimuth and distance being:

90° 02' 12.5" 30.85 feet;
3. 140° 30' 30.24 feet along same;
4. 230° 30' 31.50 feet along southeast side of Lana Lane;
5. 320° 30' 48.42 feet along the southwest side of Halekauwila Street, to the point of beginning and containing an area of 1,487 square feet, more or less.

-PARCEL SECOND:-

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Royal Patent Number 4483, Land Commission Award Number 7712, Apana 6, No. 1 to M. Kekuanaoa) situate, lying and being on the southwest side of and adjacent to Halekauwila Street and southeast of Mother Waldron Playground at Kaakaukui, Kakaako, Honolulu, City and County of Honolulu, State of Hawaii, being PARCEL 5B, and thus bounded and described:

SCHEDULE C

SUB-LEASE

SUBLESSOR : HOUSING FINANCE AND DEVELOPMENT CORPORATION, a public body and body corporate and politic of the State of Hawaii (now known as HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII)

SUBLESSEE : NA LEI HULU KUPUNA LIMITED PARTNERSHIP, a Hawaii limited partnership

DATED : December 6, 1991

RECORDED : Document No. 91-170018

TERM : 32 years, from December 1, 1991 to November 30, 2023

ABOVE LEASE AMENDED BY INSTRUMENT

DATED : July 16, 1992

RECORDED : Document No. 92-116021

RE : surrender of 72 square feet

Said Sublease, as amended, demising the following described premises:

-ITEM I:-

-PARCEL FIRST:-

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Royal Patent Number 4483, Land Commission Award Number 7712, Apana 6, No. 1 to M. Kekuanaoa) situate, lying and being on the southwest side of Halekauwila Street and southeast of Lana Lane at Kaakaukui, Kakaako, Honolulu, City and County of Honolulu, State of Hawaii, being PARCEL 4B, and thus bounded and described:

SCHEDULE B CONTINUED

-Note:- Before issuance of an ALTA policy, verification is required that there is no renovation or construction in progress at the present time, nor has there been any renovation or construction during the past year, nor has any material been delivered to the site for purposes of renovation or construction in the past year.

END OF SCHEDULE B

SCHEDULE B CONTINUED

10. Title Guaranty of Hawaii, Inc. does not have satisfactory evidence that the Land described herein is a subdivided lot of record under the ordinances of the City and County of Honolulu.

Before title insurance can be issued, written verification should be obtained from the County planning department that the Land is an existing subdivided lot of record.

11. Any facts, rights, interests or claims which are not shown by the public records, but which could be ascertained by making inquiry of the lessors in the lease or leases described or referred to in Schedule C.

12. Discrepancies, conflicts in boundary lines, shortage in area, encroachments or any other matters which a correct survey or archaeological study would disclose.

-AS TO ITEM I, PARCEL THIRD:-

-Note:- A current survey, with metes and bounds description, should be made of said premises.

13. Any unrecorded leases and matters arising from or affecting the same.

-Note:- A properly executed TG Form D.1 should be submitted at closing (i) if there are no unrecorded leases affecting the subject land and the insured requires that said exception be removed from the policy or (ii) if the insured requires the policy to be issued with reference to specific unrecorded leases.

14. Any lien (or claim of lien) for services, labor or material arising from an improvement or work related to the land described in Schedule C herein.

SCHEDULE B CONTINUED

6. -AS TO ITEM I, PARCELS FIRST AND SECOND:-

EASEMENT (5 feet wide) for electric cable, in favor of HAWAIIAN ELECTRIC COMPANY, INC., as mentioned in instrument dated October 14, 1991, recorded as Document No. 91-169299, and as shown on map prepared by Masumi Fukushima, Land Surveyor, with R. M. Towill Corporation, dated June 26, 1992, approved by the Department of Land Utilization, City and County of Honolulu, on August 20, 1992.

7. -AS TO ITEM II:-

LEASE

LESSOR : CITY AND COUNTY OF HONOLULU, a municipal corporation of the State of Hawaii

LESSEE : HOUSING FINANCE AND DEVELOPMENT CORPORATION, a public body and a body corporate and politic of the State of Hawaii

DATED : November 14, 1991

RECORDED : Document No.

TERM : 65 years commencing on November 26, 1991

*32 YRS
REMAINING*

8. The terms and provisions contained in Sublease, as amended, in Schedule C.

9. The terms and provisions contained in the following:

INSTRUMENT : DECLARATION OF RESTRICTIVE COVENANTS FOR LOW-INCOME HOUSING CREDITS

DATED : November 15, 1992

RECORDED : Document No. 93-011165

**SCHEDULE B
EXCEPTIONS**

1. Real Property Taxes, if any, that may be due and owing.

Item I is covered by Tax Key: (1) 2-1-051-004.

Item II is covered by Tax Key: (1) 2-1-051-038.

-Note:- Attention is invited to the fact that the premises covered herein may be subject to possible rollback or retroactive property taxes due to possible loss of exemption status.

2. Any and all improvement assessments that may be due and owing.

3. Mineral and water rights of any nature in favor of the State of Hawaii.

4. -AS TO ITEM I, PARCEL THIRD (PARCEL 6B-1):-

DESIGNATION OF EASEMENT "W-1"

PURPOSE : water meter

SHOWN : on map prepared by Masumi Fukushima, Land Surveyor, with R.M. Towill Corporation, dated June 26, 1992, approved by the Department of Land Utilization, City and County of Honolulu, on August 20, 1992

5. -AS TO ITEM I, PARCELS THIRD AND FOURTH:-

The terms and provisions contained in the following:

INSTRUMENT : DEED

DATED : August 1, 1991

RECORDED : Document No. 91-162240

The foregoing includes, but is not limited to, matters relating to minerals, water and prehistoric and historic remains

PRELIMINARY REPORT
(No Liability Hereunder)

This report (and any revisions thereto) is issued solely for the convenience of the titleholder, the titleholder's agent, counsel, purchaser or mortgagee, or the person ordering it for the purpose of facilitating the issuance of a policy of title insurance by Title Guaranty of Hawaii and no liability will arise under this report.

SCHEDULE A

Title Guaranty of Hawaii, Incorporated, hereby reports that, subject to those matters set forth in Schedule "B" hereof, the title to the estate or interest to the land described in Schedule "C" hereof is vested in:

NA LEI HULU KUPUNA LIMITED PARTNERSHIP,
a Hawaii limited partnership,
as Lessee
AS TO ITEM I,
and
as Sublessee
AS TO ITEM II

This report is dated as of July 17, 2014 at 8:00 a.m.

Inquiries concerning this report should be directed to
CYNTHIA NAKASHIMA.
Email cnakashima@tghawaii.com.
Fax (808) 521-0287.
Telephone (808) 533-5811.
Refer to Order No. 201429435.

Inquiries concerning Escrow should be directed to
Barbara Paulo.
MAIN OFFICE
Email bpaulo@tghawaii.com.
Fax (808) 521-0280.
Telephone (808) 521-0209.
Escrow No. 14045434

EXHIBIT C



MARK DEVELOPMENT, INC.

3165 Waialae Avenue, Suite 200, Honolulu, Hawaii 96816

Ph: (808) 735-9099

e-Fax: (781) 295-3427

May 12, 2017

Jesse K. Souki
Executive Director
Hawaii Community Development Authority
547 Queen Street
Honolulu, Hawaii 96813

Aloha Jesse:

I am writing to you to request a one-year extension of the Sales and Purchase Agreement between Na Lei Hulu Kupuna Limited Partnership and Mark Development, Inc. (MDI) currently scheduled to close on May 31, 2017. MDI requests this extension on behalf of Na Lei Hulu Kupuna Senior Rentals, LP, which was assigned the Purchase and Sales Agreement by MDI on December 30, 2016.

The reasons for the request are:

1. As proposed, MDI applied for 9% LIHTC for the acquisition and rehab of Na Lei Hulu Kupuna on June 14th, 2016.
2. On June 28th, 2016 MDI responded to an RFP for a grant from the City and County of Honolulu's Affordable Housing Fund (AHF).
3. MDI was given a conditional award for an AHF grant of THREE MILLION SIX HUNDRED EIGHTY-FIVE THOUSAND (\$3,865,000) for project rehabilitation on July 1, 2016. MDI elected to accept the Affordable Housing Fund award and accepted a final award on September 7, 2016.
4. MDI received commitment from American Savings Bank for a mortgage on the project property to fund the acquisition cost and any rehabilitation costs beyond what the AHF grant would cover.
5. On September 26, 2016, MDI sent a letter to HHFDC electing to decline an award of tax credits from HHFDC because of more favorable terms of the AHF grant.



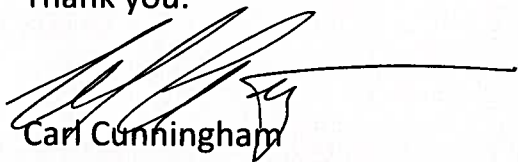
6. MDI and Na Lei Hulu Kupuna Senior Rentals, LP continue to negotiate a final agreement with HHFDC and the City regarding lease conditions for both the City owned and HHFDC owned parcels the project sits on and how a Declaration of Restrictive Covenant for Affordable Housing to provide housing for 50% AMI renters will be recorded for Na Lei as a condition of the AHF grant.

MDI would have preferred not to request an extension but additional time is needed to resolve lease and sub-lease issues with the City and HHFDC. MDI will continue to do everything it can to close this sale as soon as possible.

Please consider our request for the one-year extension from May 31, 2017 to May 31, 2018

Please contact me if you have any questions on our request.

Thank you.



Carl Cunningham
Vice President Project Manager
Mark Development, Inc. on behalf of
Na Lei Hulu Kupuna Senior Rentals, LP
808-735-9099 Ext.22
carlc@mdihawaii.com

