REQUEST FOR PROPOSALS
(Step Two of a Two-Step RFQ/RFP Selection Process)

to enter into a

Real Estate Development Agreement

for the

University of Hawai`i
John A. Burns School of Medicine Site – Phase II

proposed to be developed in

Kaka`ako, Honolulu, Hawai`i

Issued to the following Developers

Hammes Company
Hunt Woodbury Hawai`i, LLC
Spaulding & Slye Colliers
Townsend Capital

Requested by

University of Hawai`i
Honolulu, Hawai`i

October 5, 2005
University of Hawaiʻi

Request for Proposals

Real Estate Development Agreement

John A. Burns School of Medicine Site – Phase II

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I. Executive Summary

A. Request

The University of Hawai`i (the University) is developing a new medical and bio-science education and research complex for its John A. Burns School of Medicine (JABSOM) on a 9.9-acre site (the Site) located on the Kaka`ako waterfront in Honolulu, Hawai`i. The new JABSOM complex is being developed in two phases and is expected to contain approximately 508,000 sf of education and research space upon its completion. The $150 million Phase I includes an education/administration building, a joint use biomedical research building and a central mechanical plant building. The education/administration building was completed in April 2005, and the research building was completed in September 2005. Phase I was developed and is owned by the University. Phase II (the Project) is intended to consist of a complementary bioscience research building and a parking structure.

B. Objective

The objective of this Request for Proposals (RFP) is for the University to identify and select a developer (Developer) to enter into a comprehensive real estate development agreement (the Agreement) for the planning, design, finance, construction and management of the Project. In the first step, the Request for Qualifications (RFQ), expressions of interest and qualifications were solicited and obtained from Developers and their teams. From the RFQ submittals, four of the most qualified Developers have been selected to participate in this second step (RFP), which requires each Developer to submit a proposal to develop the Project. The Proposals will be evaluated and one developer will be recommended to the Board of Regents (Regents) of the University for approval.

The University intends to negotiate and enter into the Agreement with the Developer (Selected Developer) who best demonstrates the knowledge, experience, acumen, creativity, organization and financial ability required to initiate, complete and operate the Project successfully.

Depending on financial and other considerations, the Project could be owned by the University, by the Selected Developer, jointly by both the University and the Developer, or by another party. All options will be explored and considered.

C. Submittal Due Dates

Written proposals for the Project are due on or before 5:00 p.m. (HST), Wednesday, November 23, 2005, for consideration by the University in this RFP process.
II. Project Description

A. The Site

The Site is located on the southwest (makai) side of Ilalo Street between the intersections of Cooke and Ilalo Streets and Keawe and Ilalo Streets in Kaka‘ako, Honolulu, and is part of a 200-acre master-planned area that comprises the Kaka‘ako waterfront area. The Site is owned by and leased to the University by the State of Hawai‘i (the State) through the Hawai‘i Community Development Authority (HCDA), the State agency which oversees redevelopment of Kaka‘ako, the district situated between downtown Honolulu’s central business district to the west and Waikiki to the east. The Site is a landfill with a high water table and possible subsurface geotechnical and environmental considerations.

The Ground Lease from HCDA to the University (Lease No. 02-01) was issued on October 24, 2002, for a term of fifty-seven (57) years for the Site (Lot 1 on File Plan 2350, recorded in the Bureau of Conveyances on May 22, 2003).

A Development Permit and Joint Development Agreement, Conditional Use Permit for Off-Site Parking and Zoning Waiver (MUZ 50-02 and CUP 1-02) were issued by HCDA for the Site on May 13, 2002. The Development Permit and Joint Development Agreement were subsequently amended on September 3, 2002.

The Ground Lease provides that the University, as Lessee, shall pay to HCDA, as Lessor, a base rent for the Project (Annual Base Rent) of one dollar ($1.00) each year. After the completion of the Project, the Annual Base Rent shall be adjusted and increased to a fair market rent with respect to any particular space in the Project that is not used for: (1) education and research purposes; (2) auxiliary and ancillary uses that support educational and research uses, such as a café, a child care center and a fitness center; and (3) vacant space, common areas, on-site parking and open space. The annual fair market rent for space devoted to such other uses shall be calculated as six percent (6%) of an appraised fair market value of the space.

Phase II of JABSOM’s new biomedical complex provides the University with the opportunity to increase the positive critical mass of scientists, educators, students and faculty that could both stimulate the growth of the University’s research enterprise and Hawai‘i’s biomedical and biotechnical industries and contribute to the diversification of the State’s economy. In addition, the Site is within several miles of major hospitals. The location will facilitate the intellectual stimulation and collaborative working relationships found in other centers of excellence in biomedical research.

Developers should become knowledgeable about HCDA, Kaka‘ako and the Site. In particular, Developers should become familiar with HCDA’s Waterfront Busi-
ness Plan, Makai Area Plan and Rules, Makai Area Design Guidelines, and the documents listed in the Documents section herein. HCDA’s website address is: www.hcdaweb.org.

B. Phase II

The Development Permit approved by HCDA for the development of the Site provides for a Phase II, to include a research center and parking structure. The total area allowed for the research center is about 190,000 sf. The parking structure, which would be constructed adjacent to the building housing the central mechanical plant, would contain about 360 parking stalls.

Phase II could include the following components:

- Additional research space for JABSOM and other units of the University;
- Private leasable space for bioscience companies (to be leased at market rents);
- An incubation facility for emerging life science companies; and
- Additional parking for the JABSOM complex.

A land use feasibility and fitment study has not been prepared for the Site by the University to determine whether the Site can accommodate the desired spaces.

C. Documents

The following documents are available to and may be borrowed by the Developers for the purpose of reproduction by contacting Jan Yokota of the University’s Office of Capital Improvements, whose contact information is contained herein:

1. Ground Lease for the University of Hawai‘i John A. Burns School of Medicine, Lease No. 02-01, Hawai‘i Community Development Authority (available in hard copy)

2. Development Agreement for the University of Hawai‘i John A. Burns School of Medicine, dated October 24, 2002 (available in hard copy)

3. First Amended and Restated Development Agreement for the University of Hawai‘i John A. Burns School of Medicine, dated July 23, 2003 (available in hard copy)

4. Amended Development Permit and Joint Development, Conditional Use Permit for Off-Site Parking, Zoning Waiver for the University of Hawai‘i John A. Burns School of Medicine (MUZ 50-02, CUP 1-02), dated September 3, 2002 (available in hard copy)
5. Declaration of Covenants, Conditions and Restrictions for the Waterfront, Hawai`i Community Development Authority, November 25, 2002 (available in hard copy)

6. Off-Site Parking Agreement between the Hawai`i Community Development Authority and the University of Hawai`i, dated July 8, 2003 (available in hard copy)


8. University of Hawai`i Health and Wellness Center (John A. Burns School of Medicine) Final Environmental Assessment (May 2002), prepared by Wilson Okamoto & Associates (available in hard copy and CD)

9. Phase I Environmental Site Assessment Report, Produce Center and DOA Facility (May 2001), prepared by Kimura International, Inc. (available in hard copy)


11. Additional Phase II Environmental Site Assessment Report, 651 Ilalo Street (March 2002), prepared by Kimura International, Inc. (available in hard copy)

12. Comprehensive Summary of Phase II Site Assessment Sampling Data (August 26, 2002) (available in hard copy)

13. Preliminary Geotechnical Findings and Recommendations (March 26, 2002), prepared by Geolabs, Inc. (available in hard copy)

14. UH JABSOM, Geotechnical Engineering Exploration (November 25, 2002) (available in hard copy)

III. Request for Proposals

A. Purpose and Intent

The purpose of the RFP is to obtain Proposals from the four Developers selected by the University through the previously completed first step of the process (RFQ).
The University intends to utilize this RFP as the primary method to objectively and systematically evaluate Proposals in order to select a Developer with whom the University expects to enter into exclusive negotiations to develop the Project. If negotiations for the Agreement with the Selected Developer for the Project are unsuccessful, the University reserves the right to terminate the exclusive negotiations with the Selected Developer and enter into exclusive negotiations with the next highest ranked Developer or to terminate this RFP process.

The respondents to this RFP will be responsible for all risks and for the payment of all costs and expenses in connection with the preparation of the Proposal and any subsequent responses, as well as any and all predevelopment and planning costs incurred by the respondents and their team members. The University assumes no risks or costs associated with the Developer’s undertaking of this RFP process.

B. Developer Requirements and Responsibilities

The University expects to form a close, collaborative, mutually rewarding and long-term relationship with a Developer who has the depth of knowledge and experience and financial strength to fulfill the following general requirements for the Project:

1. Negotiate in good faith and in a timely manner all agreements required for the Project, with amendments to and restatement of the agreements whenever necessary.

2. Advise the University about Project development matters.

3. Select and retain, if required by the University and the Project, some or all consultants and contractors for the Project.

4. Assume all of the development costs, obligations, risks and responsibilities.

5. Prepare a development program including, but not limited to, space program, facilities plan, land use feasibility and fitment study, market study, time schedule, financial pro forma, investment analysis, asset management plan and strategic action plan for the Project.

6. Assist the University with negotiating any ground lease matters for the Site with HCDA, and subdivide and sublease the Phase II portion of the Site from the University, if requested by the University to do so. The Phase II portion is not a subdivided parcel.

7. Prepare and remediate the Phase II portion of the Site for construction of the Project’s improvements.
8. Plan, design, develop, finance, entitle, construct and manage the Project.

9. Prepare and implement a communications plan, including regular oral and written Project progress reports to the University and HCDA, as well as other communications to pertinent government officials, public agencies, stakeholders and the public.

The Selected Developer’s activities under the Agreement with the University are expected to commence in early 2006, with construction of the new facility commencing by mid-2007 and being completed about two years thereafter. As the University is desirous of having the Project started and completed as soon as practicable, time is of the essence and the Developer should plan and act accordingly.

C. Project Agreements

1. General

   a. Compliance

      All Project contracts and agreements will provide for compliance with University policies, rules, regulations and requirements.

   b. Performance Benchmarks

      All Project contracts and agreements will contain time and performance benchmarks, including commencement and completion dates and effective termination provisions.

2. Real Estate Development Agreement

   a. Negotiation

      The University expects to enter into the Agreement with the Selected Developer within sixty (60) days after the University’s selection and approval of the Developer. If the University and the Selected Developer fail to reach agreement within the sixty-day negotiation period, the University shall have the exclusive right to extend the time frame, cancel further negotiations or begin negotiations with other Developers.

   b. Compensation

      The Selected Developer’s compensation will be contained in the Agreement.
c. Indemnification

The Selected Developer and its agents, partners, employees and consultants (Indemnitors) shall defend, indemnify and hold harmless the University, the State and their officers, employees and agents from and against all liability, loss, damage, liens, causes of action, suits, judgments, cost and expense, including all attorneys’ fees, and all claims, suits and demands therefor, arising out of or resulting from the performance of services or any part thereof and/or the acts or omissions of the Indemnitors and/or their subcontractors under any agreement with the University. The provisions of this paragraph shall remain in full force and effect notwithstanding the expiration or early termination of any Project agreements.

d. Insurance

The Selected Developer will provide proof of insurance for coverages and limits acceptable to the University prior to the signing of the Agreement. Other insurance may be required from time to time in such amounts as may be determined by the University for coverage for other insurable risks. The insurance requirements are described in Section VII.L herein.

e. Approval of Uses

The University shall have the right to approve all uses and users of the Project.

f. Sale of the Developer’s Interests

The Selected Developer’s interests in the Project shall not be sold or their title transferred without the approval of the University. The University shall have the first right of refusal to purchase the Selected Developer’s interest in the Project.

g. Inspection of Records

The Selected Developer shall comply with the University’s requirement that the Selected Developer’s records, books and documents for the Project be available for inspection by the University at any time upon reasonable notice of such inspection.
2. Ground Lease Agreement and Ground Sublease Agreement

   a. The ground lease issued by HCDA for the JABSOM complex is for a term of 57 years. The term for the ground sublease, if one is required for the Site, shall be for the period remaining on the ground lease.

   b. The ground sublease rent amount, if any, has not been determined and shall be determined, if necessary, through negotiations with HCDA.

   c. The ground sublease agreement, if any, shall not be assigned without the written consent of the University, which may withhold such consent at its discretion. The Selected Developer will be allowed to give a security interest in the sublease, if any, to a lender providing construction or long-term financing.

   d. All off-site and on-site costs shall be included in the Project costs. The Site is leased “as is” in its present condition and its use is subject to applicable governmental laws and regulations.

3. Financing Agreements

   a. All financing, refinancing or additional pledges or encumbrances on the Project shall be approved by the University.

   b. Neither HCDA’s leased fee interest in the Site nor the University’s interests in the ground lease and the Project shall be subordinated to any financing or other lien or encumbrance that the Selected Developer may obtain in connection with the development and ownership of the Project.

   c. The University will consider alternative financing structures. While it is primarily interested in privatized financing, the University may consider various forms of public-private partnerships or financing based on a leaseback to the University.

4. Design and Construction Agreements

   a. All contracts and agreements will include provisions for liquidated damages, performance bonds or other remedies to assure timely completion of the Project. Prior to commencement of construction, the Selected Developer shall demonstrate that it has the debt and equity financing available to complete the Project.

   b. Improvements shall be designed to comply with University and HCDA design standards and shall have all government entitlements, permits and certificates required to construct, occupy and operate the improvements.
IV. RFP Submittal Requirements

A. Format and Number

The Developer shall submit one reproducible original and 8 copies (excepting large-scale drawings and exhibits if included in the submittal) of its Proposal on 8-1/2” by 11” pages and foldout pages up to 11” by 17” if required, bound in loose-leaf, three-ring binders with appropriate titles on the front and side panels. Pages should be consecutively numbered. Plans and drawings may be submitted on sheets and/or boards not to exceed 30” by 42”.

B. Development Proposal

As much of the information for the Project is not available at this early stage, the University understands that the Proposals will be conceptual in nature and with “order of magnitude” amounts based on the Developer’s best guess estimates and assumptions. Accordingly, the University is expecting to receive conceptual and preliminary rather than detailed and final Agreement provisions and proposed amounts. The goals, objectives and parameters of the Project and requirements of the Developer are broad and will be further defined and refined by the University, JABSOM and the Selected Developer during the course of the Project. The Developer is encouraged to be creative and innovative with its Proposal, to be proactive in anticipating the requirements for the Project and to optimize the means and resources employed to accomplish the goals and objectives of the Project. The Developer is also encouraged to propose strategies for working with other developers on the Kaka`ako Waterfront on areas of mutual interest.

The following information and minimum Proposal requirements shall be submitted in the following sequence (additional information may be included in an appendix). Some of the information and material requested may have been submitted previously in the Developer’s SOQ submittal. Concise, realistic and straightforward descriptions and presentations of the Proposal are requested. The Proposal evaluation points (out of a total of 100 points) are indicated with the Proposal requirements.

1. Transmittal Letter

Confirm that the information contained in the Developer’s Statement of Qualifications (SOQ) submitted in response to the RFQ, including, but not limited to, the Developer, its team, its financial capacity and condition, potential conflicts of interest and other relevant factors that could adversely affect the Developer’s ability to undertake and complete the Project are substantially the same or, if not, describe and explain any significant changes to the SOQ. Certify the ethics provision described in Section VII.G.
2. Table of Contents

3. Executive Summary

Provide a summary of the Developer’s Proposal with key requirements and assumptions.

4. Developer Qualifications and Project Organization (10 points)

a. Team Organization

Provide a concise overview of the firms that have been confirmed as members of the Developer’s team as presented in the Developers’ SOQ, including an organizational chart that identifies the firms and individuals assigned to the Project and their roles, and the Developer’s team directory.

b. Individual Qualifications

Provide information on the individuals who have been confirmed as specifically assigned to the Project from each of the firms identified in the SOQ. Provide brief biographies for all individuals identified in the organization chart and a description of the responsibilities they will assume for the Project.

c. Development Management

Provide a description of the Developer’s proposed management of the Project’s development.


Confirm acceptance of the essential terms of the agreements described herein, or provide a description and explanation of any significant revisions or additional provisions that the Developer may request in the agreements and any additional major agreements that the Developer anticipates being required for the Project.

e. Time Schedule

Provide a time schedule of activities for the Project from the date of the University’s Notice to Proceed with the Project to the completion of construction of the Project. Provide key time schedule assumptions.

5. Design and Construction (35 points)
a. Conceptual Design

Provide a conceptual design of the Project, including:

- A description of the basic design philosophy and approach for the Project that is consistent with the University’s and JABSOM’s goals, objectives and requirements for the Project and with HCDA’s Waterfront Business Plan, Makai Area Plan and Rules, Makai Area Design Guidelines, and DCCR for the Kaka’ako waterfront area
- A summary of the proposed development program in tabular form, specifying assignable areas of all spaces and a tabulation of the assignable and gross areas of the Project
- A land use feasibility and fitment study
- Key design and technical assumptions
- A site plan showing buildings, parking and loading/unloading areas, roadways, hardscape, landscaping and property boundaries
- Typical building floor plans, showing circulation, program spaces, amenities and common areas, including typical furniture and equipment layouts
- Elevations and sections
- Perspective drawings, sketches and images which convey the quality and character of the architecture of the Project
- Scale models conveying the building’s mass and form (optional)

b. Construction and Construction Administration

Provide a construction plan for the Project, including:

- A description of the Developer’s proposed construction cost estimate and refinement procedure and of how the Developer proposes to manage the design of the Project to ensure that construction costs are within the Project budget
- A description of the type of construction contract and arrangement with the Project’s architect and general contractor that the Developer intends to use
- A description of the Developer’s proposed management of the Project’s construction
- A description of construction issues that could adversely impact the Project and the Developer’s plan to address these issues
- A summary of the Developer’s Construction Administration Manual, which demonstrates that it has fully developed and implemented construction management and control procedures, a safety program and a cost accounting program for managing the construction of a comparable project
- Key construction assumptions
6. Financial Pro Forma and Financing (25 points)

The University is seeking a transaction structure and financing approach that optimizes the cost of capital and minimizes the impact of the financing on its balance sheet or its credit rating to the maximum extent practicable. The University desires to minimize its exposure to Project development, financing, management and operating risks.

a. Conceptual Financial Pro Forma

Provide a conceptual financial pro forma which includes estimated development and operating budgets and a cash flow projection for the first ten (10) years of operations with annual unleveraged returns and an average unleveraged return for the ten (10) years, and the Developer’s return hurdle rate. Provide key pro forma assumptions.

b. Provide a description of the funding and financing arrangements for the Project, including identification of funding sources, (e.g., equity or debt participants) and a description of the role of each party. The University is primarily interested in privatized funding but may consider a public-private financing vehicle or financing based on a leaseback to the University if they result in materially lower financing costs and higher value to the University. Provide a comparative summary of the alternative financing approaches. Provide key financing assumptions.

If the Developer proposes that the University own the Project, provide a description of how the University could finance the Project, how such financing will impact the University’s balance sheet and credit rating, the University’s potential financial commitment and obligations, and the Developer’s proposed role in securing such financing.

c. Marketing and Leasing Plan

Provide a description of the marketing and leasing plan for the spaces that will be leased to parties other than JABSOM. Provide key leasing assumptions.

7. Development Concept and Business Structure (25 points)

Provide a description of the Developer’s development concept and approach for the Project. Provide key concept and approach assumptions.

Provide a description of the proposed legal relationship and business structure between the University and the Developer and the Developer’s expected compensation schedule. Alternative relationships and arrangements can be proposed. If more than one business deal is offered, rank the alternatives by
the Developer’s preference and provide a comparative summary and analysis of each, including their advantages and disadvantages to the University and to the Developer. Provide examples, especially if successfully used by the Developer in other projects, of similar business arrangements. Provide key legal relationship and business structure assumptions.

8. Asset and Property Management Plan (5 points)

Provide an asset and property management plan for the Project.

9. Supplemental Information

Provide information and materials, if any, that are in direct support of the Proposal.

V. Evaluation and Selection

A. Evaluation Process

1. Evaluation Objective

The University is seeking a Developer and development team that has in-depth experience and proven success in working collaboratively and effectively with universities and their research units to prepare comprehensive and cohesive strategic development plans for bioscience and life sciences research facilities and which has been able to successfully implement such plans.

2. Evaluation Factors

Using the Evaluation Factors described in the Development Proposal Requirements in Section IV and summarized below, the Evaluation Committee will review, evaluate and rank all of the Proposals submitted. After the Proposals are received and reviewed, the Evaluation Committee, at its sole discretion, may ask Developers to clarify and, if necessary, to supplement their Proposals.

- Developer Qualifications and Project Organization – 10 points
- Design and Construction – 35 points
- Financial Pro Forma and Financing – 25 points
- Development Concept and Business Structure – 25 points
- Asset and Property Management Plan – 5 points
B. Selection Process

Upon completion of the Evaluation Committee’s review and analysis of the Proposals, the Committee will recommend one Developer to the Regents for approval.

C. Time Schedule of Activities

The University reserves the right to change the time schedule described herein.

- Issuance of Request for Proposals to short list of Developers Wed, Oct 5, 2005
- Receipt of Developer’s registration of intent to submit a Proposal 5:00 pm (HST) Mon, Oct 10, 2005
- Receipt of Developer’s summary of comparable projects and submittal of questions and requests for clarification 5:00 pm (HST) Tue, Oct 25, 2005
- Site visit and informational meeting Tue, Oct 25, 2005
- Deadline for submittal of Developer’s questions and requests for clarification Fri, Oct 28, 2005
- University’s response to Developer’s questions and requests for clarification Fri, Nov 4, 2005
- **Deadline for submittal of Proposals 5:00 pm (HST) Wed, Nov 23, 2005**
- Developer presentations Tue & Wed, Nov 29 & 30, 2005
- Selection of Developer Fri, Dec 2, 2005
- Approval of Developer by the Regents Fri, Dec 16, 2005
- Notification of Developer selection Mon, Dec 19, 2005
- Completion of negotiation of ground lease and Agreement Mon, Feb 20, 2006
- Approval of ground lease and Agreement by the Regents Thu & Fri, Mar 16 & 17, 2006

VI. Submittal

A. Intent to Submit

Potential Developers are required to register their intent to respond to this RFP by submitting a mandatory Intent to Submit a Proposal letter, together with a corporate resolution or appropriate authorization to sign the Intent to Submit letter, no later than 5:00 p.m., Monday, October 10, 2005. The Intent to Submit letter received by the University will establish the official list of respondents to this RFP for communication purposes. The Intent to Submit letter may be transmitted by mail delivery, hand delivery or fax transmission to:
Developers are required to designate one representative of the Developer (Developer Representative) and all of Developer’s team members. The Developer Representative’s name and contact information should be provided with the Developer’s Intent to Submit letter.

The University is seeking responses only from Developers who are seriously considering this opportunity and will make their best efforts to respond to the RFP, and who have the qualifications and capability to meet the requirements of the RFP.

Developer Representatives will be notified in writing of any changes made to this RFP, and to the RFQ/RFP process.

**B. Developer’s Summary of Comparable Projects**

The Developer shall provide a detailed description of three (3) projects that are the most comparable to the Project, and were developed by the Developer and/or designed and/or constructed by the Developer’s team, and which were completed within the past five years or will be completed within the next year.

The following information about each project shall be concisely provided in a summary sheet(s) in the following order:

- Name
- Location
- Type
- Size
- Total cost
- Completion date
- Developer’s (and/or Developer’s team member’s) role and ownership interest, if any
- Owner and contact information
- Architect and contact information
- Equity investor, if any, and contact information
- Lender, if any, and contact information
- Relevance to the Project
- Lessons learned that are applicable to the Project
- Photographs/renderings of the Project

The three projects may be projects described in the Developer’s SOQ.
As the University intends to use these projects for due diligence evaluation purposes, Developer shall inform the listed contact persons that a representative of the University may be communicating with them.

C. Submittal Date

RFP submittals must be received no later than 5:00 p.m. (HST) on Wednesday, November 23, 2005. The deadline for submittal may be extended if, in the sole discretion of the University, such extension is warranted.

D. Submittal Place

The RFP submittal must be bound and sealed in a package reading “RFP Submittal – John A. Burns School of Medicine Site – Phase II” and submitted by mail or delivered to:

Jan Yokota
Office of Capital Improvements
University of Hawai‘i
1951 East-West Road
Honolulu, HI 96822

Proposals submitted by facsimile alone will not be accepted.

E. Developer Questions and Requests for Clarification

Questions and requests for clarification concerning this RFP must be submitted in writing by the Developer Representative prior to the dates specified herein. Questions and clarification requests may be submitted by facsimile transmission.

Except as specifically permitted in this section, from the date of the RFP until a final agreement is executed and the selection is announced, Developers are not permitted to communicate on matters regarding this RFP with any University representative or consultant except through:

Jan Yokota
Office of Capital Improvements
University of Hawai‘i
1951 East-West Road
Honolulu, HI 96822
Phone: (808) 956-7935
Fax: (808) 956-9968
E-mail: jsyokota@hawaii.edu

In the event of a violation of this provision, the Evaluation Committee reserves the right to reject the Proposal of the offending Developer. Only questions and
requests for clarification that are submitted in writing will be accepted. In addition, only responses issued in writing by Jan Yokota will be binding on the Evaluation Committee.

VII. General Conditions and Limitations

A. Revisions to RFP

The University may modify this RFP, prior to the date fixed for submittal of the Proposals, by issuance of an addendum or addenda to all Developers who have received a copy of the RFP. The University may extend the deadline for the submittal of Proposals for any reason. As provided herein, written questions concerning this RFP may be submitted to the University. Response to questions will be made in writing and provided to all Developer respondents to this RFP. The University may decline to answer any Developer’s inquiries at its discretion.

B. Cancellation of RFP

The University may cancel this solicitation without cause and at no cost to the University, in whole or in part, if such action is determined to be in the best interest of the University.

C. Acceptance of Submittals

The University reserves the right to waive minor irregularities in the submittals received pursuant to this RFP or to negotiate with all Developers, in any manner necessary to serve the best interest of the University. Further, the University reserves the right to make a whole award, multiple awards, a partial award, or no award.

D. Incurred Expenses

Any costs incurred by the Developer in preparing and submitting a response to this RFP will be the sole responsibility of the Developer and will not be reimbursed by the University.

E. Economy of Preparation

Responses should be prepared simply and economically, providing a straightforward, concise description of the respondent’s ability to fulfill the requirements of this RFP.
F. Confidentiality of Documents

To the extent permitted by law, written requests for confidentiality shall be submitted with the Proposal. The request must state specifically what elements of the Proposal are to be considered confidential and/or proprietary. Confidential and proprietary information must be readily identified, marked and separated/packaged from the rest of the submittal. Co-mingling of confidential and proprietary information and other information is unacceptable. Any information that will be included in any resulting agreement cannot be considered confidential.

G. Ethics in Contracting/Collusion

The Developer shall certify in its Proposal that:

- Its response is made without collusion or fraud.
- It has not offered or received any kickbacks or inducements from any other developer, supplier, manufacturer or subcontractor in connection with the Proposal.
- It has not conferred on any University officer or employee, past or present, any payment, loan, subscription, advance deposit, travel services or items even of nominal value, present or promised.

H. Discrepancies and Clarifications

The University reserves the right to request clarification of any aspect of the Proposals or to request additional information that might be required to evaluate the Proposals. Responses that are incomplete or conditioned or are not in conformity with this RFP may be rejected.

I. Developer Responsibilities

All Developers will be required to bring to the attention of the University expressly, in writing, any requested substitution or change proposed to this RFP prior to the date for submittal of the Proposal. The University will not be bound to a substitution or change unless the Developer expressly brings it to the University’s attention, in writing and in a timely manner, and the University expressly approves the substitution or change in writing.

J. Ownership of Submittal

Any and all information submitted in response to this RFP will be the property of the University and will not be returned to the Developer.
K. **Nondiscrimination**

The University supports the principles of equal opportunity and will not discriminate because of gender, race, color, national origin, religion, sexual orientation, age or disability in the selection of firms. The University encourages the participation of small, women-owned, and minority-owned firms.

L. **Insurance**

The Selected Developer shall, at its own expense, procure and maintain during the entire performance period of any contract or agreement arising from this RFP process, including any extensions thereof, insurance of the kind and in the minimum amounts specified below. All insurance, except for professional liability, shall have a retroactive date of placement prior to or coinciding with the effective date of the Agreement between the University and the Selected Developer. Professional liability coverage should be retroactive to the beginning of pre-Proposal design activities. All policies shall name the University and any agents or representatives of the University, if requested to do so by the University, as an additional insured. Depending upon the provisions of the successful Proposal, the insurance requirements may be tailored to meet the Proposal structure and to meet the requirements of the University.

1. **Overall Requirements**

   a. Commercial General Liability Insurance on an occurrence form to include coverage for:
      
      - Premises Operation
      - Independent Contractors
      - Products and Completed Operations

      Products and Completed Operations coverage protecting the contractor and subcontractor must be carried for two (2) years after substantial completion of the Project. Evidence of this insurance shall be provided to the University on an annual basis.

      - Broad Form Property Damage including completed operations
      - Blanket Contractual Liability
      - Personal Injury
      - Employees named as Additional Insureds
      - Explosion, Collapse and Underground Property Damage
      - Severability of Interest

      The limit of liability for such coverage shall be:
b. Professional Liability Insurance

The Selected Developer shall carry Professional Liability (Errors and Omissions) Insurance covering the Design Services provided under the Agreement, with coverage of $1,000,000.00 per occurrence and $2,000,000.00 in the aggregate. The term “Design Services” means all professional services required to fulfill the design obligations of the Project, including, but not limited to, programming, schematic design, design development, construction documents and construction contract administration services. Specifically, the contractor shall carry Contractor’s Professional Liability (CPL) insurance with coverage of $1,000,000.00 per occurrence and $2,000,000.00 in the aggregate. The CPL policy shall include a Design/Build Endorsement in a form acceptable to the University and shall provide coverage for:

- Contractor’s vicarious, contingent and direct liability for design errors
- Facility management
- Program management
- Providing computer software
- Contractual liability or liability assumed in “insured contracts”

If the Selected Developer is a joint venture, then the CPL policy shall include the joint venture as a named insured.

Any architect and/or engineer furnishing services for the Project shall carry Professional Liability Insurance with coverage of $1,000,000.00 per occurrence and $2,000,000.00 in the aggregate.

All Professional Liability Insurance policies shall be maintained throughout the course of the work and for a minimum of five (5) years after the Certificate of Substantial Completion is filed.

All Professional Liability Insurance policies shall cover claims for bodily injury and property damage as well as claims involving solely economic
loss. This insurance shall also provide for redesign and reconstruction costs and expenses resulting from negligent Design Services.

c. Builders’ Risk Insurance

Builders’ Risk Insurance shall include all standard coverage, and specifically shall provide coverage for exposed buildings and structures. The Builders’ Risk Insurance shall be on an “all risk” basis and shall provide coverage on a full replacement value basis for the Project. The policy shall insure all work, labor and materials furnished by the Contractor against loss occasioned by fire, lightning, windstorm, theft, vandalism, malicious mischief, earthquake, flood, surface waters and collapse. The property to be covered shall include:

- All materials and supplies owned by the named or additional insured and used in the construction of the buildings while in or on the described buildings or in the open on the development’s premises or job site
- Foundations and fixtures
- Excavation, grading and labor charges associated with the construction project
- Temporary structures used in and incidental to the construction, fabrication, installation or completion of the Project.

d. Comprehensive Automobile Insurance

Comprehensive Automobile Insurance shall cover all vehicles, owned and non-owned, hired and leased. This insurance shall include coverage for automobile contractual liability and all coverages required by Hawai‘i law, with the following limits:

- Bodily Injury
  - $1,000,000.00 per person
  - $1,000,000.00 per occurrence
- Property Damage
  - $1,000,000.00 per occurrence

e. Workers’ Compensation

The Selected Developer shall carry Workers’ Compensation, Temporary Disability Insurance and other similar insurance required by the State or federal laws. The minimum limits of liability to be maintained are as follows:

- Coverage A State of Hawai‘i Workers’ Compensation Law: Statutory Limits
- Coverage B  Employers Liability:
  Bodily Injury from each accident: $1,000,000.00
  Bodily Injury from disease: $1,000,000.00
  Bodily Injury from disease: $1,000,000.00 aggregate

The University reserves the right to institute an owner controlled insurance program for Commercial General Liability, Completed Operations, Workers’ Compensation and Builders’ Risk coverages. The University reserves the right to obtain construction bids with and without insurance.