Notice of Meeting
UNIVERSITY OF HAWAI'I
BOARD OF REGENTS COMMITTEE ON PLANNING AND FACILITIES
Members: Regents Nahale-a (Chair), Paloma (Vice-Chair), Higaki, Lee, and Mawae

Date: Thursday, April 6, 2023
Time: 11:30 a.m.
Place: University of Hawai‘i at Mānoa
Information Technology Building
1st Floor Conference Room 105A/B
2520 Correa Road
Honolulu, Hawai‘i 96822

See the Board of Regents website to access the live broadcast of the meeting and related updates: www.hawaii.edu/bor

AGENDA

I. Call Meeting to Order
II. Approval of Minutes of the March 2, 2023 Meeting
III. Public Comment Period for Agenda Items:
   Individuals who are unable to provide testimony at this time will be allowed an opportunity to testify when specific agenda items are called.
   All written testimony on agenda items received after posting of this agenda and up to 24 hours in advance of the meeting will be distributed to the board. Late testimony on agenda items will be distributed to the board within 24 hours of receipt. Written testimony may be submitted via the board’s website through the testimony link provided on the Meeting Agendas, Minutes and Materials page. Testimony may also be submitted via email at bor.testimony@hawaii.edu, U.S. mail at 2444 Dole Street, Bachman 209, Honolulu, HI 96822, or facsimile at (808) 956-5156.
   Those wishing to provide oral testimony virtually may register here. Given the constraints with the format of hybrid meetings, individuals wishing to orally testify virtually must register no later than 8:15 a.m. on the day of the meeting in order to be accommodated. Registration for in-person oral testimony on agenda items will also be provided at the meeting location 15 minutes prior to the meeting and closed at the posted meeting time. It is highly recommended that written testimony be submitted in addition to registering to provide oral testimony. Oral testimony will be limited to three (3) minutes per testifier.

If you need an auxiliary aid/service or other accommodation due to a disability, contact the Board Office at (808) 956-8213 or bor@hawaii.edu as soon as possible. If a response is received less than five (5) days in advance of the meeting, we will try to obtain the auxiliary aid/service or accommodation, but we will not guarantee that the request will be fulfilled. Upon request, this notice is available in alternate formats such as large print, Braille, or electronic copy.
Although remote oral testimony is being permitted, this is a regular meeting and not a remote meeting by interactive conference technology under Section 92-3.7, Hawai‘i Revised Statutes (HRS). Therefore, the meeting will continue notwithstanding loss of audiovisual communication with remote testifiers or loss of the public broadcast of the meeting.

All written testimony submitted are public documents. Therefore, any testimony that is submitted orally or in writing, electronically or in person, for use in the public meeting process is public information and will be posted on the board’s website.

IV. Agenda Items

A. Recommend:

1. Board Authorization and Approval to Amend Pre-Closing Agreement Between the University of Hawai‘i and Greystar Development Services, LLC.

2. Board Authorization and Approval of the University’s Position Regarding Material Provisions of the Ground Lease Between the University of Hawai‘i and a Limited Liability Company to be Created by Collegiate Housing Foundation for the Development of a Student Housing Mixed-Use Rental Project at the University of Hawai‘i at Manoa

B. Recommend Board Approval to Purchase Phase 1 Photovoltaic Systems at the University of Hawai‘i O‘ahu Community Colleges and the University of Hawai‘i Maui College Pursuant to Four Separate Purchase and Sale Agreements

V. Adjournment
I. CALL TO ORDER

Chair Nahale-a called the meeting to order at 12:16 p.m. on Thursday, March 2, 2023, at the University of Hawai‘i (UH) at Mānoa, Information Technology Building, 1st Floor Conference Room 105A/B, 2520 Correa Road, Honolulu, Hawai‘i 96822, with regents participating from various locations.

Committee members in attendance: Chair Alapaki Nahale-a; Vice-Chair Diane Paloma; Regent Wayne Higaki; and Regent Gabriel Lee.

Committee members excused: Regent Abigail Mawae.

Others in attendance: Board Chair Randy Moore; Regent Eugene Bal; Regent William Haning; Regent Laurel Loo; Regent Laurie Tochiki; and Regent Ernest Wilson (ex officio committee members); President David Lassner; Vice President (VP) for Administration Jan Gouveia; VP for Academic Strategy Debora Halbert; VP for Legal Affairs/University General Counsel Carrie Okinaga; VP for Research and Innovation Vassilis Syrmos; VP for Budget and Finance/Chief Financial Officer Kalbert Young; UH at Mānoa Provost Michael Bruno; UH at Hilo Chancellor Bonnie Irwin; UH West O‘ahu Chancellor Maenette Benham; Interim Executive Administrator and Secretary of the Board of Regents (Board Secretary) Jamie Go; and others as noted.

II. APPROVAL OF MINUTES OF THE JANUARY 19, 2023, AND FEBRUARY 2, 2023 MEETINGS

Chair Nahale-a inquired if there were any corrections to the minutes of the January 19, 2023, and February 2, 2023, committee meetings which had been distributed. Hearing none, the minutes for both meetings were approved.

III. PUBLIC COMMENT PERIOD

Interim Board Secretary Go announced that the Board Office did not receive any written testimony and that no individuals signed up to provide oral testimony.

IV. AGENDA ITEMS

A. Fiscal Year (FY) 2022-2023 Second Quarter CIP Status Report as of December 31, 2022
VP Gouveia reported on the status of CIPs through the second quarter of FY 2022-2023 stating that ongoing projects are moving forward as anticipated with no major changes or issues to report. She noted that the phase I and II parking structure, Rainbow Wahine Softball Stadium phase 2A and 2B, and kitchen and accessory space renovation in the Pilina Building at Maui College have been completed and will be closed out. She also drew attention to the awarding of a design contract for a new facility to replace Snyder Hall under Phase 2 of the Mānoa Mini-Master Plan; the Komohana Research and Extension Center (Komohana) project’s completion date extension due to the lengthy Federal Emergency Management Agency (FEMA) grant approval process; and the $14.6 million Clarence T.C. Ching Complex project which remains on schedule with substantial completion slated for July 2023.

Regent Lee asked if the extension of the Komohana project’s completion date would lead to increased costs and, if so, whether the anticipated grant funding from FEMA will offset the additional expenses. VP Gouveia replied that the administration is expecting the cost of the Komohana project to increase because of the extended completion date. Although project pricing is still ongoing, she stated her belief that the amount of funding provided through the FEMA grant will not be adequate to cover the additional expenses.

B. Update and Status on Real Estate: Captain Cook Agricultural Research Station (Island of Hawai‘i) – Reversion to Kealakekua Ranch, Limited

Michael Shibata, Director of the Office of Strategic Development and Partnership, reported on the automatic reversion of a three-acre parcel of land formerly held by the university for the benefit of the College of Tropical Agriculture and Human Resources (CTAHR) to Kealakekua Ranch, Limited (KRL). He explained that the deed granting the university use of the parcel located in Captain Cook on Hawai‘i Island for an agricultural research station contained a covenant stipulating that, upon discontinued use of the property for its intended purpose, the land would automatically be returned to KRL. Given that CTAHR’s use of the property as an agricultural research station has ceased, title to the property has transferred back to KRL, its successors, and/or assigns. Other than memorializing this occurrence through the issuance of a quitclaim deed conforming to the fact that the title has passed back to KRL under the deed’s automatic reversion clause, no other action is necessary on the part of the university.

Walter Bowen, Associate Dean and Associate Director for Research at CTAHR, provided background information on the Captain Cook Agricultural Research Station (Captain Cook Station) noting that the site was formerly used for fruit tree germplasm research and collection projects. However, access issues, as well as the lack of irrigation infrastructure and on-site facilities, made effective use of the property challenging. Due to the foregoing challenges, CTAHR stopped using the Captain Cook Station approximately 10 years ago. It was also noted that a CTAHR agricultural research station located approximately six miles away in Kona is in the same agricultural region as the Captain Cook Station, shares similar environmental characteristics, and contains better infrastructure thereby making use of the Captain Cook Station redundant and unnecessary.

Regent Loo left at 12:30 p.m.
C. Update and Status on Real Estate: NOAA Graduate Student Housing Project (NOAA Project)

VP Young provided a brief history of the NOAA Project highlighting that slightly more than $5,000,000 in board-approved pre-construction agreements (PCAs) with Greystar Development Services, LLC (Greystar), the private development partner selected to provide the university with architectural, engineering, and other services for the Project, is nearing completion. He went over several of the Project’s objectives, first and foremost of which was to bolster the on-campus housing inventory for graduate students; discussed some of the Project’s deliverables, such as the inclusion of a large, modern child care facility that would be used to house the UHM Children’s Center, as well as the provision of retail and commercial amenities; and noted the administration’s desire for affordable housing rental rates for units in the facility. He also spoke about the Project’s current status, referencing work that has already been completed by Greystar in accordance with the PCAs, and reviewed details on some of the facility’s projected amenities.

Although the overall cost of the NOAA Project was projected to be around $130 million, escalating construction costs and rising interest rates have caused this estimate to increase by approximately $20 million. As such, the forecasted economics of the Project as originally conceptualized have become untenable and would necessitate the charging of bed rental rates at or above market prices. VP Young reviewed the various options currently being evaluated by the administration with respect to the NOAA Project including termination, proceeding as originally contemplated, and proceeding as envisioned but with some financial assistance from the university, describing the benefits and drawbacks of each alternative. He also stated that additional alternatives were being analyzed and could materialize prior to final deliberations on this issue. Given that efforts to secure bond financing for the NOAA Project will need to take place in May 2023, the administration does contemplate returning to the committee with its recommendation on how to proceed on this matter within the next 30 days.

Chair Nahale-a sought to confirm his understanding that the NOAA Project was part of a broader, complex housing plan aimed at addressing the need for on-campus accommodations for a variety of student populations across the university system. VP Young replied that the NOAA Project is one of several housing projects being undertaken by the university to meet the needs of its constituencies including students, faculty, and staff. He also pointed out the added benefit increasing the availability of on-campus housing will have on broader statewide efforts to add inventory to the supply of homes on the open-market.

Regent Higaki left at 12:44 p.m.

Regent Lee asked whether the NOAA Project had been value engineered to determine the necessity of the child care facility, as well as the provision of retail and commercial space. VP Young stated that the NOAA Project was value engineered at several points during its design phase. He also provided the administration’s rationale for keeping the child care facility component of the Project in place stating that the building currently accommodating the UHM Children’s Center is outdated and can no
longer meet the Center’s capacity needs. VP Gouveia added that other value-engineering work that has occurred on the NOAA Project included things such as the limitation of air conditioning to building common areas. She also stated that the notion of live, learn, work, and play, was a driving vision behind the NOAA Project and that the childcare facility was an important element of this concept.

Board Chair Moore questioned whether ground rent would be charged to the developer. VP Young responded that, at present, ground rent will not be charged to the developer. However, he noted that the university is expecting to witness net revenue gains from the NOAA Project due to the way the partnership with the developer is currently structured.

Referencing the $150 million estimated price tag for the NOAA Project, Board Chair Moore inquired about the comparative cost for constructing the child care facility. VP Young replied that approximately $10 million of the $150 million would be expended for building the child care facility. He stressed that, regardless of how the NOAA Project gets structured, the university will realize value gain from the child care facility, which is the only portion of the Project that the university will control operationally.

Discussions ensued on the various alternatives currently being evaluated by the administration with respect to the NOAA Project and the possible ramifications of each. VP Young emphasized that the university would still be required to pay approximately $5 million to Greystar for services rendered pursuant to the approved PCAs irrespective of the option chosen.

Vice-Chair Paloma expressed her belief that the NOAA Project would be an asset to the university, filling a void in housing for graduate students; increasing the availability of housing stock at the university in general; and serving to attract students pursuing professional degrees, particularly students from Hawai‘i that attended a university on the continent. She also stated that the board would be remiss in recommending termination of the NOAA Project at this point in time since, in her view, any future consideration of this project would more than likely involve even higher construction costs. VP Young concurred with Vice-Chair Paloma’s comments stating that the administration will be taking all of these factors into consideration when developing its recommendation to the committee and board.

Vice-Chair Paloma left at 1:01 p.m.

Regent Haning echoed the remarks of Vice-Chair Paloma with respect to the positive impacts the NOAA Project could have on graduate students, especially those in the medical field and those with families. He also asked whether completion of all of the housing projects being contemplated by the university would have a significantly quantifiable impact on the availability of on-campus housing stock. VP Young replied that market demand studies conducted on both the NOAA Project and Atherton Student Housing and Innovation Center Project have indicated both a desire and need for additional student housing in proximity to the university. However, the number of units provided by both projects still fall far short of meeting the demands for student housing being experienced by UHM.
Regent Wilson articulated his views regarding the board’s responsibility to consider all of the facets of the NOAA Project including, among other things, costs associated with facility construction, operation, repair, and maintenance; the project’s alignment with the educational mission of the university; and the project’s ability to address a particular need, prior to rendering a decision on the matter.

D. University Land-Related Strategic Initiatives and Partnerships Program FY 2022-2023 Second Quarter Update

Chair Nahale-a noted the departure of two committee members, Vice-Chair Paloma and Regent Higaki in addition to the excused absence of Regent Mawae. Despite quorum of the committee being maintained in accordance with board bylaws due to the presence of Board Chair Moore, Chair Nahale-a expressed his desire that all committee members be present to receive information on this agenda item. As such, this matter was deferred.

V. ADJOURNMENT

There being no further business, Chair Nahale-a adjourned the meeting at 1:09 p.m.

Respectfully Submitted,

Jamie Go
Interim Executive Administrator and Secretary of the Board of Regents
March 30, 2023

TO: Randolph G. Moore  
Chairperson, Board of Regents
Alapaki Nahale-a  
Chair, Committee on Planning and Facilities  
Board of Regents

VIA: David Lassner  
President

FROM: Kalbert K. Young  
Vice President for Budget and Finance/Chief Financial Officer

SUBJECT: (1) Authorization and Approval to Amend Pre-Closing Agreement between the University of Hawai‘i and Greystar Development Services, LLC; and  
(2) Authorization and Approval of the University’s Position Regarding Material Provisions of the Ground Lease between the University of Hawai‘i and a Limited Liability Company to be Created by Collegiate Housing Foundation for the Development of a Student Housing Mixed-Use Rental Project at the University of Hawai‘i at Mānoa

SPECIFIC ACTIONS REQUESTED:

We request the following as further discussed herein:

1. Committee on Planning and Facilities:
   a. Pre-Closing Agreement (“PCA”) Fourth Amendment. Recommend to the Board of Regents the approval of the Fourth Amendment to the PCA between the University of Hawai‘i and Greystar Development Services, LLC for Development of a Student Housing Mixed-Use Rental Project at the University of Hawai‘i at Mānoa. The material terms of the PCA Fourth Amendment are set forth in the attached Major Term Sheet.
   b. Ground Lease. Recommend to the Board of Regents the approval of the University’s Position Regarding Material Provisions of the Ground Lease between the University of Hawai‘i and a Limited Liability Company to be Created by Collegiate Housing Foundation for the Development of a Student Housing Mixed-Use Rental Project at the University of Hawai‘i at Mānoa. The material terms of the Ground Lease are set forth in the attached Major Term Sheet.
2. **Board of Regents:**
   a. **PCA Fourth Amendment.** If the Committee on Planning and Facilities approves the above recommendation, approval of the Fourth Amendment to the PCA between the University of Hawai‘i and Greystar Development Services, LLC for Development of a Student Housing Mixed-Use Rental Project at the University of Hawai‘i at Mānoa, consistent with the terms described in the attached Major Term Sheet.

   b. **Ground Lease.** If the Committee on Planning and Facilities approves the above recommendation, approval of the University’s Position Regarding Material Provisions of the Ground Lease between the University of Hawai‘i and a Limited Liability Company to be Created by Collegiate Housing Foundation for the Development of a Student Housing Mixed-Use Rental Project at the University of Hawai‘i at Mānoa, consistent with terms described in the attached Major Term Sheet.

**RECOMMENDED EFFECTIVE DATE:**
Upon approval of the Board of Regents (“Board” or “BOR”).

**ADDITIONAL COST:**
The University of Hawai‘i (“UH” or “University”) will provide the following additional costs to support the development of a Student Housing Mixed-Use Rental Project (“Project”) at the University of Hawai‘i at Mānoa:

1. Rent subsidy of up to TWO MILLION DOLLARS ($2,000,000) annually;
2. EIGHT MILLION DOLLARS ($8,000,000) for the Pre-Closing Advances and Development Fee under the PCA;
3. TEN MILLION DOLLARS ($10,000,000) for the development and delivery of a childcare facility; and
4. Pro rata share of expenses related to Childcare facility utilities (electricity, water) related to its operations.

**BACKGROUND:**
The subject parcel is approximately 2.21 acres, located at 2570 Dole Street on the University of Hawai‘i at Mānoa (“UHM”) campus, and designated Tax Map Key No. (1) 2-8-023: 009 (“NOAA Site” or “Property”). The Property is owned in fee by UH. The Property was previously owned by the United States government and used by the NOAA National Marine Fisheries Service.

---

1 The Board of Regents has already approved approximately FIVE MILLION DOLLARS ($5,000,000) for the Pre-Closing Advances and Development Fee under the PCA should the project not advance to closing; if the project did advance, this amount was to be paid out of bond proceeds, as explained further herein.
UH envisions that the Project components would foster and create a live, work, play, and learn environment surrounding the Property. Although the Project would not be owned or operated by UH (except for the Childcare Facility which UH will operate), UH has an interest in ensuring a seamless transition between the Project and the surrounding UHM campus. Accordingly, in its November 7, 2018 Request for Proposals for the Development of a New Multi-Family Mixed-Use Rental Project ("RFP"), UH solicited proposals from qualified real estate developers and development teams that were interested in entering into a public-private partnership with UH to design, build, finance, operate, and maintain a family-oriented mixed-use rental housing project to be located at the Property. The RFP included: (1) a strong preference for including a childcare facility to be leased back by UH; and (2) commercial components that serve the Project residents and the greater UHM community.

The Project would be privately owned, operated, and maintained by a non-profit student housing entity—subsequently, Collegiate Housing Foundation ("CHF") was recommended by Greystar and agreed to by UH. CHF will create a single asset limited liability company with CHF as its sole member to hold the ground lease ("Lessee") with the consent of UH. UH would issue a ground lease to the Lessee for the life of the debt financing plus five years, payable by the Lessee from the proceeds from the Project.

In September 2019, following review and consideration by UH and its internal evaluation committee, UH selected Greystar Development Services, LLC ("Greystar") to develop and manage the Project under a ground lease to be negotiated. In October 2019, an Exclusive Negotiations Agreement was entered into by UH and Greystar to enable both parties to negotiate and reach mutual agreement on the terms and conditions of a PCA as pre-condition to entering into a ground lease for the Project. Among other things, the PCA provided that the Lessee will be a corporation exempt from federal income tax to be selected by UH in consultation with Greystar to be the owner of the Project for Fall 2025 delivery (as amended), and privately financed through the issuance of tax-exempt bonds issued on behalf of the Lessee. Upon completion, Greystar would act as the property manager under a management agreement with the Lessee. Greystar originally estimated the total Project cost at approximately ONE HUNDRED THIRTY MILLION DOLLARS ($130,000,000).

As further discussed in the Board Action Memorandum dated, March 2, 2020, and considered by BOR at its March 19, 2020 meeting, according to the PCA, if the Project achieves financial close, then all UH authorized costs related to pre-construction work by Greystar are reimbursed to Greystar from bond proceeds. However, if the Project does not close, UH agreed to reimburse pre-construction costs up to a specific authorized amount in the PCA and subsequent amendments. If UH is required to reimburse pre-construction work costs, UH will own all reports, designs, and other studies prepared by Greystar. The pre-construction work anticipated for the Project presented to BOR at its March 19, 2020 meeting was originally estimated at approximately FOUR MILLION NINE HUNDRED NINETY-FOUR THOUSAND, TWO HUNDRED NINETY-SEVEN DOLLARS ($4,994,297). Based on the third amendment to the PCA, the authorized pre-construction work spending is FIVE MILLION FORTY THOUSAND NINE HUNDRED THIRTY-SIX DOLLARS ($5,040,936).

The rationale for the Administration’s PCA amendment approach was to authorize Project spending by Greystar in tranches for specific pre-construction work and applicable developer’s
fees so that UH could assess the risk associated with potentially reimbursing costs as the Project developed. BOR approved the PCA and subsequent amendments to authorize Greystar pre-construction work spending, as shown in the following table:

<table>
<thead>
<tr>
<th>Document Name</th>
<th>PCA Am. No. 1</th>
<th>PCA Am. No. 2</th>
<th>PCA Am. No. 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>BOR Approval Date</td>
<td>March 19, 2020</td>
<td>Sept. 17, 2020</td>
<td>May 20, 2021</td>
</tr>
<tr>
<td>Authorized Spending</td>
<td>$1,500,000</td>
<td>$1,000,000</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>Total Authorized Spending</td>
<td>$1,500,000</td>
<td>$2,500,000</td>
<td>$3,500,000</td>
</tr>
</tbody>
</table>

The PCA includes various pre-construction work. In coordination and consultation with UH, the work performed by Greystar and its development team on the Project under the PCA includes the following:

- Contracted with sub-contractors to produce work on design drawing, preliminary construction materials, etc.;
- Conducted a market study, engineering studies, environmental review, and title investigations;
- Completed construction pricing for the 50% schematic design drawing set;
- Completed the 100% schematic design drawing set;
- Completed the 100% design development drawing set;
- Completed construction pricing for the 100% design development drawing set;
- Completed and submitted the Building Permit Log-In set to the City and County of Honolulu, Department of Planning and Permitting ("DPP");
- Completed construction pricing for the DPP Building Permit Log-In set;
- Prepared a final environmental assessment and issued a finding of no significant impact for the Project;
- Obtained Plan Review Use Minor Modification approval from DPP; and
- Additional consultant work with community and university stakeholders.
CURRENT STATUS:

The Project will include approximately 316 units/558 beds ranging from studios, two-, three-, and four-bedroom units (“Student Housing Facility”). The Project will also include an approximately 9,285 square foot childcare facility (“Childcare Facility”) which will support the relocation of the existing UHM Children’s Center currently operating at 2320 Dole Street and increase the number of children that can be accommodated at the new childcare facility. Other Project amenities include an 800-square-foot retail/cafe space (“Retail Facility”), bike storage, study rooms, laundry facility, mail and package room, outdoor amenity decks, and on-site management.

Greystar has obtained all necessary discretionary approvals to move forward with the Project; and Lessee is tentatively scheduled to close on bond financing in July 2023. However, due to unanticipated changes in the national and local construction industries related to significant inflationary pressures and the global supply chain, the Project has an updated total Project cost of ONE HUNDRED FIFTY-FIVE MILLION DOLLARS ($155,000,000), which is a 19.23 percent increase from the original estimate in 2020. In addition, the interest rates to obtain Project financing (tax-exempt student housing revenue bonds) have significantly increased over the past year. Therefore, in order for the Project to be viable without increasing projected student rents substantially, the total cost of the Project must be reduced and/or reduce the total amount of the Project that is financed. The Administration’s recommended actions are included in the Ground Lease section below.

To meet the objective of privately financing the Project, Greystar proposes the following financing structure:

- Public Finance Authority (“PFA”) will issue taxable and non-taxable student housing revenue bonds (“Bonds”).
- Lessee will: (i) pay the costs of the acquisition, demolition, renovation, construction, furnishing, and equipping of the Project on the Property; (ii) establish a debt service reserve funds for the Bonds; (iii) pay the interest expected to accrue on the Bonds; (iv) pay working capital and marketing costs associated with the Project; (v) fund an operating reserve fund; (vi) fund a coverage reserve fund; and (vii) pay the costs of issuance.
- Lessee will enter into a ground lease with UH.
- Rents generated by the Project will fund debt service, pay for operating expenses to operate the Project, and to maintain the Property.
- Any revenues above Project expenses (after bond payments are made) are paid to UH.
- The term of bond financing is approximately 40 years.

---

The University’s main involvement in the Project is the: (1) existing PCA with Greystar; (2) entering into a Ground Lease with CHF; and (3) sharing in Project revenues over the life of the Project.

RECOMMENDED ACTION:

A. **PCA FOURTH AMENDMENT:**

The Administration requests authorization to negotiate and enter into a Fourth Amendment to authorize an additional TWO MILLION NINE HUNDRED FIFTY-NINE THOUSAND SIXTY-FOUR DOLLARS ($2,959,064) for additional pre-construction activity and other pre-closing expenses under the PCA, as summarized in the following table:

<table>
<thead>
<tr>
<th>Document Name</th>
<th>PCA</th>
<th>PCA</th>
<th>PCA</th>
<th>PCA</th>
<th>PCA</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>PCA Am. No. 1</td>
<td>PCA Am. No. 2</td>
<td>PCA Am. No. 3</td>
<td>PCA Am. No. 4</td>
<td></td>
</tr>
<tr>
<td>BOR Approval Date</td>
<td>March 19, 2020</td>
<td>Sept. 17, 2020</td>
<td>May 20, 2021</td>
<td>June 2, 2022</td>
<td></td>
</tr>
<tr>
<td>Authorized Spending</td>
<td>$1,500,000</td>
<td>$1,000,000</td>
<td>$1,000,000</td>
<td>$1,540,936</td>
<td></td>
</tr>
<tr>
<td>Total Authorized Spending</td>
<td>$1,500,000</td>
<td>$2,500,000</td>
<td>$3,500,000</td>
<td>$5,040,936</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>$2,959,064</td>
<td></td>
</tr>
</tbody>
</table>

The request for additional pre-construction cost advances to Greystar are intended for abatement and site preparation costs, legal and other bond related costs to obtain tax-exempt bond financing for the Project, and a portion of the Project developer’s fees to be paid to financial close.

These are expenses that Greystar will incur and pay for to complete work to obtain tax-exempt bond financing for the Project, as a pre-condition to entering into the ground lease. Although pre-construction costs are advanced by Greystar and not paid by UH in anticipation of bond financing, the Board is being asked to agree to conditions upon which UH would reimburse Greystar and own the pre-construction work product if the Project does not proceed as discussed below.

Under the conditions of the PCA, Greystar has been and will continue to advance the costs and expenses for all work that is required. Closing of the tax-exempt bond financing for the Project is considered the “closing” of the pre-closing (pre-construction) work.

The University will be assuming contingent risk for reimbursing Greystar for pre-closing expenses ("Pre-Closing Advances") and the developer’s fees ("Development Fee") if the Project fails to secure bond financing for the following reasons:
1. **University termination of PCA.** If the University terminates the PCA for reasons other than those described in the following Paragraph 2, then the University shall pay to Greystar: a) the Pre-Closing Advances; b) plus a rate of interest thereon; and c) an accrued Development Fee.

2. **Failure of bond closing/Greystar default.** If the University terminates the PCA due to: a) the failure of the tax-exempt bond financing for the Project; or b) as a result of Greystar’s material default of the PCA, then the University shall pay to Greystar only a) the Pre-Closing Advances; and b) plus a rate of interest thereon.

3. **Outside closing date.** If the tax-exempt bond financing has not closed by a certain date, then the University shall pay to Greystar: a) the Pre-Closing Advances; b) plus a rate of interest thereon; and c) an accrued Development Fee.

In each case summarized above, upon termination payment, the University would own all of the Project design and contract documents prepared by Greystar and its third-party vendors.

For the reasons discussed below, in lieu of reimbursing PCA costs from bond proceeds, the Administration seeks approval to cause to be paid $8,000,000 for the PCA upon execution of the ground lease.

**B. GROUND LEASE:**

UH will lease the Property to Lessee for a term to end with the bond repayment for the Project, or approximately forty-five (45) to fifty (50) years, from the date of occupancy currently projected for summer of 2025. The rent will be any available cash on hand upon completion of the project audit for each annual period, which is Project revenues less bond payments and project costs, reserves, fees, and expenses ("Net Cash Flow").

UH has an interest in the Project succeeding because it will increase the availability of housing on the UHM campus. Also, if Greystar and Lessee does not build, operate, finance, and maintain the Project, UH may need to take over the Project. To that end, the ground lease will cause UH to fund the pre-construction work, also known as the Pre-Closing Advances, under the PCA valued at EIGHT MILLION DOLLARS ($8,000,000). The PCA addresses items that support pre-development work necessary for delivering a site ready for development, and other pre-preconstruction expenses more detailed in the above section.

Additionally, in order to maintain Project viability for financing at reduced or “below market” rental rates for students, the Administration is proposing to provide a rent subsidy of up to TWO MILLION DOLLARS ($2,000,000) annually. Without any contributions from UH, the Project is expected to yield an average bed rate of $2000+/bed/month. When factoring in the absorption of the PCA, the average bed rate still hovers at approximately $2,000/bed/month without any annual rent
subsidy. At the last Committee on Planning and Facilities meeting, the Administration explained that it was considering a rent subsidy for the Project of approximately $1.8 million a year – which would reduce the bed rate to about $1,700/bed/month. However, a primary objective of the Project for UH is to increase its student housing inventory at affordable rates. The Administration seeks to keep average bed rates below $1,600/bed/month at the outset of the project. To achieve this, an annual rent subsidy of $2,000,000 is needed to reduce the average bed rate to approximately $1,565/bed/month. Therefore, the Administration believes an annual subsidy of $2,000,000 is warranted. Furthermore, under the current pro forma for the Project, the annual Net Cash Flow returning to the University is projected to exceed $2,000,000 a year in year-nine of operations. In that event, and even prior to that event, the Administration intends to use the Net Cash Flow from the project to cover the annual rent subsidy either in whole or in part.

Finally, UH is expected to enter into a Memorandum of Agreement with the Hawai‘i State School Facilities Authority (“SFA”) to assist with meeting the State’s goal of expanding access to pre-kindergarten to eligible children of the State. To that end, the SFA was appropriated funds in 2022 to: (1) construct new pre-kindergarten school facilities; (2) renovate improve and expand existing school facilities to increase pre-kindergarten student capacity; and (3) make any other expenditures deemed appropriate to increase pre-kindergarten student capacity within the State. Under the MOU, the SFA will provide up to TEN MILLION DOLLARS ($10,000,000) in funding to UH to support that part of the Project that develops a Childcare Facility. As part of the proposed Ground Lease, Greystar is the developer (“Developer”) obligated to deliver substantial completion of the Project, which includes the Childcare Facility as part of the overall Project. Therefore, under the proposed Ground Lease, UH is expected to cause to be paid to the Developer up to $10,000,000 for the Childcare Facility. While UH will be responsible for the ongoing utility costs associated with the Childcare Facility, UH is not expected to be responsible for any other costs or fees associated with ongoing maintenance of the building – including rent. Furthermore, the Lessee is obligated to enter into a Management Agreement with a management entity to manage all improvements associated with the Student Housing Facility, including the Childcare Facility.

UH will agree to affiliate the Project as part of the UH’s student housing inventory under the terms of the ground lease. The affiliation ensures a level of service for University students who reside in the Project and coordinates certain operational details with the UHM campus and Student Housing Services. See Exhibit C, Summary of Major Terms Ground Lease Agreement. Exhibit C is a summary of material terms the Administration intends to be included in the subject ground lease; the Lessee has not yet agreed to these terms. If the Board approves Administration’s request, the final ground lease will be negotiated and executed by the parties. However, any substantive deviation from these terms will require further Board’s approval.
APPLICABLE REGENTS POLICY:

Under Board of Regents Policy ("RP") 8.201, the Board of Regents’ approval is required for any contract that is anticipated to have a significant impact on policies, programs or operations, or result in potential institutional liability. In addition, under Policy RP 10.201, the Board’s approval is required for this real property transaction because it involves the lease of real property. The six decision-making considerations enumerated under RP 10.201.III.A are addressed in turn as follows.

a. *Promote and support the mission and goals of the university in education, research, service, and economic development.*

The Project integrates Student Housing and a Childcare Facility, funded primarily with private, non-taxpayer money to design, build, finance, operate, and maintain a live, learn, work, play facility. The Project will provide students with new and additional housing opportunities at the UHM campus. The new Childcare Facility will be operated by the UHM Children’s Center which supports the education, research, and service mission of the University. The UHM Children’s Center (licensed for two- to five-year old children) currently operates out of Castle Memorial Hall at 2320 Dole Street, and is a site for students, faculty, and community members to observe best practices in early childhood education and to conduct research. Executive Policy 10.401 (Child Care Programs and the Use of Such Facilities), supports child care programs “established at the various campuses of the University of Hawai‘i provided a need for such facilities is demonstrated.”

The Project is also one of the several public-private partnerships ("P3") and real estate projects the University is pursuing to build modern educational facilities more affordably, develop alternative revenue streams to support the University mission, and remain a competitive higher education institution.

b. *Advance principles and practices of sound environmental stewardship and sustainability.*

The Project is being designed to meet Leadership in Energy and Environmental Design ("LEED") Silver Certification and will continue to stress sustainability as a key factor in decision making and seek to minimize impervious surfaces on the site to reduce potential run-off impacts to the environment. Further, project design efforts will also endeavor to reduce the carbon footprint of the Project both during construction and under operation.

The Project will enhance the amenities (housing, childcare, and retail) available to the UHM community and surrounding neighborhood, and add to the aesthetic of the Mānoa community.
c. **Ensure that alternative actions are considered, investigated and analyzed.**

The Property is currently being used by the University for temporary parking and storage. The Property was previously considered to be renovated for the Hawaiʻi'ina'iako, School of Hawaiian Knowledge. The proposed P3 Project creates new and additional housing inventory for students, a new Childcare Facility for students, faculty, and staff, and a potential long-term revenue stream for the University. The Project will include approximately 316 units/558 beds ranging from studios, two-, three-, and four-bedroom units, in an apartment style set up which adds to the housing options for students as the majority of UHM's existing student housing inventory is comprised of dormitories.

d. **Be fairly priced in the context of applicable fair market values and other relevant factors.**

The University will be receiving rent if all bond payments, expenses, costs, and fees are covered by project revenues. The University proposed contributions to support the development of the Project are intended to maintain the Project viability for financing at reduced or “below market” rental rates for students.

e. **Generate revenue from real property not critical to long range plans for the university to support the university’s core mission.**

As part of the Ground Lease, any excess revenues from the Project after all bond payments, expenses, costs, and fees are paid will go directly to the University. Once Project revenues are stabilized, the net cash flow from the Project should offset the University’s annual rent subsidy to the Project. The Lessee and Property Manager will be responsible for all improvements, utilities (except the Childcare Facility), and maintenance of the Premises which is advantageous to reduce overall costs to the University.

f. **Be consistent with and support long range plans that have been approved by the BOR.**

The Property and the Project is in the long-range development plan ("LRDP") for the UHM campus and the UHM plan review use permit ("PRU") which was approved by the City & County of Honolulu on January 28, 2022. The Project is supportive of the Imperatives as set forth in the University’s Strategic Plan 2023-2029, including “Develop successful students for a better future.” The Project also supports the 21st Century Facilities and High Performing System, which are two of the five policies as set for the in the University’s Strategic Direction, 2015-2021. The Project also supports the guiding principles of the UHM Framework for the Future established to further the University’s desire to continue to be a leading global research institution.
ACTION RECOMMENDED:

We respectfully request that the Committee on Planning and Facilities recommend that the Board of Regents approve, and that the Board of Regents approve the Fourth Amendment to the PCA and Ground Lease, consistent with the terms contained in the attached Major Term Sheets. Once approved, the President, the Vice President for Budget and Finance/Chief Financial Officer and/or the Vice President for Administration will finalize and execute said Purchase Agreements and such action and execute such other documents as they deem necessary to implement this transaction.

c: Interim Executive Administrator and Secretary to the Board Jamie Go

Attachments:

1. Exhibit A – Summary of PCA Major Terms
2. Exhibit B – PCA Budget Schedule
3. Exhibit C – Summary of Ground Lease Agreement Major Terms
MAJOR TERM SHEET AMENDED
(amendments shown in red)

UNIVERSITY OF HAWAI‘I AT MANOĀ NEW MULTI-FAMILY STUDENT HOUSING MIXED-USE RENTAL PROJECT
DEVELOPMENT PRE-CLOSING AGREEMENT
( Including Proposed Amendment 4, April 2023)

BETWEEN
UNIVERSITY OF HAWAI‘I

and

GREYSTAR DEVELOPMENT SERVICES, LLC

1. **Parties.**
   a. **UH:** University of Hawai‘i
   b. **Greystar:** Greystar Development Services, LLC, a Delaware limited liability company

2. **Property.** 2570 Dole Street, Honolulu, O‘ahu, Hawai‘i 96822, identified as Tax Map Key No. (1) 2-8-023: 009.

3. **Project.** Development of a facility housing approximately 573-558 beds for UH-affiliated persons, with associated amenities (including a UH-affiliated childcare center), to be agreed upon by the parties and located on the Property, ground-leased by UH to an affiliate of a 501(c)(3) nonprofit corporation (the “Leaseholder”), to be developed for Fall 2025 delivery and financed through the issuance of tax-exempt bonds issued by the Leaseholder.

4. **Closing.** The closing of the tax-exempt bond financing for the Project.

5. **Pre-Closing Activities.** Greystar and/or certain third parties engaged by Greystar, for the benefit of UH, will perform certain Pre-Closing activities, including but not limited to site visits and meetings with UH representatives; engagement of certain professionals and consultants; coordination of the preparation of designs and plans; assessment of the Project site including feasibility and other studies; coordination of governmental approvals; and preparation of a detailed Project schedule.

6. **Pre-Closing Advances.** The Pre-Closing Activities shall be performed directly by Greystar or by third parties engaged by Greystar for the benefit of UH, and all third-party costs and expenses paid or incurred by Greystar or third parties engaged by Greystar in connection with the Pre-Closing Activities shall be advanced by Greystar as an accommodation to UH. The Pre-Closing budget agreed upon by the parties (the “Pre-Closing Budget”) sets forth
Greystar’s estimation of the monthly budget for Pre-Closing expenditures, and the initial final Pre-Closing Budget is $5,040,936 $8,000,000.

7. **Right-of-Entry Agreement.** UH and Greystar to negotiate and enter into a separate Right-of-Entry Agreement.

8. **Compensation and Repayment for Pre-Closing Advances.**
   
a. **Payment of Pre-Closing Advances.** At the Closing, UH shall cause to be paid to Greystar from the Closing proceeds: (a) the actual, reasonable and documented Pre-Closing Advances; plus (b) interest at a floating rate equal to the Wall Street Journal U.S. Prime Rate plus two percent (2%) compounded monthly (provided, however, such interest shall not be at a rate less than six percent (6%) per annum) on amounts advanced by Greystar; plus (c) the accrued Development Fee.¹

b. **Termination Payment.** In the event of a termination of the agreement by UH, UH shall pay to Greystar: (i) the actual, reasonable and documented Pre-Closing Advances; plus (ii) interest at a floating rate equal to the Wall Street Journal U.S. Prime Rate as published in the plus two percent (2%) compounded monthly (provided, however, such interest shall not be at a rate less than six percent (6%) per annum) on amounts advanced by Greystar from the date advanced until the date repaid to Greystar; plus (iii) the accrued Development Fee. Notwithstanding the foregoing, if UH terminates the agreement due to the failure of the tax-exempt bond financing for the Project or as a result of Greystar’s material default of the agreement, UH shall have no liability to pay Greystar any portion of the Development Fee unless UH wishes to proceed with the Project without engaging Greystar’s continued development services.

c. **Termination Payment on Outside Closing Date.** In the event that the Closing has not taken place on or before October 31, 2023 January 31, 2024 (the “Outside Closing Date”) UH hereby agrees to repay Greystar: (i) the actual reasonable documented Pre-Closing Advances; plus (ii) interest at a floating rate equal to the Wall Street Journal U.S. Prime Rate plus two percent (2%) compounded monthly (provided, however, such interest shall not be at a rate less than six percent (6%) per annum) on amounts advanced by Greystar; plus (iii) the accrued Development Fee.

9. **Ownership of Materials.** Upon termination of the agreement for any reason, Greystar shall assign to UH all of Greystar’s right, title, and interest in and to the design documents and the contract documents.

10. **Development Agreement.** Amended to reflect that UH Greystar will negotiate in good faith with Greystar the lessee of the ground lease issued by UH, a definitive development agreement for the Project to be effective at the Closing for the delivery of services set forth in the Development Agreement to complete the design, construction, and delivery of the Project. The ground lease is to be , which shall be approved by its the Board of

¹ The Development Fee is equal to 4% of total Project costs.
Regents. The Development Agreement will require Greystar Real Estate Partners, LLC, a Delaware limited liability company, to guarantee completion of the Project for on-time and on-budget delivery by the agreed upon date of substantial completion and provide for a mechanism for damages to UH in the case of a late delay.
<table>
<thead>
<tr>
<th>Item</th>
<th>August</th>
<th>September</th>
<th>October</th>
<th>November</th>
<th>December</th>
<th>January</th>
<th>February</th>
<th>March</th>
<th>April</th>
<th>May</th>
<th>June</th>
<th>July</th>
<th>August</th>
<th>September</th>
<th>October</th>
<th>November</th>
<th>December</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Market Study</strong></td>
<td>7,680</td>
<td>13,069</td>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Traffic Study</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Archiving/Field Inspection</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Architecture/Interior Design</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Biology (environmental studies available)</td>
<td>6A</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Soil Calls/CEIS (EA)</td>
<td></td>
<td>26,186</td>
<td>25,829</td>
<td>76,968</td>
<td>18,959</td>
<td>9,451</td>
<td>13,816</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Geotechnical - Site Plan</td>
<td></td>
<td>5,061</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Site Assessment - Exposures</td>
<td></td>
<td>5,061</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Environmental Site Plans</td>
<td></td>
<td>16,099</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>BETA Survey - Central Park/W</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>MUI - Soil Calls/CEIS</td>
<td></td>
<td>9,785</td>
<td>7,916</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cultural/Architectural</td>
<td>10,576</td>
<td>9,785</td>
<td>2,290</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Geotechnical Geo-Engineer</td>
<td>15,000</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Environmental</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>SPECIALTY CONSULTANT</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>SPECIALTY CONSULTANT</strong></td>
<td>39,673</td>
<td>19,427</td>
<td>11,699</td>
<td>25,829</td>
<td>18,959</td>
<td>9,451</td>
<td>13,816</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>SUBTOTAL</strong></td>
<td>270,146</td>
<td>270,146</td>
<td>270,146</td>
<td>270,146</td>
<td>270,146</td>
<td>270,146</td>
<td>270,146</td>
<td>67,537</td>
<td>9,958</td>
<td>67,537</td>
<td>270,146</td>
<td>270,146</td>
<td>270,146</td>
<td>270,146</td>
<td>270,146</td>
<td>270,146</td>
<td>270,146</td>
</tr>
<tr>
<td><strong>MILESTONE</strong></td>
<td>2,407</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>TOTAL REVENUE</strong></td>
<td>272,553</td>
<td>272,553</td>
<td>272,553</td>
<td>272,553</td>
<td>272,553</td>
<td>272,553</td>
<td>272,553</td>
<td>67,537</td>
<td>9,958</td>
<td>67,537</td>
<td>272,553</td>
<td>272,553</td>
<td>272,553</td>
<td>272,553</td>
<td>272,553</td>
<td>272,553</td>
<td>272,553</td>
</tr>
</tbody>
</table>

| **Financial**                | 2,407   |          |         |          |          |         |          |       |       |     |      |      |        |            |         |          |          |
| **TOTAL**                    | 270,146 | 270,146   | 270,146 | 270,146  | 270,146  | 270,146 | 270,146  | 67,537| 9,958 | 67,537| 270,146| 270,146| 270,146| 270,146 | 270,146| 270,146| 270,146 |

| **Cumulative Dev**           | 60,553  | 11,699    | 25%     |          |          |         |          |       |       |     |      |      |        |            |         |          |          |
| **Cumulative Dev**           | 105,399 |          |         |          |          |         |          |       |       |     |      |      |        |            |         |          |          |
| **Cumulative Dev**           | 202,610 |          |         |          |          |         |          |       |       |     |      |      |        |            |         |          |          |
| **Cumulative Dev**           | 262,649 |          |         |          |          |         |          |       |       |     |      |      |        |            |         |          |          |
| **Cumulative Dev**           | 421,706 |          |         |          |          |         |          |       |       |     |      |      |        |            |         |          |          |
| **Cumulative Dev**           | 494,447 |          |         |          |          |         |          |       |       |     |      |      |        |            |         |          |          |
| **Cumulative Dev**           | 760,475 |          |         |          |          |         |          |       |       |     |      |      |        |            |         |          |          |
| **Cumulative Dev**           | 794,270 |          |         |          |          |         |          |       |       |     |      |      |        |            |         |          |          |

**Termination Payment Option B**
- 100% Termination Fee
- 75% Termination Fee
- 50% Termination Fee
- 25% Termination Fee

**Cumulative Dev + Termination Payment B**
- 100% Termination Fee
- 75% Termination Fee
- 50% Termination Fee
- 25% Termination Fee

**Termination Payment Option B**
- 100% Termination Fee
- 75% Termination Fee
- 50% Termination Fee
- 25% Termination Fee

**Cumulative Dev + Termination Payment B**
- 100% Termination Fee
- 75% Termination Fee
- 50% Termination Fee
- 25% Termination Fee

**Revenue Recognition**
- 100% Revenue Recognition
- 75% Revenue Recognition
- 50% Revenue Recognition
- 25% Revenue Recognition

**Cumulative Dev + Revenue Recognition**
- 100% Revenue Recognition
- 75% Revenue Recognition
- 50% Revenue Recognition
- 25% Revenue Recognition

**Comments:**
- All fees are subject to change based on actual project costs.
- All fees are subject to change based on actual project costs.
- All fees are subject to change based on actual project costs.
- All fees are subject to change based on actual project costs.

**Revenue Recognition:**
- 100% Revenue Recognition
- 75% Revenue Recognition
- 50% Revenue Recognition
- 25% Revenue Recognition

**Cumulative Dev + Revenue Recognition:**
- 100% Revenue Recognition
- 75% Revenue Recognition
- 50% Revenue Recognition
- 25% Revenue Recognition

**Termination Payment Option B:**
- 100% Termination Fee
- 75% Termination Fee
- 50% Termination Fee
- 25% Termination Fee

**Cumulative Dev + Termination Payment B:**
- 100% Termination Fee
- 75% Termination Fee
- 50% Termination Fee
- 25% Termination Fee
<table>
<thead>
<tr>
<th>Jan</th>
<th>Feb</th>
<th>Mar</th>
<th>Apr</th>
<th>May</th>
<th>June</th>
<th>July</th>
<th>Aug</th>
<th>Sept</th>
<th>Oct</th>
<th>Nov</th>
<th>Dec</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Note: The table contains numerical data with various entries across different columns and rows.*
<table>
<thead>
<tr>
<th>December</th>
<th>January</th>
<th>February</th>
<th>March</th>
<th>April</th>
<th>May</th>
<th>June</th>
<th>July</th>
<th>Forecast</th>
</tr>
</thead>
<tbody>
<tr>
<td>Financial Close</td>
<td>Total</td>
<td>Total</td>
<td>Total</td>
<td>Total</td>
<td>Total</td>
<td>Total</td>
<td>Total</td>
<td>Total</td>
</tr>
<tr>
<td>72,000</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>72,000</td>
</tr>
<tr>
<td>2,605</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>2,605</td>
</tr>
<tr>
<td>217,734</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>217,734</td>
</tr>
<tr>
<td>5,000</td>
<td>5,000</td>
<td>5,000</td>
<td>5,000</td>
<td>5,000</td>
<td>5,000</td>
<td>5,000</td>
<td>5,000</td>
<td>35,000</td>
</tr>
<tr>
<td>5,000</td>
<td>5,000</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>5,000</td>
</tr>
<tr>
<td>300,000</td>
<td>100,000</td>
<td>400,000</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>657,000</td>
</tr>
<tr>
<td>3,967</td>
<td>47,000</td>
<td>3,967</td>
<td>47,000</td>
<td>3,967</td>
<td>47,000</td>
<td>3,967</td>
<td>47,000</td>
<td>110,800</td>
</tr>
<tr>
<td>5,000</td>
<td>5,000</td>
<td>5,000</td>
<td>5,000</td>
<td>5,000</td>
<td>5,000</td>
<td>5,000</td>
<td>5,000</td>
<td>30,000</td>
</tr>
<tr>
<td>5,000</td>
<td>5,000</td>
<td>5,000</td>
<td>5,000</td>
<td>5,000</td>
<td>5,000</td>
<td>5,000</td>
<td>5,000</td>
<td>30,000</td>
</tr>
<tr>
<td>100,000</td>
<td>400,000</td>
<td>100,000</td>
<td>400,000</td>
<td>100,000</td>
<td>400,000</td>
<td>100,000</td>
<td>400,000</td>
<td>1,000,000</td>
</tr>
<tr>
<td>200</td>
<td>200</td>
<td>200</td>
<td>200</td>
<td>200</td>
<td>200</td>
<td>200</td>
<td>200</td>
<td>600</td>
</tr>
<tr>
<td>3,191,769</td>
<td>3,284,239</td>
<td>3,360,532</td>
<td>3,437,207</td>
<td>4,620,265</td>
<td>4,850,810</td>
<td>4,850,810</td>
<td>4,850,810</td>
<td>10,401,801</td>
</tr>
<tr>
<td>5,464,310</td>
<td>5,464,310</td>
<td>5,464,310</td>
<td>5,464,310</td>
<td>5,464,310</td>
<td>5,464,310</td>
<td>5,464,310</td>
<td>5,464,310</td>
<td>5,464,310</td>
</tr>
</tbody>
</table>

2023
SUMMARY OF MAJOR TERMS

GROUND LEASE AGREEMENT

between

UNIVERSITY OF HAWAI’I

and

CHF-______ LLC

for the

Student Housing Mixed-Use Rental Project

at the University of Hawai’i at Mānoa

1. PARTIES

a. Landowner/University. UNIVERSITY OF HAWAI’I, the state university and a body corporate established under the laws of the State of Hawai’i, and its successor and assigns (“University”).

b. Project Owner/Lessee. CHF-______ LLC, a single member limited liability company to be organized and established under the laws of the State of Alabama, and its successors and assigns, whose sole member is the Foundation (“Lessee”).

2. KEY DEFINITIONS

a. "Campus" means the University of Hawai’i at Manoa campus defined in PRU Permit No. 2009/PRU-3 (Resolution 09-341, CD1, FD1), issued by the City and County of Honolulu, as amended from time to time.

b. "Construction Documents" means, collectively, the Development Agreement, the Construction Contract, the Architect's Agreement, and all those other contracts and/or agreements between the Lessee and any person or firm rendering services or supplying material in connection with the development, construction, furnishing, and equipping of the Student Housing Facility including the provider of any solar energy facilities, which shall not be inconsistent with this General Lease.

1 This document is a summary of material terms the University intends to be included in the subject ground lease; the Lessee has not yet agreed to these terms. Any substantive deviation from these terms will require further Board of Regents approval.
c. "Developer" means Greystar Development Services, LLC ("Greystar").

d. "Eligible Tenants" means any person: (i) who is a student enrolled in classes at University; (ii) who is attending a program presented and conducted by University; or (iii) who is a member of the faculty or staff of the University, whose presence on the Campus is deemed desirable by the University to the effective provision of University's programs and services at the Campus, or a member of the household of such person that is either the spouse or a dependent of such person or such spouse.

e. “Environmental Laws” means all: (a) federal, state, county, and local laws, statutes, regulations, rules, ordinances, codes, and licenses; (b) standards, directives, interpretations, orders, approvals, plans, authorizations, concessions, franchises, conditions of approval, and similar items mandated by any Governmental Authority; (c) permits of which University has notified Lessee, or of which Lessee knows or has reason to know; and (d) legislative, administrative or judicial orders, decrees, requirements, rulings, or judgments of any Governmental Authority, all of which now or in the future may relate or be applicable to the protection of human health or safety or to the environment, including, without limitation: (i) all requirements pertaining to reporting, licensing, permitting, investigation, and remediation of emissions, discharges, releases, or threatened releases of hazardous materials, chemical substances, pollutants, contaminants, or hazardous or toxic substances, materials or wastes whether solid, liquid or gaseous in nature, into the air, surface water, groundwater, or land, or relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport, or handling of chemical substances, pollutants, contaminants, or hazardous or toxic substances, materials, or wastes, whether solid, liquid, or gaseous in nature; (ii) all requirements pertaining to the protection of natural resources or of the health and safety of employees or the public; and (iii) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, the Resource Conservation and Recovery Act, as amended by the Solid and Hazardous Waste Amendments of 1984, the Federal Insecticide, Fungicide and Rodenticide Act, as amended, the Hazardous Materials Transportation Act, the Clean Water Act, the Clean Air Act, the Toxic Substances Control Act, the Safe Drinking Water Act, as the same may be amended from time to time, and any similar federal, State of Hawai‘i (including without limitation Hawai‘i Revised Statutes Chapters 128D and 342B through 342P, inclusive), and county laws and ordinances, and regulations now or hereafter adopted, accomplished, and promulgated pursuant thereto applying to the Premises and/or the Property, or any portion thereof.
f. “Hazardous Materials” means any substance, element, compound, mixture or solution (whether solid, liquid or gas): (a) the presence of which requires investigation or remediation under any Environmental Laws; or (b) which is now or at any time hereafter in effect becomes defined as a “hazardous waste,” “hazardous substance,” pollutant or contaminant under any Environmental Laws; or (c) which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, or otherwise hazardous and is or becomes regulated by any Governmental Authority; or (d) the presence of which on the Premises and/or the Property causes or threatens to cause a nuisance upon the Premises and/or the Property or to adjacent properties or poses or threatens to pose a hazard to the health or safety of persons, to property or to the environment, on or about the Premises and/or the Property; or (e) which is or which contains, fuel, oil, sludge, crude oil or residue, trichloropropane, Microbial Matter, petroleum and petroleum products, asbestos and asbestos-containing materials, polychlorinated biphenyls, lead, or radon. The term “Microbial Matter” means fungi or bacterial matter which reproduces through the release of spores or the splitting of cells, including, but not limited to, mold, mildew, and viruses, whether or not such Microbial Matter is living.

g. "Foundation" means Collegiate Housing Foundation, a non-profit corporation duly organized and existing under the laws of the State of Alabama, and its successors and assigns.

h. "Manager" means, initially, Greystar, and thereafter, any other management company employed by the Lessee to manage the Project, with the consent of the University.

i. "Management Agreement" means: (i) the Management Agreement between Lessee and the Manager, as the same may be amended and/or supplemented from time to time; and (ii) any management or similar agreement in such form as may be approved by University in its sole discretion, between Lessee and any successor Manager relating to the management of the Project, pursuant to which the Manager agrees to perform all obligations of Lessee for the management of the Project (other than such ministerial and administrative acts as can only be performed by Lessee) and to otherwise manage the Project in a manner consistent with the terms of this Ground Lease and the Bond Documents, as the same may be amended and/or supplemented from time to time with the consent of University. The Management Agreement shall not include any terms which, as determined by Lessee in its sole discretion, would be inconsistent with or in any way jeopardize the Foundation’s tax-exempt status, and shall otherwise be in form satisfactory to Lessee and the Foundation. As it relates to
the Childcare Facility, University shall operate the Childcare Facility as provided herein; provided that, Lessee shall cause the Management Agreement to include the Childcare Facility as to all other aspects of property management consistent with the rest of the Project including but not limited maintenance of common areas, provisions for collection and payment of pro rata share of shared Project utilities and services, other terms and conditions to be negotiated with University.

j. "Offsite Improvements" means the utility lines, landscape, and hardscape to be constructed by the Developer pursuant to the Construction Documents on land owned by University that is not part of the Property located within the Construction Area.

k. "Plans and Specifications" means the detailed plans and specifications for all of the construction of the Project fully identifying and describing all site work, architectural, mechanical, electrical, structural and plumbing systems, materials, signage, design, colors of exterior paints, and other finishes prepared by the Architect or by other architects and engineers acceptable to University as amended from time to time by Lessee with the consent of University.

l. "Premises" means the Project acquired or developed by Lessee on the Property.

m. "Project" means the designing, building, financing, operating, and maintaining a structure and facilities consisting of: (i) an approximately 558-bed student housing facility ("Student Housing Facility"); (ii) a gross leasable area of approximately 9,285 square feet located on the first floor that will house the University’s Childcare Center in addition to approximately 3,410 square feet of play area dedicated to the Childcare Center on the Land ("Childcare Facility"); and (iii) a gross leasable area of approximately 800 square feet located on the first floor to be used for commercial activity that supports the project ("Retail Facility"), all Personalty, and various related amenities and improvements to be financed by the private bonds.

n. "Property" means the parcel of land designated Tax Map Key No. (1) 2-8-023:009, containing approximately 2.218 acres, located on the Campus.

3. TERM

a. Forty-five (45) to fifty (50) years. The intent is to commence on ______________, 2023.
4. **RENT**

   a. Net Available Cash Flow, which is the amount transferred to a Surplus Fund at the end of each Annual Period and available for transfer to University in accordance with this Ground Lease and the Trust Indenture. The Trust Indenture essentially sets forth revenues of the Project less Project debt service, costs, fees, and expenses, including annual payments to Foundation, management fees, utilities, maintenance, etc.

   b. If the Net Available Cash Flow for an Annual Period is zero (0) or a negative amount, no Rent shall be paid to University.

5. **UNIVERSITY CONTRIBUTION**

   University will contribute TWO MILLION DOLLARS ($2,000,000) annually to the Project to subsidize rents charged to students, faculty, and staff so that rents remain below comparable units at fair market value.

6. **FINANCING OF THE PROJECT**

   Except as otherwise set forth in this Ground Lease, Lessee shall, at its own cost and expense, obtain all financing required for the design, acquisition, construction, furnishing, and equipping of the Project, including the issuance of the private bonds. University agrees to cooperate with and to provide such reasonable assistance as Lessee may need to facilitate the issuance of the private bonds, including making such amendments to this Ground Lease as may reasonably be required provided, however, that terms of all such financing or any amendment or renewal, thereof during the term of this Ground Lease shall, in any event, be subject to the prior approval of University which may include its Board of Regents, and provided further that any refinancing, or refunding of any such financing shall also require the prior approval of University which may include its Board of Regents. The University’s approval of the Bond Documents, which shall not be inconsistent with this General Lease, shall be evidenced by its execution and delivery of this Ground Lease, after a reasonable opportunity for the University to review and comment.

7. **TAXES AND ASSESSMENTS**

   Lessee shall bear and pay to the public officer charged with the collection thereof, before the same shall become delinquent, and shall indemnify, save, and hold harmless University from the payment of, any and all taxes, assessments, license fees, excises, imposts, fees, and charges of every sort, nature, and kind. University shall support the
efforts of Lessee to pursue any exemptions from taxes and assessments the Project may be eligible for. University understands the current Project operating statement assumes a full or partial property tax abatement.

8. UTILITY SERVICES

a. Lessee shall make application for, obtain and pay for, and be solely responsible for, all utilities required, used, or consumed on the Premises.

b. Upon completion of the Project, including any utility lines included in the Offsite Improvements, University shall grant such easements and rights to the utilities providing Lessee Utility Services as are necessary to allow access to utility infrastructure located on the Campus.

9. PAYMENTS FOR LESSEE BY UNIVERSITY

If Lessee fails to procure the insurance required to be procured by Lessee under this Ground Lease or fails to pay any premium of insurance, tax, or any other sum in this Ground Lease required to be paid by Lessee (other than Rent), University may seek remedies. Any sum(s) so paid or expended by University on behalf of Lessee shall immediately be reimbursed and paid by Lessee to University as additional rent within twenty (20) days after demand by University.

10. INTEREST ON UNPAID AMOUNTS

Any sums that are payable by Lessee to University under this Ground Lease (including any Rent) and that are not paid to University within ten (10) days after the due date thereof shall bear interest at the rate of ten percent (10%) per annum from the due date thereof through the date payment of the same is made.

11. COMPLIANCE BY LESSEE WITH LAWS AND ORDINANCES

At all times during the term of this Ground Lease, Lessee shall conform to, obey, and comply in all material respects with all present and future laws, ordinances, and regulations of all legally constituted authorities existing at the commencement of the term of this Ground Lease or at any time during the continuance of the term hereof which in any way are applicable to this Ground Lease or the use of the Premises or any repair, replacement, demolition, renovation, construction, restoration, or excavation being done on or to the Premises.
12. **QUIET ENJOYMENT**

University represents that it owns fee simple, marketable title to the Property subject to no restrictions, liens, or other encumbrances other than Permitted Encumbrances. University further covenants and agrees that, throughout the term of this Ground Lease, Lessee may peaceably and quietly enjoy the Property subject, however, to zoning and land use restrictions, Permitted Encumbrances, and Lessee's fulfillment of the covenants and agreements contained in this Ground Lease.

13. **HAZARDOUS MATERIALS**

   a. Lessee shall not, and shall ensure and require that Lessee and its officers, employees, agents, representatives, contractors, consultants, vendors, customers, and invitees (collectively, the “Lessee Agents”) shall not, cause or permit: (i) the escape, disposal, or release of any Hazardous Materials (as defined herein) except as permitted by law; (ii) the storage or use of such Hazardous Materials in any manner not sanctioned by law or the highest standards prevailing in the industry for the storage and use of such Hazardous Materials; or (iii) such Hazardous Materials to be brought on or within the Premises and/or the Property, except to use in the ordinary course of business, and then only after written notice is given to University of the identity of such Hazardous Materials and upon University’s consent, which consent may be withheld at University’s sole and absolute discretion.

   b. Lessee is responsible for Hazardous Materials impacts.

   c. In the event that any Hazardous Materials are used, stored, treated, or disposed on or within the Premises and/or the Property, or handled, discharged, released, or determined to be present on or from the Premises and/or the Property due to, caused by, or attributable to the acts or omissions of Lessee and/or any of Lessee Agents, Lessee shall, at Lessee’s cost and expense and at no cost to University, remediate the affected portions of the Premises and/or the Property, of any such Hazardous Materials, and dispose of/remove said Hazardous Materials. In addition, Lessee agrees to restore the affected portions of the Premises and/or the Property, at Lessee’s cost and expense and at no cost to University, to the same condition in which they existed at the Commencement Date, to University’s satisfaction.

   d. Lessee shall indemnify, defend with counsel reasonably acceptable to University, and hold harmless University and its officers, employees, agents, representatives, contractors, and others acting for or on behalf of University (“University Agents”)
from any liability that may arise in connection with, or by reason of, the release or presence of Hazardous Materials.

e. Lessee hereby agrees to release University, University Agents, and their successors and assigns from any liability of any kind by reason of any: (1) pre-existing Hazardous Materials or any act or omission by University with respect thereto prior to the Effective Date, to the extent identified in a Phase I Environmental Site Assessment prepared in accordance with ASTM E1527-21 or similar standard acceptable to University prepared and shared with University upon execution of this Ground Lease; or (2) Hazardous Materials that may be present by or as a result of the use of the Premises and/or the Property by Lessee or any of Lessee Agents, unless such actions which result in liability for damages, penalties, fines, judgments, or assessments imposed are caused by University after the Effective Date.

14. COMPLIANCE WITH ENVIRONMENTAL LAWS

Lessee agrees, at its sole expense and cost, to comply with all Environmental Laws that apply to the Premises and the Property during the Term or to Lessee’s occupancy or use of or activities on the Premises and/or the Property. This duty shall survive the expiration or termination of this Ground Lease which means that Lessee’s duty to comply with the Environmental Laws shall include complying with all Environmental Laws that may apply, or be determined to apply, to the occupancy and activities of Lessee on or within the Premises and/or the Property after the expiration or termination of this Ground Lease.

15. CONSTRUCTION OF IMPROVEMENTS

a. Lessee shall cause the Developer to commence and pursue to substantial completion the construction of the Project and the Offsite Improvements pursuant to the Construction Documents by Fall 2025.

b. Any approvals or rejections required by University shall be limited to University determining consistency with applicable Campus plans and policies. University’s approval shall not relieve Lessee and/or the Developer from any obligation to obtain all other necessary approvals and permits required by various governmental agencies, or from complying in all material respects with the Plans and Specifications, the Construction Documents, and all applicable building codes and ordinances, including University’s approval of construction and University’s approval of construction documents. The University’s approval of the Construction Documents shall be
evidenced by its execution and delivery of the Ground Lease, after a reasonable opportunity for the University to review and comment.

c. As security for Lessee's performance hereunder as it relates to the design and construction of the Project Lessee grants to University a security interest in the Construction Documents subject to the rights of the Trustee and the Issuer under the Bond Documents.

d. If there is a construction default, University may assert the rights of Lessee under the terms of the Construction Documents or such other design and construction documents, as the case may be.

e. Once the Plans and Specifications are submitted to and approved by University or the Plans and Specifications are deemed approved, Lessee may, with the consent or approval of University, order, authorize, or perform any change or substitute work or materials in prosecuting the construction of the improvements. The University’s approval of the Plans and Specifications shall be evidenced by its execution and delivery of the Ground Lease, after a reasonable opportunity for the University to review and comment.

f. To the extent reasonably possible, development and construction of the Project shall be done so as to minimize disruption of University’s operations. All construction activities must be coordinated with the appropriate departments of University.

g. University agrees and does hereby grant to Lessee and its successors, assignees, invitees, employees, and sublessees, a non-exclusive right of entry on, over, across, and through the portion of the Campus for the development, construction, operation, and maintenance of the Project and for the development and construction of the Offsite Improvements.

h. As a construction expense, Lessee covenants and agrees to pay or cause to be paid, currently as they become due and payable in accordance with the terms of the Bond Documents, as the case may be, all bills for labor, materials, insurance, and bonds, and all fees of Developer, architects, engineers, contractors, and subcontractors and all other costs and expenses incident to any construction in or on the Project.

i. Except for the rights of Issuer, the Trustee, and/or another permitted Leasehold Mortgagee, Lessee's rights, as well as the rights of anyone else shall always be and remain subordinate, inferior, and junior to University's title, interest, and estate in the Property.
j. The title to all improvements now or hereafter located on the Property including those to be constructed in accordance with the Plans and Specifications and the Construction Documents shall be vested in Lessee until the Termination Date, at which time all title to and ownership of said improvements shall automatically and immediately vest (without the necessity of any further action being taken by Lessee or University or any instrument being executed and delivered by Lessee to University) in University.

k. Lessee shall require and cause the Developer to require any architects, engineers, contractors, subcontractors, specialists, and consultants engaged in connection with the construction of the Project to perform their respective obligations under the terms of the Construction Documents to be licensed in accordance with State law and to obtain and maintain errors and omission insurance and commercial payment and performance bonds.

l. Lessee shall provide or cause to be provided to University commercial payment and performance bonds for the construction of the Project.

m. As soon as practicable (however, in no event to exceed six (6) calendar months) after the substantial completion of any phase of the Project, Lessee shall furnish or cause the Developer to furnish to University such documentation regarding the “as-built” improvements as required under the Construction Documents.

n. If the Developer fails to deliver the number of units of the Project required by the Construction Documents to be ready and available for occupancy by the date required thereunder, then Lessee shall require the Developer to arrange for alternative housing reasonably acceptable to University for the residents who have contracted to reside in the Project housing until the Project is ready and available for occupancy.

o. Lessee shall cause its Developer to deliver portions of the first floor of the building to be used for the Childcare Facility to University in a condition suitable for finishing improvements by University. Lessee shall set aside an area outside the building to be Constructed, for the sole use of University, as a play area for children enrolled in the Childcare Center. University may build or landscape barriers and install appurtenant amenities. University shall cause to be paid to Greystar up to TEN MILLION DOLLARS ($10,000,000) of funding provided by the Hawai‘i State School Facilities Authority (“SFA”) to University under the Memorandum of Agreement, dated ______________ (“MOA”), for the development and delivery of the pre-kindergarten Childcare Facility consistent with the requirements of the MOA.
University, or at University’s sole discretion an operator selected by the University, shall operate the Childcare Facility. University shall cause to be paid its pro rata share of utilities for the Childcare Facility; provided that, University shall not pay any other costs of fees, including rent, for its use of the Childcare Facility for the Term of this Ground Lease.

p. Upon execution of this Ground Lease, University will cause to be paid to Greystar up to EIGHT MILLION DOLLARS ($8,000,000) to reimburse costs enumerated and approved in the University of Hawai‘i at Mānoa New Multi-Family Mixed-Use Rental Project Development Pre-Closing Agreement, entered into between Greystar and University, effective April 30, 2020, as amended (“PCA”). As a precondition to payment, Greystar and University shall execute a mutual cancellation, release, and termination agreement regarding the PCA. Title to documents under this Section shall transfer to University upon the termination of the Ground Lease.

16. OPERATION OF PROJECT

a. Upon completion of construction of the Project, Lessee shall operate, or cause to be operated, all such improvements as a student housing facility to serve Eligible Tenants, except for the Childcare Facility which shall be operated by University as provided herein.

b. Lessee shall enter into the Management Agreement with a management entity, but shall not enter into any other management agreement with respect to the Project without University’s consent.

c. The University acknowledges that the cooperation of the University as described below is an important consideration and incentive in the decision by the Lessee to assist the University by undertaking the financing of the Project and the other obligations of the Lessee contemplated hereby. University agrees to:

(i) allow the Project to be part of the long-range development plan for the Campus and the Campus plan review use permit issued by the City and County of Honolulu;

(ii) generally include the Student Housing Facility in overall information and marketing materials regarding student housing available to students attending University and prospective students attending University, commencing at a reasonable time before the anticipated Substantial Completion of the Project;
(iii) provide students residing at the Student Housing Facility with access to the computer network;

(iv) take into account the Student Housing Facility in University’s planning for future student housing projects that serve students attending University;

(v) not to construct or otherwise sponsor any additional graduate student housing facilities on the UH Mānoa campus that create additional graduate student housing beds, unless demand for additional graduate student housing beds is supported by a student housing demand study; provided that, this subsection shall not apply to renovation or replacement of UH Mānoa Student Housing Facilities that do not result in additional graduate student housing beds on the UH Mānoa campus. For purposes of this Agreement, “UH Mānoa Student Housing Facilities” means the student housing facilities, located on Campus, which are known as Hale Aloha Lehua, Hale Aloha ‘Ilima, Hale Aloha Mokihana, Hale Aloha Lokelani, Frear Hall, Gateway House, Johnson Hall, Hale Ānuenue, Hale Kahawai, Hale Laulima, Hale Wainani, Hale Noelani, and the privately owned and operated RISE project.

(vi) allow parking on Campus available to residents residing at the Student Housing Facility on the same availability, terms, and conditions as persons residing in Campus student housing facilities; and

(vii) provide internet service to Student Housing Facility for a fee.

d. Lessee agrees to cause the Manager pursuant to the Management Agreement to:

(i) be solely responsible for the management and operation of the Project independent from University, except for the Childcare Facility which shall be operated by University as provided herein;

(ii) process residential applications and agreements for the Student Housing Facility;

(iii) provide beds in the following order of priority: Campus graduate students, Campus undergraduate students, any students attending University, and if no qualified students are available, then University faculty and staff;

(iv) comply with applicable University Student Conduct Code policies, as amended, posted at studentaffairs.manoa.hawaii.edu/policies/conduct_code/, and required University health clearances required before entering the Campus;
establish an advisory committee which will review and make recommendations to Lessee and Manager regarding the annual operating and capital improvements budgets for the Student Housing Facility, marketing, promotions and advertising plans, review of management reports by the property manager, and other operational issues, including without limitation rental rates and housing policies ("Committee"). The Committee shall have five (5) members. Two (2) members shall be appointed by University, and three (3) members appointed by Lessee. All recommendations from the Committee shall be made by majority vote;

manage move-in and move-out of residences in coordination with University to ensure impacts to Campus operations are avoided, minimized, or mitigated;

handle all financial collections related to the Student Housing Facility;

provide a security system and coordinate access to the Project with Campus’ Department of Public Safety ("DPS") as appropriate;

collect, but not actively monitor, security camera footage, have cloud back-up, and provide DPS and/or law enforcement with access to feeds as needed for the investigation of infractions and/or criminal violations;

maintain equipment cabling, access points, and all other Campus internet related requirements;

assign and enforce on-site parking at the Project; and

report annually on how Lessee is using University’s contribution to subsidize rents for some of all units within the Project.

17. SECURITY INTEREST

As security for Lessee’s performance of its obligations hereunder and subject to the rights of the Trustee and the Issuer under the Bond Documents, Lessee assigns and pledges to University, and grants to University a security interest in, all of Lessee’s right, title, and interest in and to the Construction Documents, subject to subordination to the lender’s security interests and permitted Leasehold Mortgagee.
18. **ASSIGNMENT OF LEASE**

Lessee, and its successors and assigns, shall not have the right to assign or transfer this Ground Lease or any interest herein or any right or privilege appurtenant hereto or to sublease the Premises or any portion thereof, unless the written consent of University is first had and obtained, except as expressly set forth in this Ground Lease, e.g., in event of foreclosure or other default.

19. **MAINTENANCE OF PROPERTY**

Lessee shall, at all times during the term of this Ground Lease, at Lessee's sole cost and expense, keep and maintain the Property and all adjoining areas out to the perimeter pavement, and appurtenances and every part thereof, and any and all buildings, other structures or improvements that may exist on, in, or be made a part of the Premises, in good order and condition, ordinary wear and tear excepted, and make all necessary repairs thereto, interior and exterior, structural and nonstructural, ordinary and extraordinary, and foreseen and unforeseen. Lessee shall operate the Project and make expenditures in connection with the Project in accordance with the Annual Budget.

20. **ANNUAL BUDGET**

Lessee shall cause the Manager, in consultation with Lessee, to develop in good faith, in its discretion and after consultation with University, a line-item operation and capital budget for the Project for each Annual Period including proposed rental rates. University shall give Lessee notice of its approval of the Annual Budget and rental rates as submitted or of its disapproval of one or more of the matters contained therein not later than sixty (60) days prior to the commencement of such Annual Period.

21. **INDEMNIFICATION; RESPONSIBILITY**

a. Only to the extent of Lessee's rights to and ownership interest in the Project or required insurance coverage which shall be the sole source of compensation available to University and University Agents, whichever is higher, Lessee hereby releases and agrees to indemnify and hold harmless University and all of its University Agents of and from any and all claims, demands, liabilities, losses, costs, or expenses for any loss including but not limited to bodily injury (including death), personal injury, property damage, expenses, and reasonable attorneys' fees, caused by, growing out of, or otherwise happening in connection with this Ground Lease, due to any negligent act or omission on the part of Lessee, Lessee Agents, or others working at the direction of Lessee or on its behalf, or due to the application or violation of any pertinent federal,
State, or local law, rule, or regulation but shall not include any liability for any criminal, tortious, or intentional acts of University or University Agents. This indemnification extends to the successors and assigns of Lessee, and this indemnification survives the expiration or termination of this Ground Lease and the dissolution or, to the extent allowed by law, the bankruptcy of Lessee.

b. University cannot indemnify third parties or be responsible for third party liability; however, University agrees to be responsible for its employees and officers acting within the scope of their employment or authority.

22. INSURANCE

Lessee shall maintain, or cause Developer, Manager, and/or contractors to maintain: Property and Casualty; All Risk and Builder’s Risk; Business interruption insurance; Commercial General Liability; Automobile; Excess Umbrella; and Worker’s Compensation Insurance, with coverages deemed sufficient and insurers meeting the standards required by University Office of Risk Management. Lessee shall also obtain and maintain such higher amounts and/or additional types of insurance as may be required under the Bond Documents.

23. DAMAGE AND DESTRUCTION

a. Should any building or other structures or improvements constructed and located by Lessee on or within the Premises be damaged or destroyed by fire or any other casualty whatsoever during the term of this Ground Lease, Lessee shall, within ninety (90) days from the date of such damage or destruction, commence the work of repair, reconstruction, restoration, or replacement and shall prosecute the same with all reasonable dispatch, such that the buildings, other structures or improvements shall be repaired, reconstructed, or restored as nearly as practicable to the same condition as prior to such damage or destruction, subject to certain limitations. Notwithstanding the above, the parties recognize that the Bond Documents contain provisions governing the actions of the Lessee upon damage or destruction of all or part of the Premises and agree that so long as the Bond Documents are outstanding: (i) the compliance by the Lessee with the provisions thereof regarding damage or destruction shall constitute compliance by the Lessee hereunder; and (ii) this Ground Lease shall be interpreted in a manner consistent with the provisions of the Bond Documents, as applicable.

b. If the above is not substantially completed within a reasonable time after the date of such damage or destruction, University may terminate this Ground Lease with a right
of Lessee to cure, but subject in all events to the requirements of the Bond Documents, in such event, University shall receive the proceeds of all insurance obtained to the extent such proceeds have not been expended on or committed to such repairs.

24. CONDEMNATION

Subject to the controlling provisions of the Bond Documents, University to recover just and adequate compensation from any such condemnor. If the property is totally condemned, Lessee first shall be entitled to receive a portion of the condemnation proceeds equal to the principal balance and accrued interest on and all other sums owing under the Leasehold Mortgage and University the balance. If the property is partially condemned, provisions of this Ground Lease shall remain in full force and effect as to the portion of the Property not condemned.

25. ACCESS TO PREMISES

University and their authorized representatives, agents, employees, and attorneys may, but shall be under no duty to, enter the Premises at reasonable times and hours, subject to the rights of tenants in possession, if any, to inspect the Property in order to determine whether Lessee is complying with its undertakings, duties, and obligations under this Ground Lease.

26. PROPERTY SUBJECT TO ZONING

Lessee takes the Property subject to all zoning regulations and ordinances now or hereafter in force including, but not limited to, those as to building line and setback.

27. EVENT OF DEFAULT AND REMEDIES

a. Default events include Lessee’s failure to pay the Rent; Lessee’s failure to perform or cause to be performed any other term, covenant, condition, or provision of this Ground Lease after applicable notice and cure periods; Lessee is adjudicated a bankrupt; a permanent receiver is appointed; Lessee takes advantage of any debtor relief proceedings whereby the Rent is reduced or deferred; Lessee makes a general assignment for benefit of creditors; or the Premises or Lessee’s effects or interests therein are levied upon or attached under process against Lessee.

b. Remedies include termination of this Ground Lease or re-let the Premises upon obtaining the written consent of any Leasehold Mortgagee.
c. University may not terminate this Ground Lease if Lessee has made all required payments of Rent and is operating and maintaining the Premises as provided under this Ground Lease.

d. If University fails to perform or cause to be performed any term, covenant, condition, or provision imposed under this Ground Lease, Lessee or Leasehold Mortgagee may after applicable notice and cure periods perform, on behalf and at the expense of University; cure such University Event of Default in any other manner; and pursue any combination of such remedies, other than termination of this Ground Lease.

28. EXPIRATION OR TERMINATION

a. Upon the termination or expiration of this Ground Lease from any cause, all rights and interests of Lessee, and all persons whomsoever claiming by, through or under Lessee (with the exception of the rights of Leasehold Mortgagees), shall immediately cease and terminate, and the Premises, including all buildings, improvements, engines, machinery, dynamos, generators, boilers, furnaces, elevators, fire escapes, and all lifting, lighting, heating, cooling, refrigerating, air conditioning, ventilating, gas, electric and plumbing apparatus, appliances and fixtures, as well as other fixtures attached to or within the Premises, and all personal property located thereon, shall thence forward constitute and belong to and be the absolute property of University or University's successors and assigns, without further act or conveyance, and without liability to make such compensation to Lessee or to anyone whomsoever, and free and discharged from all and every lien, encumbrance, claim and charge of any character created or attempted to be created by Lessee at any time. Lessee agrees, at the termination of this Ground Lease, to surrender unto University, all and singular the Premises with then existing buildings, other structures and improvements constructed and located thereon and therein, in the same condition as when the construction of such buildings, other structures, and improvements was completed, only natural and normal wear and tear excepted, unless Lessee shall be relieved of Lessee's obligation to repair, reconstruct, restore or replace damaged or destroyed buildings, other structures or improvements.

b. Upon the expiration of the term of this Ground Lease, or upon the prior termination of this Ground Lease from any cause, all expense items prepaid by Lessee with respect to constructing, operating, maintaining, and protecting the Premises shall inure to the benefit of and become the property of University.
c. Upon the expiration of the term of this Ground Lease, or upon the prior termination of this Ground Lease from any cause, and subject to the interest of the Issuer, the Lessee, the Trustee, and/or Leasehold Mortgagee, any amounts remaining in any fund, account, or reserve created in connection with the maintenance of the Property, or the management of the Project, shall inure to the benefit of and become the property of University.

29. MORTGAGING THE LEASEHOLD

a. Lessee, and every successor and assign of Lessee, shall have the right to encumber its interest in this Ground Lease or the Premises with University's consent, which consent shall not be unreasonably withheld, under any one or more Leasehold Mortgages. There shall be no cancellation, surrender, or modification of this Ground Lease by University or Lessee without the prior written consent of any Leasehold Mortgagee.

b. In the event of any foreclosure under any Leasehold Mortgage, title and interest encumbered by such Leasehold Mortgage may, without the consent of University, be assigned to and vested in the purchaser at such foreclosure sale subject and subordinate, however, to the rights, title, and interests of University.

c. In the event of a termination of this Ground Lease by reason of any Event of Default, and subject to the rights herein granted to Leasehold Mortgagees, the Leasehold Mortgagee shall have the option to enter into a Mortgagee Lease.

d. If an Event of Default occurs and University in its sole discretion elects to terminate this Ground Lease and the Leasehold Mortgagee does not elect to enter into a mortgagee lease, then, as a condition to University's right to terminate this Ground Lease, University shall either pay to the Leasehold Mortgagee the outstanding amount payable by Lessee under the Bond Documents which shall, in any event, be sufficient to pay the Bonds in full in accordance with the provisions of the Trust Indenture or assume in writing Lessee's obligations under the Bond Documents and grant to the Leasehold Mortgagee a perfected, first priority security interest in the general revenues for the purpose of securing such obligations. Any other provision notwithstanding, nothing in this Section or this Ground Lease shall require University to terminate this Ground Lease.

e. Leasehold Mortgagee permitted under this Ground Lease is not liable under this Ground Lease; required to cure any Event of Default. However, if Leasehold Mortgagee becomes a lessee under this Ground Lease then Leasehold Mortgagee shall
be responsible and liable for all obligations and covenants accruing during such 
Leasehold Mortgagee's tenure as owner of such leasehold estate or as lessee under a 
Mortgagee Lease.

30. **OPTION TO PURCHASE**

University shall have the right and option to purchase Lessee's right, title, and interest in 
and to the Premises. The purchase price of Lessee's right, title, and interest in and to the 
Premises shall be the principal balance then outstanding of all sums secured by any 
Leasehold Mortgage then in effect, plus any premium payable on such indebtedness, plus 
all interest accrued or to accrue on such indebtedness through the date of payment of 
such indebtedness plus any other charges due and payable under the Bond Documents 
provided, however, if University exercises its option to purchase the Project at any time 
during the first ten (10) years of operation of the Project, the purchase price will include a 
payment to the Foundation of the amount of membership fees that the Foundation 
otherwise would have been due during the remainder of those first ten (10) years, which 
is the monthly pro rata share of ONE HUNDRED FIFTY THOUSAND DOLLARS ($150,000) 
annually.

The University shall pay all recording fees for satisfaction of the Lessee's loans, all transfer 
taxes in connection with the sale of the Project, and all recording fees in connection with 
recording of the deed and assignment and all expenses incurred by Lessee in connection 
with the closing of the purchase of the Project.

Upon the transfer of all of Lessee’s interest in the Project, whether by termination of this 
Ground Lease or as otherwise allowed under the terms hereof or consented to by the 
University, the University agrees that Lessee shall be released from all liability and 
obligations to the University under out of this Ground Lease.

Upon the transfer of Lessee’s interest in the Project to the University, whether by 
termination of this Ground Lease or as otherwise allowed under the terms of the Ground 
Lease or consented to by University, the University shall assume any and all contracts and 
other obligations of the Lessee with respect to its ownership of the Project, subject to the 
following limitations. Any provisions of this Ground Lease notwithstanding, University 
shall not be responsible for, and Lessee shall not be released from, any actions, claims, 
suits, or demands attributable to Lessee or Lessee Agents during the Term of the Ground 
Lease.
31. **SUBMISSION OF MATTERS TO UNIVERSITY FOR APPROVAL**

Except for any matters required to be approved by University in the Development Agreement which require a shorter approval period, any matter which must be submitted to and consented to or approved in writing by University or any matter which must be submitted to University which may become effective if not denied by University, as required under this Ground Lease, shall either be approved or rejected by University within thirty (30) days after receipt. University does not obtain or have any liability to Lessee or any other person, including, without limitation, the insurers and lenders of Lessee.

32. **HOLDING OVER BY LESSEE**

Lessee shall not use or remain in possession of the Premises after the termination of this Ground Lease.

33. **ENVIRONMENTAL MATTERS**

Lessee covenants, represents, and warrants that Lessee’s use of the Premises shall not and will not involve the use, storage, generation, or disposal of Hazardous Materials, and that Lessee shall not cause or permit any Hazardous Materials to be brought, used, stored, generated, or disposed on or about the Premises by Lessee or Lessee Agents, and in compliance with all laws, including, without limitation, Environmental Laws and with all governmental authorities.

34. **MEMBERSHIP**

In recognition of the assistance to be provided by Lessee and the Foundation to University to provide needed housing for University’s students and to otherwise assist University in furthering its educational mission, University acknowledges and agrees that upon the execution hereof, University shall be deemed to be a member of the Foundation and that it shall remain such a member until the termination of this Ground Lease. In consideration for Lessee entering into this Ground Lease, University acknowledges that pursuant to the terms of the Bond Documents and the Management Agreement, the Foundation will be entitled to be paid the following amounts: (i) an acquisition fee equal to the greater of TWENTY-FIVE THOUSAND DOLLARS ($25,000) or twenty-five (25) basis points of the principal amount of the Bonds issued in connection with the financing of the Project, but in no event greater than ONE HUNDRED THOUSAND DOLLARS ($100,000), which will be payable out of the proceeds of the taxable portion of such Bonds or if none, out of the revenues received by the Project during its first year of operation as an expense.
of thereof; and (ii) an annual membership fee of ONE HUNDRED FIFTY THOUSAND DOLLARS ($150,000) payable monthly on a pro rata basis out of the revenues of the Project as an operating expense. For all years of operation after such first ten years, such annual membership fee shall increase to ONE HUNDRED SIXTY-FIVE THOUSAND DOLLARS ($165,000). University shall not be responsible or liable for any payments due to Lessee under this Section. University shall in no event be liable for the obligations of the Foundation or have any other obligations as a result of being a member of the Foundation.

35. MISCELLANEOUS

a. Clauses include No Waiver of Rights by University; Rights are Cumulative; Provisions are Binding Upon Assigns and are Real Covenants; Applicable Law; All Genders and Numbers Included; Invalidity of Provision or Part Thereof; Time is of the Essence; Section Captions are to be Disregarded; Entire Agreement Contained Herein; No Partnership or Agency; Recordation of Memorandum of Lease; Counterparts; Preservation of Tax Exemption; No Waiver of Sovereign Immunity; No Merger; and Audits.

b. Notwithstanding anything else contained herein, University agrees that the financing of the acquisition, construction, and furnishing of the Project will directly benefit University's operations, and University agrees that its interest in and to the rents, revenues, issues, and profits relating to the operation of the Project, including, without limitation, all insurance proceeds, reserve funds, and general revenues, as well as any and all rights to any and all contracts, agreements, and other instruments in connection with the design, acquisition, construction, equipping, installation, and operation of the project, including, without limitation, all assigned agreements shall be junior and subordinate to the interest of the Issuer, Lessee, the Trustee, and/or any other Leasehold Mortgagee as granted or provided in any of the Bond Documents (collectively, the "Collateral"). So long as any of the indebtedness created, evidenced, or secured by any of the Bond Documents remains outstanding and unpaid, University shall not exercise any rights or remedies with respect to the Collateral without obtaining in each instance the prior written consent of the Issuer, the Trustee and any other Leasehold Mortgagee.

c. The liability of Lessee hereunder (including, but not limited to its indemnity obligations) under this Ground Lease shall be "non-recourse" and, accordingly, University's sole source of satisfaction of such obligations shall be limited to Lessee's
interest in the Project and the rents, issues, and surplus related thereto, and
University shall not seek to obtain payment from any person or entity comprising
Lessee or from any assets of Lessee other than those described herein,
notwithstanding the survival of any obligation of Lessee beyond the term hereof.

d. University is not bound by or a party to any other agreement related to the Property
or Premises, including the Loan Agreement or any agreements attached to this
Ground Lease.

e. If a Force Majeure Event (as defined herein) prevents, interferes, or restricts the
performance of this agreement, the affected party shall use reasonable efforts to
promptly notify the other party in writing (i) that it is unable to perform, and (ii) the
expected duration of such inability.

During the duration of a Force Majeure Event, neither party shall be liable for any
failure, delay, or interruption in performing its obligations hereunder due to causes or
conditions beyond its reasonable control, and not due to any fault or negligence of the
party affected. The affected party shall use its reasonable efforts to resume
performance as soon as possible.

A “Force Majeure Event” includes, but is not limited to, strikes, boycotts, picketing,
slow-downs, work stoppages, or labor disputes; restrictions or requirements imposed
by laws or government actions with the force and effect of law; priorities, rationing,
curtailment, or shortage of labor or materials; war, revolution, acts of terrorism, or
any matter or thing resulting therefrom; embargoes, acts of God, or severe weather or
climatic conditions (such as storms, hurricanes, typhoons, earthquakes, tornadoes,
volcanic eruptions, earth movements, tsunamis, and floods); acts of the public enemy,
acts of superior governmental authority, riots, rebellion, sabotage, fire, or accidents;
edemics, pandemics, quarantines, or regional, national, or international public
health emergencies; or any other cause or causes beyond the reasonable control of
the affected party or parties.
Student Housing Mixed-Use Rental Project

Board of Regents
April 6, 2023
Original Project Objectives

- Increase on-campus housing inventory for graduate students.
- Engage a private development partner to plan, design, finance, construct, operate, and maintain a housing facility.
- Facility needs to include childcare facility.
- Facility needs to include commercial/retail components.
- University will not contribute funds.
- University desires that the project would have housing rental rates that would be considered affordable.
- Facility would provide additional amenities of benefit to the campus and surrounding community/neighborhood.
The Project is projected to include:

- Housing – 316 Units/558 Beds
- Childcare facility – approximately 9,285 sq. ft.
- Retail/Cafe space – approximately 800 sq. ft.
- Other Project amenities include: study rooms, outdoor recreation decks, bike storage, laundry facility, mail/package room, and on-site management.

Developer has planned and designed for the Project:

- UH and Developer has entered into a Pre-Closing Agreement (PCA) that has authorized up to $5.04M in pre-construction work.
- The Project is to be privately financed through the issuance of tax-exempt bonds to the Project Owner/Lessee (not UH debt).
- Developer to construct facility.
- The Project will be privately owned, operated, and managed by Project Owner/Lessee.

Current Project costs:

- Total Project Cost: Approximately $156.9M
  - Total Hard Construction Costs: Approximately $126.9M
- Total Project Cost to be Financed: Approximately $184.7M
Project Organizational Structure

Tax-Exempt Bonds — Transaction Structure

Developer
Greystar

Pre-Closing Agreement

University of Hawai‘i
MANOA

Ground Lease

Management and Cooperation Agreement

501(c)3
Collegiate Housing Foundation

Trustee
BNY Mellon

Issuer
Public Finance Authority

Financing Agreement

Loan Agreement

Indenture

Property Manager
Greystar

Developer Agreement

Developer
Greystar

Architect
NAC & CDS

A&E Contract

General Contractor
Swinerton

Construction Contract
**Key Terms: Ground Lease**

**Owner/Lessee:** Single Member LLC of Collegiate Housing Foundation

**Property Management Agreement:** Lessee will contract with Greystar for Operations and Management

**Rent:** Annual net cash flows from available cash from project revenues less expenses

**Term:** 45 - 50 years

**Affiliation:** UH will affiliate the project as part of UH’s student housing program

**UH Commitments:**
1. Rent Abatement of up to $2M/annually to reduce rents for the Project
2. $8M for the PCA for pre-development and pre-construction work
3. $10M for the development and delivery of a Childcare Facility to be operated by the UH Mānoa Childcare Center
UH requesting additional $2.96M for additional pre-development and pre-construction work under the PCA.

Assuming the Project obtains planned project financing, UH to cover PCA Costs (up to $8M).
State School Facilities Authority - Memorandum of Agreement

- Provides $10M to UH for a childcare facility
- UH will transfer to Greystar for development of childcare facility as part of overall Project

Child Facility Program

- Approximately 9,285 sq. ft.
- Eight (8) Classrooms
- Projected Enrollment: 128 students

Operated by UHM

- Responsible for electricity costs
- No rent
- Included in Maintenance Agreement
## Project Rent without Rent Abatement

<table>
<thead>
<tr>
<th>Scenario</th>
<th>Scenario 1</th>
<th>Scenario 2</th>
<th>Scenario 3</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>UH Contribution</strong>&lt;br&gt;(Budget Reduction)</td>
<td>None</td>
<td>$10M ($10M for childcare)</td>
<td>$18M ($8M for PCA, $10M for childcare)</td>
</tr>
<tr>
<td><strong>Necessary Avg. Rental Rate per Bed</strong>&lt;br&gt;as of AY 2023</td>
<td>$2,059/month*</td>
<td>$1,940/month*</td>
<td>$1,846/month*</td>
</tr>
<tr>
<td><strong>UH Rent Abatement</strong></td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td><strong>Year Net Cash Flow</strong>&lt;br&gt;&amp; UH Annual Contribution</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
</tbody>
</table>

*Projected forecast for initial average rent(s) within the Project as of Academic Year 2023.*
Rent Abatement: Rates as of Academic Year 2023

Recent Market Study
- Area Market Rate: $1,711/bed/month
- Area Rent Increases: 3.3% annually
- Hale Mahana: Average bed rate is $1,836/month; Occupancy rate is 99%.

UH Goal: Average rents below $1,600/bed/month
- $1.8M Rent Abatement = $1,608/bed/month
- $2M Rent Abatement = $1,565/bed/month

Project Proforma Assumptions
- Net Cash Flow exceeds $2M Rent Abatement in Year 9
- Project Rent Increases: 3.0% annually
## Project Rent with Rent Abatement

### Table

<table>
<thead>
<tr>
<th></th>
<th>Scenario 4</th>
<th>Scenario 5</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>UH Contribution (Budget Reduction)</strong></td>
<td>$18M ($8M PCA, $10M childcare)</td>
<td>$18M ($8M PCA, $10M childcare)</td>
</tr>
<tr>
<td><strong>Required Avg. Rental Rate per Bed as of AY 2023</strong></td>
<td>$1,608/month*^</td>
<td>$1,565/month*^</td>
</tr>
<tr>
<td><strong>UH Rent Abatement</strong></td>
<td>$1.8M/year</td>
<td>$2M/year</td>
</tr>
<tr>
<td><strong>Year Net Cash Flow &gt; UH Annual Contribution</strong></td>
<td>Year 9</td>
<td>Year 9</td>
</tr>
</tbody>
</table>

*Projected forecast for initial average rent(s) within the Project as of Academic Year 2023.*

^ *UH can set rent(s) as long as it does not violate bond covenants related to Project financing.*
Scenario 5: Project Rent Breakdown

<table>
<thead>
<tr>
<th>Unit Type</th>
<th>Units</th>
<th>Beds</th>
<th>Approximate Rent/Bed/Month</th>
</tr>
</thead>
<tbody>
<tr>
<td>Studio</td>
<td>156</td>
<td>156</td>
<td>$1,839*^</td>
</tr>
<tr>
<td>2-Bedroom</td>
<td>114</td>
<td>228</td>
<td>$1,563^</td>
</tr>
<tr>
<td>3-Bedroom</td>
<td>10</td>
<td>30</td>
<td>$1,379*^</td>
</tr>
<tr>
<td>4-Bedroom</td>
<td>36</td>
<td>144</td>
<td>$1,311*^</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>316</strong></td>
<td><strong>558</strong></td>
<td><em><em>$1,565</em>^</em>*</td>
</tr>
</tbody>
</table>

* Projected forecast for initial average rent(s) within the Project as of Academic Year 2023.

^ UH can set rent(s) as long as it does not violate bond covenants related to Project financing.
Major Risk Categories

Financial Close
- Construction Costs: Guaranteed Maximum Price (GMP) contract to be provided June 2023
- Financing Costs: Underwriting project at 6.21% (current rates are 6.10%)

Construction
- Developer obtaining all permits/approvals for construction
- Project Delivery by Fall 2025

Post Construction
- Occupancy Rates less than Forecasted
- Operational and Maintenance Costs more than Forecasted
Project Schedule

UH Board of Regents Approval - April 2023
Financial Close – July 2023
Construction Start – August 2023
Construction Completion – Summer 2025
Project Open – Fall 2025
March 30, 2023

TO: Randolph G. Moore  
    Chairperson, Board of Regents  

    Alapaki Nahale-a  
    Chair, Committee on Planning and Facilities  
    Board of Regents

VIA: David Lassner  
    President

    Kalbert K. Young  
    Vice President for Budget and Finance/Chief Financial Officer

FROM: Erika Lacro  
    Vice President for Community Colleges

SUBJECT: Approval to Purchase Phase 1 Photovoltaic Systems at the University of Hawai‘i O‘ahu Community Colleges and the University of Hawai‘i Maui College Pursuant to Four Separate Purchase and Sale Agreements

SPECIFIC ACTION REQUESTED:

We request the following as further discussed herein:

1. **Committee on Planning and Facilities:** Recommend to the Board of Regents the approval to purchase the Phase 1 Photovoltaic Systems at the University of Hawai‘i O‘ahu Community Colleges and the University of Hawai‘i Maui College pursuant to four separate purchase and sale agreements ("Purchase Agreements"). The material terms of the Purchase Agreements are set forth in the attached Major Term Sheet.

2. **Board of Regents:** If the Committee on Planning and Facilities approves the above recommendation, approval to enter into the Purchase Agreements, consistent with the terms contained in the attached Major Term Sheet.
RECOMMENDED EFFECTIVE DATE:

Upon approval by the Board of Regents.

ADDITIONAL COST:

Under the Purchase Agreements, UH would be paying a total of $11.5 million to acquire ownership of all of Phase 1 PV Systems with the breakdown as follows:

<table>
<thead>
<tr>
<th>Location</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>O‘ahu</td>
<td>$  4.00 million</td>
</tr>
<tr>
<td>Maui Parts 1-2</td>
<td>$  4.45 million</td>
</tr>
<tr>
<td>Maui Part 3</td>
<td>$  1.00 million</td>
</tr>
<tr>
<td>Maui Part 4</td>
<td>$  2.05 million</td>
</tr>
<tr>
<td><strong>Total:</strong></td>
<td><strong>$11.50 million</strong></td>
</tr>
</tbody>
</table>

PURPOSE:

Under the Purchase Agreements, the University would purchase and acquire ownership of the Phase 1 Photovoltaic Systems ("Phase 1 PV Systems") at the Honolulu Community College, Kapi‘olani Community College and Leeward Community College ("O‘ahu community colleges" or "O‘ahu CC") and the University of Hawai‘i Maui College ("UHMC"). The University is exercising its option to purchase the Phase 1 PV Systems that are part of two separate power purchase agreements ("Phase 1 PPAs") under which the respective owner/operators were obligated to produce and sell to the University all solar produced power generated by the Phase 1 PV Systems for a fixed price per kilowatt (kHw) hour. Under the Phase 1 PPAs, the University had the right to first exercise the purchase options after the initial seven (7) years of operation had expired. This was primarily to allow the owner/operator to realize the full benefit of its tax credit.

The University’s purchase of the Phase 1 PV Systems is anticipated to result in a substantial cost savings to the University over the remaining life of the Phase 1 PV Systems, currently estimated to be about 11-13 years. The estimated savings resulting from this purchase of $3,475,675.13 is documented in the attached slides. These savings are net of anticipated maintenance and repair costs to keep the Phase 1 PV Systems operational for their remaining useful life.

BACKGROUND:

O‘ahu CC Phase 1 PV Systems:

The University, Johnson Controls, Inc. ("JCI"), and OCCRE Solar Fund, LLC ("OCCRE"), as JCI’s assignee, entered into the following agreements covering the O‘ahu CC Phase 1 PV Systems:
a. **O‘ahu CC Phase 1 PPA.** Power Purchase Agreement dated March 6, 2012 between the University and JCI covering the construction and operation of the O‘ahu CC Phase 1 PV Systems (“O‘ahu CC Phase 1 PPA”).

b. **O‘ahu CC Phase 1 U&O Agreement.** Use and Occupancy Agreement dated March 6, 2012, between the University and JCI (“O‘ahu CC Phase 1 U&O Agreement”) under which JCI was granted access to the sites upon which the O‘ahu CC Phase 1 PV Systems were installed (“O‘ahu CC Phase 1 Sites”).

c. **JCI Assignment to OCCRE.** Assignment and Assumption Agreement dated March 21, 2013, between JCI, as assignor, and OCCRE, as assignee, under which JCI assigned to OCCRE all of JCI’s interests in the O‘ahu CC Phase 1 PPA and the O‘ahu CC Phase 1 U&O Agreement.

d. **1st Amendment to O‘ahu CC Phase 1 PPA.** First Amendment to Power Purchase Agreement dated September 17, 2012, between the University and JCI, as Provider (“O‘ahu CC Phase 1 PPA 1st Amendment”), under which the University conditionally approved JCI’s assignment to OCCRE of JCI’s interests in the O‘ahu CC Phase 1 PPA and the O‘ahu CC Phase 1 U&O Agreement.

e. **Amended and Restated PPA.** Amended and Restated Power Purchase Agreement (O‘ahu Campuses) dated January 26, 2018, between the University, JCI and KEC Ohana Solar Fund 2013, LLC (“KEC 2013”), as JCI’s assignee, entered into the following agreements covering the four parts of the UHMC Phase 1 PV Systems (collectively the “UHMC Phase 1 PV Systems”):

As a result, with OCCRE as the current owner of the O‘ahu CC Phase 1 PV Systems, the University is entering into one of the Purchase Agreements with OCCRE to purchase the O‘ahu CC Phase 1 PV Systems.

**UHMC Phase 1 PV Systems:**

The University, JCI and KEC Ohana Solar Fund 2013, LLC (“KEC 2013”), as JCI’s assignee, entered into the following agreements covering the four parts of the UHMC Phase 1 PV Systems (collectively the “UHMC Phase 1 PV Systems”):

a. **UHMC Phase 1 PPA.** Power Purchase Agreement dated September 17, 2012, between the University and JCI covering the construction and operation of the UHMC Phase 1 PV Systems (“UHMC Phase 1 PPA”).
b. **UHMC Phase 1 U&O Agreement.** Use and Occupancy Agreement dated September 17, 2012, between the University and JCI ("**UHMC Phase 1 U&O Agreement**") under which JCI was granted access to the sites upon which the UHMC Phase 1 PV Systems were installed ("**UHMC Phase 1 Sites**").

c. **JCI Assignment to KEC 2013.** Assignment and Assumption Agreement dated August 22, 2013, between JCI, as assignor, and KEC 2013, as assignee, under which JCI assigned to KEC 2013 all of JCI's interests in the UHMC Phase 1 PPA and the UHMC Phase 1 U&O Agreement.

d. **1st Amendment to UHMC Phase 1 PPA.** First Amendment to Power Purchase Agreement dated August 22, 2013, between the University and JCI, as Provider ("**UHMC Phase 1 PPA 1st Amendment**"), under which the University conditionally approved JCI's assignment to KEC 2013 of JCI's interests in the UHMC Phase 1 PPA and the UHMC Phase 1 U&O Agreement and allowed the construction and operation of the first three rows of carport PV structures in the main UHMC parking area as part of Parts 1-2 of the UHMC Phase 1 PV Systems.

e. **Second Amendment to UHMC Phase 1 PPA.** Second Amendment to Power Purchase Agreement dated June 1, 2014 ("**UHMC Phase 1 PPA 2nd Amendment**"), between the University and KEC 2013, as Provider, under which the parties: (1) addressed unexpected subterranean conditions encountered during construction of Parts 1-2 of the UHMC Phase 1 PV Systems by agreeing to an increase in the cost of the solar power generated under the UHMC Phase 1 PPA from $0.2401 to $0.2434 per KWh hour; and (2) agreed to expand the capacity of the UHMC Phase 1 Systems by allowing the construction and operation of an additional row of carport PV structures in the main UHMC parking area as part of Part 3 of the project.

f. **Third Amendment to UHMC Phase 1 PPA.** Third Amendment to Power Purchase Agreement dated September 28, 2016 ("**UHMC Phase 1 PPA 3rd Amendment**"), between the University and KEC 2013, as Provider, under which the parties agreed to: (1) further expand the capacity of the UHMC Phase 1 PV Systems to include rooftop PV structures as part of Part 4 of the project; and (2) allow KEC to sublicense a portion of the Licensed Areas for use by two separate affiliates of KEC 2013, namely KEC Ohana Solar Fund 2014 LLC ("**KEC 2014**") and WK Investments LLC ("**WKI**").

g. **Separate PPAs and site use agreements.** Under and pursuant to the approval contained in the UHMC Phase 1 PPA 3rd Amendment, KEC 2013 entered into separate power purchase agreements and site use agreements, one set with KEC 2014 for Part 3 of the UHMC Phase 1 PV Systems and one set with WKI for Part 4 of the UHMC Phase 1 PV Systems. Under these agreements: (1) KEC 2014 is the owner of Part 3 of the UHMC Phase 1
PV Systems; (2) WKI is the owner of Part 4 of the UHMC Phase 1 PV Systems; and (3) KEC 2014 and WKI are each selling/furnishing solar generated power to KEC 2013, who in turn is selling/furnishing such solar generated power to the University.

As a result, the University is proposing to enter into three (3) separate Purchase Agreements covering the University’s purchase of the UHMC Phase 1 PV Systems: (1) one Purchase Agreement covers the University’s purchase of the UHMC Phase 1 Parts 1-2 PV Systems (first 3 rows of carport structures) from KEC 2013, the current owner of the UHM Phase 1 Parts 1-2 PV Systems; (2) one Purchase Agreement covers the University’s purchase of the UHMC Phase 1 Part 3 PV Systems (4th row of carport structures) from KEC 2013 and KEC 2014; and (3) one Purchase Agreement covers the University’s purchase of the UHMC Phase 1 Part 4 PV Systems (UHMC rooftop structures) from KEC 2013 and WKI. KEC 2013 is involved in the University’s purchase of the UHMC Phase 1 Part 3 (4th row of carport structures) and Part 4 (UHMC rooftop structures) PV Systems because KEC 2013 owns the right to purchase the solar generated power from KEC 2014 and WKI, respectively. Payments for the UHMC Phase 1 PV Systems will be by checks made out to the following: (i) KEC 2013 for the purchase of the UHMC Phase 1 Parts 1-2 PV Systems; (ii) both KEC 2013 and KEC 2014 for the purchase of the UHMC Phase 1 Part 3 PV Systems; and (iii) both KEC 2013 and WKI for the purchase of the UHMC Phase 1 Part 4 PV Systems. It should be noted that the seller is only agreeing to the sale of the UHMC systems as a package and will not consider selling each system separately.

Financial Analysis

Comparing (a) the anticipated payments for solar generated power under the Oahu CC Phase 1 PPA and the UHMC Phase 1 PPA for the remainder of their respective terms; and (b) the purchase prices for the Oahu CC Phase 1 PV Systems and the UHMC Phase 1 PV Systems plus the expected annual maintenance/repair costs results in a net savings of approximately $3.475 million.

APPLICABLE REGENTS POLICY:

Under Board of Regents Policy RP 8.201E (Procurement Procedures), the Board of Regents’ approval is required for any procurement of goods or services in excess of $5 million (see underlined portion):

“E. Procurement Procedures

Subject to the provisions set forth herein, the president is authorized to develop internal policies and procedures for the procurement of goods, services, and construction in accordance with law and board policy, provided such procedures are approved by the board prior to implementation in accordance with Chapter 304A-105, HRS. Except as otherwise provided herein, the procurement of goods or services
exceeding $5,000,000 shall require the prior approval of the board unless, in consultation with the board, it is anticipated that such procurement will have a significant impact on policies, programs, or operations, in which case prior board approval is required regardless of amount and funding source. The specified threshold will not be circumvented by parceling.”

ACTION RECOMMENDED:

We respectfully request that the Committee on Planning and Facilities recommend that the Board of Regents approve, and that the Board of Regents approve the purchase of the O'ahu CC and UHMC Phase 1 PV Systems pursuant to four separate Purchase Agreements (one for the O'ahu CC Phase 1 PV Systems and three for the UHMC Phase 1 Parts 1-4 PV Systems), consistent with the terms contained in the attached Major Term Sheet. Once approved, the President, the Vice President for Budget and Finance/Chief Financial Officer and/or the Vice President for Administration will finalize and execute said Purchase Agreements and take such action and execute such other documents as they deem necessary to implement the Purchase Agreements.

c: Interim Executive Administrator and Secretary to the Board Jamie Go

Attachments:
  1. Major Term Sheet
  2. Purchase of Phase I Photovoltaic Array Systems Slides
Purchase and Sale Agreements
O‘ahu Community Colleges and University of Hawai‘i Maui College Phase 1 PV Systems

Major Term Sheet

1. **Parties.**
   a. **Sellers:**
      (1) **OCCRE Solar Fund, LLC (“OCCRE”),** a Hawai‘i limited liability company, for the O‘ahu CC Phase 1 PV Systems.
      (2) **KEC Ohana Solar Fund 2013, LLC (“KEC 2013”),** a Hawai‘i limited liability company, together with **KEC Ohana Solar Fund 2014, LLC (“KEC 2014”)** and **WK Investments, LLC,** a Hawai‘i limited liability company (“WKI”) for the UHMC Phase 1 PV Systems, consisting of Parts 1-4.
   b. **Buyer:** University of Hawai‘i (“UH”), for the benefit of the UH O‘ahu Community Colleges, namely Kapi‘olani Community College, Leeward Community College, Honolulu Community College and Windward Community College (collectively “O‘ahu CC”) and the University of Hawai‘i Maui College (“UHMC”).

2. **Defined Terms.** All terms with initial capital letters or all capital letters in the Board action memo to which this major term sheet is attached shall have the same definitions and meanings given to them in the Board action memo, unless otherwise specifically defined in this major term sheet.

3. **Four separate Purchase Agreements.** There are four (4) separate Purchase Agreements covering the purchase of the Phase 1 PV Systems with UH as the Buyer and the following as Sellers: (a) OCCRE covering the purchase of the Oahu CC Phase 1 PV Systems; (b) KEC 2013 covering the purchase of the UHMC Phase 1 Parts 1-2 PV Systems; (c) KEC 2013 and KEC 2014 covering the purchase of the UHMC Phase 1 Part 2 PV Systems; and (d) KEC 2013 and WKE covering the purchase of the UHMC Phase 1 Part 4 PV Systems.

4. **Assets to be Purchased by UH.** Under the Purchase Agreements, Buyer will purchase from Sellers the following (collectively the “Assets”):
   a. **Phase 1 PV Systems.** All of Seller’s right, title and interest in and to the Phase 1 PV Systems at Oahu CC and UHMC, defined in the Oahu CC Phase 1 PPA and the UHMC Phase 1 PPA as “each of the solar photovoltaic generating systems designed and installed pursuant to this Agreement at the Sites and more fully described in Exhibit A hereto.” The four Phase 1 PV Systems that UH is purchasing includes all components, parts, materials, supplies equipment, computers, servers, electronic devices, monitoring systems, software programs and applications, electronic communication and data processing and analytics programs, inverters, converters, electrical panels, canopies, supports, foundations, structures, fixtures, machinery and other tangible assets that are necessary or convenient for the ownership, use, operation, maintenance and repair of the Phase 1 PV Systems.
   b. **Warranties.** All of Seller’s rights under such warranties, guaranties, indemnities and all similar rights from or against equipment manufacturers, suppliers, and/or any third parties
that remain in force at closing of these Purchase Agreements (collectively the “Closing”) to the extent that the same are assignable or transferable to UH (collectively the "Warranties"), it being understood that the Sellers themselves are not providing any warranties with respect to the condition or operation of the Phase 1 PV Systems and UH is purchasing the Phase 1 PV Systems in an “as is” condition.

c. **Intellectual Property Assets.** All Intellectual Property that is owned by Seller and used or held for use in the ownership, use, operation, maintenance, and repair of the Phase 1 PV Systems as currently conducted or proposed to be conducted, (collectively the “Intellectual Property Assets”). "Intellectual Property" includes all rights in or associated with patents, trademarks, copyrights, trade secrets, software and other intellectual property rights.

d. **Other Assets.** All Seller rights to the following relating to the Phase 1 PV Systems:
   (1) any legal actions that Sellers have rights to pursue (“Actions”); (2) any prepaid expenses, credits, and rights to refunds, recovery and set off (“Credits”); (3) insurance benefits (“Insurance Benefits”); (4) any and all drawings, designs, plans, specifications and similar materials created or intended for use in connection with the Phase 1 PV Systems (“Project Documents”); (5) governmental approvals and permits (“Government Approvals”); (6) assigned contracts and other related rights (“Contracts”); and (7) books, files, accounts, and records, including maintenance records relating to the Phase 1 PV Systems (“Records”).

5. **UH not assuming Seller Liabilities.** UH shall not assume nor shall be deemed to assume or be responsible for any liabilities, taxes (“Taxes”), pending or threatened actions, contracts, employment issues, environmental claims, accounts payable, unfulfilled commitments, indemnity obligations, debt, loan or other financing obligations and failure to comply with Applicable Laws of or to be performed or payable by Sellers, whether financial or legal obligations, liabilities, or undertakings (collectively the “Liabilities”). Sellers are to ensure that UH is not responsible for any such Liabilities.

6. **Purchase Price.** The purchase price to be paid by UH in cash at Closing under the Purchase Agreements to acquire ownership of the Oahu CC Phase 1 PV Systems and the UHMC Phase 1 PV Systems are as follows:

<table>
<thead>
<tr>
<th>Location</th>
<th>Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>O’ahu</td>
<td>$ 4.00 million</td>
</tr>
<tr>
<td>Maui Parts 1-2</td>
<td>$ 4.45 million</td>
</tr>
<tr>
<td>Maui Part 3</td>
<td>$ 1.00 million</td>
</tr>
<tr>
<td>Maui Part 4</td>
<td>$ 2.05 million</td>
</tr>
<tr>
<td><strong>Total:</strong></td>
<td><strong>$11.50 million</strong></td>
</tr>
</tbody>
</table>

7. **Seller to obtain required consents.** Seller shall, at Seller’s sole cost and at no cost to UH, obtain 3rd party or other consents required to effect UH’s purchase of the Assets and/or confirm UH’s rights to own, use, operate, maintain, and/or repair the Assets and the Phase 1 PV Systems.

8. **Seller Preclosing Obligations.** UH will not be obligated to close the transactions under the Purchase Agreements unless and until Seller fully satisfies and completes each of the following Seller obligations under the respective Purchase Agreements (collectively the “Seller Preclosing Obligations”):
a. **Seller Deliverables.** At or prior to Closing, Seller shall deliver to UH the following: (1) Bill of Sale (substantially in the form attached to the Agreement); (2) Project Documents and Records relating to the Assets; and (3) Assignment of Rights under which Seller confirms that Seller has transferred to UH all of Seller’s right, title and interest in the Assets and the Phase 1 PV Systems, including the Warranties, the Intellectual Property Assets, the Actions, the Credits, the Project Documents, the Contracts, the Records, the Insurance Benefits, and the Government Approvals.

b. **Seller representations/warranties.** All Seller representations and warranties required under the Purchase Agreement are true and correct, including confirmation that there are no pending Actions against Seller and Seller has obtained all required Government Approvals.

c. **Seller complied with covenants and conditions.** Seller has complied with all agreements, covenants, and conditions required under the Purchase Agreement and any Ancillary Documents. “Ancillary Documents” means the Bill of Sale, the agreements covering any Intellectual Property Assets, the O&M Agreement, and the other agreements, instruments and documents required to be delivered at the Closing.

d. **No Material Adverse Effect.** Seller to attest that no Material Adverse Effect has occurred and none is expected to occur. “Material Adverse Effect” means any event, occurrence or change that is, or could reasonably be expected to become materially adverse to: (a) the ownership, use, operation, maintenance and repair of the Assets or the Phase 1 PV Systems; (b) the value of the Assets and/or the Phase 1 PV Systems; and/or (c) the ability of Seller to consummate the transactions contemplated hereby on a timely basis, provided, however, it shall not include any event, occurrence, or change attributable to: (i) general economic or political conditions; (ii) conditions generally affecting the industries in which Seller operates; (iii) any changes in financial or securities markets in general; (iv) acts of war (whether or not declared), armed hostilities or terrorism, or the escalation or worsening thereof; (v) any action required or permitted by the Purchase Agreement; or (vi) any changes in Applicable Laws or accounting rules.

e. **Signed Ancillary Documents.** Seller delivered Seller executed Ancillary Documents signature pages.

f. **Seller ensure all Encumbrances released.** Seller shall have had fully released all Encumbrances relating to the Assets and the Phase 1 PV Systems and delivered written evidence to UH. “Encumbrance” means any charge, claim, condition, lien (statutory or other), option, security interest, mortgage, easement, encroachment, right of way, right of first refusal, or restriction of any kind.

g. **Seller furnished Seller Closing Certificate.** Seller shall have delivered to UH a certificate, dated the Closing Date and signed by a duly authorized Seller officer, that each of the Seller Preclosing Obligations has been satisfied (the “Seller Closing Certificate”).

h. **Seller shall have furnished evidence that Seller approved sale.** Seller shall have furnished to UH a certificate of the Secretary or other duly authorized officer or manager of Seller certifying that: (1) Seller has obtained all approvals and authorizations necessary to consummate the purchase transactions and perform all of Seller’s obligations relating
thereto; and (2) the Seller signatories are authorized to sign, together with evidence that Seller has authorized the execution, delivery and performance of the obligations under the Purchase Agreements.

9. **UH Preclosing Obligations.** Seller will not be obligated to close the transactions under the Purchase Agreements unless and until UH fully satisfies and performs each of the following Buyer obligations under the respective Purchase Agreements (collectively the “Buyer Preclosing Obligations”):

   a. **UH representations.** All UH representations required under the Purchase Agreements are true and correct, including that UH has obtained all necessary approvals and is not aware that any injunction has been issued to restrain or prohibit the Closing of the purchase transactions under the Purchase Agreements.

   b. **UH complied with covenants and conditions.** UH has complied with all agreements, covenants, and conditions required under the Purchase Agreements and any Ancillary Documents.

   c. **Signed Ancillary Documents.** UH delivered UH executed Ancillary Documents signature pages.

   d. **UH furnished Buyer Closing Certificate.** UH shall have delivered to Seller a certificate, dated the Closing Date and signed by a duly authorized UH officer, that each of the Buyer’s Conditions has been satisfied (the “Buyer Closing Certificate”).

   e. **UH furnishes confirmation.** UH shall have delivered to Seller a confirmation from one of UH’s officers that the persons signing the Agreement and the Ancillary Documents on behalf of UH are authorized to do so and UH is authorized to execute the Agreement and perform UH’s obligations thereunder.

10. **Closing.** Subject to the terms and conditions of the Purchase Agreements, the consummation of the transaction contemplated by the Purchase Agreements (the “Closing”) shall take place at the time that UH has determined that Seller has satisfied all of the Seller Preclosing Conditions, including submitting all of the required signed documentation (“Closing Date”). After UH has made such determination, UH shall, on the Closing Date, pay the Purchase Price to Seller by issuing the checks made out to Seller, as appropriate, and sending them to Seller’s designated address. UH has the option of terminating the Purchase Agreements if UH is not satisfied with the results of its due diligence. UH must promptly notify Seller in writing. Further, if UH does not send Seller a notice of acceptance prior to the expiration of the due diligence period confirming that UH is willing to proceed with the purchase, UH will be deemed to have terminated the Purchase Agreements and neither party will have any further obligations under the Purchase Agreements except those which expressly survive termination.

11. **Termination of Phase 1 PPAs and Phase 1 U&O Agreements.** Upon Seller’s receipt of the Purchase Price, all obligations the parties owe to each other under the Oahu CC Phase 1 PPA, the Oahu CC Phase 1 U&O Agreement, the UHMC Phase 1 PPA and the UHMC Phase 1 U&O Agreement shall terminate except: (a) Seller’s obligations that survive the termination of such agreements, including, without limitation, Seller’s obligations to indemnify, defend, hold harmless and insure UH against any claims or actions arising from Seller’s acts or omissions relating to the Oahu CC Phase 1 PPA, the Oahu CC Phase 1 U&O Agreement, the UHMC Phase 1 PPA
and the UHMC Phase 1 U&O Agreement and Seller’s obligations to clean up and remediate any Hazardous Materials from the Phase 1 Sites and the Licensed Areas, repair any damage, and restore the Phase 1 Sites and the Licensed Areas to their original condition; (b) Seller’s obligations under said agreements that accrued or became effective prior to Closing; and (c) Seller’s right to collect and UH’s obligation to pay for the Energy generated and delivered to UH prior to Closing.

12. **Seller to temporarily maintain O&M Agreements and Monitoring Agreements.** Seller has agreements with one or more service providers for the operation, maintenance and repair of the Phase 1 PV Systems (collectively the "O&M Agreements") and for the monitoring and communications services associated with the Phase 1 PV Systems (collectively the "Monitoring Agreements"). UH is responsible for obtaining its own O&M Agreement and Monitoring Agreement for each of the Phase 1 PV Systems to be effective following the Closing, provided that Seller agrees to keep existing O&M Agreements and Monitoring Agreements in place for a period of at least ninety (90) days subsequent to Closing and assist UH in obtaining UH’s own O&M Agreements and Monitoring Agreements.

13. **Seller Representations and Warranties.** Seller represents and warrants to UH that the following are true and correct as of the Closing (collectively “**Seller’s Representations**”):

   a. **Organization, Good Standing, Qualification.** Seller is duly organized, validly existing, qualified and in good standing under the laws of the State of Hawai‘i.

   b. **Authority to Own and Operate the System.** Seller has full power and authority to own, use, operate, maintain, and repair the Assets and the Phase 1 PV Systems and to carry on the business of operating Energy producing systems such as the Phase 1 PV Systems and distributing and selling the electricity produced therefrom.

   c. **Requisite Authority to Enter and Sign Agreement.** Seller has full power and authority to enter into and execute the Purchase Agreements and the Ancillary Documents, to carry out its obligations thereunder and to consummate the transactions contemplated by the Purchase Agreements and the Ancillary Documents and when so executed the Purchase Agreements constitute legal, valid and binding obligations of Seller enforceable against Seller in accordance with the terms of the Purchase Agreements and the Ancillary Documents.

   d. **Other Seller Representations/Warranties.** Other Seller representations and warranties include: (1) no conflicts with Seller’s governing documents, Applicable Laws or any Contracts; (2) no Government Approval or other consent or approval is required; (3) Seller has no Liabilities with respect to the Assets or the Phase 1 PV Systems (except those approved by UH); (4) no Material Adverse Effect has occurred; (5) Seller has good and valid title to all of the Assets and Phase 1 PV Systems, free and clear of Encumbrances, Taxes and Liens; (6) Seller is transferring all Intellectual Property Assets that are necessary for the ownership, use, operation, maintenance and/or repair of the Assets and the Phase 1 PV Systems; (7) no person or entity other than Seller is entitled to any portion of the Purchase Price; (8) Seller has paid all amounts necessary to obtain full ownership of the Assets and the Phase 1 PV Systems and there are no financial or other obligations due or outstanding relating thereto; (9) no Actions are pending or threatened against or by Seller relating to the Assets and the Phase 1 PV Systems; (10) Seller owes no Taxes to any taxing authority and there are no pending or threatened Actions relating to Taxes and no Encumbrances for Taxes; (11) Seller provided to UH complete and correct copies of all...
Records and Project Documents requested by UH; (12) Seller has been and is in compliance with all Applicable Laws; and (13) there are no undisclosed Seller obligations.

14. **Buyer’s Representations.** UH represents to Seller that the following are true and correct as of the as of the Closing (collectively “Buyer Representations”): (a) UH is duly organized, validly existing, and in good standing under the laws of the State of Hawai‘i; and (b) UH has full power and authority to enter into and execute the Purchase Agreements, to carry out its obligations and to consummate the purchase transaction and the Purchase Agreements constitute legal, valid and binding UH obligations.

15. **Seller Indemnity.** Seller shall and will ensure that all Seller Agents indemnify, defend with counsel reasonably acceptable to UH, and hold harmless UH and UH’s officers, employees, consultants, contractors, agents, representatives, and any person acting on behalf of UH (collectively the “Buyer Agents”), from and against any claims, actions, judgments, injunctions, orders, rulings, directives, penalties, assessments, liens, liabilities, losses, damages, costs, and expenses (including attorneys’ fees and costs), including, without limitation, claims for property damage, personal injury, bodily injury, death, lost revenues and other economic loss, and/or environmental damage, arising from any of the following: (a) exercise of rights or any action or omission by Seller or Seller Agents; (b) any misrepresentation or breach of any of the Seller’s Representations; (c) breach of any covenant or obligation to be performed by Seller; (d) assertion of any Action by any person or entity other than the parties and/or the Seller Agents; (e) any accident, fire or other casualty arising from events or incidents attributable to the acts or omissions of Seller or the Seller Agents; (f) any violation or alleged violation of Applicable Laws; and (g) any failure by Seller or the Seller Agents to fully perform any of the terms and conditions of the Purchase Agreements.

16. **UH Limitations.** The State Purchase Limitations described in the O‘ahu CC Phase 1 PPA, the O‘ahu CC Phase 1 U&O Agreement, the UHMC Phase 1 PPA and UHMC Phase 1 U&O Agreement are incorporated into and applicable to the Purchase Agreements and limits UH’s ability and capability to perform UH’s obligations under the Purchase Agreements and the Ancillary Documents.

17. **Termination.** Prior to Closing, the Purchase Agreements may be terminated by: (a) mutual agreement; (b) UH if there is a breach of any Seller’s Representations or a Seller’s failure to timely perform any obligations under the Purchase Agreements, including failing to fulfill or satisfy any of the Seller Preclosing Obligations; (c) Seller if there is a breach of any of Buyer’s Representations or UH’s failure to timely perform any obligations under the Purchase Agreements, including failing to fulfill or satisfy any of the Buyer Preclosing Obligations; or (d) either party if any Applicable Laws become effective making the Closing of the transactions under the Purchase Agreements illegal, prohibited or significantly more difficult and/or costly or if any Governmental Authority issues an order or directive restraining or enjoining the closing of the purchase and sale transaction.

18. **Confidentiality.** UH’s ability to keep confidential Seller’s proprietary information is subject to applicable open records laws such as Hawai‘i Revised Statutes chapter 92F (“Open Records Laws”). The parties agree that the terms and conditions of the Purchase Agreements, including the Purchase Price, will be disclosable by UH under the Open Records Laws. UH will notify Seller of any requests to disclose Seller’s proprietary information, after which Seller may, at Seller’s cost, take such action as Seller deems necessary or appropriate, at Seller’s cost, to prevent or restrict disclosure of Seller’s proprietary information.
Purchase of Phase I Photovoltaic Array Systems

April 6, 2023
Phase I Energy Performance Contract

• Contracted with Johnson Controls Inc., for guaranteed energy savings through energy conservation measures and energy production to reduce our dependency on fossil fuels.

• Phase 1 included PV array systems built on several Oahu campuses and at Maui College through Power Purchase Agreements (PPA).

• The PPAs allowed us to reduce our dependency on fossil fuel consumption.

• PPAs allow private investors to take tax credits for the first seven years of the agreement with an option for the University to purchase the PV arrays after year 7.
Size of the PV Systems for Purchase

**OAHU**
- Single PPA
- PV Array System Size: **1,042 kWp**
- Current Est. Annual Output: **1,484,546 kWh**

**MAUI**
- Single PPA different phases
- PV Array System Size: **1,806.50 kWp**
- Current Est. Annual Output: **1,739,631 kWh**
Oahu Phase I PPA PV Arrays

Honolulu Community College Rooftop PV  
Marine Education Training Center Rooftop PV
Oahu Phase I PPA PV Arrays

Leeward Community College Rooftop PV

Kapi‘olani Community College Rooftop PV
Maui College Phase I PPA PV Array

Maui College Carport PV
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>369 kW DC</td>
<td>234,518 annual kwh</td>
<td>0 MWh</td>
<td>Operating</td>
</tr>
<tr>
<td>1,900 kW DC</td>
<td>3,088,056 annual kwh</td>
<td>6.331 MWh</td>
<td>Contracted</td>
</tr>
<tr>
<td>1,760 kW DC</td>
<td>3,055,056 annual kwh</td>
<td>6.331 MWh</td>
<td>Contracted</td>
</tr>
<tr>
<td>575 kW DC</td>
<td>829,725 annual kwh</td>
<td>0.174 MWh</td>
<td>Contracted</td>
</tr>
<tr>
<td>1,680 kW DC</td>
<td>2,835,651 annual kwh</td>
<td>9.623 MWh</td>
<td>Operating</td>
</tr>
<tr>
<td>2,920 kW DC</td>
<td>4,213,560 annual kwh</td>
<td>13.262 MWh</td>
<td>Operating</td>
</tr>
<tr>
<td>1,320 kW DC</td>
<td>1,045,048 annual kwh</td>
<td>6.331 MWh</td>
<td>Operating</td>
</tr>
</tbody>
</table>

2021 Inventory of PV and Battery Projects
Financial Analysis

• OVPCC performed cost analysis to determine purchasing Phase 1 PV arrays vs. paying PPA provider. The initial PPA is for 20 years.

• Analysis considers that PV panels degrade in production by 1% each year as well as the cost to perform annual maintenance.
Financial Analysis

Current kWh PPA Prices (2023)

- Oahu CC Campuses: $0.26 kWh
- Maui College Phase 1&2: $0.37 kWh
- Maui College Phase 3: $0.37 kWh
- Maui College Phase 4: $0.39 kWh

PPA kWh pricing increases by 3.5% annually
Financial Analysis

• Predict to save the University an estimated $3,475,675 on future PPA payments while being able to maintain system.

• PPA cost savings provides us with options to reinvest in:
  - Replacing PV panels after shelf life
  - Additional energy storage capacity
  - Future energy conservation efforts
## Financial Analysis

### Power Purchase Agreement Buyout Analysis (KEC OHANA and OCCRE projects, JCI Phase 1)

<table>
<thead>
<tr>
<th>Description/Location of PV Arrays Considered for Purchase</th>
<th>Array Size (kWp)</th>
<th>2023 Estimated Annual Output (kW)</th>
<th>Useful Life of Array (y)</th>
<th>PPA Total Cost to End of Contract</th>
<th>Cost to Purchase</th>
<th>Cumulative Cost of Annual Maintenance</th>
<th>Difference in Purchase Price versus PPA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Oahu (Honolulu, Kapi'olani CC, Leeward CC)</td>
<td>1042.00</td>
<td>1484546</td>
<td>12</td>
<td>$5,872,123.88</td>
<td>$4,000,000.00</td>
<td>$900,000.00</td>
<td>$972,123.88</td>
</tr>
<tr>
<td>Maui College Phase 1-2</td>
<td>565.00</td>
<td>870707</td>
<td>11</td>
<td>$4,067,973.23</td>
<td>$4,450,000.00</td>
<td>$400,000.00</td>
<td>-$782,026.77</td>
</tr>
<tr>
<td>Maui College Phase 3</td>
<td>188.30</td>
<td>250965</td>
<td>11</td>
<td>$1,858,115.76</td>
<td>$1,000,000.00</td>
<td>$200,000.00</td>
<td>$658,115.76</td>
</tr>
<tr>
<td>Maui College Phase 4</td>
<td>488.20</td>
<td>617959</td>
<td>13</td>
<td>$4,977,462.26</td>
<td>$2,050,000.00</td>
<td>$300,000.00</td>
<td>$2,627,462.26</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>2283.50</td>
<td>3224177</td>
<td></td>
<td><strong>$16,775,675.13</strong></td>
<td><strong>$11,500,000.00</strong></td>
<td><strong>$1,800,000.00</strong></td>
<td><strong>$3,475,675.13</strong></td>
</tr>
</tbody>
</table>

**Assumptions:**
- Cost estimates are based on projected array outputs which are slightly lower than actual
- Estimated output is based on a 1% degradation of output each year since the array was built
- Useful life is based on the number of years left under the original manufacturers warranty for panel production
- PPA Total Cost to End of Contract is based on the number of years in the PPA at escalating per kWh rates of the PPA agreement
- Cost to Purchase is agreed amount PV array owner is willing to accept as payment to buyout each of the PPA agreements for the PV array assets
- Cumulative Cost of Annual Maintenance is a conservative estimate at $75k per PV array project for each year of the useful life of each PV array based on size, location, access to maintain, etc.