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Attorneys for Petitioner

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Petition of: )

STATE OF HAWAII, DEPARTMENT OF )  
EDUCATION )

To Amend the Agricultural Land Use District )  
Boundaries into the Urban Land Use District )  
for Approximately 77.2 acres of land at Kihei, )  
Maui, Hawaii, Maui Tax Map Key No. 2-2- )  
02: 81 and 83. )

DOCKET NO. A11- 794

2011 DEC 20 P 2:07  
LAND USE COMMISSION  
STATE OF HAWAII

PETITION FOR LAND USE DISTRICT BOUNDARY AMENDMENT

VERIFICATION

EXHIBITS NOS. 1 - 6

AFFADAVIT OF MAILING

CERTIFICATE OF SERVICE



3. Environmental Impact Statement. Attached as Exhibit No. 1 is a Draft Environmental Impact Statement (the "DEIS") for the Project. Petitioner believes an Environmental Impact Statement ("EIS") is required for the Project because development of the Project will require use of State funds for land acquisition, design, entitlement and construction. Use of State lands or State funds is an action described under Section 343-5(a)(1), Hawaii Revised Statutes.

Petitioner, as the State department initiating the proposed action, has determined that it is the appropriate Accepting Authority for the EIS. Group 70 International, Inc. ("Group 70") prepared and submitted an Environmental Impact Statement Preparation Notice ("EISPN") on behalf of Petitioner to the Office of Environmental Quality Control ("OEQC") on October 28, 2009. OEQC published notice of the EISPN in the Environmental Notice on November 8, 2009. Group 70 prepared and submitted a Draft Environmental Impact Statement ("DEIS") on behalf of Petitioner to OEQC on December 13, 2011. OEQC will publish notice of the DEIS in the Environmental Notice on December 23, 2011. A copy of the DEIS is attached as Exhibit No. 1 and incorporated by reference. Petitioner will provide the Commission with a copy of the Final EIS after it has been accepted by Governor Neil Abercrombie as the appropriate Accepting Authority.

4. Legal Name of Petitioner. Petitioner's exact legal name and location of its principal place of business is:

State of Hawaii, Department of Education (DOE)  
Office of Business Services, Facilities Development Branch  
1151 Punchbowl Street, Room 501  
Honolulu, Hawaii 96813

5. Communications To Petitioner. The name title and address of the persons to whom correspondence or communications in regard to this Petition are to be served are as follows:

Petitioner: Nick Nichols  
State of Hawaii, Department of Education (DOE)  
Office of Business Services, Facilities Development Branch  
Planning Section  
4680 Kalaniana'ole Highway, TB-1A  
Honolulu, Hawaii 96821  
Phone: (808) 377-8301

Petitioner's Agent: Group 70 International, Inc.  
925 Bethel Street, 5<sup>th</sup> Floor  
Honolulu, HI 96813  
Contact: Christine Ruotola, AICP  
Telephone: (808) 523-5866, Ext. 121  
Email: [cruotola@group70int.com](mailto:cruotola@group70int.com)

Petitioner's Attorney: ALSTON HUNT FLOYD & ING  
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6. Description of the Petition Area. The land which is the subject of this Petition (the "Petition Area") is situated at Kihei, Maui, Hawaii, and is comprised of two separate parcels of land: (1) Lot 1-A-1 of the Kaonolulu Ranch – Water Tank Subdivision, containing approximately 29.175 acres and identified as Maui Tax Map Key No. 2-2-02:81, and (2) Lot 2-A of the Anawio Subdivision, containing approximately 48.007 acres and identified as Maui Tax Map Key No.: 2-2-02:83.

A map generally identifying the location of the Petition Area is shown as Figure 1-1 in the DEIS. A map depicting the Petition Area to be reclassified into the State Land Use

Urban District is shown as Figure 1-4 in the DEIS. Survey maps describing the Petition Area by metes and bounds are attached as Exhibits Nos. 2 (Lot 1-A-1) and 3 (Lot 2-A), and incorporated by reference. Metes and bounds descriptions of the proposed State Land Use Urban District are attached as Exhibits Nos. 4 (Lot 1-A-1) and 5 (Lot 2-A), and incorporated by reference.

A copy of Maui Tax Map No. 2-2-2 modified to show the Petition Area is attached as Exhibit 6 and incorporated by reference. Petitioner shall provide such other descriptions and maps of the Petition Area to the Commission as the Commission may require.

7. Reclassification Sought, Present Use of the Petition Area, Assessment of Conformity.

(a) The Petition Area is presently classified in the State Land Use Agricultural District. Petitioner seeks to reclassify the Petition Area to the State Land Use Urban District to develop Kihei High School, a new public high school to serve the South Maui Region and relieve overcrowding in Central Maui's Baldwin High School and Maui High School. These two schools presently accommodate South Maui high school students. Site development would include construction of approximately 213,000 square feet of educational buildings to support a planned enrollment capacity of 1,650 students. Petitioner proposes to design and construct the Kihei High School to meet or the U.S. Green Building Council's Leadership in Energy and Environmental Design ("LEED") for Schools Rating System Silver certification, or such other sustainable building standard as may be promulgated by the Board of Education or the State Legislature. The Project will also include associated athletic facilities, i.e. football stadium, tennis courts, a track, soccer, baseball and softball fields and necessary infrastructure improvements, i.e. new roadways, utilities, drainage, wastewater and potable water systems.

Petitioner proposes to construct an extension of Kulanihako'i Street mauka of Pi'ilani Highway to serve as the main campus access road.

(b) The DEIS includes an assessment of conformity of the reclassification to the standards for determining the boundaries for the Urban District. Petitioner submits that the Petition Area conforms to standards set forth in §15-15-18, HAR, because the Petition Area is adjacent to North Kihei, a residential and resort community in the State Land Use Urban District, which community comprises a center of trading and employment.

(c) In addition, basic public services and facilities are available to the Petition Area. The Petition Area is reasonably free from danger of flood, tsunami, unstable soil conditions and other adverse environmental effects. The Petition Area is also immediately east of and is located across Pi'ilani Highway from other land presently classified in the State Land Use Urban District.

(d) The Project does not presently conform to the Kihei-Makena Community Plan Land Use Map, but Petitioner is seeking a Community Plan Amendment to amend the Kihei-Makena Community Plan Land Use Map in order to develop the Project. The Draft Maui Island Plan, as prepared by the County of Maui Planning Department and modified by the General Plan Advisory Committee ("GPAC") and County of Maui Planning Commission, recommends that the Urban Growth Boundary include the Kihei Mauka Planned Growth Area, which includes the Petition Area. The Draft Maui Island Plan includes Kihei High School is among the proposed land uses. The Maui County Council's General Plan Committee is presently reviewing the Draft Maui Island Plan.

8. Petitioner's Petition Area Interest. The parcel identified as Maui Tax Map Key No. 2-2-02:81 is owned by Kaonoulu Ranch, LLLP, and the parcel identified as Maui Tax

Map Key No. 2-2-02:83 is owned by Haleakala Ranch Company. Kaonoulu Ranch, LLLP and Haleakala Ranch Company are collectively referred to as "Landowners." Petitioner presently has no legal interest in the Petition Area, but has negotiated agreements with the Landowners to purchase the Petition Area under threat of condemnation. Petitioner expects to complete the purchase of the Petition Area in early 2012. Petitioner will provide copies of authorization letters from the Landowners to file the Petition, or the deeds for the Petition Area prior to the Commission's Executive Officer determining that the Petition is complete and properly filed.

9. Type of Development Proposed. Petitioner will develop a public high school on the Petition Area. Although Landowners are contemplating development of a master planned community mauka of the Petition Area, Petitioner's involvement will be limited to development of the high school on the Petition Area. Petitioner is not participating in any planning process to develop the remainder of Landowners' other lands.

10. Petitioner's Financial Condition and Funding for the Project. As a State department, Petitioner is not required by Section 15-15-50(c)(8), HAR to provide a financial statement. The State of Hawaii, in the General Appropriations Act of 2007, SLH 2007, C 213, has appropriated \$20 million for the planning, land acquisition, design, construction and equipment for the Kihei High School. Petitioner is considering different options to design, construct and finance construction of the Kihei High School, including a design-build contract, development by a private entity who will lease the school to Petitioner, or the traditional method of the State appropriating capital improvement funds and the State issuing general obligation bonds to provide additional funds sufficient to complete design and construction of the Project.

11. Description of the Petition Area, Surrounding Areas and Use of Land. The Petition Area is presently in low productivity pasture use. A complete description of the

Petition Area and a description of the topography, soil classification and agricultural potential of the Petition Area is included in the DEIS.

12. Assessment of the Impacts of the Proposed Development Upon the Environment. A complete description of the impact of development of the Project will have on Landowners' use of the Petition Area for agricultural purposes and the agricultural resources in the area is included in the DEIS. A complete description of the impact development of the Project would have on natural resources in the area is included in the DEIS. Complete descriptions of the impact development of the Project would have on archaeological and cultural resources, public recreation resources, traffic, noise, air quality and socio-economic resources is included in the DEIS.

13. Availability of Public Services and Facilities. A complete description of the availability and impact development of the Project would have on public services is included in the DEIS. A complete description of the availability and adequacy of public facilities to serve the Project, such as roadway, drainage, water and waste facilities, is included in the DEIS.

14. Location of the Proposed Development in Relation to Adjacent Land Use Districts. The Petition Area is located immediately mauka of and is adjacent to the North Kihei Community in the Urban District.

15. Economic Impacts of the Proposed Development. The economic impact assessment of the Project on the Kihei-Makena community and an economic analysis of the Project is included in the DEIS.

16. Assessment of Need for the Reclassification. Petitioner's assessment of population growth trends justifies the need for development and construction of a public high school to serve South Maui's growing population and to alleviate the need to transport high

school age children to Baldwin High School and Maui High School, Central Maui's two public high schools that presently serve the South Maui community. Development of the Project will reduce overcrowding at Baldwin High School and Maui High School. A complete description of the need for the Project is included in the DEIS.

17. Assessment of Conformity to State Planning Policies. A complete discussion of the Project community's conformance to the applicable goals, objectives and policies of the Hawaii State Plan and the applicable priority guidelines and functional plan policies is included in the DEIS.

18. Assessment of Conformity to Objectives of The Coastal Zone Management Program. A complete discussion of the Project's conformance to objectives and policies of the Coastal Zone Management program as described in Chapter 205A, HRS, is included in the DEIS.

19. Assessment of Conformity to Applicable County Development Policies. The County of Maui Planning Department's proposed Draft Maui Island Plan and amendments to the Kihei-Makena Community Plan propose a Kihei Mauka Expansion Area that includes the Petition Area and Kihei High School as a proposed use.

20. Assessment of Need for Incremental Reclassification. Petitioner intends to develop and construct the Project in phases. A proposed Conceptual Phasing Plan for the Project is shown as Figure 2-2 in the DEIS. Phase I will include design and construction of the on-site and off-site infrastructure system for development of the entire Petition Area. Phase I will also entail construction of classroom buildings, administrative buildings, elective buildings, cafeteria, athletic facilities and ancillary school buildings and facilities for a student population of approximately 800 students. Petitioner intends to commence design and construction of Phase

I as soon as all discretionary permits have been obtained, and to complete Phase I within ten (10) years of reclassification. Phase II will include additional classroom buildings, elective building expansion and additional athletic facilities for the full projected student population of 1,650. A future phase may include an auditorium and a swimming pool.

Although the Project may be constructed in Phases, the campus master plan is being designed as a single unit, and project infrastructure will be designed for and constructed to accommodate the full projected student population. Buildings scheduled to be constructed in Phase II and future phases are integrated in the campus master plan, without regard to locating Phase II and future phase improvements in contiguous areas conducive to incremental reclassification of the Petition Area. Petitioner may commence construction of Phase II and potential future facilities within ten years after Phase I is completed, but the schedule is subject to approval of the Legislature and release of funds by the Governor. A complete discussion of these factors is included in the DEIS, and will also be included in the FEIS. For these reasons Petitioner submits that it would not be appropriate for the Project to be approved in increments. Petitioner also requests that no condition be imposed on timing of completion of infrastructure improvements.

21. Assessment of Impacts on Hawaiian Customary and Traditional Rights.

An assessment of the impact development of the Petition Area would have on Native Hawaiian customary and traditional rights under Article XII, Section 7 of the Hawaii State Constitution is included in the DEIS. An assessment of the impact development of the Petition Area would have on access and trails is included in the DEIS. In addition, a Cultural Impact Study is included in the DEIS.

22. Written Comments to the Petition. Petitioner will attach all written comments and responses to the EISPN in the EIS and will attach all written comments and responses to the EISPN and to the DEIS in the EIS.

WHEREFORE, Petitioner respectfully requests that the Land Use Commission amend the land use district boundaries of the Petition Area from the State Land Use Agricultural District to the State Land Use Urban District, for the purposes and in the manner proposed in this Petition.

DATED: Honolulu, Hawaii, December 16, 2011.

STATE OF HAWAII, DEPARTMENT OF  
EDUCATION

By: Don Kashiwai

Name: DUANE KASHIWAI

Title: Director, Facilities Development Branch