

February 9, 2011

Mr. Orlando "Dan" Davidson
Executive Director
Land Use Commission
P. O. Box 2359
Honolulu, HI 96804-2359

LAND USE COMMISSION
STATE OF HAWAII
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Dear Mr. Davidson:

2011 Annual Report
Docket No. A90-655
Kapolei West

Aina Nui Corporation, an affiliate of the James Campbell Company LLC, submits this annual progress report to the Land Use Commission ("LUC"), the State of Hawaii Office of Planning, and the City and County of Honolulu Department of Planning and Permitting pursuant to Condition 21 of the February 14, 1991 LUC order in Docket No. A90-655.

The subject of this annual report is the petition area that is a part of the "Kapolei West" project. The petition area is comprised of 372.6 acres located at Honouliuli, Ewa, Oahu, Tax Map Key Nos. 9-1-15:18 and portion of 4, 9-1-56: portion of 11 and 9-1-56: portion of 12 (the "Property").

I. Status of Compliance with Conditions

The conditions to reclassification are reproduced boldface followed by a description of the progress being made to comply with them.

- Petitioner shall provide affordable housing opportunities for low to moderate income residents of the State of Hawaii to the satisfaction of the City and County of Honolulu. The location and distribution of the affordable housing shall be under such terms as are mutually agreeable between the Petitioner and the City and County of Honolulu.**

Note: This Condition 1 was amended by Order Granting Motion to Amend Findings of Fact, Conclusions of Law, and Decision and Order dated March 6, 1997.

Petitioner intends to provide affordable housing opportunities for low to moderate income residents of the State of Hawaii to the satisfaction of the City and County of Honolulu. The location and distribution of the affordable housing shall be under such terms as are mutually agreeable between the Petitioner and the City and County of Honolulu.

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2. **Petitioner shall participate in the implementation of the Ewa Transportation Master Plan (ETMP"). In the alternative, should the ETMP not be completed on a schedule compatible with Petitioner's development schedule, Petitioner shall undertake the following on a fair proportionate share basis as determined by the State Department of Transportation ("DOT"):**
 - a. **Petitioner shall participate in the funding and construction of transportation improvements at project access points as identified and deemed necessary by DOT.**
 - b. **Petitioner shall also participate in the funding and construction of other on-site and off-site transportation improvements necessitated by the proposed development of the Property and in designs and schedules accepted by and coordinated with DOT.**
 - c. **With respect to the foregoing requirements, the extent of the Petitioner's participation shall not exceed its fair proportionate share of the increased community impacts in the region.**
 - d. **In the event that the City and County of Honolulu ("C&C") adopts an impact fee for transportation improvements, the foregoing requirements shall be satisfied to the extent that the cost of any specific traffic improvement is also included in the C&C's impact fee computation.**
 - e. **Petitioner shall appoint a transportation manager whose function is the formulation, use, and continuation of alternative transportation opportunities that would optimize the use of existing and proposed transportation systems. In the alternative, Petitioner may participate in a regional program for transportation management with other developers and/or landowners. This program shall address the formulation, use, and continuation of alternative transportation opportunities that would optimize the use of existing and proposed transportation systems. Participation in the Leeward Oahu Transportation Management Association would satisfy this condition.**
- a. The Petitioner has reached agreement with the Department of Transportation on the level of funding and participation in the construction of local and regional transportation improvements and the terms of this condition. The Master Kapolei Highway Agreement ("MKHA") with the Department of Transportation dated June 1, 2010 is attached.

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- b. Petitioner will also participate in the funding and construction of other on-site and off-site transportation improvements necessitated by the proposed development of the Property and in designs and schedules accepted by and coordinated with DOT consistent with the MKHA.
 - c. The extent of Petitioner's participation, with respect to the foregoing requirements, shall not exceed its fair proportionate share of the increased community impacts in the region consistent with the MKHA.
 - d. The City and County of Honolulu has adopted an impact fee for transportation improvements; and so, Petitioner intends to comply with the conditions listed under 2d.
 - e. Petitioner is no longer a member of the Leeward Oahu Transportation Management Association ("LOTMA"). Instead, Petitioner has chosen to internally direct the formulation, use, and continuation of alternative transportation opportunities. Petitioner will continue to provide information on transportation alternatives in a similar fashion to LOTMA.
3. **Petitioner will provide other community benefits to mitigate impacts, which may include adequate golf tee times at affordable rates for public play by Hawaii residents based on prevailing rates for public play at privately owned daily fee golf courses to the satisfaction of the Office of State Planning and the City and County of Honolulu.**

Petitioner will provide other community benefits to the satisfaction of the state Office of Planning and the City and County of Honolulu.

4. **Petitioner shall provide drainage improvements for the Property and shall, to the extent necessary as determined by the City and County of Honolulu, coordinate off-site improvements with the Estate of James Campbell, the Barbers Point Naval Air Station, adjoining landowners and developers, and/or other Federal, State or City and County of Honolulu agencies.**

Petitioner will provide drainage improvements for the Property. Regional and project drainage master plans have been prepared and submitted for review. Petitioner will provide drainage improvements for the Property to the extent necessary, as determined by the City and County of Honolulu, and coordinate off-site improvements with adjoining landowners and developers, and/or federal, state or City and County of Honolulu agencies. In addition, Petitioner is currently in the design and permitting stages for a regional drainage outfall that will serve the

Property. The drainage outfall will be located near the existing James Campbell Industrial Park between the Chevron Refinery and the Kenai Industrial Park.

- 5. Petitioner shall participate in an air quality monitoring program as specified by the State Department of Health.**

Petitioner will comply with this condition.

- 6. The Petitioner shall connect the wastewater system for the proposed development in the Property to the Honouliuli Wastewater Treatment Plant (HWTP). Construction of any structure(s) within the Property shall not commence until Petitioner has obtained assurances from the City and County of Honolulu that the capacity at HWTP has been reserved for such structure(s); provided that if the capacity at the HWTP is not sufficient for the proposed structure(s) within the Property, the Petitioner may utilize other alternatives acceptable to the State Department of Health.**

Petitioner will comply with this condition.

- 7. Petitioner shall implement soil erosion and dust control measures during all phases of the development in compliance with the applicable rules and regulations of the City and County of Honolulu and the State Department of Health.**

Petitioner will comply with this condition.

- 8. Petitioner, by itself or together with other members of the Ewa Plain Water Development Corporation, shall develop the necessary water source, storage, and transmission facilities to provide an adequate supply of potable and non-potable water to the Property in conjunction with the development of the property. Non-potable water shall be used for irrigation.**

Potable water source improvements proposed in the Ewa Water Master Plan have been jointly implemented by the Ewa Plains Water Development Corporation (EPWDC) of which Petitioner was a member before is dissolution in 2006. The proposed development will be serviced by a dual-water system supplying potable water for human consumptive uses and non-potable water for irrigation.

9. **Petitioner shall be responsible for implementing sound attenuation measures to bring noise levels from vehicular traffic in the Property down to levels in compliance with the applicable State Department of Health standards and in cooperation with the State Department of Transportation.**

Petitioner will comply with this condition.

10. **Petitioner shall disclose in its deeds to all initial purchasers of residential units in the Property: (a) the possible odor, air, noise, and dust pollution resulting from Farrington Highway, Barbers Point Naval Air Station, Honolulu International Airport, neighboring developers, and any adjacent agricultural operations, and (b) the Hawaii Right-to-Farm Act, Chapter 165, Hawaii Revised Statutes, which limits the circumstances under which pre-existing farm activities may be deemed a nuisance.**

Petitioner will comply with this condition.

11. **Petitioner will provide covenants in the deed to initial purchases releasing the State of Hawaii and the United States Government or any subdivision thereof from all liability, and provide that such initial purchasers will not file suit against the State of Hawaii and the United States Government or any subdivision thereof on account of, or resulting from, any inconvenience, disturbance and/or injury due to noise under 65 Ldn in the area affecting such occupants or their property. Such covenants shall run with the land.**

Petitioner will comply with this condition.

12. **Petitioner shall immediately stop work on the impacted area and contact the Historic Preservation Division, State Department of Land and Natural Resources should any significant archaeological resources such as artifacts, shell, bones or charcoal deposits, human burial, or rock or coral alignments, paying or walls of historic or prehistoric significance be encountered during the development of the Property.**

Petitioner will comply with this condition.

13. **Petitioner shall comply with "The Eight (8) Conditions Applicable to This Golf Course Development", prepared by the State Department of Health dated April, 1990 (Version 3), introduced as the Office of State Planning's Exhibit Number 2.**

Petitioner will comply with this condition.

14. **Petitioner shall engage the services of a qualified golf course manager to oversee the irrigation of the golf course and application of fertilizers and pesticides to the golf course within the Property and who shall be qualified in the application of fertilizers and pesticides on those areas.**

Petitioner will comply with this condition.

15. **Petitioner shall provide its fair proportionate share for school facilities as may be required by and to the satisfaction of the State Department of Education and the Office of State Planning.**

Petitioner has reached agreement on its fair proportionate share for school facilities with the state Department of Education ("DOE"). As part of the agreement, Petitioner has set aside land for an elementary school within the Property. A copy of the executed fair share agreement was provided in a previous annual report.

16. **Petitioner shall provide its fair proportionate share for police, fire, park and solid waste disposal as may be required by and to the satisfaction of the City and County of Honolulu.**

Petitioner will comply with this condition.

17. **Petitioner shall participate with City and State civil defense agencies, with U. S. Department of the Navy, and with adjoining landowners and developers in formulating and implementing an emergency preparedness and evacuation plan for the Property. Petitioner shall fund and install the necessary number of emergency siren units (including infrastructure) within the development area to the specifications and satisfaction of the State Office of Civil Defense.**

Petitioner will comply with this condition.

18. **Petitioner shall complete the development on the Property in substantial compliance with the representations made before the Land Use Commission. Failure to so develop may result in the Land Use Commission taking any action authorized under, and pursuant to Act 261.**

Petitioner will comply with this condition.

19. **Petitioner shall give notice to the Land Use Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interest in the Property covered by the approved Petition prior to visible commencement of construction on the Property; provided, however, that Petitioner may transfer ownership in the Property to an affiliate or joint venture of which Petitioner is a member or in a manner consistent with prior representations to the Land Use Commission, and may mortgage the Property at any time without notice to the Land Use Commission. A mortgagee under such mortgage may foreclose the mortgage, by judicial foreclosure or under a power of sale contained in such mortgage (provided notice of the date of such foreclosure sale is given to the Land Use Commission), or may, with notice to the Land Use Commission, acquire title to such Property in lieu of foreclosure and the mortgagee or the person acquiring title at such foreclosure or in lieu of foreclosure may also transfer title to the Property with notice to the Land Use Commission.**

Petitioner has not made any land transfers since the 2010 annual report. Any future land transfers will be reported to the Land Use Commission in compliance with this condition.

20. **The Commission may fully or partially release these conditions as to all or any portion of the Property upon timely motion and upon the provision of adequate assurance of satisfaction of these conditions by the Petitioner. Adequate assurance of satisfaction may be evidenced by execution of a certificate of satisfaction in recordable form stating that such condition has been satisfied, in whole or in part. The Office of State Planning will certify for itself and all state departments and agencies. Petitioner will obtain any applicable certifications from the appropriate county departments and agencies. Any other party to the boundary amendment proceeding may be asked to indicate whether they concur in the certification of satisfaction.**

Petitioner will comply with this condition.

21. **Petitioner shall provide annual reports to the Land Use Commission, the Office of State Planning, and the City and County of Honolulu, Department of General Planning in connection with the status of the subject project and the Petitioner's progress in complying with the conditions imposed.**

Petitioner is herewith submitting the Annual Report to the Land Use Commission, the State of Hawaii Office of Planning and the City and County of Honolulu Department of Planning and Permitting to show the current status of the project and the progress in compliance with the imposed conditions.

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II. Other Significant Milestones

Other recent milestones are:

On September 29, 2008, Mayor Mufi Hannemann signed Ordinance 08-27, which rezoned the Property to various City and County of Honolulu zoning categories, including A-1, A-2 AMX-2, B-2, BMX-3 and P-2.

If you have any questions, please call me at 674-3289.

Sincerely,



Steve Kelly
Vice President, Development

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Attachment

cc: Jesse Souki, Office of Planning (w/Attachment)
David Tanoue, Department of Planning & Permitting (w/Attachment)

Agreement No. A02125800

MASTER KAPOLEI HIGHWAY AGREEMENT

LAND USE COMMISSION
STATE OF HAWAII

THIS MASTER KAPOLEI HIGHWAY AGREEMENT ("Agreement") is entered into as of this 1st day of JUNE, 2010, by and among KAPOLEI PROPERTY DEVELOPMENT LLC, a Hawaii limited liability company ("Kapolei Property Development LLC"), and AINA NUI CORPORATION, a Hawaii corporation ("Aina Nui Corporation"), MAKAIWA HILLS, LLC, a Delaware limited liability company ("Makaiwa Hills, LLC"), (collectively, Kapolei Property Development LLC, Aina Nui Corporation and Makaiwa Hills LLC being sometimes referred to as the "Kapolei Group"), JAMES CAMPBELL COMPANY LLC, a Delaware limited liability company ("James Campbell Company LLC"), CAMPBELL HAWAII INVESTOR LLC, a Hawaii limited liability company ("Campbell Hawaii Investor LLC") (James Campbell Company LLC and Campbell Hawaii Investor LLC being sometimes referred to as the "Landowner Group") and the DEPARTMENT OF TRANSPORTATION, State of Hawaii (the "Department of Transportation" or the "DOT");

WHEREAS, there is a need for the Kapolei Group and DOT to regularly coordinate fair share transportation improvements that serve the Kapolei area;

WHEREAS, the intent of this Agreement is to address transportation planning and improvement participation and funding for the Kapolei area including the master planned projects owned by the Kapolei Group;

WHEREAS, there are State of Hawaii Land Use Commission ("LUC") conditions of approval ("LUC Conditions") related to transportation planning, participation and coordination with the DOT that are required of the following projects (collectively, the "Projects") that are being undertaken by individual members of the Kapolei Group: City of Kapolei ("City of Kapolei Project"), Kapolei West project ("Kapolei West Project"), Kapolei Harborside project ("Kapolei Harborside Project"), and the Makaiwa Hills project ("Makaiwa Hills Project");

WHEREAS, there are also City and County of Honolulu ("City") conditions of approval ("Zoning Conditions") relating to transportation, planning and coordination with the DOT that are required for the Projects;

WHEREAS, the Kapolei Group, and the DOT agree that this Agreement, as amended, modified or supplemented from time to time, is intended to enhance transportation improvement planning and implementation and fulfill the requirements set forth in the LUC Conditions (defined below) and the Zoning Conditions (defined below), and wish to memorialize their understandings; and

WHEREAS, members of the Landowner Group own lands in the vicinity of the Projects that are necessary for the construction of the transportation improvements set forth in the LUC Conditions and the Zoning Conditions, and the Landowner Group is entering into this Agreement to memorialize their understandings with regard to the use of such lands;

NOW THEREFORE, the parties do here by agree as follows:

1. Purpose. This Agreement is intended to create a framework to coordinate State (defined below) transportation improvements in the Kapolei area and a framework for the complete satisfaction of the following conditions (the conditions referenced in subsections a

through g, inclusive, are referred to as the “**LUC Conditions**”, and the conditions set forth in subsections h, i and j below, are referred to as the “**Zoning Conditions**”):

a. Condition No. 2 of that certain Amended Document Listing Conditions and Preconditions to Reclassification dated November 14, 1989, made by the Trustees under the Will and of the Estate of James Campbell, Deceased, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 1684751 for LUC Docket No. **A87-613** for the City of Kapolei Project;

b. Condition No. 2 of that certain Amended and Restated Document Listing Conditions to Reclassification dated September 11, 1995, made by the Trustees under the Will and of the Estate of James Campbell, Deceased, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 2260754 and recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 95-119177 for LUC Docket No. **A87-613** for the City of Kapolei Project;

c. Condition No. 2 of that certain Document Listing Conditions of Order Modifying Conditions dated September 11, 1995, made by the Trustees under the Will and of the Estate of James Campbell, Deceased, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 2260756 and recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 95-119179 for LUC Docket No. **A87-613** for the City of Kapolei Project;

d. Condition No. 2 of that certain Declaration of Conditions dated April 19, 1991, made by West Beach Estates, and the Trustees under the Will and of the Estate of James Campbell, Deceased, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 1815687 for LUC Docket No. **A90-655** for the Kapolei West Project;

e. Condition No. 3 of that certain Document Listing Conditions to Reclassification dated December 29, 1993, made by the Trustees under the Will and of the Estate of James Campbell, Deceased, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 2105980 and recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 94-002350 for LUC Docket No. **A92-687** for the Makaiwa Hills Project;

f. Condition No. 4 of that certain Declaration of Conditions Applicable to an Amendment of District Boundary from Agricultural to Urban dated May 26, 2006, made by Aina Nui Corporation, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 3437501 and recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2006-105645 for LUC Docket No. **A04-753** for the Kapolei West Project;

g. Condition No. 2 of that certain Declaration of Conditions Applicable to an Amendment of District Boundary from Agricultural to Urban dated January 21, 2008, made by Kapolei Property Development LLC, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 3703757 for LUC Docket No. **A06-763** for the Kapolei Harborside Project;

h. Condition No. 13.a of that certain Unilateral Agreement and Declaration for Conditional Zoning dated September 11, 2008, made by Makaiwa Hills, LLC, filed



in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No.3788456 for the Makaiwa Hills Project;

i. Condition No. 6.a of that certain Unilateral Agreement and Declaration for Conditional Zoning dated September 11, 2008, made by Aina Nui Corporation and Kapolei Property Development LLC, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No.3788915 for the Kapolei West Project;

j. Condition No. 4.a of that certain Unilateral Agreement and Declaration for Conditional Zoning dated September 11, 2008, made by Aina Nui Corporation, Kapolei Property Development LLC and James Campbell Company LLC, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No.3788916 for the Harborside Project;

2. Regional Traffic Study. The Kapolei Group has retained Wilson Okamoto Corporation, traffic consultants, to prepare traffic projections for the Kapolei region, and has provided to DOT the Kapolei Comprehensive Traffic Analysis Report dated December, 2008 prepared by such consultants. DOT has reviewed this Report and acknowledges that it satisfies the LUC Condition for the preparation of a regional traffic study. The Kapolei Group agrees to periodically update this Report to reflect any changes in the traffic projections for the Kapolei region, upon the written request of DOT. This Report, as amended, is referred to as "**CTAR**". The Kapolei Group shall be responsible for the implementation of the transportation mitigation measures for DOT facilities, recommended in the CTAR and in the Traffic Impact Assessment Reports ("**TIAR**") conducted for the Projects.

3. Kapolei Interchange Complex. The Kapolei Interchange Complex ("**KIC**") is comprised of the following general Phases: (i) at grade Kapolei Makakilo Interchange ramps ("**Phase I**"); (ii) grade separated Kapolei Interchange ("**Phase II**"); (iii) at grade Palailai Interchange ramps ("**Phase III**"); and (iv) grade separated Palailai Interchange ("**Phase IV**"). The final compositions of the Phases are to be defined by DOT prior to the commencement of their design. The respective obligations of the Kapolei Group, DOT and the Landowner Group for each Phase of the KIC are set forth below.

a. Phase I. The respective responsibilities of the Kapolei Group, DOT and the Landowner Group with regard to Phase I are fully set forth in that certain Memorandum of Understanding dated July 9, 2007, by and among James Campbell Company LLC, Kapolei Property Development LLC, Aina Nui Corporation, Campbell Hawaii Investor LLC and DOT (the "**Phase I MOU**"), which remains in full force and effect, and which shall continue to be the operative agreement with regard to Phase I.

b. Phase II.

(1) Configuration. The conceptual configuration of Phase II is shown in (i) the Final Environmental Assessment for Interstate H-1 Addition and Modification of Highway Access, Palailai Interchange/Makakilo Interchange (Kapolei Interchange Complex), Federal Aid Interstate Project No. IM-H1-1(257) dated November, 2006, prepared for the DOT ("**EA**"), and (ii) the Updated I-H1 Addition and Modification of Highway Accesses Palailai Interchange/Makakilo Interchange dated May 3, 2006 ("**FHWA Report**"). The specific right-of-way maps will be finalized prior to the execution of the Phase II MOU (defined below).

(2) Design. The Kapolei Group shall be responsible for the design and engineering services for Phase II, with the intent that (i) such services shall qualify for a "soft match" under federal law, in the same way as the similar services that it provided on Phase I are treated in the Phase I MOU, and (ii) DOT shall be solely responsible for overseeing the design and construction of Phase II, in the same way that it is responsible for overseeing the design and construction of Phase I in the Phase I MOU.

(3) Funding. The Kapolei Group shall be responsible for funding the design and engineering of Phase II. DOT shall be responsible for funding the construction of Phase II, subject to the availability of federal funds.

(4) Construction. DOT shall be responsible for the construction of Phase II, in the same way as provided for in the Phase I MOU.

(5) Land. The Kapolei Group, and the Landowner Group agree to donate the land necessary for the Phase II right-of-ways in the same manner as the donation for the Phase I right-of-ways are treated in the Phase I MOU. The Kapolei Group, the Landowner Group and DOT shall agree upon the value of the rights-of-way being contributed prior to the execution of the Phase II MOU.

(6) Timing. Construction of Phase II will start when DOT obtains the federal funds necessary for the construction of Phase II. Prior to DOT commencing construction of Phase II, the Kapolei Group, the Landowner Group and DOT shall enter into a Memorandum of Understanding for Phase II ("**Phase II MOU**"), similar in form and content to the Phase I MOU, modified as necessary to incorporate the provisions of this Agreement.

c. Phase III.

(1) Configuration. The conceptual configuration of Phase III is shown in the EA and the FHWA Report. The specific right-of-way maps will be finalized prior to the execution of the Phase III MOU (defined below).

(2) Design. The Kapolei Group shall be responsible for the design and engineering services for Phase III, with the intent that (i) such services shall qualify for a "soft match" under federal law, in the same way as the similar services that it provided on Phase I are treated in the Phase I MOU, and (ii) DOT shall be solely responsible for overseeing the design and construction of Phase III, in the same way that it is responsible for overseeing the design and construction of Phase I in the Phase I MOU.

(3) Funding. The Kapolei Group shall be responsible for funding the design and engineering of Phase III. DOT shall be responsible for funding the construction of Phase III subject to the availability of federal funds. In addition, as set forth in Section 8 below, DOT agrees to join with the Kapolei Group in requesting the City to amend Chapter 33A of the Revised Ordinances of Honolulu (the "**Impact Fee Ordinance**") to add Phase III, so that DOT can use Impact Fee Ordinance funds to construct Phase III, and the Kapolei Group can receive impact fee credits for costs incurred in designing and engineering Phase III.

(4) Construction. DOT shall be responsible for the construction of Phase III, in the same way as provided for in the Phase I MOU.

(5) Land. The Kapolei Group, and the Landowner Group agree to donate the land necessary for the Phase III right-of-ways in the same manner as the donation for the Phase I right-of-ways is treated in the Phase I MOU. The Kapolei Group, the Landowner Group and DOT shall agree upon the value of the rights-of-way being contributed prior to the execution of the Phase III MOU.

(6) Timing. Construction of Phase III will start when DOT obtains the federal funds necessary for the construction of Phase III and when the Impact Fee Ordinance is amended as set forth in Section 3.c.(3) above. Prior to DOT commencing construction of Phase III, the Kapolei Group, the Landowner Group and DOT shall enter into a Memorandum of Understanding for Phase III ("**Phase III MOU**"), similar in form and content to the Phase I MOU, modified as necessary to incorporate the provisions of this Agreement.

d. Phase IV.

(1) Configuration. The conceptual configuration of Phase IV is shown in the EA and the FHWA Report. The specific right-of-way maps will be finalized prior to the execution of the Phase IV MOU (defined below).

(2) Design. The Kapolei Group shall be responsible for the design and engineering services for Phase IV, with the intent that (i) such services shall qualify for a "soft match" under federal law, in the same way as the similar services that it provided on Phase I are treated in the Phase I MOU, and (ii) DOT shall be solely responsible for overseeing the design and construction of Phase IV, in the same way that it is responsible for overseeing the design and construction of Phase I in the Phase I MOU.

(3) Funding. The Kapolei Group shall be responsible for funding the design and engineering of Phase IV. DOT shall be responsible for funding the construction of Phase IV subject to the availability of federal funds. In addition, as set forth in Section 8 below, DOT agrees to join with the Kapolei Group in requesting the City to amend the Impact Fee Ordinance to add Phase IV, so that DOT can use Impact Fee Ordinance funds to construct Phase IV, and the Kapolei Group can receive impact fee credits for costs incurred in designing Phase IV.

(4) Construction. DOT shall be responsible for the construction of Phase IV, in the same way as provided for in the Phase I MOU.

(5) Land. The Kapolei Group, and the Landowner Group agree to donate the land necessary for the Phase IV right-of-ways in the same manner as the donation for the Phase I right-of-ways are treated in the Phase I MOU. The Kapolei Group, the Landowner Group and DOT shall agree upon the value of the rights-of-way being contributed prior to the execution of the Phase IV MOU.

(6) Timing. Construction of Phase IV will start when DOT obtains the federal funds necessary for the construction of Phase IV and when the Impact Fee Ordinance is amended as set forth in Section 3.c.(3) above. Prior to DOT commencing construction of Phase IV, the Kapolei Group, the Landowner Group and DOT shall enter into a Memorandum of Understanding for Phase IV ("**Phase IV MOU**"), similar in form and content to the Phase I MOU, modified as necessary to incorporate the provisions of this Agreement.

4. Road D Interchange.

a. Configuration. The conceptual configuration of the Road D Interchange is shown on Exhibit A attached here to and incorporated herein by reference. ("**Road D Interchange**"). The specific design and right-of-way maps will be finalized prior to the execution of the Road D MOU (defined below).

b. Design. The Kapolei Group shall be responsible for the design and engineering services for the Road D Interchange, with the intent that the design and engineering of the Road D Interchange will be subject to DOT review and approval prior to commencement of construction. The design of the Road D Interchange will be based on the conceptual configuration shown on Exhibit A.

c. Funding. The Kapolei Group shall be responsible for funding the cost to design, engineer and construct the Road D Interchange. Nothing herein shall prevent the Kapolei Group from seeking federal funding, the creation of a Community Facilities District ("**CFD**") or other alternative financing mechanisms to fund the cost to design, engineer and construct the Road D Interchange.

d. Construction. The Kapolei Group shall be responsible for the construction of the Road D Interchange. In the event that federal funding becomes available for construction of the Road D Interchange, DOT may assume construction responsibility for the Road D Interchange.

e. Dedication. Upon the completion of construction, the Kapolei Group agrees to dedicate the Road D Interchange to DOT. The Landowner Group agrees to dedicate any land owned by it that is necessary for the Road D Interchange right-of-ways. All lands dedicated by the Kapolei Group under this subsection e shall be free and clear of liens and encumbrances, excepting those imposed by governmental authorities.

f. Timing. The Kapolei Group shall complete design and commence construction of the Road D Interchange, so as to complete construction by the date that the City issues the building permit on the 2,175th residential unit in the Makaiwa Hills Project. Prior to the Kapolei Group commencing construction of the Road D Interchange, the Kapolei Group, the Landowner Group and DOT shall enter into a Memorandum of Understanding for the Road D Interchange ("**Road D MOU**"), similar in form and content to the Phase I MOU, modified as necessary to incorporate the provisions of this Agreement.

5. Harbor Access Road.

a. Configuration. The conceptual configuration of the Harbor Access Road, including proposed access intersections, is shown on Exhibit B attached hereto and incorporated herein by reference. ("**Harbor Access Road**"). The specific design and right-of-way maps will be finalized prior to the execution of the Harbor Access Road MOU (defined below).

b. Design. The Kapolei Group shall be responsible for the design and engineering services for the Harbor Access Road, with the intent that the design and engineering of the Harbor Access Road will be subject to DOT review and approval prior to commencement of construction. The design of the Harbor Access Road will be based on the conceptual configuration shown on Exhibit B.

c. Funding. The Kapolei Group shall be responsible for funding the cost to design, engineer and construct the Harbor Access Road. Nothing herein shall prevent the Kapolei Group from seeking federal funding, the creation of a CFD or other alternative financing mechanisms to fund the cost to design, engineer and construct the Harbor Access Road. DOT agrees to join with the Kapolei Group: (i) in seeking to obtain federal funding for the Harbor Access Road; and (ii) in requesting the City to amend the Impact Fee Ordinance to add the Harbor Access Road, so that DOT can use Impact Fee Ordinance funds to construct the Harbor Access Road, and the Kapolei Group can receive impact fee credits for costs incurred in designing and constructing the Harbor Access Road.

d. Construction. The Kapolei Group shall be responsible for the construction of the Harbor Access Road. In the event that federal funding becomes available for construction of the Harbor Access Road, DOT may assume construction responsibility for the Harbor Access Road.

e. Dedication. Upon completion of construction of all or a portion of the Harbor Access Road, the Kapolei Group agrees to dedicate portions of the Harbor Access Road as it is completed to DOT. The Landowner Group agrees to dedicate any land owned by it that is necessary for the completed portions of the Harbor Access Road right-of-ways. All lands dedicated by the Kapolei Group and the Landowner Group under this subsection e shall be free and clear of liens and encumbrances, excepting those imposed by governmental authorities. Upon such dedication, DOT may request the United States Congress to designate Harbor Access Road as part of the National Highway System, and to delete Kalaeloa Boulevard and Malakole Road from the National Highway System at that time.

f. Timing. The Kapolei Group shall complete design and commence construction of the Harbor Access Road, so as to complete construction by the date that DOT completes construction of Phase III of the KIC. Prior to the Kapolei Group commencing construction of the Harbor Access Road, the Kapolei Group, the Landowner Group and DOT shall enter into a Memorandum of Understanding for the Harbor Access Road ("**Harbor Access Road MOU**"), similar in form and content to the Phase I MOU, modified as necessary to incorporate the provisions of this Agreement.

6. Satisfaction of Fair Share Requirement. DOT acknowledges and agrees that the undertakings by the Kapolei Group under this Agreement, fully satisfy the obligations of the members of the Kapolei Group under the LUC Conditions to pay their "fair share" or "equitable share" of the cost of the additional transportation improvements that are under the jurisdiction of DOT, and that are necessary to mitigate the impacts of the Projects they are developing, as more fully set forth in the LUC Conditions. DOT acknowledges that the members of the Kapolei Group have advised it that they will internally allocate the costs imposed on the Kapolei Group by this Agreement amongst themselves.

7. Waiver of Access and Connection Payments. DOT agrees not to assess any access or connection payments in connection with: (i) the construction of the Road D Interchange including its connection to Farrington Highway; (ii) the Harbor Access Road including, without limitation the construction of the intersections shown on Exhibit B; or (iii) any crossings of the OR&L right-of-way that are necessary for the development of the Projects.

8. Ewa Highway Impact Fee Ordinance Revisions. The Kapolei Group and DOT agree to join in requesting that the City amend the Impact Fee Ordinance to (i) add the portions of the KIC, not currently covered by the Impact Fee Ordinance, to the Ordinance, and

(ii) add the Harbor Access Road to the Impact Fee Ordinance. DOT acknowledges that the Kapolei Group shall be entitled to receive credits under Section 33A-1.10(b) for the costs it incurs in designing and constructing improvements covered by the Impact Fee Ordinance, as same may be amended from time to time.

9. Old Farrington Highway. Within thirty (30) days after the date of this Agreement, DOT agrees to initiate, in accordance with applicable law, and to thereafter diligently pursue to completion, the actions necessary for the State of Hawaii (the "State") to abandon the Old Farrington Highway right-of-way ("**OFH**") through the Makaiwa Hills Project and to convey OFH to Makaiwa Hills LLC, at no cost to the Kapolei Group or the Landowner Group.

10. Kalaeloa Harbor Weigh Station. Upon the initial dedication of the Harbor Access Road to DOT, Kapolei Property Development LLC will convey to the DOT approximately two (2) acres of land adjacent to the Kalaeloa Harbor and the Harbor Access Road to be used as a DOT truck weigh station, in satisfaction of the Kapolei Harborside Project LUC Conditions. The location of this weigh station shall be mutually agreed upon by Kapolei Property Development LLC and DOT, and shall be included in the Harbor Access Road MOU. The land conveyed by Kapolei Property Development LLC to DOT by under this Section 10 shall be free and clear of liens and encumbrances, excepting those imposed by governmental authorities. Upon conveyance of the land for the weigh station, the DOT shall release all claims that it may have to any existing or planned truck weigh station along Kalaeloa Boulevard owned by the Kapolei Group.

11. Other Roads.

a. Kalaeloa Boulevard. The Landowner Group shall provide the right-of-way, and the Kapolei Group shall design and construct, or cause to be designed and constructed, upgrades to Kalaeloa Boulevard from Kapolei Parkway to Malakole Road to City dedicable standards. The Kapolei Group shall cause the dedication of this portion of Kalaeloa Boulevard to the City. The Landowner Group agrees to dedicate any land owned by it that is necessary for the dedication of this portion of Kalaeloa Boulevard.

b. Malakole Road. If needed for the development of the Kapolei Harborside Project, the Landowner Group shall provide the right-of-way, and the Kapolei Group shall design and construct, or cause to be designed and constructed, upgrades to Malakole Road from the approximate location of the intersection of Hanua Street and Malakole Road west to its intersection with John Wayne Avenue to City dedicable standards. The Kapolei Group shall cause the dedication of this portion of Malakole Road to the City. The Landowner Group agrees to dedicate any land owned by it that is necessary for the dedication of this portion of Malakole Road.

c. Fort Barrette Road. The widening and upgrading of Fort Barrette Road shall be a DOT project constructed within the DOT's own existing right-of-way, funded and implemented by the DOT within a time frame necessary for the DOT's own purposes, but anticipated to occur in 2014.

12. Assignment. Upon ninety (90) days prior written notice to the DOT, the members of the Kapolei Group shall have the right to assign their respective interests and responsibilities in this Agreement to the buyer of all or substantially all of the Projects they are developing. Upon ninety (90) days prior written notice to the DOT, the members of the

Landowner Group shall have the right to assign their respective interests and responsibilities in this Agreement to a buyer of the lands subject to conveyance to DOT under this Agreement.

13. Force Majeure. In the event that a party's performance of any of its obligations under this Agreement is delayed due to Force Majeure, then the time for the completion of such performance shall be extended by a time period equal to the duration of such delay. For purposes of this Agreement, "**Force Majeure**" is defined as an act of God (such as tsunamis, earthquakes or other natural disasters), war, strike in the State of Hawaii or on the Island of Oahu, national emergencies or civil disturbances, general transportation or shipping strikes, or strikes which affect the delivery of materials critical to construction of the improvements in question, or any act (or failure to act) of the United States, the State of Hawaii, or the City or any department thereof, due to conditions that are not within a party's control and that could not reasonably be avoided by such party.

14. Notices. All communications hereunder will be in writing and shall be deemed duly communicated when delivered in person, sent by facsimile transmission or four (4) days after being sent by certified or registered mail, postage prepaid, addressed to:

If to the Kapolei Group:

Kapolei Property Development LLC
James Campbell Building, Suite 250
1001 Kamokila Boulevard
Kapolei, HI 96707
Attention: Steve Kelly

Makaiwa Hills, LLC
7727 Herschel Avenue
La Jolla, California 92037
Attention: Rodney F. Stone

If to the DOT:

State of Hawaii
Department of Transportation
869 Punchbowl Street
Honolulu, Hawaii 96813
Attention: Director

If to the Landowner Group:

James Campbell Company LLC
James Campbell Building, Suite 200
1001 Kamokila Boulevard
Kapolei, HI 96707
Attention: Chief Financial Officer

or, in each case, to such address as may hereunder have been designated most recently. The parties agree that any written notice given by DOT to Kapolei Property Development LLC and Makaiwa Hills LLC shall be deemed given to all members of the Kapolei Group, and that written

notice given to James Campbell Company LLC shall be deemed given to all members of the Landowner Group.

15. No Party Deemed Drafter. This Agreement shall not be construed either for or against any of the parties hereto, but this Agreement shall be construed simply, according to its fair meaning.

16. No Waiver. The failure in any case to enforce any of the provisions of this Agreement shall not constitute a waiver of any right to enforce such provision of this Agreement in any other case.

17. Partial Invalidity. If any term, provision, covenant or condition of this Agreement or the application thereof to any person or circumstances shall to any extent, be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of this Agreement, or the application of such term, provision, covenant or condition of this Agreement to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each term or provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

18. Binding Effect. All the terms, covenants and conditions of this Agreement shall inure to the benefit of and be binding upon the successors, successors in trust and assigns of the respective members of the Kapolei Group and the Landowner Group, and the successors and assigns of the DOT, to the same extent as said terms, covenants and conditions inure to the benefit of and are binding upon the Kapolei Group, the Landowner Group, and the DOT, respectively.

19. Governing Law. The laws of the State of Hawaii shall govern the validity, performance and enforcement of this Agreement.

20. No Recordation. Neither this Agreement nor a memorandum or short form may be filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii or recorded in the Bureau of Conveyances of the State of Hawaii.

21. Entire Agreement. There are no outstanding oral agreements between the parties hereto with respect to the subject matter of this Agreement, and this Agreement supersedes any prior negotiations, arrangements, agreements and understandings, if any, incorporated herein by reference and made a part hereof.

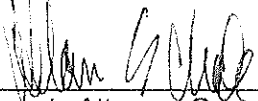
22. Amendment. This Agreement may only be amended in writing, executed by the DOT, the Kapolei Group and the Landowner Group, unless such amendment affects the donation of parcels of land owned by members of the Kapolei Group and/or the Landowner Group, in which case such amendment shall be signed by the applicable land owning member of the Kapolei Group and/or the Landowner Group.

23. Counterparts. The parties hereto agree that this Agreement may be executed in counterparts, each of which shall be deemed an original, and said counterparts shall together constitute one and the same agreement, binding all of the parties hereto, notwithstanding that all of the parties are not signatory to the original or the same counterparts.

[remainder of this page intentionally left blank; signature(s) on following page(s)]

IN WITNESS WHEREOF, the undersigned have executed this instrument as of the date first written above.

APPROVED AS TO FORM:



Deputy Attorney General

DOT:

STATE OF HAWAII

By 


BRENNON MORIOKA
Its Director of Transportation


IN WITNESS WHEREOF, the undersigned have executed this instrument as of the date first written above.

Kapolei Property Development LLC:

KAPOLEI PROPERTY DEVELOPMENT LLC, a Hawaii limited liability company


By Aina Nui Corporation, a Hawaii corporation, its member manager

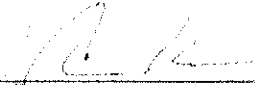
By 
Name: Bradford J. Myers
Its: President

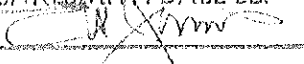
By 
Name: Charles Hill
Its: Vice President

Aina Nui Corporation:

AINA NUI CORPORATION, a Hawaii corporation

By 
Name: Bradford J. Myers
Its: President

By 
Name: Charles Hill
Its: Vice President

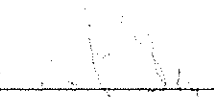
Approved as to Form
CARLSMITH BALL LLP
By 


APPROVED NON STANDARD FORM
Contract:
Checked L. Hannemann
Approved B. Myers
Date 5/14/2010

IN WITNESS WHEREOF, the undersigned have executed this instrument as of the date first written above.

Makaiwa Hills, LLC:

MAKAIWA HILLS, LLC, a Delaware limited liability company

By  _____
Name: Rodney F. Stone
Its Manager

By  _____
Name: _____
Its Manager

IN WITNESS WHEREOF, the undersigned have executed this instrument as of the date first written above.

James Campbell Company, LLC:

JAMES CAMPBELL COMPANY, LLC, a Delaware limited liability company

By _____
Name: Stephen H. MacMillan
Its President/Chief Executive Officer

By _____
Name: Landon M.W. Chen
Its Executive Vice President
Chief Financial Officer

Campbell Hawaii Investor LLC:

CAMPBELL HAWAII INVESTOR, LLC, a Hawaii limited liability company

By James Campbell Company LLC, a Delaware limited liability company, its member manager

By _____
Name: Stephen H. MacMillan
Its President/Chief Executive Officer

By _____
Name: Landon M.W. Chen
Its Executive Vice President
Chief Financial Officer

EXHIBIT A

Source: Road D Interchange Memo dated September 3, 2008 prepared by Wilson Okamoto Corporation.

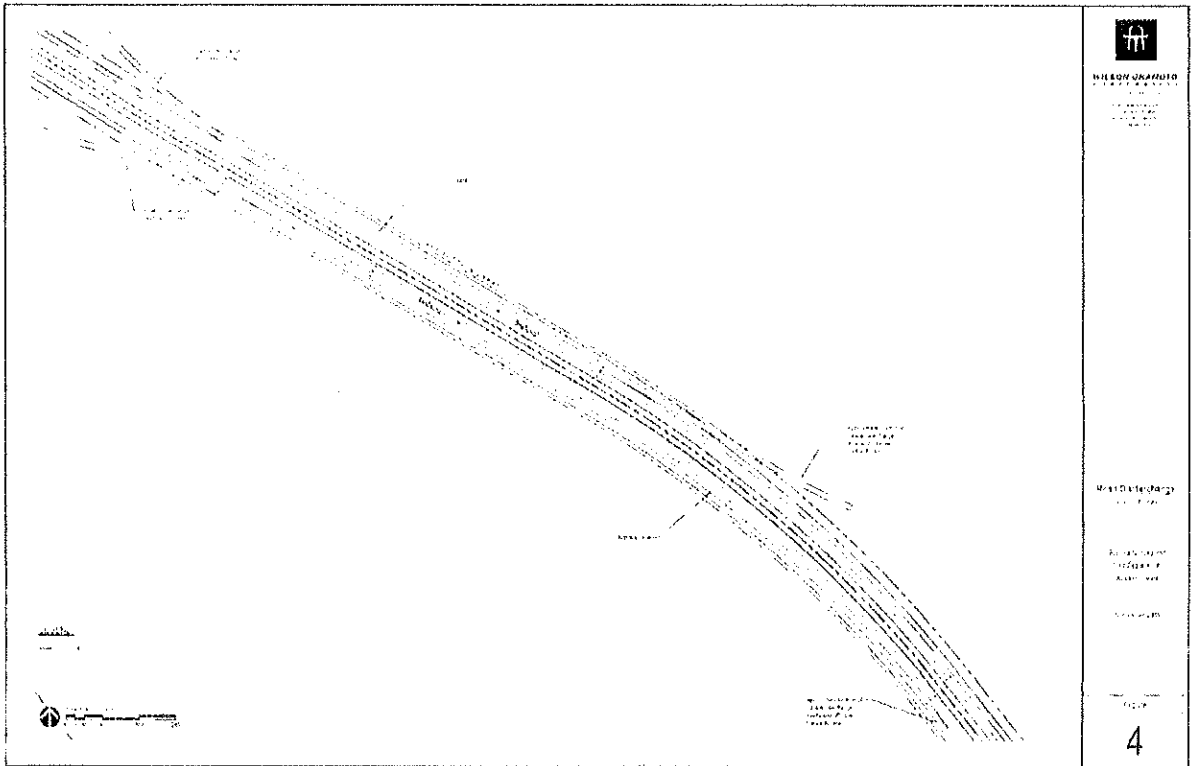
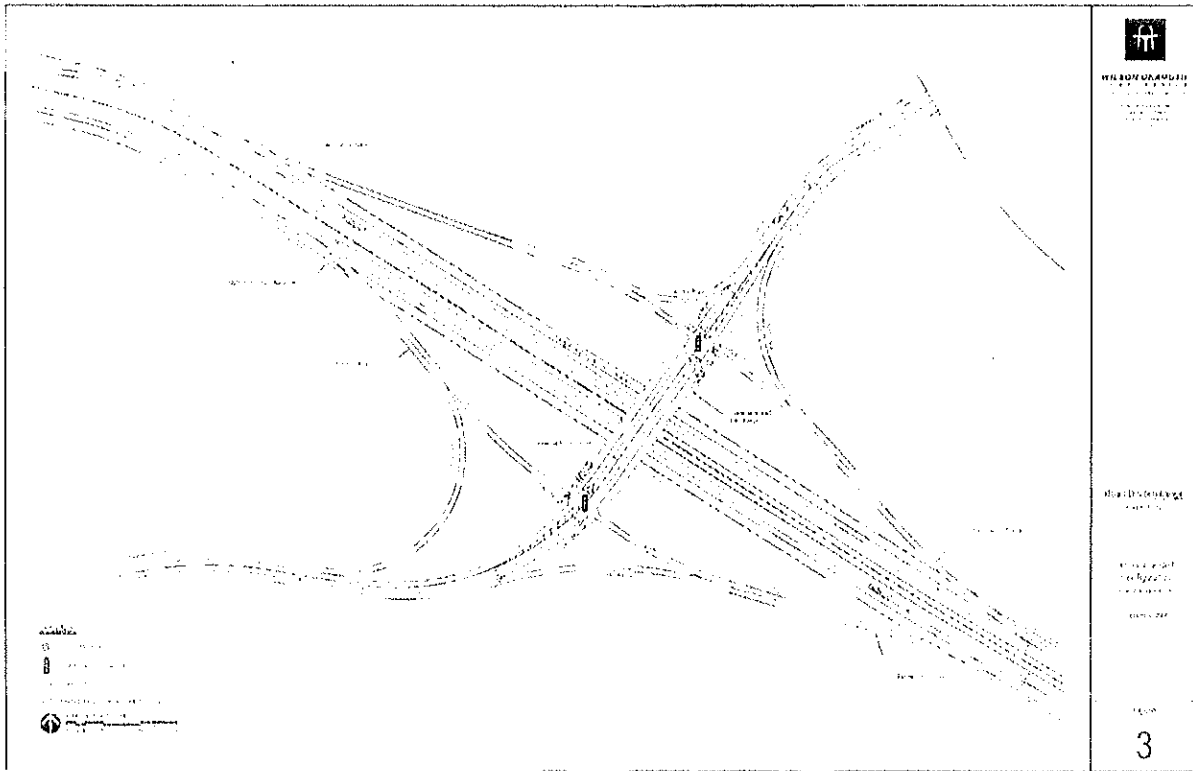


EXHIBIT B

Source: Harbor Access Memo dated September 4, 2008 prepared by Wilson Okamoto Corporation.

