

KEHALANI HOLDINGS COMPANY, INC.

1100 Alakea, 27th Floor
Honolulu, Hawaii 96813
Phone: (808) 537-5220
Fax: (808) 537-1801

January 28, 2010

Land Use Commission
State of Hawaii
P. O. Box 2359
Honolulu, Hawaii 96804-2359

Re: Annual Report for Docket No. A-89-642
Wailuku and Piihana Project Districts
Hawaii Land & Farming Company, Inc.

Honorable Chairman and Members:

In response to Condition 12 of the Findings of Fact, Conclusions of Law, and Decision and Order in this docket filed January 30, 1990, we are pleased to submit the following report.

BACKGROUND:

On January 30, 1990, the Land Use Commission (the "Commission") issued its Findings of Fact, Conclusions of Law, and Decision and Order in Docket No. A89-642, granting the reclassification of approximately 624 acres of land situated at Wailuku and Piihana, County of Maui, State of Hawaii, comprised of approximately 545 acres of land identified on the Tax Maps of the State of Hawaii as Tax Map Key Number: 3-5-01:01 (portion), 17 (portion), and 3-4-07:02 (portion) (hereinafter referred to as "Wailuku Project District"); and 79 acres identified on the Tax Maps of the State of Hawaii as Tax Map Key Number: 3-3-01:16 (portion), 33, and 3-4-32:10, 18 and 01 (portion) (hereinafter referred to as "Piihana Project District") from the Agricultural to the Urban Land Use District.

Petitioner is currently developing the property pursuant to Maui County's three-phase "project district" zoning ordinance.

Petitioner submitted the "Phase I" applications for both Project Districts to the County of Maui in April 1990. These submittals petitioned the County to establish the Project Districts and define the zoning within them. The proposals were brought before the County Council for public hearings and passed in November 1991.

Petitioner submitted "Phase II" applications for both Project Districts to the County of Maui in December of 1991. These submittals further refine the designs of the projects and continue study of the projects' impacts on the surrounding communities. These submittals also set standards for architecture, occupancy, and specific uses within the Project Districts. The County of Maui has approved the Phase II submittals for each project.

In 2002, the Petitioner submitted a Phase II Amendment for a 65-acre portion of Kehalani. The amendment reallocated the location of certain uses within the Project District, more specifically to centralize the location of the school and community park. County approval was granted for this request on September 16, 2002.

Wailuku Project District - Phase III approvals are granted by the County of Maui Planning Department for each individual neighborhood or project. Each approval requires the submittal of such information as site layout, product & landscaping design and a review of compliance with the zoning and phase II conditions. The Phase III approval process will continue throughout the life of the Project District. To date, Kehalani has received Phase III approvals on 17 of the 27 planned neighborhoods in the Wailuku Project District. Of the approved neighborhoods, 6 are east (makai) of Honoapiilani Highway, and 11 are west (mauka) of the Highway. In the approved areas, illustrative site map of the Kehalani Master Plan and aerial photo are attached for your reference (see Exhibit A).

Piihaha Project District - There is currently no activity at the Piihaha Project District. This site has a number of exactions that make the development of this project infeasible. Such exactions include but are not limited to construction of a bridge across Iao Stream, water system improvements, offsite roadway improvements, a wastewater pump station and affordable housing requirements. The Petitioner is currently looking into cost sharing opportunities to make development of Piihaha more economically viable. The Petitioner will keep the Commission updated on any progress on this topic and its affect on the original D&O.

UPDATE ON COMPLIANCE TO L.U.C. CONDITIONS:

- Petitioner shall provide housing opportunities for low, low-moderate, and moderate income residents of the State of Hawaii by offering for sale or lease a number of units equal to at least thirty percent (30%) of the residential units in each of the Project Districts, at prices which families with an income range of up to one hundred and twenty percent (120%) of the County of Maui's median income can afford, and a number of units equal to at least thirty percent (30%) of the units in each of the Project Districts of the Property, area at prices which families with an income range of one hundred twenty to one hundred forty percent (120% - 140%) of the County of Maui's median income can afford.**

This condition may be fulfilled through construction and distribution of units in the Property or through other projects within the same Community Plan District as the Property, under such terms as may be mutually agreeable, between Petitioner and the Housing Finance and Development Corporation of the State of Hawaii.

This condition may also be fulfilled, with the approval of the Housing Finance and Development Corporation and the County of Maui, through the construction of rental units to be made available at rents which families in the specified income ranges can afford.

In addition, Petitioner may obtain the special credit, as determined by the Housing Finance and Development Corporation and the County of Maui, for the provision of more than ten percent (10%) of the total units of housing affordable to persons with incomes less than eighty percent (80%) of the County of Maui's median income and for the provision of housing for special needs groups, as determined by the Housing Finance and Development Corporation and the County of Maui.

Insofar as possible, the Petitioner shall implement this affordable housing requirement concurrently with the completion of market priced units for the residential project. The determination of median income, as the term is used in this condition, shall be based on median income figures published by the United States Department of Housing and Urban Development at the time that the construction of such housing units is commenced.

Response: The Petitioner continues to work with the Maui County Housing Department on fulfilling the affordable requirements associated with both Project Districts as the County affordable housing requirements for Kehalani and Piihaha are more stringent than the SLUC requirements.

To date, the Petitioner has built and sold a total of 710 affordable units within Kehalani and Wailuku. Additionally, the Petitioner has donated 11 acres of land adjacent to the Piihaha Project District to MEO for the development of transitional housing. Affordable credits from these efforts have been applied to the requirements for Kehalani.

Agreements with the County Housing Department dated December 17, 2002 and amendments dated October 22, 2003 and January 28, 2005, attached to previous SLUC annual compliance reports, document ongoing compliance with these requirements. The most recent communications with the Housing Department, dated December 19, 2005 and December 20, 2006, are attached for your records (see Exhibit B). Another 87 affordable units are planned for development over the next 2-3 years at Kehalani. As previously mentioned, no activity is proposed at Piihaha until feasible development plans can be established for this project.

- 2. Petitioner shall prepare, or participate in the preparation of, a regional traffic impact study to address all traffic impacts resulting from the Project in coordination with the State Department of Transportation and the County of Maui.**

Petitioner shall participate on a pro rata share basis in the funding and construction of regional transportation improvements identified by, and to the satisfaction of, the State Department of Transportation Department of Transportation and the County of Maui. The Petitioner shall also fund and construct the transportation improvements in the immediate vicinity, and necessitated by the proposed development as identified by, and to the satisfaction of, the State Department of Transportation and

the County of Maui. In addition, Petitioner shall submit construction plans, traffic studies and drainage reports associated with the Project Districts to the Department of Transportation and the County of Maui for review and approval.

Response:

Wailuku Project District - Petitioner has completed a Long Range Traffic Master Plan, which studied the impacts of additional traffic both within the Districts and in the surrounding communities, to the State Department of Transportation (SDOT) and the Maui County Department of Public Works and Environmental Management (DPWEM). The long-range Traffic Master Plan has been approved by these agencies.

Petitioner has approval from the SDOT regarding the improvements required on Honoapiilani Highway to mitigate the impacts of the development. Petitioner also has the approval of the County of Maui for its plan to mitigate traffic. The most recent improvement was the completion of traffic signals at the intersection of Honoapiilani Highway and Kehalani Parkway. The Petitioner also has also completed plans to improve the intersection of Honoapiilani Highway and Kuikahi with exclusive left turn lanes.

The latest Traffic Impact Assessment Report, dated March 2003, has been accepted for the ongoing phases of work at Kehalani and SDOT has allowed the County to continue processing individual projects at Kehalani for development. The Petitioner's traffic engineer is currently working with the SDOT to obtain final approval of the revised report.

With regards to drainage, SDOT reviews all subdivision applications at Kehalani which include drainage plans pertinent to work done on State Highways. This would include any required master drainage plans for the project.

Piihaha Project District - Petitioner, as a part of the approval process, completed a long-range Traffic Master Plan. Petitioner submitted this plan to both the SDOT and the DPWEM. The long-range Traffic Master Plan has been approved by these agencies. SDOT will have the opportunity to review and approve the project once development plans have been finalized for Piihaha.

3. Petitioner shall prepare drainage and erosion control plans and shall fund and construct the necessary drainage improvements.

Response:

Wailuku Project District - Drainage and erosion control plans are required by the County for each phase of development at Kehalani. The Petitioner has Agreements with the County of Maui to install regional on- and offsite drainage improvements that benefit both Kehalani and the surrounding areas (see Exhibit C). The drainage improvements are divided into two basic areas, makai (serving areas below the Highway) and mauka (serving areas above the Highway). The makai drainage system is substantially completed and the mauka

system is 90% completed. Both systems are designed to handle both pre- and post-development runoff from Kehalani.

Piihaha Project District - Preliminary drainage plans were produced as part of the Project District approval process. More detailed plans will be completed, reviewed and approved as development plans are finalized for this project.

4. Petitioner shall provide the necessary water source and transmission facilities to service the project.

Response: The Petitioner continues to work with the Maui Department of Water Supply (DWS) to address water system needs for both projects. The Agreement for Implementation of Water Master Plan for Kehalani and First Amendment to Agreement for Implementation of Water Master Plan (see Exhibit D) outlines various water storage and transmission system improvements required at Kehalani. The Petitioner is current with the requirements under these Agreements.

In July 2003 the Iao Aquifer was officially designated as a ground water management area. The Petitioner applied for and was granted a new water use permit for Kehalani in 2007 at its Wailuku Shaft well situated within the Kehalani lands. The Petitioner will utilize this source for water service to Kehalani and will also work with DWS on additional sources to benefit both Kehalani and the Central Maui water service area.

5. Petitioner shall pay its pro rata share to expand or improve the existing Kahului Wastewater Treatment Plant and/or route the wastewater to be generated by the Project to the proposed new Central Maui Wastewater Treatment Plant to the satisfaction of the County of Maui, DPWEM, and the State Department of Health. Petitioner shall also participate in the funding of the proposed new wastewater treatment plant and required transmission lines.

Response: In January 1990, the planned expansion of the Central Maui Wastewater Treatment Plant was completed. The plant's capacity was increased from 6.0 to 7.9 million gallons per day. Currently, Petitioner is paying an impact fee on a per-unit basis for collection and treatment facility expansion. Petitioner will connect the Project's collection main to the County system, which will flow to the treatment plant. Petitioner and the DPWEM are jointly studying and evaluating the incremental increases to the public system as development proceeds within the Project Districts.

The increased capacity of the Central Maui Wastewater Treatment Plant is anticipated to provide sufficient capacity for most of the Project.

The Petitioner has entered into an agreement with the County of Maui to participate in the upgrade of existing offsite sewer collection systems (see Exhibit E). There are (3) phases of offsite sewer improvements required for Kehalani. The first two phases have already been

completed by the Petitioner. The third phase is currently under construction and will be completed alongside the future development of Kehalani.

- 6. Petitioner shall inform all prospective occupants of the Hawaii Right-to-Farm Act, Chapter 165, Hawaii Revised Statutes, which limits the circumstances under which pre-existing farming activities may be deemed a nuisance.**

Response: Petitioner has prepared a disclosure form for its sales packages and will include restrictive covenants on all deeds for lots to be sold or leases for occupation in the Project disclosing 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.

- 7. Petitioner shall provide its pro rata share for school facilities as may be required by and to the satisfaction of the State Department of Education.**

Response: Petitioner is dedicating over 14 acres for an elementary school site within the Wailuku Project District 3. The Petitioner is also working with the Department of Education to provide 4.585 acres for the expansion of Waihee Elementary School. The Educational Contribution Agreement for Wailuku-Kahului Project District 3 and related amendments document the Petitioner's satisfaction of pro rata share requirements for education at Kehalani (see Exhibit F)

- 8. Petitioner shall provide its pro rata share for police, fire, park, and solid waste disposal as may be required by and to the satisfaction of the County of Maui.**

Response: Petitioner is committed to provide its prorated share for police, fire, park, and solid waste disposal. Both Project Districts include areas for private and neighborhood parks and even a Community Center site. The size of the parks shall meet the requirements approved by the Commission. To date, the County of Maui has not required pro rata payments for police and fire services.

- 9. Petitioner shall perform further subsurface testing of the Piihaha Project District to the satisfaction of the State Historic Preservation Office. Petitioner shall also submit a mitigation plan to the State Historical Preservation Office for review and approval.**

Petitioner shall immediately stop work and contact the State Historical Preservation Office should any archaeological resources such as artifacts, shell, bone or charcoal deposits, human burial, rock or coral alignments, paving, or walls be encountered during the project's development.

Response: Petitioner has worked with the State Historical Preservation Office to create a satisfactory mitigation plan. A key aspect of the plan is the creation of a Historical Preservation Easement designed to protect those areas within the Piihaha Project District that are likely to contain significant archaeological material. Petitioner will continue to

comply with this condition throughout the site development and construction of both Project Districts.

The completion of the mitigation plan shall coincide with the development of the adjacent areas within the Project District. This will allow for better integration of the plan to the specific overall plans for the area surrounding the dune. The Petitioner remains committed insuring the preservation of the dune area. To date, no work has been performed in the subject area.

Kahalani already has an approved mitigation plan in place for ongoing development. The Petitioner will continue to adhere to this plan for the remainder of the Kehalani project.

- 10. Petitioner shall develop the Property in substantial conformance with the representations made to the Commission in obtaining the reclassification of the Property.**

Response:

A. Wailuku Project District - Petitioner has received "Phase II" approval from the County of Maui. The "Phase II" approval process is a public hearing process which evaluates a more specific site plan, architectural designs and conditions. Petitioner has also obtained Phase III approval on 17 of the 27 planned neighborhoods with the project. During the Phase III approval process the County of Maui Planning Director reviews plans for site and conceptual building design to ensure its compliance with representations made at the Phase I and II approval process. The plans provided to the County of Maui are substantially in keeping with the information provided the Commission. Therefore, the Commission can be assured that work for the various phases of the Project District will be carried out in accordance with the intent of the submittals made to the Commission.

B. Piihaha Project District - Petitioner has received "Phase II" approval from the County of Maui. The "Phase II" approval process is a public hearing process which evaluates a more specific site plan, architectural designs and conditions. Design work will be carried out within the intent of these same submittals. It is important to bear in mind that the County of Maui's approval process for both projects also takes into consideration the SLUC conditions to assure Petitioner's compliance.

- 11. Petitioner shall give notice to the Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interest in the subject Property covered by the approved petition, prior to the development of the Property.**

Response: All undeveloped land below Honoapiilani Highway is owned by HL&F whose successor company is now named Kehalani Holdings Company Incorporated. Lands above the highway continue to be owned by Kehalani Mauka, LLC, an entity created at the time of the acquisition. All subsequent parcel sales have been to various development entities

responsible for the current development of the property. Hawaii developer Stanford Carr is the Managing and President of the named entities, respectively.

12. **Petitioner shall provide annual reports to the Commission, the Office of State Planning, and the County of Maui Planning Department in connection with the status of the subject project and the Petitioner's progress in complying with the conditions imposed.**

Response: This report, as those before it, is intended to constitute compliance with this requirement. Copies are forwarded to the Office of State Planning and the County Department of Planning.

13. **C. Brewer Homes, Inc. shall enter into an agreement with the Department of Hawaiian Home Lands (DHHL) that the Petitioner shall take no action within four years of the date of said Agreement, on Petitioner's Piihaha and Wailuku Project Districts, which will jeopardize the ability of DHHL to apply for or obtain an allocation of sewage treatment capacity from the County. Said Agreement shall be recorded within thirty (30) days of the effective date of the Commission's Decision and Order and shall run with the land.**

Response: As noted in our previous reports, DHHL already completed its subdivision near the Piihaha Project District and was not impacted by the subject Project Districts.

14. **In the event that Petitioner should sell its interest in its Piihaha and Wailuku Project Districts, the Petitioner shall subject the property to deed restrictions to run with the land which shall require the successors and assigns to comply with the terms and conditions set forth in the Commission's Decision and Order.**

Response: As referenced in item 11, the Petitioner conveyed the Kehalani lands west (mauka) of the Highway to Kehalani Mauka, LLC. The property is still subject to the terms and conditions set forth in the Commission's Decision and Order.

15. **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 Petitioner.**

Response: At this time, the Petitioner is not requesting release from any of the conditions originally imposed.

CONCLUSION:

Petitioner shall serve copies of this annual report to the Office of State Planning and the County of Maui Planning Department. If you have any questions, or require further information with regard to the foregoing, please contact the undersigned.

Sincerely



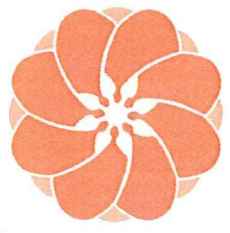
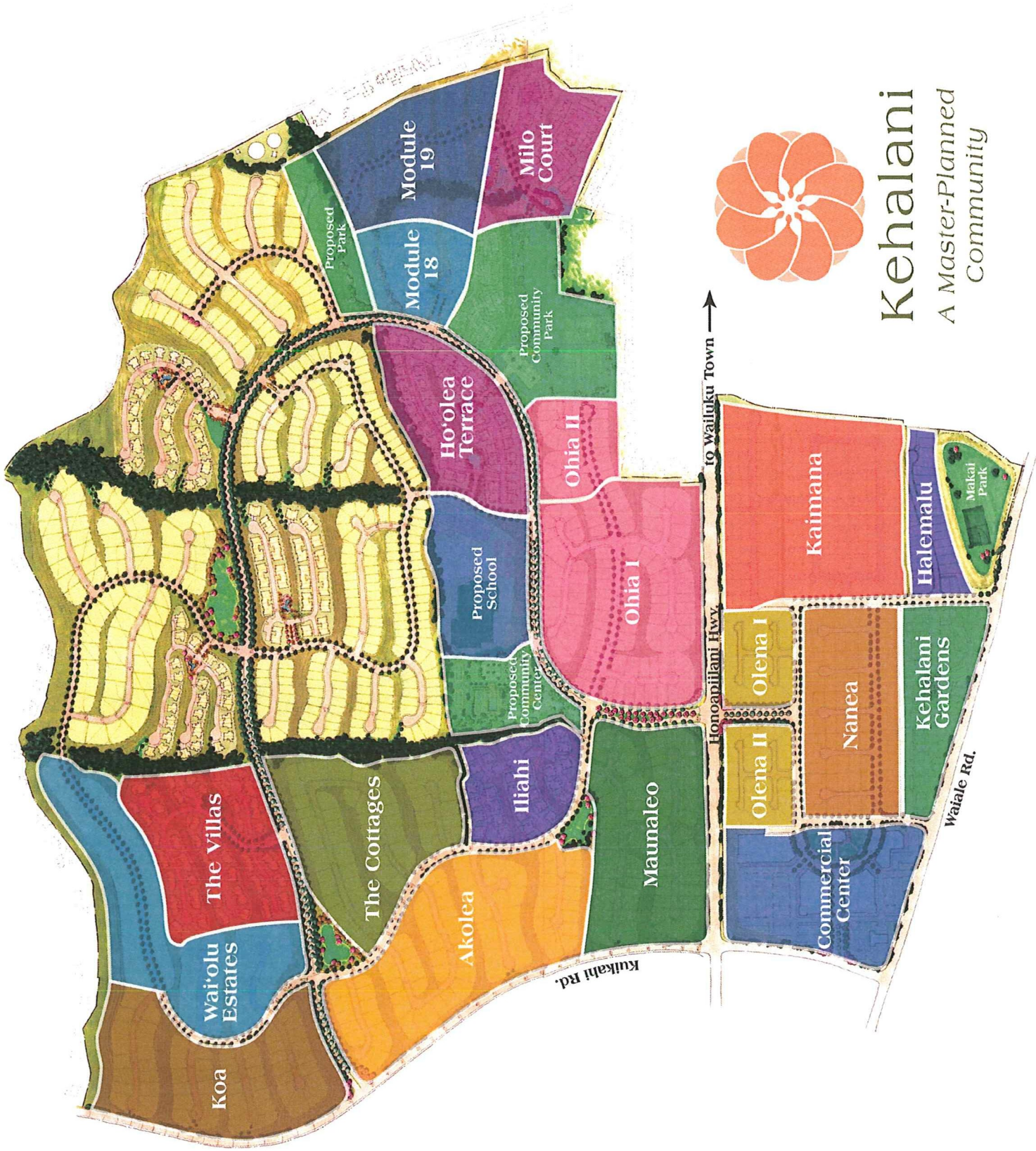
Jay Nakamura
Senior Development Manager

Enclosures (original and 2 copies)

cc: Office of State Planning
J. Hunt , A. Cua @ Maui County Planning Department
SC, DR, RS

EXHIBIT A





Kehalani
 A Master-Planned
 Community

EXHIBIT B

HAWAII LAND & FARMING COMPANY, INC.

1100 Alakea, 27th Floor
Honolulu, Hawaii 96813
Phone: (808) 537-5220
Fax: (808) 537-1801

December 19, 2005

Alice L. Lee, Director
Department of Housing & Human Concerns
County of Maui
200 South High Street
Wailuku, Hawaii 96793

Re: Wailuku Project District 3 (Kehalani Master Planned Community)

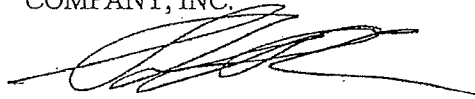
Dear Ms. Lee:

Since we modified our affordable housing letter agreement on 1/25/05, further discussions have taken place that require another amendment to our affordable housing letter agreement. The following sets forth our understanding of these changes.

- 1) Hawaii Land & Farming Company, Inc. (HL&F) will no longer work on a proposal to dedicate approximately 79 acres of land to the County for the purposes of providing further affordable housing opportunities.
- 2) Instead, HL&F will work on a plan to develop affordable housing units at the Piihana project site to satisfy a portion of its requirements at Kehalani. The outline of this plan is described in the letter to the Mayor, dated 12/15/05 (copy attached).

If the foregoing accurately reflects the amendments reached, please execute on the signature line set forth below.

HAWAII LAND & FARMING
COMPANY, INC.

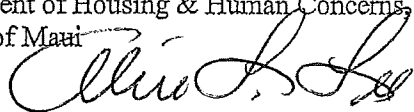


Stanford Carr
President

Alice Lee, Director
December 19, 2005
Page 2 of 2

**THE FOREGOING IS AGREED TO
AND ACCEPTED:**

Department of Housing & Human Concerns,
County of Maui

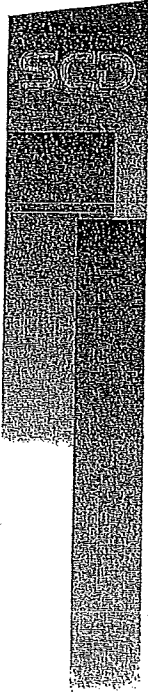


By _____

Alice Lee

Its Director





STANFORD CARR DEVELOPMENT, LLC

December 15, 2005

The Honorable Alan M. Arakawa
Mayor, County of Maui
200 S. High Street
Wailuku, Maui, Hawaii 96793-2155

Dear Mayor Arakawa,

Re: Piihana Project District


We would like to thank you and your staff for the very productive meeting with Stanford Carr Development (SCD) on December 7, 2005 at your office where we discussed the affordable housing possibilities for the Piihana project district in Wailuku. We are all aware of the critical need for truly affordable housing on Maui and we are excited to announce that SCD is willing to proceed as quickly as possible to develop approximately 400 affordable units at the Piihana project district.

As we mentioned at the meeting, SCD is facing a commitment in excess of 100 million dollars to develop the site work and construct the homes required to meet this goal. The original entitlements were the result of negotiations held over 12 years ago between a predecessor company and the previous County administration. To expedite the process and minimize any uncertainty, we thought it would be valuable to memorialize the agreements reached at this meeting. Attached are meeting notes that we hope are an accurate reflection of the discussions we had. If there are any omissions or corrections, please let us know as soon as possible, as we want to begin negotiations with Mr. Sterling Kim and St. Anthony's Church at the earliest opportunity.

Thank you again for your accessibility and support. We look forward to developing quality affordable housing that will provide lasting benefits to the people of Maui County.

Sincerely,

Stanford Carr Development, LLC



Stanford Carr
President

CC: Alice Lee
Milton Arakawa

MEETING NOTES

Re: Development Standards for the Piihana Project District
Meeting held on December 7, 2005

This memo is intended to document the discussions and agreements reached in the meeting of Dec 7, 2005, held at the Office of the Mayor. In attendance from the County of Maui were Mayor Alan Arakawa; Alice Lee, Director of Human Concerns; Milton Arakawa, Director of Public Works; and county engineer Joe Kruger. Resenting Stanford Carr Development LLC (SCD) were Stanford Carr, President; David W. Blane, V.P.; and Jay Nakamura, V.P. The purpose of the meeting was to discuss the development standards and compliance with the condition for the Piihana Project District #2.

In 1992, C. Brewer Properties obtained zoning for the proposed Project District No. 2 in Wailuku, Maui (commonly know as Piihana). The entitlements for this project were obtained in conjunction with the entitlements for the nearby Wailuku Project District #3, now known as *Kehalani*. The Piihana Project District was planned for 80 acres with a maximum of 600 housing units. *Kehalani* was planned for 550 acres and a maximum of 2,400 units. Both multi and single-family units were allowed in both developments. The land use, zoning, and subdivision conditions for both projects require fair share contributions for infrastructure, schools, and affordable housing. After these approvals, C. Brewer Homes sold their interest in both projects to Stanford Carr Development 1999. After several years of refinancing, SCD began construction in *Kehalani* in 2003.

The general economic conditions and the requirements imposed on the Piihana project district, particularly a new bridge across Iao stream, made the project financially unfeasible. Now the project appears to be feasible due to the increase in real estate prices on Maui, and the likelihood that a nearby project, Hale Mua, will share a portion of the infrastructure costs. The total investment by SCD to develop Piihana is estimated to exceed 100 million dollars. Before commitments are made to an investment of this magnitude, SCD would like to clarify with the County of Maui the requirements necessary to comply with the various project conditions. An early understanding of these requirements will provide for accurate cost and time modeling, clear guidance to contractors and county department personnel, and stability in the event of changes in the political and development environment.

Summary of Issues and Understandings:

A. Affordable Housing:

The parties understand that a portion of the affordable housing requirements for *Kehalani* can be accommodated at Piihana. *Kehalani* is planned for a maximum of 2,400 housing units of which 50 % or 1,200 units are to be affordable. To date 717 units have been construction under the affordable criteria. This leaves a balance of 483 affordable units that need to be built to meet the requirements of *Kehalani*. It is agreed that no more than the first 300 affordable units constructed in Piihana will be counted toward the requirements of *Kehalani*, assuming these units meet the affordability criteria. If there are bona fide commitments for SCD to proceed with all deliberate speed to build the units at Piihana, the

administration agrees to allow the continual development of Kehalani, with the understanding that the completion of all the affordable requirements will be met concurrent with the completion of Kehalani. SCD acknowledges that the most critical need is for affordable rentals. SCD will work with Pacific Housing Corp. and other social agencies to arrange for tax credit financing, grants, management, and other options to make these rental units possible. The completion of 400 units constructed under the applicable criteria for 80% of median income and below will satisfy requirements of both the Kehalani and Piihana project districts.

B. Roadway Improvements:

Imi Kala Parkway Extension: SCD acknowledges that connection of Imi Kala Street from Millyard to lower Main Street is the obligation of the developer of the Piihana project. This alignment will be along the old "haul cane" road adjacent to St. Anthony School. The engineering firm of Warren S Unemori has prepared two alternative alignments to meet the acceptable traffic standards and to minimize the impact of the road on St. Anthony School. The parties agree that an acceptable alignment is scheme 'B' which shows a 40' ROW and the less than 90 degree intersection with lower Main. A traffic signal will be required at the developer's expense. The preferred alignment is a 90-degree intersection but this will require obtaining approximately 7,000 square feet of property from St. Anthony's School. SCD will have an initial discussion with St. Anthony to see if they would be agreeable to a fair market value purchase of this property. If not, no further talks will be initiated. SCD will install a sound abatement fence and sidewalk along the new road for the St Anthony's School.

Iao Stream Bridge: The requirements for Piihana require a bridge across Iao Stream that is "sufficient for four travel lanes." The parties reviewed the schematics of the proposed bridge prepared by KAI Hawaii, a structural engineering firm. The schematics show a travel way of 36 feet with sidewalks on both sides. At the request of DPW, the travel way will be expanded to 40 feet with a reduction in sidewalk width. The parties agree that this design will satisfy the design requirements for both Piihana and the Hale Mua project.

C. Water Storage and Source Requirements:

The "Mokuhau" tank has a storage capacity of 3 million gallons. There is currently unused capacity in this tank, sufficient to accommodate the approximately 500,000-gallon storage capacity required to accommodate Piihana 600 residential units. In order to reduce the time and cost for affordable housing, and to minimize the construction and maintenance costs of multiple water tank, SCD requests that the DWS allocate sufficient capacity for the Piihana project in the Mokuhau tank. SCD will pay the applicable storage fee assessments. In addition, the new wells to be built in Kehalani and the "Shaft 33" agreement will meet the source development requirements for the project. The Mayor acknowledged this request but wished to reserve any commitment pending his further discussions with the DWS.

D. Phase II Approval:

In 1993, the Piihana and Kehalani project received the "Phase II" project district approvals from the Maui Planning Commission. For Phase II, the Planning Commission reviewed and approved the engineering and architectural design concepts and the proposed

KEHALANI HOLDINGS COMPANY, INC.

1100 Alakea, 27th Floor
Honolulu, Hawaii 96813
Phone: (808) 537-5220
Fax: (808) 537-1801

December 20, 2006

Alice L. Lee, Director
Department of Housing & Human Concerns
County of Maui
200 South High Street
Wailuku, Hawaii 96793

Re: Housing Credits for MEO Land Dedication for Kehalani Master Planned
Community - Wailuku Project District 3

Dear Ms. Lee:


We want to express our sadness that you will soon be leaving your position at the County of Maui. Your knowledge and balanced approach to solving the affordable housing crisis on Maui will be sorely missed.

As you know we have been working closely with your Department and Maui Economic Opportunity (MEO) to dedicate approximately 11 acres of land in Wailuku for a transitional housing project. This land was deeded to MEO by Hawaii Land & Farming Company, Ltd. (currently known as Kehalani Holdings Company, Ltd.). In partial recognition of this contribution to help meet an acute community need, the parties agreed that SCD should receive some credit towards its affordable housing requirements for the Kehalani/Piihana Project Districts.

In light of the upcoming changes with the County Administration, we would like to formally document the credit being given Kehalani Holdings Company. Accordingly, we respectfully request that 30 affordable housing credits in the category of the 51% to 65% range of HUD median income for Maui be applied towards to the Kehalani Master Planned Community.

If the above meets with your approval, please sign below. Thank you for your continued cooperation, and best wishes with your future plans.

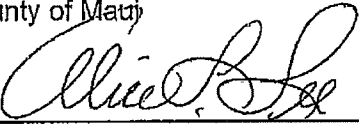
KEHALANI HOLDINGS COMPANY, INC.



Stanford Carr
President

**THE FOREGOING IS AGREED TO
AND ACCEPTED:**

Department of Housing & Human Concerns,
County of Maui

By 
Alice Lee
Its Director

12/22/06

20 affordable credits
on
based on the proposed
MEO housing plan.

From: "Carrie Ann Shirota" <carrieann.shirota@meoinc.org>
To: <alice.lee@co.maui.hi.us>
Date: 12/22/2006 10:51:12 AM
Subject: BEST House - Waiehu Project

Aloha Alice,

I'm sorry that I missed your phone call. Verdine mentioned that you were likely calling about the number of units for BEST House Waiehu Project.

At this time, we are estimating a total of 20 units. Please note that this number is a rough estimate based on the number of units that will be developed at the BEST House at Vineyard Street (25 residents = 10 units), and the projected number of 50 residents at the Waiehu property.

If you have any questions or need additional information, please call me at 249-2990. I will be running in and out of the office today, but may also be reached on my cell phone at 269-3858.

Thank you so much for all of your support for the BEST Program! We appreciate your wisdom and insight in understanding the importance of innovative approaches to drug treatment and prison reentry.

A hui hou,

Carrie Ann

Carrie Ann Shirota

Director

B.E.S.T. Reintegration Program

Maui Economic Opportunity, Inc.

99 Mahalani Street

Wailuku, Hawaii 96793

808-249-2990, ext. 265 (work)

EXHIBIT C

THE ORIGINAL OF THE DOCUMENT
RECORDED IN THE BUREAU OF
CONVEYANCES OF THE STATE OF HAWAII

DATE OF RECORDATION
2007-091383
100

LAND COURT

REGULAR SYSTEM

AFTER RECORDATION, RETURN BY: MAIL () PICK-UP ()

Director, Dept. of Public Works and Environmental Management
County of Maui
200 S. High Street
Wailuku, Hawaii 96793

Total No. of Pages: 9

TMK No(s): (2) 3-5-01-01 (portion)

SUPPLEMENTAL UNILATERAL AGREEMENT

For Drainage Improvements Relating to Wailuku Project District 3
of the Wailuku-Kahului Community Plan (Mauka)

This Supplemental Unilateral Agreement is dated this ___ day of _____, 2003, and is executed by Kehalani Mauka LLC, a Hawaii limited liability company, whose mailing address is 745 Fort Street, Suite 2110, Topa Financial Center, Fort Street Tower, Honolulu, Hawaii 96813 (hereinafter, the "Declarant").

RECITALS:

WHEREAS, Hawaii Land & Farming Company, Inc., a Delaware corporation ("HL&F"), is the primary developer and successor in interest to Wailuku Agribusiness Co., Inc. ("WACI"), the initial owner of the land comprising Wailuku Project District 3 (hereinafter, the "Project District"), as described in the Unilateral Agreement and Declaration for Conditional Zoning executed and recorded by WACI and dated August 29, 1991, and recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 91-124296 (hereinafter, the "Unilateral Agreement");

WHEREAS, on August 24, 2000, HL&F executed that certain Supplemental Unilateral Agreement for the purposes of implementing the requirements of paragraphs 2, 5 and 9 of the "Conditions" attached to and made a part of the Unilateral Agreement, insofar as they relate to certain drainage improvements;

WHEREAS, on _____, 2003, HL&F executed and recorded in said Bureau as Document No. 2003-091382 that certain Second Supplemental Unilateral Agreement in order to set forth its agreement as to drainage improvements pertaining to HL&F's land within the Project District that is located makai of the Honoapiilani Highway; and

WHEREAS, HL&F has conveyed to the Declarant all of the land within the Project District that is located mauka of the Honoapiilani Highway, which, for the purposes of this instrument, is hereinafter referred to as the "Property";

WHEREAS, the Declarant, after consultation with and review by the Director of Public Works and Environmental Management for the County of Maui (hereinafter, the "Director") as provided in paragraph 5 of the "Conditions", desires to set forth its agreement as to drainage improvements pertaining to the Property, pursuant to the conditional zoning provisions of Maui County Code Section 19.510.050.

NOW, THEREFORE, the Declarant hereby makes the following Declaration:

1. The term "Declarant" and any pronoun in reference thereto, wherever used herein, shall be construed to mean the singular or the plural, the masculine or the feminine or the neuter, and vice versa, and shall include any corporation, and shall be held to mean and include "Declarant" and its successors and assigns.

2. This Declaration shall become fully effective on the date hereof and shall be recorded in the Bureau of Conveyances of the State of Hawaii.

3. The Declarant agrees that the development of the Property shall be in conformance with the conditions set forth in Exhibit "1" attached hereto and incorporated for all purposes hereof.

4. The conditions set forth in Exhibit "1" hereof are (a) necessary to protect the public health, safety, convenience and welfare; (b) reasonably conceived to mitigate impacts emanating from the Declarant's proposed land uses and to meet the criteria set forth in Maui County Code Section 19.510.050; and (c) supplement and implement paragraphs 2, 5 and 9 of the "Conditions" attached to the Unilateral Agreement.


AND IT IS EXPRESSLY UNDERSTOOD AND AGREED that the conditions imposed in this Declaration shall run with the land identified hereinabove and shall bind and constitute notice to all subsequent grantees, lessees, assignees, mortgagees, lienors and any other persons who claim an interest in the Property, and the County of Maui shall have the right to enforce this Declaration by appropriate action at law or suit in equity against all such persons, provided that (a) Declarant or its successors and assigns may at any time file a petition for the removal of the conditions and terminate this Supplemental Unilateral Agreement, such petition to be processed in the same manner as petitions for change in zoning, and (b) this Supplemental Unilateral Agreement may be further amended by agreement executed by the Declarant and the Director and recorded in the Bureau of Conveyances of the State of Hawaii.

IN WITNESS WHEREOF, the Declarant has executed this instrument on the day and year first written above.

DECLARANT:

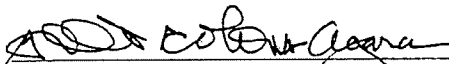
KEHALANI MAUKA LLC,
a Hawaii limited liability company

By Milwaukee Holdings, LLC,
a Hawaii limited liability company,
its member

By 
Stanford S. Carr
Manager

APPROVED AS TO FORM AND CONTENT:

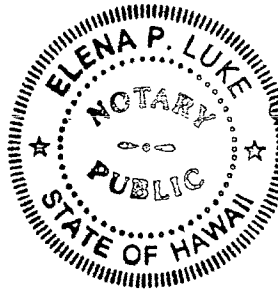
DEPARTMENT OF PUBLIC WORKS
AND ENVIRONMENTAL MANAGEMENT,
COUNTY OF MAUI


Gilbert Coloma-Agaran
Director of the Department of Public Works
and Environmental Management, its authorized signatory


Deputy Corporation Counsel
County of Maui

STATE OF HAWAII)
) ss.
CITY AND COUNTY OF HONOLULU)

On this 15th day of April, 2003, before me personally appeared STANFORD S. CARR, to me personally known, who, being by me duly sworn, did say that he executed the foregoing instrument as the free act and deed of such person and in the capacities shown, having been duly authorized to execute such instrument in such capacities.



Elena P. Luke

Print or Type Name

Signature

Notary Public, State of Hawaii

My Commission Expires: **March 12, 2007**

EXHIBIT "1"

Conditions for Kehalani Mauka Drainage System (Deployment of Offsite Drainage Improvements-Permanent)

Unless otherwise specifically provided herein, the terms in this Exhibit "1" shall have the meanings ascribed to such terms in the Supplemental Unilateral Agreement, to which this exhibit is attached.

A. Mauka Lands. The term "Mauka Lands" shall mean the 439.041 acres of land that are included within the Project District situated mauka of Honoapiilani Highway F. A. P. No. 13-6 at Wailuku, Waikapu, Maui, Hawaii, described in Exhibit 1 to the Unilateral Agreement. The subdivisions within the Mauka Lands are depicted in Exhibit "A" attached hereto and incorporated for all purposes hereof.

B. Drainage Improvements. The drainage improvements that must be constructed to serve the development of the Mauka Lands (collectively, the "Mauka Lands Drainage Improvements") are depicted in the "Conceptual Storm Drainage Master Plan for Kehalani" dated July 20, 2001, as revised on May 29, 2002 and September 4, 2002 (the "Mauka Plans") and approved by the Director, which is attached hereto as Exhibit "B". Any changes to the Mauka Plans will require the approval of the Director and any applicable agencies of the State of Hawaii. Declarant will be responsible for obtaining all other necessary governmental approvals in order to implement the Mauka Plans and the Mauka Lands Drainage Improvements.

C. 1st Mauka Development Subdivision.

Improvements:

- 1) Construct conspan culvert crossing under Honoapiilani Highway and tie in to existing conspan culvert segment under Kuikahi Extension. Provide sufficient capacity to convey peak discharge of 100-year 24-hour design storm representing hydrologic conditions at build-out of Kehalani Mauka.
- 2) Construct culvert or open drainage channel from conspan crossing under Kuikahi Extension to Waikapu Stream. Provide sufficient capacity to convey peak discharge of 100-year 24-hour design storm representing hydrologic conditions up through completion of at least the current development subdivision.
- 3) Provide Retention Basin storage capacity (at least 100-acre feet, unless a calculation showing a lesser amount is approved by the Department).

Schedule: To be completed before occupancy of the first dwelling unit¹ within the 1st development subdivision.

¹This milestone shall be interpreted as the first dwelling unit for a residential development or the first Certificate of Occupancy for a non-residential development.

D. 2nd through 6th Mauka Development Subdivisions.

Improvements:

1) Increase capacity of all culvert crossings and open channel from Kehalani Mauka to Waikapu Stream as needed to convey the peak discharge from a 100-year 24-hour design storm representing hydrologic conditions up through completion of at least the current development subdivision.

Schedule: To be completed before occupancy of the first dwelling unit within the within the current development subdivision.

E. 7th through 23rd Mauka Development Subdivisions.

Improvements:

- 1) Increase capacity of all culvert crossings and open channel from Kehalani Mauka to Waikapu Stream as needed to convey the peak discharge from a 100-year 24-hour design storm representing hydrologic conditions up through completion of at least the current development subdivision.
- 2) Provide sufficient Retention Basin storage capacity to contain the *incremental increase* in runoff volume up to the current development subdivision.
- 3) Provide additional Retention Basin Storage capacity with each additional development subdivision equivalent to 1/17th of the pre-development runoff volume from a 100-year 24-hour design storm shed by Kehalani Mauka and the offsite drainage areas above Kehalani.² (Assuming the pre-development volume is approximately 310 acre-feet, this equates to a volume of approximately 18 acre-feet for each of the remaining 17 Mauka Development subdivisions).

Schedule: To be completed before occupancy of the first dwelling unit within the within the current development subdivision.

F. Occupancy Permits. All of the foregoing improvements shall be completed prior to occupancy in accordance with Chapter 18.20 of the Maui County Code, unless the director of planning, the Director, the director of water supply, and other appropriate officials are satisfied that there will be no detriment to the public health, safety or general welfare.

²Assuming the pre-development volume is approximately 310 acre-feet, this equates to roughly 18 acre-feet for each of the remaining 17 Mauka Development subdivisions.

G. Final Approval of Subdivisions. Final approval of subdivisions may be granted in accordance with the provisions of section 18.20.190 of the Maui County Code.

H. Dedication. If and to the extent that any work within any Project Site requires easements over private property, Declarant shall be responsible for obtaining said easements at no cost to the County of Maui. The form of said easements shall be acceptable to the Director. Upon completion of the work within each Project Site in accordance with this agreement (and with any applicable agreement for subdivision improvements that shall have been executed in connection therewith), Declarant shall dedicate all improvements to the County of Maui. The form and procedure for such dedication shall follow normal County of Maui practice, documentary requirements and County Council approval.

I. No Encumbrances on Individual Lots. Upon Declarant obtaining final subdivision approval or building permits for any development phase in the Mauka Lands for which drainage improvements are required under this Agreement, the Director will be assured of completion of said work by means of the normal County of Maui practice of requiring a recorded agreement for subdivision improvements and, if necessary, a subdivision bond. In all events, upon the issuance of final subdivision approval by the Director for said development subdivision, subject to a non-occupancy agreement, Declarant shall have the right to convey legal title to individual lots, dwelling units or commercial properties within said development subdivision free and clear of the encumbrance of this Agreement, and this Agreement shall not be deemed to be a lien, encumbrance or charge on the title to said lots, unit or commercial property for purposes of record title and title insurance. In all other respects, however, this Agreement shall be deemed to encumber the title to the Mauka Lands prior to obtaining final subdivision approval of building permits therefor or any portion thereof.

J. No Cost to County of Maui. The Mauka Land Drainage Improvements will be constructed at no cost to the County of Maui.

K. Defense and Indemnity. Declarant shall defend, indemnify and hold the County of Maui harmless from and against any and all claims, suits, demands or actions brought against the County of Maui for property damage alleged to have resulted from flooding caused directly or indirectly by the diversion of runoff to Waikapu Stream as more specifically detailed in this Agreement.

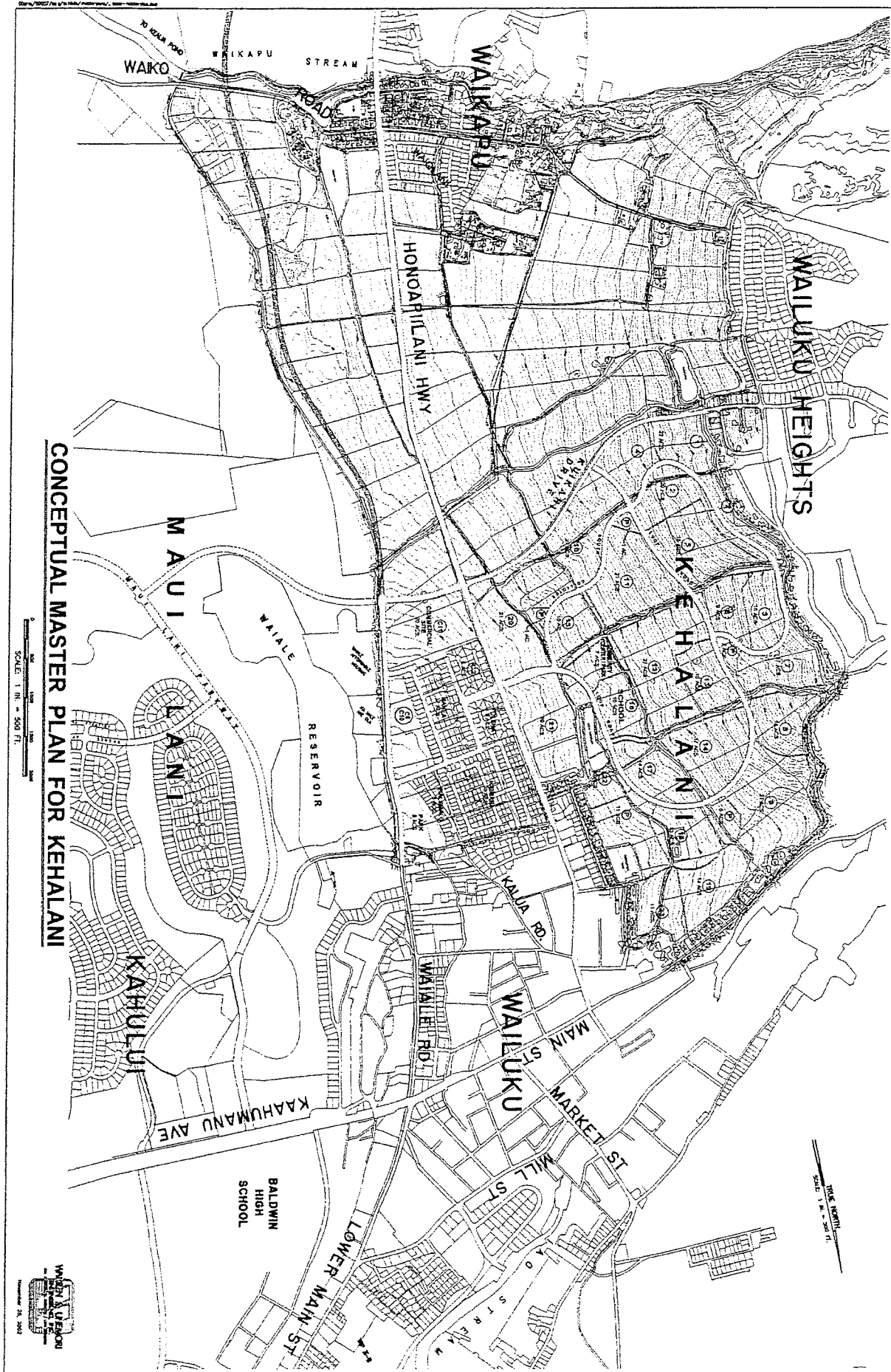
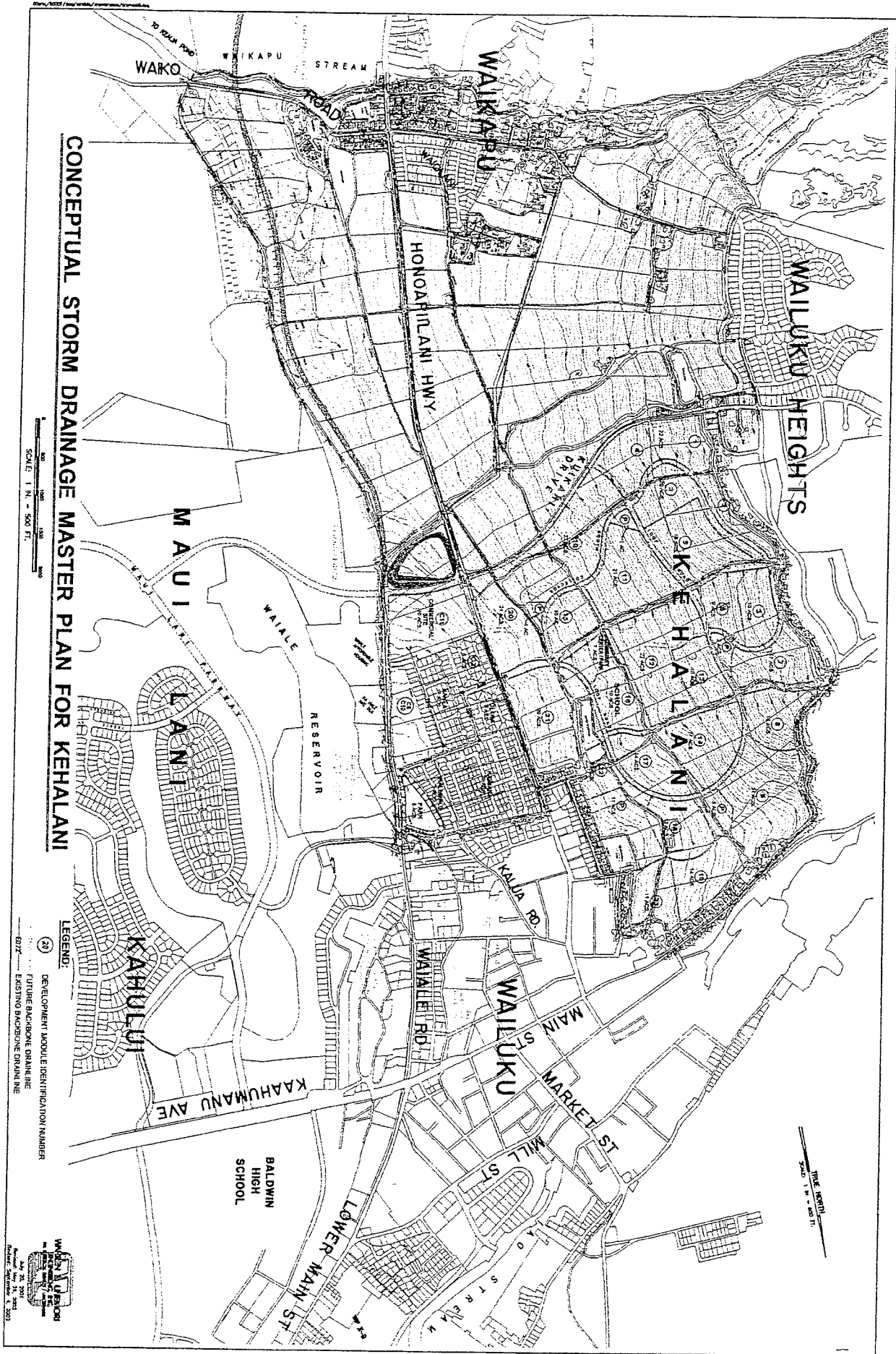


Exhibit "A"



CONCEPTUAL STORM DRAINAGE MASTER PLAN FOR KEHALANI

SCALE: 1 IN. = 500 FT.

LEGEND:
 (20) DEVELOPMENT MODULE IDENTIFICATION NUMBER
 - - - - - FUTURE BACKSLOPE DRAINAGE
 ——— EXISTING BACKSLOPE DRAINAGE



Exhibit "B"

THE ORIGINAL OF THE DOCUMENT
RECORDED AS FOLLOWS:
OFFICE OF HAWAII

BUREAU OF CONVEYANCES
AUG 14 2003 100
DOCUMENT NO. 2003-091382

LAND COURT

REGULAR SYSTEM

AFTER RECORDATION, RETURN BY: MAIL () PICK-UP ()

Director, Dept. of Public Works and Environmental Management
County of Maui
200 S. High Street
Wailuku, Hawaii 96793

Total No. of Pages: 13

TMK No(s): (2) 3-5-01-01 (portion) and -17
(2) 3-5-01-60, -61, -62, -63 and -64
(2) 3-5-02-01

SECOND SUPPLEMENTAL UNILATERAL AGREEMENT

For Drainage Improvements Relating to Wailuku Project District 3
of the Wailuku-Kahului Community Plan (Makai)

This Second Supplemental Unilateral Agreement is dated this ____ day of _____, 2003, and is executed by Hawaii Land & Farming Company, Inc., a Delaware corporation, whose mailing address is 745 Fort Street, Suite 2110, Topa Financial Center, Fort Street Tower, Honolulu, Hawaii 96813 (hereinafter, the "Declarant").

RECITALS:

WHEREAS, Declarant is the primary developer and successor in interest to Wailuku Agribusiness Co., Inc. ("WACI"), the initial owner of the land comprising Wailuku Project District 3 (hereinafter, the "Project District"), as described in the Unilateral Agreement and Declaration for Conditional Zoning executed and recorded by WACI and dated August 29, 1991, and recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 91-124296 (hereinafter, the "Unilateral Agreement");

WHEREAS, certain portions of said land have been developed and sold to third parties, including Kehalani Mauka LLC, a Hawaii limited liability company, which owns the land within the Project District that is located mauka of the Honoapiilani Highway;

WHEREAS, for the purposes of this instrument, all of the remaining land within the Project District that is owned by Declarant on the date hereof is hereinafter referred to as the "Property";

WHEREAS, on August 24, 2000, the Declarant executed that certain Supplemental Unilateral Agreement for the purposes of implementing the requirements of paragraphs 2, 5 and 9 of the "Conditions" attached to and made a part of the Unilateral Agreement, insofar as they relate to certain drainage improvements; and

WHEREAS, the Declarant, after consultation with and review by the Director of Public Works and Environmental Management for the County of Maui (hereinafter, the "Director") as provided in paragraph 5 of the "Conditions", desires to supplement the provisions of the Supplemental Unilateral Agreement, pursuant to the conditional zoning provisions of Maui County Code Section 19.510.050.

NOW, THEREFORE, the Declarant hereby makes the following Declaration:

1. The term "Declarant" and any pronoun in reference thereto, wherever used herein, shall be construed to mean the singular or the plural, the masculine or the feminine or the neuter, and vice versa, and shall include any corporation, and shall be held to mean and include "Declarant" and its successors and assigns.

2. This Declaration shall become fully effective on the date hereof and shall be recorded in the Bureau of Conveyances of the State of Hawaii.

3. The Declarant agrees that the development of the Property shall be in conformance with the conditions set forth in Exhibit "1" attached hereto and incorporated for all purposes hereof.

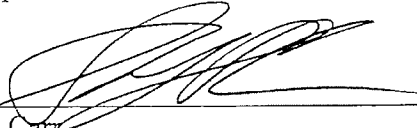
4. The conditions set forth in Exhibit "1" hereof are (a) necessary to protect the public health, safety, convenience and welfare; (b) reasonably conceived to mitigate impacts emanating from the Declarant's proposed land uses and to meet the criteria set forth in Maui County Code Section 19.510.050; and (c) supplement and implement paragraphs 2, 5 and 9 of the "Conditions" attached to the Unilateral Agreement.

AND IT IS EXPRESSLY UNDERSTOOD AND AGREED that the conditions imposed in this Declaration shall run with the land identified hereinabove and shall bind and constitute notice to all subsequent grantees, lessees, assignees, mortgagees, lienors and any other persons who claim an interest in the Property, and the County of Maui shall have the right to enforce this Declaration by appropriate action at law or suit in equity against all such persons, provided that (a) Declarant or its successors and assigns may at any time file a petition for the removal of the conditions and terminate this Second Supplemental Unilateral Agreement, such petition to be processed in the same manner as petitions for change in zoning, and (b) this Second Supplemental Unilateral Agreement may be further amended by agreement executed by the Declarant and the Director and recorded in the Bureau of Conveyances of the State of Hawaii.

IN WITNESS WHEREOF, the Declarant has executed this instrument on the day and year first written above.

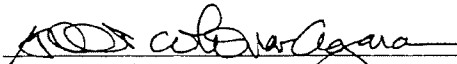
DECLARANT:


HAWAII LAND & FARMING COMPANY, INC.,
a Delaware corporation

By 
Stanford S. Carr
President

APPROVED AS TO FORM AND CONTENT:

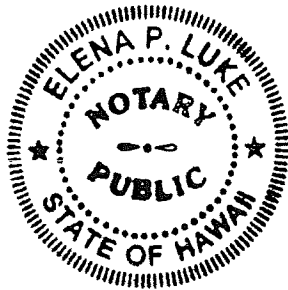
DEPARTMENT OF PUBLIC WORKS
AND ENVIRONMENTAL MANAGEMENT,
COUNTY OF MAUI


Gilbert Coloma-Agaran
Director of the Department of Public Works
and Environmental Management, its authorized signatory


Deputy Corporation Counsel
County of Maui
Blaine J. Kobayashi

STATE OF HAWAII)
) ss.
CITY AND COUNTY OF HONOLULU)

On this 2nd day of May, 2003, before me personally appeared STANFORD S. CARR, to me personally known, who, being by me duly sworn, did say that he executed the foregoing instrument as the free act and deed of such person and in the capacities shown, having been duly authorized to execute such instrument in such capacities.



Elena P. Luke

Print or Type Name

Elena P. Luke

Signature

Notary Public, State of Hawaii

My Commission Expires: **March 12, 2007**

EXHIBIT "1"

Conditions for Kehalani Makai Drainage System (Deployment of Offsite Drainage Improvements)

Unless otherwise specifically provided herein, the terms in this Exhibit "1" shall have the meanings ascribed to such terms in the Second Supplemental Unilateral Agreement, to which this exhibit is attached.

A. Makai Lands. The term "Makai Lands" shall mean all lands that are included within the Project District situated on the east side of Honoapiilani Highway F. A. P. No. 13-6 and on the north side of Kuikahi Dive and those lands on the west side of Honoapiilani Highway but east of the Kama Ditch at Wailuku, Waikapu, Maui, Hawaii, described in Exhibit 1 to the Unilateral Agreement and includes lands within the Project District that have been developed by the Declarant before the date of this Second Supplemental Unilateral Agreement. The subdivisions within the Makai Lands are depicted in Exhibit "A" attached hereto and incorporated for all purposes hereof. For reference, as of the date of this agreement, four subdivisions have been developed by Declarant or others into residential developments known as Halemalu, Kaimana, Nanea and Olena.

B. Drainage Improvements. The drainage improvements that must be constructed to serve the development of the Makai Lands (collectively, the "Makai Lands Drainage Improvements") are more particularly depicted on the plans entitled "Construction Plans for Wailuku Project District Offsite Drainage Improvements for Makai Section" prepared by Warren S. Unemori Engineering, Inc., dated February 19, 1998 (collectively, the "Makai Plans") and approved by the Director, which is attached hereto as Exhibit "B". Any changes to the Makai Plans will require the approval of the Director and any applicable agencies of the State of Hawaii. Declarant will be responsible for obtaining all other necessary governmental approvals in order to implement the Makai Plans and the Makai Lands Drainage Improvements.

C. 5th Makai Development Subdivision or Any Mauka Development Subdivision Contributing to Makai Drainage System.

Improvements:

- 1) Enlarge Waiale Retention basin to increase storage capacity to \approx 59 Acre-ft.

Schedule: To be completed before occupancy of the first dwelling unit¹ within the 5th Makai Development Subdivision or any Development Subdivision within the Project District that is located mauka of the Honoapiilani Highway and that contributes to Makai Drainage System.

¹This milestone shall be interpreted as the first dwelling unit for a residential development or the first Certificate of Occupancy for a non-residential development.

D. 6th Makai Development Subdivision or Any Mauka Development Subdivision Contributing to Makai Drainage System.

Improvements:

- 1) Install drainage system improvement near St. Anthony School to increase capacity of County drainline to Iao Stream.

2) Tie-in to County drainline on Waiale Drive to create outlet to Iao Stream. The drainline extension for tie-in to the County drainline of Waiale Drive shall incorporate a valve. Said valve shall remain closed and shall not allow flows from the Waiale retention basin into the County drainline until final approval of the construction of the drainline system improvements along Kalua Road; provided, however, that in the event that the draining of the Waiale retention basin is necessary or appropriate for health or safety reasons (such as in the case of standing water), the valve may, with the prior written consent of the Director, be opened in order to drain said basin. Said valve shall be removed upon completion of the improvements described in Section F. below.

Schedule: To be completed before occupancy of the first dwelling unit within the 6th Makai Development Subdivision or any Development Subdivision within the Project District that is located mauka of the Honoapiilani Highway and that contributes to Makai Drainage System.

E. 1st Phase of the Commercial Development (Parcel C-1/11).

Improvements:

- 1) The improvements set forth in Section C. above.

Schedule: To be completed before issuance of the Certificate of Occupancy of the 1st Phase of the Commercial Development (which shall not be improved on more than 13 acres within Parcel C-1/11), if the 1st Phase of the Commercial Development precedes the development described in Section C. above.

OR

Improvements:

- 1) The improvements set forth in Section D. above.

Schedule: To be completed before issuance of the Certificate of Occupancy of the 1st Phase of the Commercial Development (which shall not be improved on more than 13 acres within Parcel C-1/11), if the 1st Phase of the Commercial Development follows the development described in Section C. above but precedes the development described in Section D. above.

F. 2nd Phase of the Commercial Development (Parcel C-1/11).

Improvements:

- 1) Install drainage system improvement along Kalua Road in order to intercept runoff from Wailuku town.
- 2) Install drainage system improvements near Kaohu Street to increase capacity of County drainline to Iao Stream.

Schedule: To be completed before issuance of the Certificate of Occupancy of the 2nd Phase of the C-1/11 Commercial Development and requires that drainage improvements for the 5th and 6th Makai Development Subdivisions have either been bonded or completed.

G. Mauka Development Subdivisions Utilizing Makai Drainage System (Excludes Parcels 20 and 21).

Improvements:

- 1) Install drainage system improvement along Kalua Road in order to intercept runoff from Wailuku town.
- 2) Install drainage system improvements near Kaohu Street to increase capacity of County drainline to Iao Stream.

Schedule: To be completed before occupancy of dwelling units within any Project District development subdivision that are located mauka of the Honoapiilani Highway and that contributes to the Makai Drainage System if said mauka development subdivision is developed prior to the 2nd Phase of the Commercial Development (Parcel C-1/11), as described in Section F. above.

H. Drainage System Improvements Near Kalua Road. In the event that neither the 2nd Phase of the Commercial Development (Parcel C-1/11) nor the Mauka Development Subdivisions Utilizing Makai Drainage System (Excludes Parcels 20 and 21) contemplated in Sections F. and G. above trigger the commencement of construction of

the drainage system improvement near Kalua Road within four (4) years from the date of this agreement, then Declarant shall provide for a bond in favor of the County in an amount equal to the estimated cost of construction of such improvements. The bond shall require the improvements to be completed within one (1) year from the date of the bond. The bond shall be filed prior to occupancy of any of the developmental phases not yet completed at the time that the bond is required, and construction of the drainage improvements near Kalua Road shall be completed within five (5) years from the date of this agreement; provided, however, that time extensions for said bond and completion of construction may be granted by the Director of Public Works and Environmental Management for good cause, as determined by the Director of Public Works and Environmental Management, in its sole discretion.

I. Occupancy Permits. All of the foregoing improvements shall be completed prior to occupancy in accordance with Chapter 18.20 of the Maui County Code, unless the director of planning, the Director, the director of water supply, and other appropriate officials are satisfied that there will be no detriment to the public health, safety or general welfare.

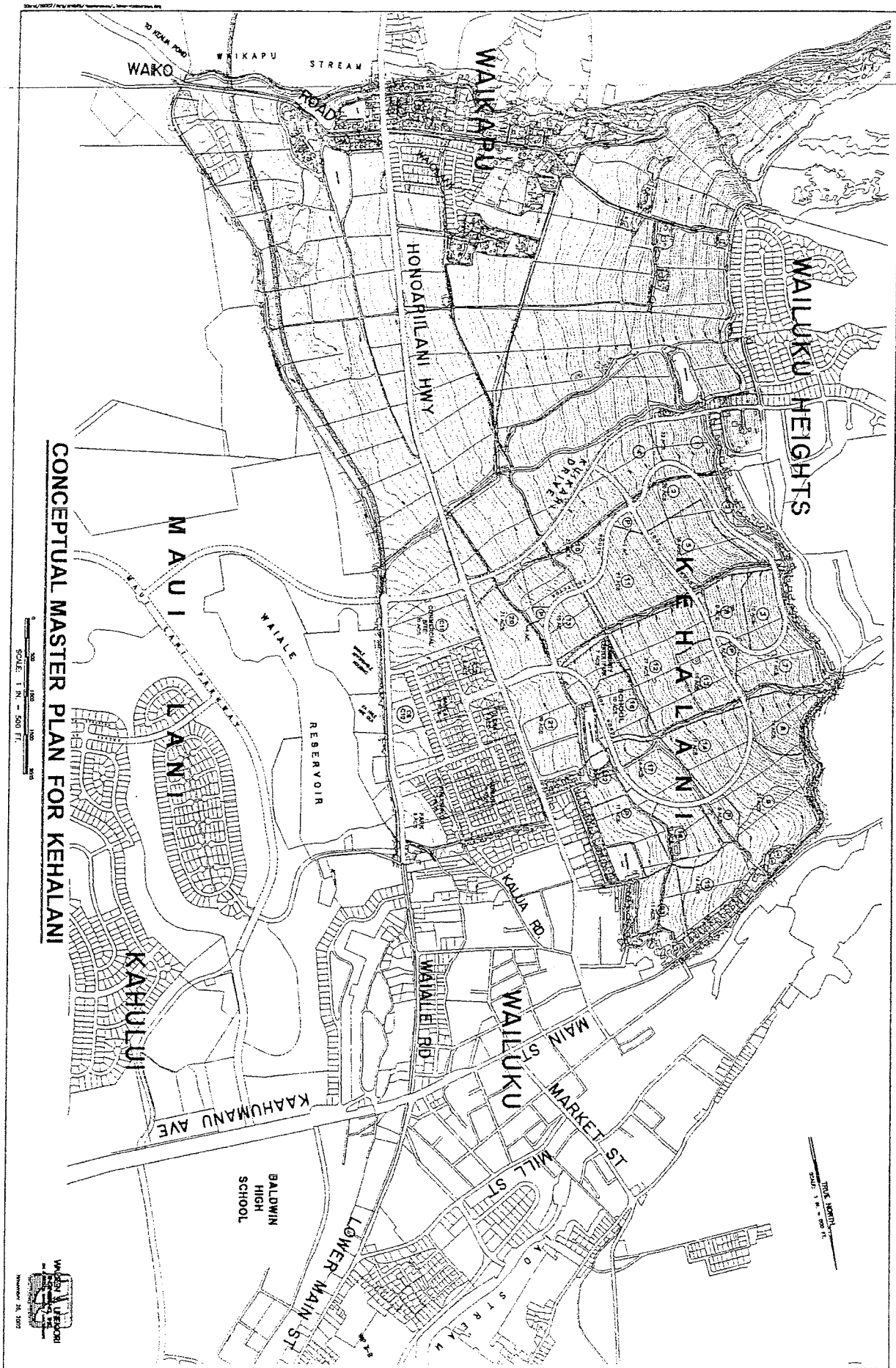
J. Final Approval of Subdivisions. Final approval of subdivisions may be granted in accordance with the provisions of section 18.20.190 of the Maui County Code.

K. Dedication. If and to the extent that any work within any Project Site requires easements over private property, Declarant shall be responsible for obtaining said easements at no cost to the County of Maui. The form of said easements shall be acceptable to the Director. Upon completion of the work within each Project Site in accordance with this agreement (and with any applicable agreement for subdivision improvements that shall have been executed in connection therewith), Declarant shall dedicate all improvements to the County of Maui. The form and procedure for such dedication shall follow normal County of Maui practice, documentary requirements and County Council approval.

L. No Encumbrances on Individual Lots. Upon Declarant obtaining final subdivision approval or building permits for any development phase in the Makai Lands for which drainage improvements are required under this Agreement, the Director will be assured of completion of said work by means of the normal County of Maui practice of requiring a recorded agreement for subdivision improvements and, if necessary, a subdivision bond. In all events, upon the issuance of final subdivision approval by the Director for said development subdivision, subject to a non-occupancy agreement, Declarant shall have the right to convey legal title to individual lots, dwelling units or commercial properties within said development subdivision free and clear of the encumbrance of this Agreement, and this Agreement shall not be deemed to be a lien, encumbrance or charge on the title to said lots, unit or commercial property for purposes

of record title and title insurance. In all other respects, however, this Agreement shall be deemed to encumber the title to the Makai Lands prior to obtaining final subdivision approval of building permits therefor or any portion thereof.

M. No Cost to County of Maui. The Makai Lands Drainage Improvements will be constructed at no cost to the County of Maui.

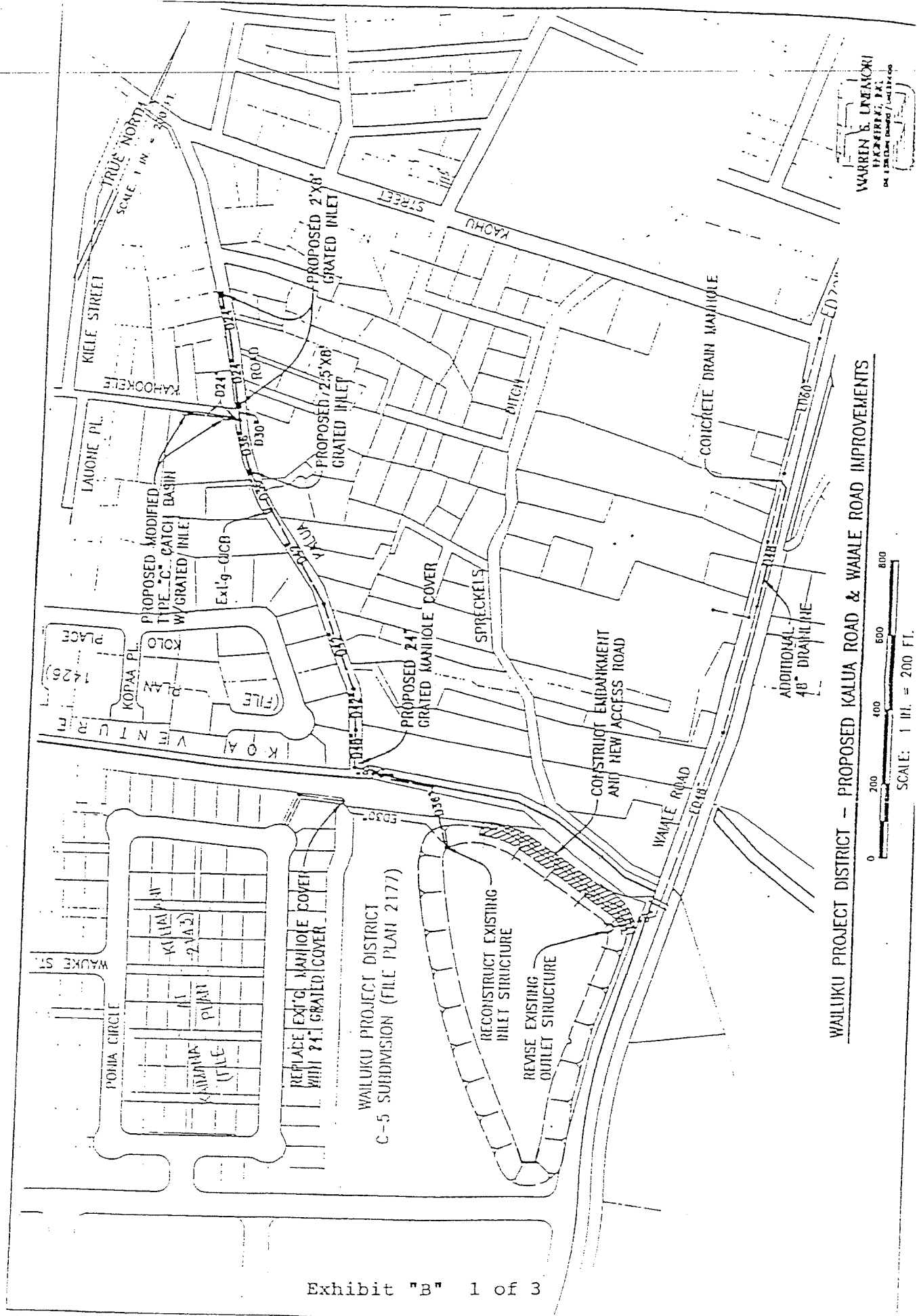


CONCEPTUAL MASTER PLAN FOR KEHALANI

SCALE: 1 IN. = 500 FT.

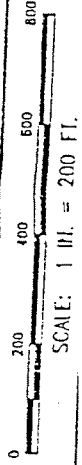


Exhibit "A"

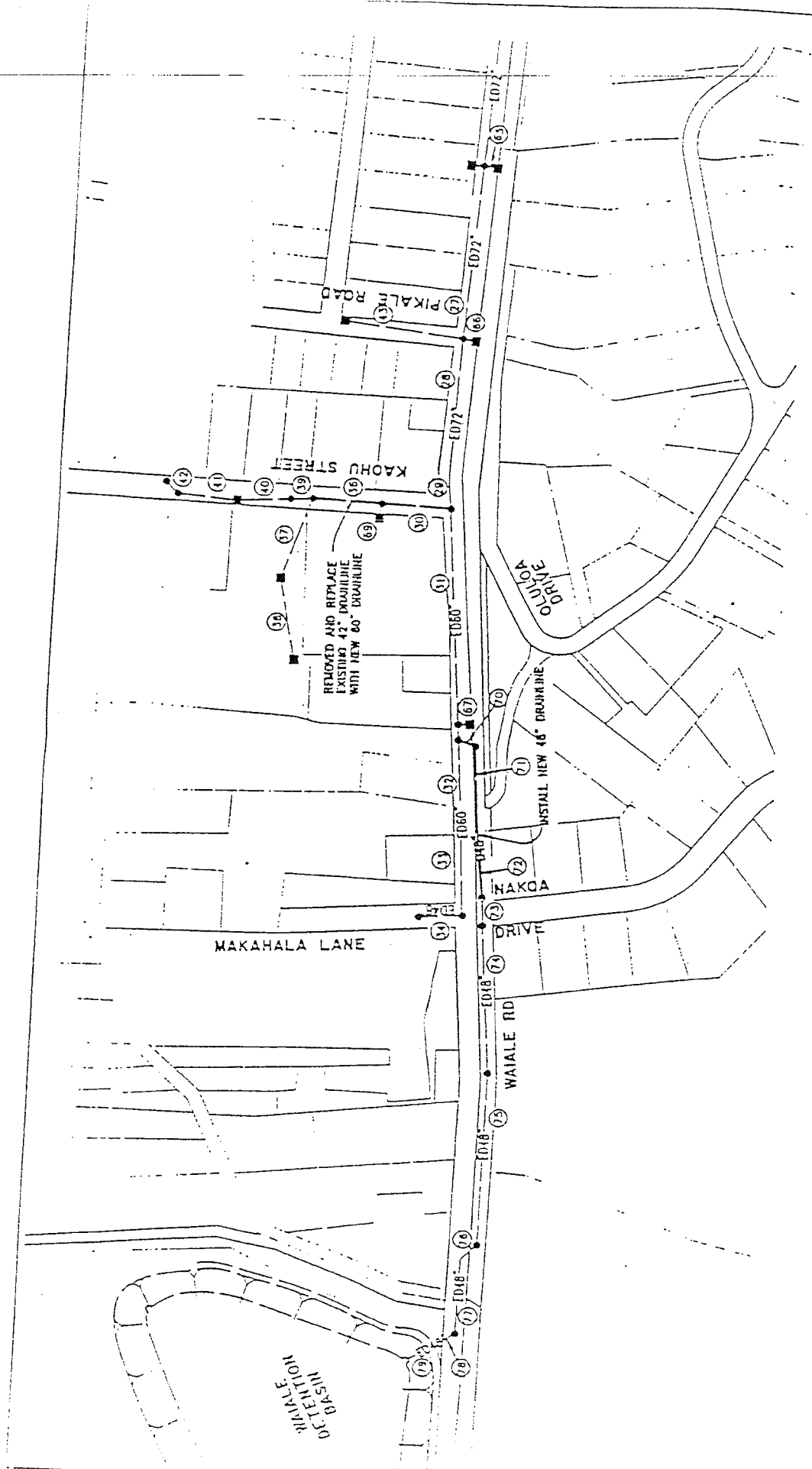


WARREN E. UYAMAKU
 ENGINEER, P.E.
 1041 KALUA DRIVE, HONOLULU, HI 96813

WAILUKU PROJECT DISTRICT - PROPOSED KALUA ROAD & WAIALE ROAD IMPROVEMENTS

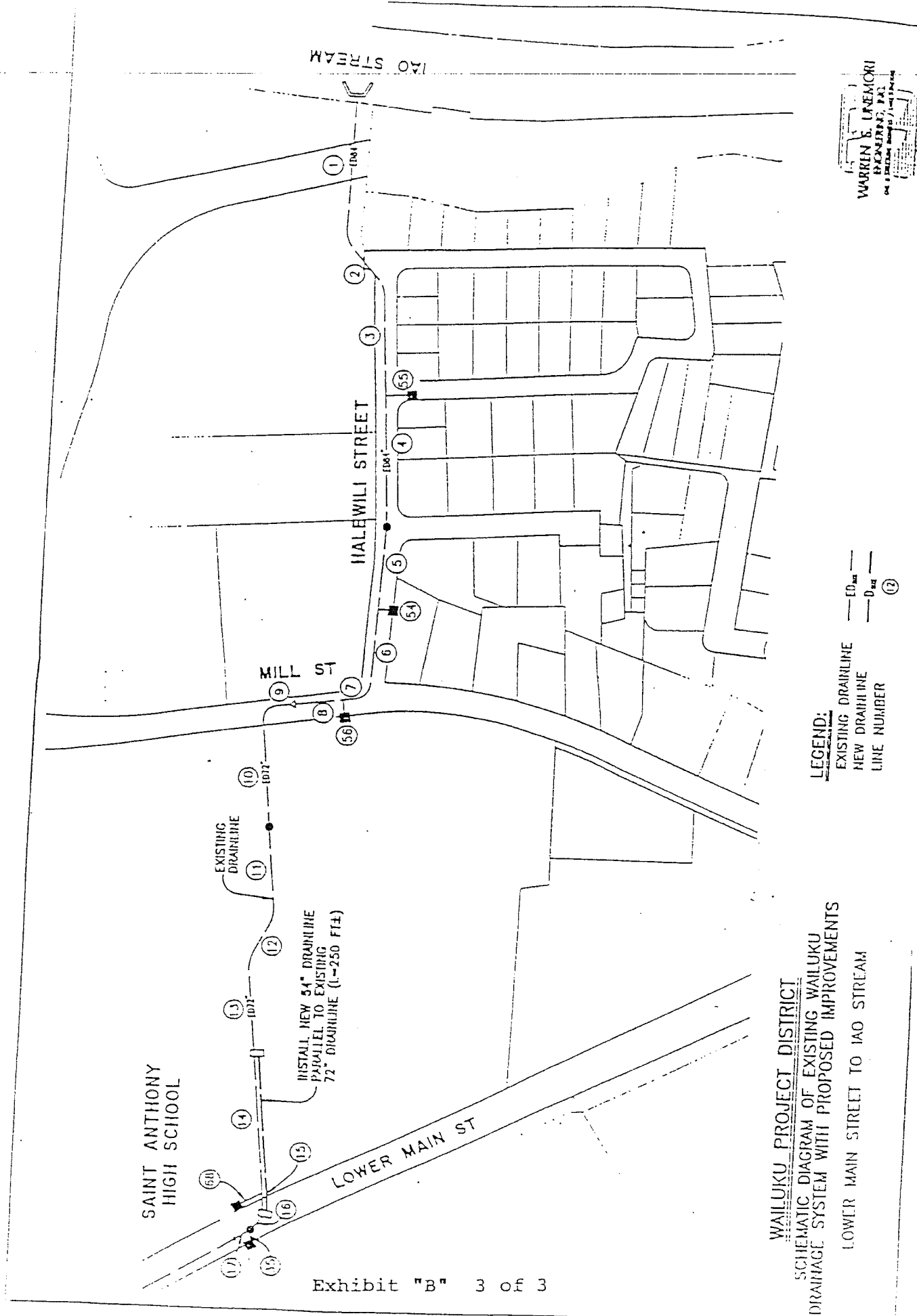


WAILUKU PROJECT DISTRICT
 C-5 SUBDIVISION (FILE PLAN 2177)



LEGEND:
 EXISTING DRAINLINE ——— E₁₀
 NEW DRAINLINE ——— D₁₀
 LINE NUMBER (12)

WAILUKU PROJECT DISTRICT
 SCHEMATIC DIAGRAM OF EXISTING WAILUKU
 DRAINAGE SYSTEM WITH PROPOSED IMPROVEMENTS
 WAIKALE DETENTION BASIN
 TO PIKALE ROAD



LEGEND:
 --- EXISTING DRAINLINE --- ED_{max}
 --- NEW DRAINLINE --- D_{max}
 () LINE NUMBER

WAILUKU PROJECT DISTRICT
 SCHEMATIC DIAGRAM OF EXISTING WAILUKU
 DRAINAGE SYSTEM WITH PROPOSED IMPROVEMENTS
 LOWER MAIN STREET TO IAO STREAM

LAND COURT

REGULAR SYSTEM

AFTER RECORDATION, RETURN BY: MAIL () PICK-UP ()

Director, Dept. of Public Works and Environmental Management
County of Maui
200 S. High Street
Wailuku, Hawaii 96793

Total No. of Pages:

TMK No(s): (2) 3-5-01-01 (portion) and -17
(2) 3-5-01-60, -61, -62, -63 and -64
(2) 3-5-02-01

AMENDMENT TO SECOND SUPPLEMENTAL UNILATERAL AGREEMENT

For Drainage Improvements Relating to Wailuku Project District 3
of the Wailuku-Kahului Community Plan (Makai)

This Amendment to Second Supplemental Unilateral Agreement is dated this ____ day of _____, 2006, and is executed by Hawaii Land & Farming Company, Inc., a Delaware corporation, whose mailing address is 1100 Alakea Street, 27th Floor, Honolulu, Hawaii 96813 (hereinafter, the "Declarant").

RECITALS:

WHEREAS, Declarant made certain declarations, as set forth in that certain Second Supplemental Unilateral Agreement recorded in the Bureau of Conveyances of the State of Hawaii on May 14, 2003 as Document No. 2003-091382;

WHEREAS, Declarant, after consultation with, review and approval by the Department of Public Works and Environmental Management, County of Maui, desires to amend Section G of Exhibit "1" of the Second Supplemental Unilateral Agreement .

NOW, THEREFORE, the Declarant hereby amends the Second Supplemental Unilateral Agreement as follows:

1. Section D of Exhibit "1" of the Second Supplemental Unilateral Agreement is amended to read as follows:

D. 6th Makai Development Subdivision or Any Mauka Development Subdivision Contributing to Makai Drainage System.

Improvements:

- 1) Install drainage system improvements near St. Anthony School to increase capacity of County drainline to Iao Stream.
- 2) Tie-in to County drainline on Waiale Drive to create outlet to Iao Stream.

Schedule: To be completed before occupancy of the first dwelling unit within the 6th Makai Development Subdivision or any Development Subdivision within the Project District that is located mauka of the Honoapiilani Highway and that contributes to Makai Drainage System.

2. Section G of Exhibit "1" of the Second Supplemental Unilateral Agreement is amended to read as follows:

G. Mauka Development Subdivisions Utilizing Makai Drainage System (Excludes Parcels 20 and 21).

Improvements:

- 1) Install drainage system improvement along Kalua Road in order to intercept runoff from Wailuku town.
- 2) Install drainage system improvements near Kaohu Street to increase capacity of County drainline to Iao Stream.

Schedule: To be completed before occupancy of dwelling units within any Project District development subdivision that are located mauka of the Honoapiilani Highway and that contributes to the Makai Drainage System if said mauka development subdivision is developed prior to the 2nd Phase of the Commercial Development (Parcel C-1/11), as described in Section F. above. In lieu of completion, Declarant can arrange for such work to be bonded in favor of the County of Maui.


3. In all other respects, the Second Supplemental Unilateral Agreement remains unchanged and is in full force and effect.

4. This Declaration shall become fully effective on the date hereof and shall be recorded in the Bureau of Conveyances of the State of Hawaii.

IN WITNESS WHEREOF, the Declarant has executed this instrument on the day and year first written above.

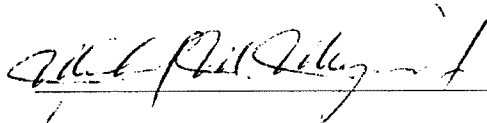
DECLARANT:

HAWAII LAND & FARMING COMPANY, INC.,
a Delaware corporation

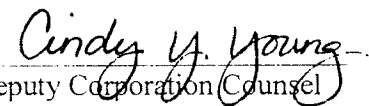
By 
Stanford S. Carr
President

APPROVED AS TO FORM AND CONTENT:

DEPARTMENT OF PUBLIC WORKS
AND ENVIRONMENTAL MANAGEMENT,
COUNTY OF MAUI



Director of the Department of Public Works
and Environmental Management, its authorized signatory


Deputy Corporation Counsel
County of Maui
CINDY Y. YOUNG

STATE OF HAWAII)
) ss.
CITY AND COUNTY OF Maui HONOLULU)

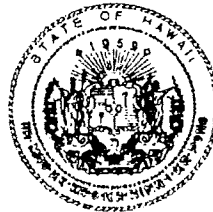
On this 11th day of January, 2006, before me personally appeared STANFORD S. CARR, to me personally known, who, being by me duly sworn, did say that he executed the foregoing instrument as the free act and deed of such person and in the capacities shown, having been duly authorized to execute such instrument in such capacities.

Jeannie L. Hashimoto
Print or Type Name

Jeannie L. Hashimoto ↵
Signature
Notary Public, State of Hawaii

My Commission Expires: 6-14-08

EXHIBIT D



R-1650 STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED
DEC 30, 2002 10:00 AM
Doc No(s) 2002-234288



ISI CARL T. WATANABE
REGISTRAR OF CONVEYANCES

13 11 24

LAND COURT

KM

REGULAR SYSTEM

AFTER RECORDATION, RETURN BY: MAIL () PICK-UP ()
HAWAII LAND & FARMING COMPANY, INC.
745 Fort Street, Suite 2110
Honolulu, Hawaii 96813
Phone: 537-5220

Total No. of Pages: 13

TMK No(s): (2) 3-5-01-01 (portion)

**AGREEMENT FOR IMPLEMENTATION OF
WATER MASTER PLAN FOR KEHALANI
(WAILUKU PROJECT DISTRICT 3)**

THIS AGREEMENT is entered into as of this 18 day of December, 2002 by and among HAWAII LAND & FARMING COMPANY, INC., a Delaware corporation, KEHALANI MAUKA, LLC, a Hawaii limited liability company, whose mailing addresses are 745 Fort Street, Suite 2110, Honolulu, Hawaii 96813, hereinafter jointly referred to as the "Developer", and the DEPARTMENT OF WATER SUPPLY OF THE COUNTY OF MAUI, an agency of the County of Maui a body politic and corporate, and a political subdivision of the State of Hawaii, whose mailing address is 200 South High Street, Wailuku, Hawaii 96793, hereinafter referred to as the "Department".

BACKGROUND STATEMENT:

- A. Developer is the primary owner and master developer of the Wailuku Project District 3, aka Kehalani, which comprises of approximately 549 acres (the "Property"). The undeveloped portions of this Project are further identified as those certain parcels of land situate at Wailuku, Maui, Hawaii, identified on the tax maps of the State of Hawaii as Tax Map Key Nos. 3-5-01:01, 3-5-01:61, 3-5-01:63, 3-5-01:66; 3-4-07:02 and 3-5-20:36, as shown on Exhibit "A" attached hereto.
- B. The Property is more particularly described in that certain Unilateral Agreement and Declaration for Conditional Zoning executed and recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 91-124296 (the "Unilateral

Agreement”), and are subject to the covenants, conditions and restrictions contained in said Unilateral Agreement, as amended and supplemented from time to time.

- C. Condition 9 of the Unilateral Agreement requires that the Developer enter into agreements with appropriate agencies of the State of Hawaii and County of Maui regarding the Developer’s participation in improving the infrastructure and public facilities that are necessary for the development of the Property.
- D. In accordance with said Condition 9 of the Unilateral Agreement, the Developer’s predecessor in title and the Board of Water Supply of the County of Maui, hereinafter referred to as the “Board”, have entered into that certain Right of Entry Agreement for 3.0 MG Concrete Reservoir at Wailuku, Maui Hawaii dated February 17, 1993, and Developer and the Board have also entered into that certain Storage Credits and Amended Right of Agreement for 3.0 MG Concrete Reservoir at Wailuku, Maui Hawaii dated the effective date of this Agreement.
- E. The development of the Property requires the installation of a comprehensive water system, including storage and transmission improvements, and the provision of water service and fire protection, all in accordance with applicable standards adopted by the County of Maui, including without limitation, those adopted by the Board.
- F. The Developer, after consultation and review by the Department, has devoted considerable time and effort to devise a water master plan for the Property that is intended to service adequately the needs of the owners, occupants and users of the residential, commercial and recreational improvements made to the Property as and when such needs arise and to do so in an economically viable manner such that the Developer’s development of the Property into the Kehalani master planned community can proceed effectively and be fully accomplished.
- G. The Department has ongoing capital improvement projects that include the design and construction of improvements that are to be located within the Property and/or require integration into the design and construction of the Developer’s Water System, although the Department’s improvements are intended to benefit persons other than the owners, occupants and users of the residential, commercial and recreational improvements made to the Property.
- H. The Developer and the Department are willing to consult with one another in order to integrate the design of both the Developer’s Water System and the Department’s capital improvement projects, to allocate responsibility between them for the labor and materials required to construct all such improvements, and to sequence the timing of such construction in order to minimize the cost thereof and to maximize the benefits of such integration.

NOW, THEREFORE, in consideration of the terms and covenants contained in this Agreement, the Developer and the Department agree as follows:

The Developer agrees to install and construct a comprehensive water system, including storage and transmission improvements, and to provide water service and fire protection that will timely and adequately service the needs of the owners, occupants and users of the residential, commercial and recreational improvements made to the Property, hereinafter collectively referred to as the "Water System", in accordance with that certain "Conceptual Water System Master Plan for Kehalani", dated June 21, 2002, as revised September 4, 2002, prepared by Warren S. Unemori Engineering, Inc., and as may be further revised from time to time with the appropriate approval of the Department, and as is more particularly described in the paragraphs below. (All references not otherwise defined or described herein shall be to those references depicted or described in said Conceptual Water System Master Plan.)

A. Low-Level System (Area Below Elevation 395'±; Tank at Elevation 506'±)

1. The Developer shall install a temporary transmission line approximately 3,000 feet long from the Iao tank, at elevation 506'±, to the first phase of the Kehalani Parkway Mauka, adjacent to Module 21. The Developer shall then install a permanent 16" line across Module 21 and under the existing portions of Kehalani Parkway, Honoapiilani Highway and Kamole Street. The Developer shall then install a permanent 12" line between Kamole Street and Kaupo Street concurrently with its development of Module C-2. The existing 12" line under Kaupo Street connects to an existing 12-inch line under Waiale Drive. This entire line is referred to as the "Onsite Transmission Line." With respect to the temporary portion of the Onsite Transmission Line, between Iao tank and Module 21, the Department shall make available, at no cost to the Developer, its 24-inch restrained joint pipes that have been stockpiled at the old Maui County landfill, and the Developer shall haul said pipes and install the temporary Onsite Transmission Line as and when the Kehalani Parkway Mauka and Kehalani Mauka Modules 20 and 21 are developed. The Developer shall disassemble, remove, haul, clean and return the 24-inch restrained joint pipes to County landfill stockpile area when the permanent underground transmission line between Module 21 and the Iao tank site is completed, as shown on the map attached hereto as Exhibit "B".
2. The Developer shall install a permanent transmission line connecting the existing 12-inch line under Waiale Drive to an existing 18-inch line extending along Waiale Drive, which will ultimately service water consumers located in South Maui ("Offsite Transmission Line"). The Offsite Transmission Line shall be installed as and when the Property's commercial site (Modules C-1/11) and affected Kehalani Mauka Parcels are developed.

3. The Developer shall commence immediately with the design of the Onsite and Offsite Transmission Lines. The Developer shall submit plans to the Department for its review and approval prior to its commencement of work. The Department may elect, at the discretion of its Director, to omit the Offsite Transmission Line from this Agreement.
 4. The Developer shall design and construct a new 1.0 MG reinforced concrete tank mauka of the existing 3.0 MG Iao Storage Tank. The new tank shall be situated on the Department's Iao tank property.
 5. The construction of a new 1.0 MG low-level tank at the Iao tank site (Elevation 506±) shall commence upon completion of 900 residential units within the Property's low-level service area. In accordance with the Storage Credit and Amended Right of Entry Agreement for 3.0 MG Concrete Reservoir at Wailuku, Maui, Hawaii, Developer and Department shall and promptly subdivide and dedicate the land, under which the existing Iao Storage Tank is currently encroaching, to the County of Maui.
 6. The Developer shall provide, at no charge to the County of Maui except as provided hereinbelow, approximately one-half acre of land adjoining the Iao tank site for the expansion of the Department's surface water treatment facility.
- B. Mid-Level System (Area Between Elevations 395'± and 565'±; Tank at Elevation 670'±)
1. The Department shall design and construct a deep well pump and MCC at the existing well drilled at the Waikapu tank site. The Department shall also transmit water from this well to an existing transmission line in Waiko Road. Developer shall then install approximately 2,800 lineal feet of 12-inch transmission line from Waiko Road to the new mid-level tank site. This line shall serve as an inflow line for the new 1.0 MG mid-level water tank. Fifty percent (50%) of the costs of such line shall be reimbursable to the Developer over five (5) years, pursuant to Section 2.6(a) of the Rules and Regulation of the Department of Water Supply.
 2. The Developer and Department shall arrange for Wailuku Agribusiness Company, Inc. to provide a right-of entry agreement or easements in favor of the County of Maui enabling it to install and maintain the inflow and outflow waterlines that service the new mid-level tank.
 3. The Developer shall be allowed to extend a 12-inch transmission line from the existing 20,000 gallon steel tank located on Kuikahi Road to and through the proposed South Collector right-of-way to temporarily service Module 15 in the mid-level area. This temporary connection to the 20,000

gallon steel tank shall be removed and connected to the new 1.0 MG mid-level water tank upon completion of the said tank.

4. The Developer shall build a 1.0 MG tank at elevation 670'± to service development within the mid-level service area. A booster station shall also be constructed at this site that will subsequently feed the high-level water tank and system. The mid-level tank shall be constructed concurrently with the development of modules within the mid-level service area, with the exception of Module 15. Module 15 shall be temporarily serviced in accordance with item (3) described above. The Developer shall provide a new site for the 1.0 MG mid-level water tank, adjacent to the existing 20,000 gallon steel tank site, located just south of Kuikahi. The approximate size of the new tank site is 1.5± acres. The mid-level tank site shall be subdivided and dedicated to the County of Maui. Additional lots, created with the subdivision for the new mid-level tank site, shall be entitled to improvement deferrals by the Department until such time as they are re-subdivided for development.
5. The Department shall install approximately 5,000 lineal feet of 12-inch outflow transmission line from the new mid-level tank back to Waiko Road near the old church site. Easements for this line shall be acquired in accordance with item (2) above.

C. High-Level System (Area Between Elevations 565'± and 715'±; Tank at Elevation 835'±)

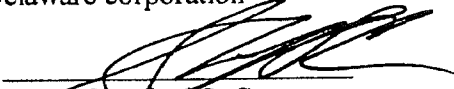
1. The Department shall permit the Developer to develop and service Modules 1 and 4 off of the existing Wailuku Heights transmission system and the 300,000 gallon Wailuku Heights storage tank at elevation 1,080'± until the high-level tank is deemed operational by the Department.
2. The Department shall permit the Developer to make a temporary connection off of the 8-inch feeder line on Kuikahi Drive to service Modules 1 and 4.
3. The Developer shall install PRV at the temporary connector line to service Modules 1 and 4.
4. The Developer, prior to the development of any module in the high-level service areas beyond Modules 1 and 4, shall design and install the following:
 - a. A 300,000 gallon high-level tank at elevation 835'±;

- b. A booster station at the 1.0 MG mid-level tank site, as further described under item (B4);
 - c. Approximately 5,300 lineal feet of 12-inch inflow transmission lines between the new mid-level and high-level tanks;
 - d. Approximately 500 lineal feet of outflow transmission lines between the high-level tank and Alu Road;
5. The Developer shall install the permanent outflow lines along each module parallel to the inflow line, and in conjunction with the development of each module in the high-level service area.
6. The Developer shall be responsible for transferring the distribution system from the inflow line to the outflow line for each respective module in the high-level service area.
7. Department shall permit the Developer to utilize the 12-inch inflow transmission line, between the new mid-level and high-level tanks, to temporarily service the distribution systems in high-level area.
- D. At the completion of all water system improvements for the low-, mid- and high-level service areas, the Developer shall install a SCADA system integrating the three service area tanks with the Department's main control system located at the Kahului baseyard.

(The remainder of this page is intentionally left blank; the signature page follows.)

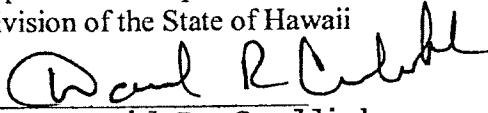
IN WITNESS WHEREOF, the parties hereto execute as of the date first above written.

HAWAII LAND & FARMING COMPANY, INC.,
a Delaware corporation

By 
Name: Stanford S. Carr
Title: President

“Developer”

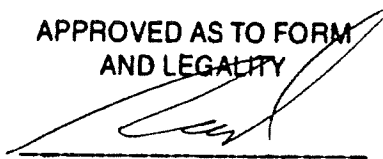
DEPARTMENT OF WATER SUPPLY
OF THE COUNTY OF MAUI,
an agency of the County of Maui,
a body politic and corporate, and
a subdivision of the State of Hawaii

By 
Name: David R. Craddick
Title: Director

By _____
Name:
Title:

“Department”

APPROVED AS TO FORM
AND LEGALITY


Deputy Corporation Counsel
County of Maui

STATE OF HAWAII)
) ss.
CITY AND COUNTY OF HONOLULU)

On this 22 day of November, 2002, before me personally appeared STANFORD S. CARR, to me personally known, who, being by me duly sworn, did say that he executed the foregoing instrument as the free act and deed of such person and in the capacities shown, having been duly authorized to execute such instrument in such capacities.

Elena P. Luke

Print or Type Name

Elena P. Luke

Signature

Notary Public, State of Hawaii

My Commission Expires: 3/12/03

LS.

STATE OF HAWAII)

COUNTY OF MAUI) ss. /

On this 18th day of December, 2002, before me appeared DAVID R. CRADDICK, to me personally known, who, being by me duly sworn, did say that he is the Director of the Department of Water Supply of the County of Maui, a political subdivision of the State of Hawaii, and that the said instrument was signed in behalf of the said Department of Water Supply of the County of Maui, and the said DAVID R. CRADDICK acknowledged the said instrument to be the free act and deed of the said Department of Water Supply of the County of Maui.

L-S.

MARGUERITE AH KEE

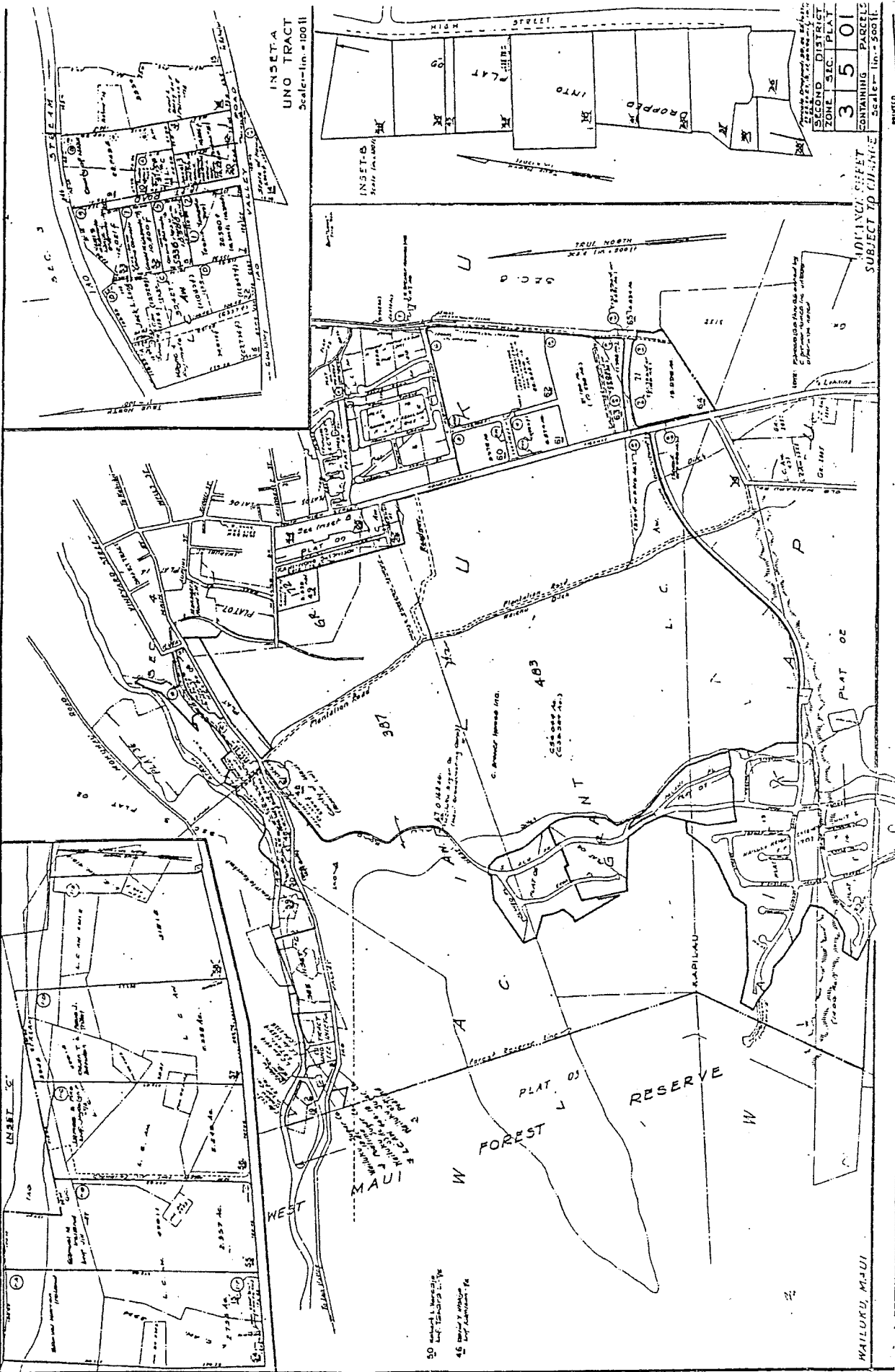
Print or Type Name

Marguerite Ah Kee

Signature

Notary Public, State of Hawaii

My Commission Expires: 7/3/2003



SECTION	3
DISTRICT	5
ZONE	3
SIC	5
PLAT	01
CONTAINING PARCELS	3501
Scale	1 in. = 500 ft

ADJACENT SHEET
SUBJECT TO CHANGE

MADE

Prepared by the Department of Public Works, Maui, Hawaii, from a plan of the same name filed for record in the Office of the County Clerk, Maui, Hawaii, on the 10th day of May, 1950.

PLAT 08

STREET

PLAT 06

STREET

HIGH

SOUTH

Printed by: *Geographical, Inc.*

ADVANCE SHEET
SUBJECT TO CHANGE

SECOND DIVISION	3
ZONE SEC PLAN	4
PLAT	07

CONTAINING 71 PARCELS
SCALE 1/4" = 30'

PRINTED

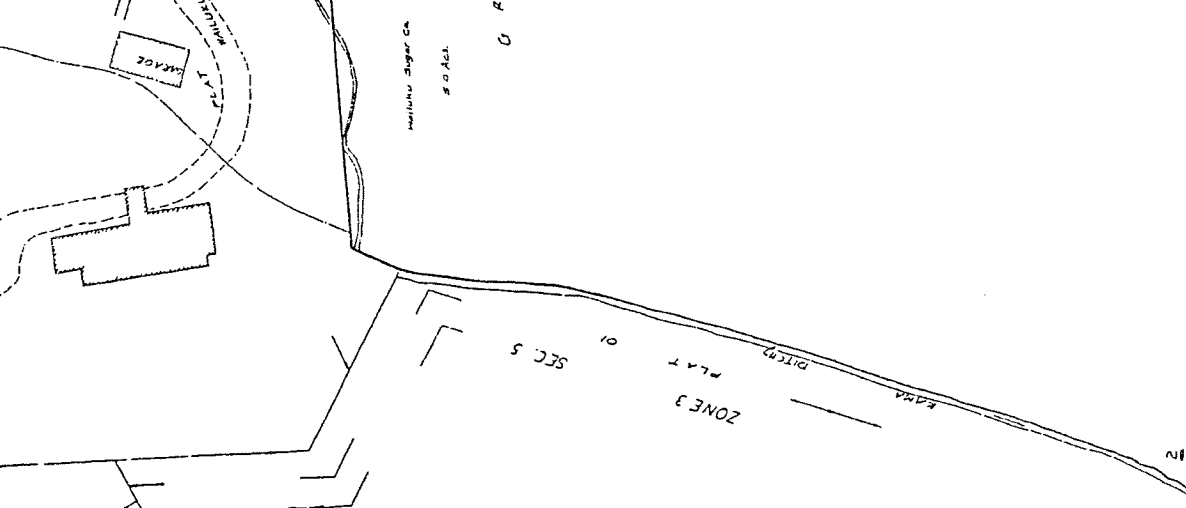
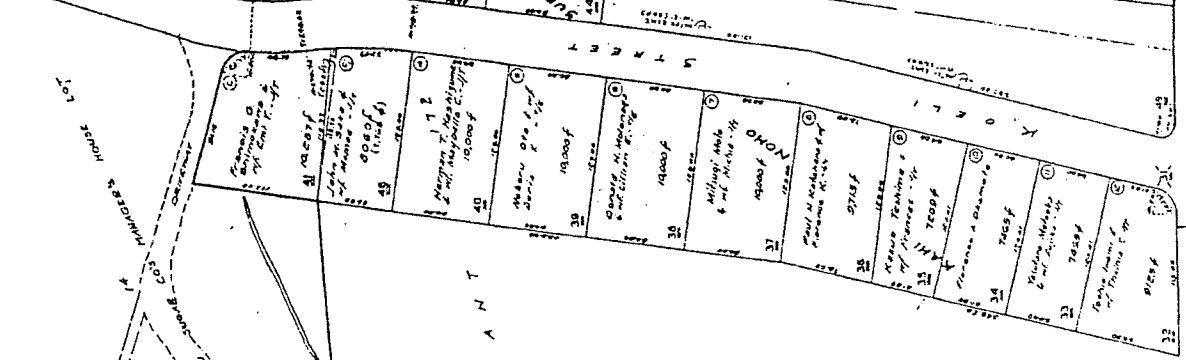
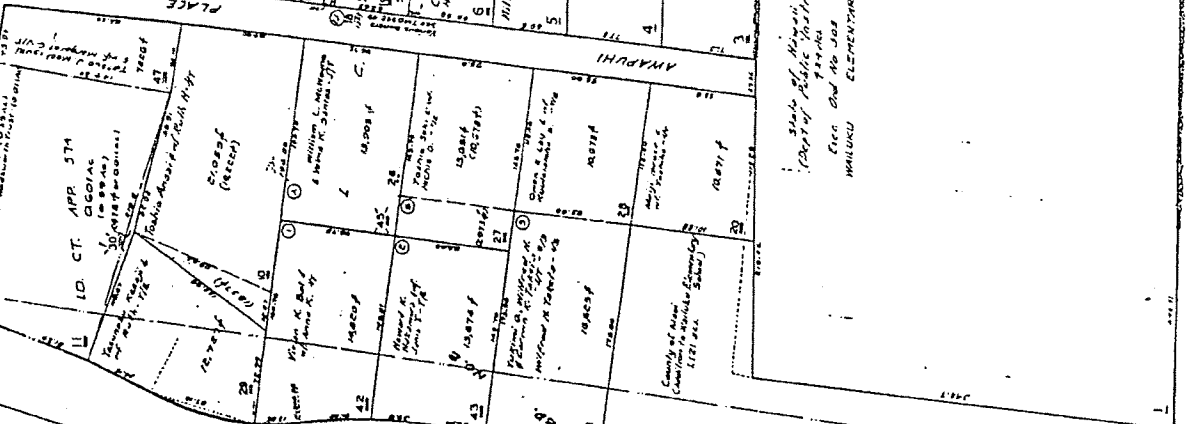
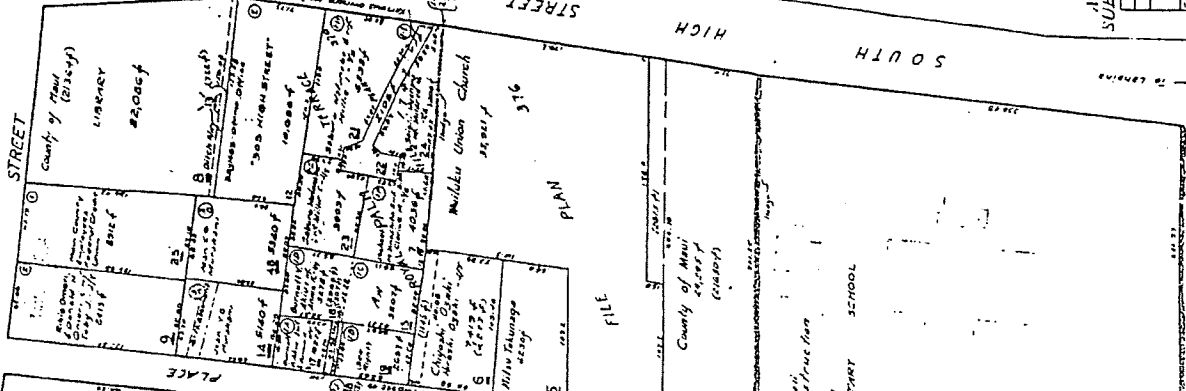
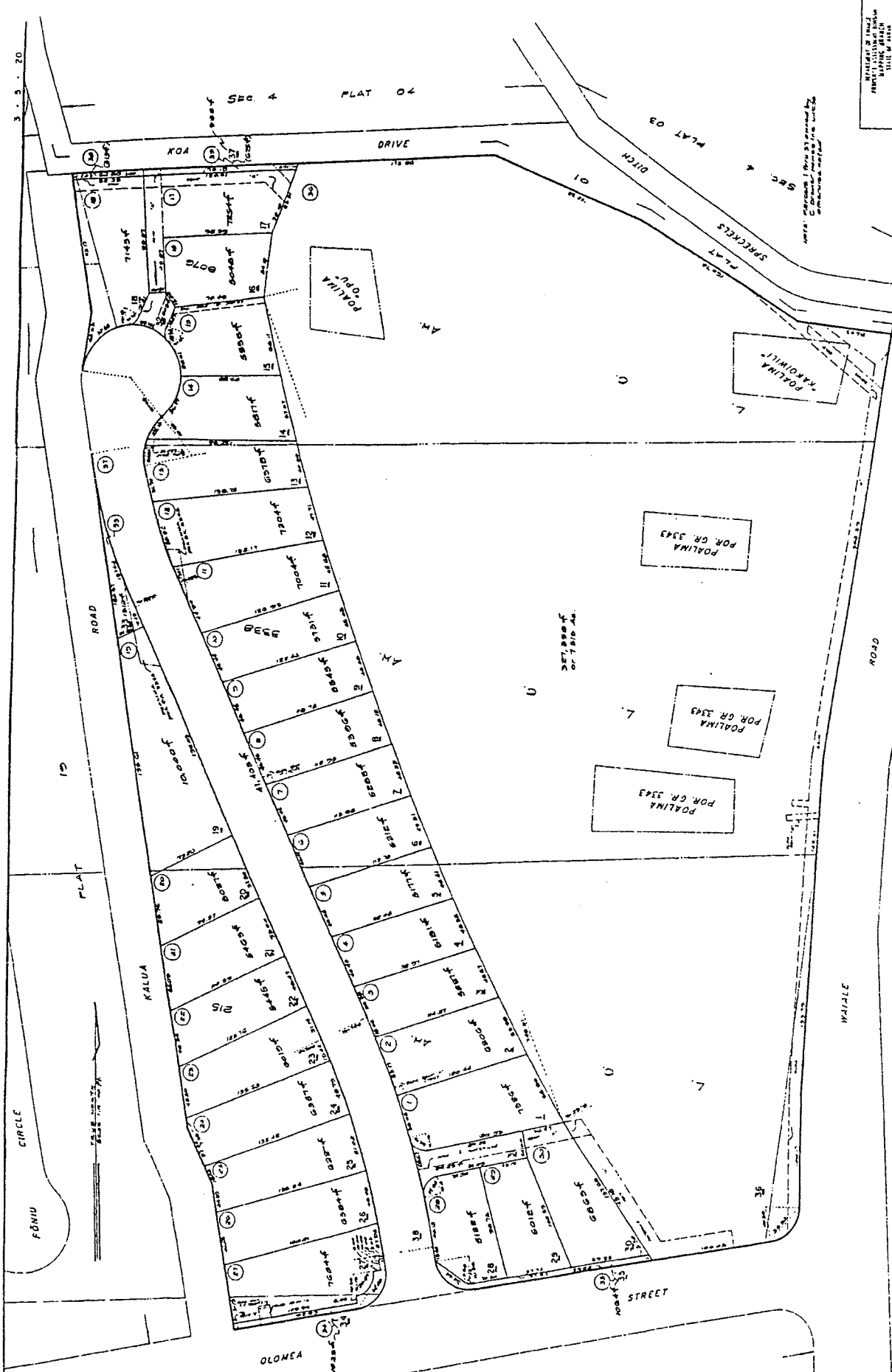


EXHIBIT "A" 2 of 3



MUNICIPALITY OF HAWAII COUNTY OF HAWAII PLANNING DEPARTMENT TITLE & TAX MAP	
ZONE	3
SECTION	5
SHEET	20
SCALE: 1" = 200 FT	

Beams, bearings, & sections shown hereon are for information only and are not to be used as evidence in any proceeding. The true and correct bearings and distances are shown on the original survey maps and plats on file in the office of the Surveyor General, Honolulu, Hawaii.

FOR PROPERTY ASSESSMENT PURPOSES - SUBJECT TO CHANGE

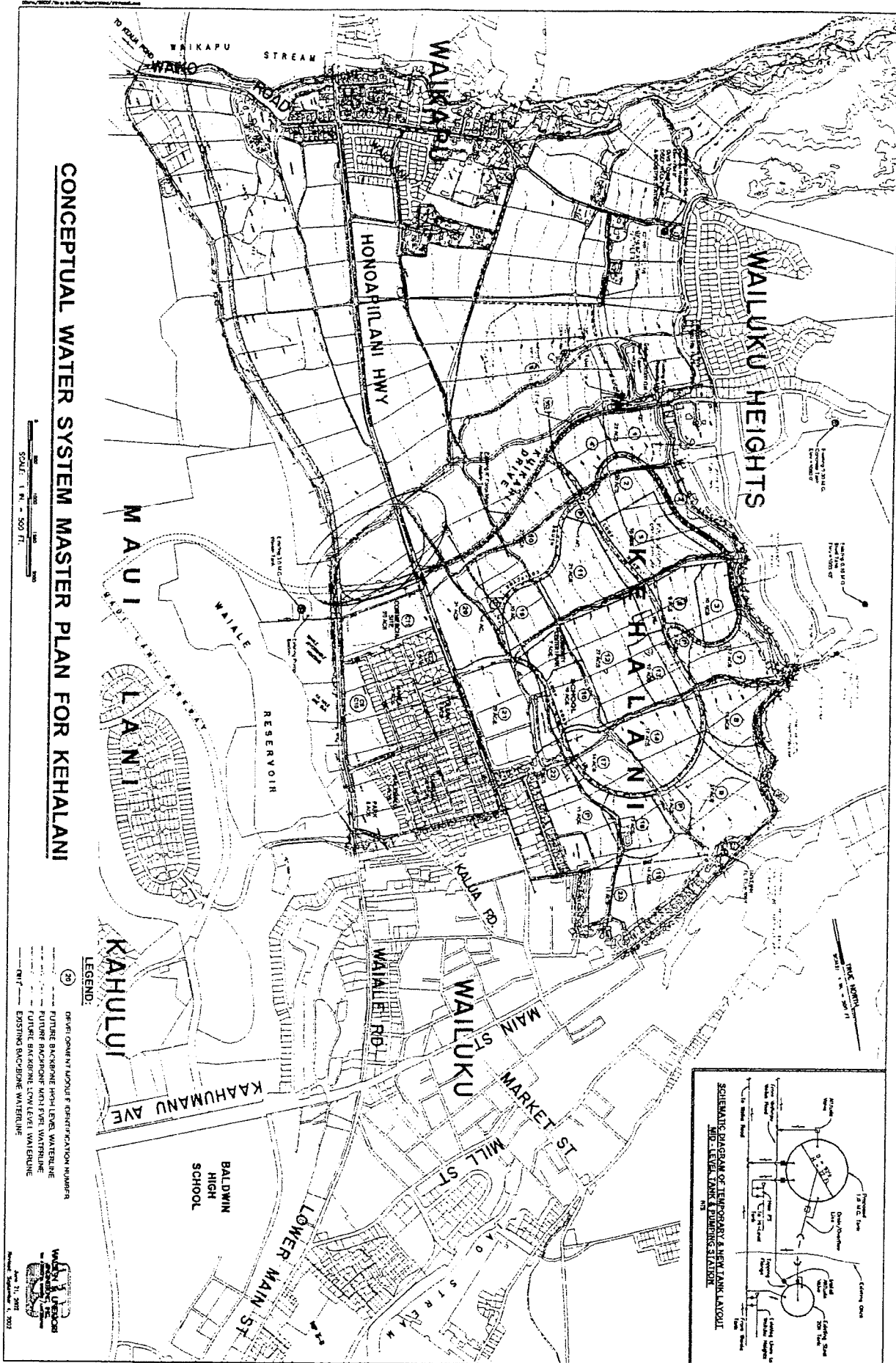


Exhibit "B"

THE ORIGINAL OF THIS DOCUMENT
RECORDED AS FOLLOWS:
STATE OF HAWAII

BUREAU OF CONVEYANCES

Doc 2008-130559

DATE AUG 18, 2008 02:00 PM

DOCUMENT NO.

LAND COURT

REGULAR SYSTEM

Return By Mail Pick-Up To:

CARLSMITH BALL LLP
One Main Plaza, Suite 400
2200 Main Street
Wailuku, Maui, Hawaii 96793

Attention: Blaine J. Kobayashi
Telephone: (808) 242-4535

TITLE OF DOCUMENT:

FIRST AMENDMENT TO AGREEMENT FOR
IMPLEMENTATION OF WATER MASTER PLAN FOR KEHALANI
(WAILUKU PROJECT DISTRICT 3)

PARTIES TO DOCUMENT:

DEVELOPER: KEHALANI HOLDINGS COMPANY, INC.
KEHALANI MAUKA, LLC

DEPARTMENT: DEPARTMENT OF WATER SUPPLY
OF THE COUNTY OF MAUI
200 South High Street
Wailuku, Hawaii 96793

TAX MAP KEY(S): (2) 3-5-01:61, 3-5-01:63, 3-5-01:66, 3-5-01:67
3-4-07:02 and 3-5-20:36 (This document consists of 11 pages.)

**FIRST AMENDMENT TO AGREEMENT FOR
IMPLEMENTATION OF WATER MASTER PLAN FOR KEHALANI
(WAILUKU PROJECT DISTRICT 3)**

THIS FIRST AMENDMENT is made this 13th day of August, 2008, by and between by and among **KEHALANI HOLDINGS COMPANY, INC.**, a Hawaii corporation, **KEHALANI MAUKA, LLC**, a Hawaii limited liability company, whose mailing addresses are Alakea Corporate Tower, 1100 Alakea Street, 27th Floor, Honolulu, Hawaii 96813, hereinafter jointly referred to as the "Developer", and the **DEPARTMENT OF WATER SUPPLY OF THE COUNTY OF MAUI**, an agency of the County of Maui, a body politic and corporate, and a political subdivision of the State of Hawaii, whose mailing address is 200 South High Street, Wailuku, Hawaii, 96793, hereinafter referred to as the "Department".

RECITALS:

WHEREAS, Developer and the Department entered into that certain recorded Agreement for Implementation of Water Master Plan for Kehalani (Wailuku Project District 3) dated December 18, 2002, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2002-234288 (the "**Agreement**"); and

WHEREAS, Developer and the Department now desire to amend the Agreement as set forth below;

NOW, THEREFORE, the parties do hereby amend the Agreement as follows:

1. Paragraph A of the Agreement is hereby deleted in its entirety and replaced with the following:
 - A. Developer is the primary owner and master developer of the Wailuku Project District 3, aka Kehalani, which comprises approximately 549 acres (the "Property"). The undeveloped portions of this Project are further identified as those certain parcels of land situate at Wailuku, Maui, Hawaii, identified on the tax maps of the State of Hawaii as Tax Map Key Nos. 3-5-01:61, 3-5-01:63, 3-5-01:66, 3-5-01:67, 3-4-07:02, and 3-5-20:36.
2. Paragraph A.1 of the Agreement is hereby deleted in its entirety and replaced with the following:
 1. Prior to Completion of Module 22. The Developer shall install a permanent 16-inch line approximately 3,900 feet long from Iao Tank at elevation 506 feet.± to the first phase of Kehalani Parkway, which ends at the southwest corner of Module 21. This line will run along the easterly side of Waihee Ditch and within the Kehalani Parkway right-of-way. Mass grading of Kehalani Parkway between Phase I of Kehalani Parkway to Waihee Ditch, as well as the installation of the drainage and sewer lines within said right-of-way, shall be completed prior to installation of the permanent 16-inch transmission line. The Developer shall also install approximately 1,225 feet of 12-inch low-level line from the 16-inch

transmission line on Kehalani Parkway, and connect it to the existing 12-inch line between Iao Tank and Malako Street. This line will follow a new subdivision road that will be constructed along the northwestern boundary of the future mauka park site. This line will also replace the existing 12-inch transmission line between Iao Tank and Malako Street that presently runs across Sites 19 and 23. The Developer will also interconnect the existing 12-inch outflow line from Shaft 33 to this new low-level 12-inch transmission line. The Developer shall then install a permanent 12-inch line between Kamole Street and Kaupo Street concurrently with its development of Module C-2. The existing 12-inch line under Kaupo Street connects to an existing 12-inch line under Waiale Drive. This entire line is referred to as the "Onsite Transmission Line."

3. Paragraph A.2 of the Agreement is hereby deleted in its entirety and replaced with the following:

2. The Developer shall install a permanent transmission line connecting the existing 12-inch line under Waiale Drive to an existing 18-inch line extending along Waiale Drive, which will ultimately service water consumers located in South Maui ("Offsite Transmission Line"). The Offsite Transmission Line shall be installed as and when the Property's commercial site (Modules C-1/11) and affected Kehalani Mauka Parcels, if any, are developed.

4. Paragraph A.4 of the Agreement is hereby deleted in its entirety and replaced with the following:

4. The Developer, in conjunction with the developer of Maui Lani, shall design and construct a new 2.0 MG reinforced concrete tank mauka of the existing 3.0 MG Iao Storage Tank. The new tank shall be situated on the Department's Iao tank property or other area as mutually agreed upon by the Developer and the Department. However, the Developer and the Department agree that in no event shall the additional tank site area exceed 1.502 acres.

5. Paragraph A.5 of the Agreement is hereby deleted in its entirety and replaced with the following:

5. The construction of a new 2.0 MG low-level tank at the Iao Tank site (Elevation 506 feet±) shall commence at the time that the Maui Lani project is required to move forward with its high-level storage requirements at the Iao Tank site. The Developer and the Department shall and promptly subdivide and dedicate the land under which the existing Iao Storage Tank is currently encroaching, to the County of Maui.

6. Paragraph A.6 of the Agreement is hereby amended by adding the following:

6. The Developer and the Department may mutually agree to allow the Developer to convey additional lands to the County of Maui, not to exceed one (1) additional acre for a total of 1.502 acres.
7. Paragraph B.1 of the Agreement is hereby deleted in its entirety and replaced with the following:
 1. The Department shall design and construct a deep well pump and MCC at the existing well drilled at the Waikapu tank site. The Department shall also transmit water from this well to an existing transmission line in Waiko Road. The Developer shall then install approximately 2,800 lineal feet of 12-inch transmission line from Waiko Road to the new mid-level tank site. This line shall serve as an inflow line for the new 1.5 MG mid-level water tank. Fifty percent (50%) of the costs of such line shall be reimbursable to the Developer over five (5) years, pursuant to Section 2.6(a) of the Rules and Regulations of the Department of Water Supply. The Developer will install a pump at the Iao 3.0 MG tank site at an elevation of 506 feet to pump water to the new 1.5 MG mid-level tank at an elevation of 670 feet. The Developer shall install an additional 1,200± feet of 12-inch line between the Iao Tank and the Kehalani Parkway that will be connected to the 12-inch mid-level distribution line on Kehalani Parkway and South Collector. The Developer shall be entitled to transmission credits for the cost of the foregoing improvements.
8. Paragraph B.3 of the Agreement is hereby deleted in its entirety and replaced with the following:
 3. The Developer shall be allowed to extend a 12-inch distribution line from the existing 20,000 gallon steel tank located on Kuikahi Road to and through the proposed South Collector right-of-way to temporarily service Module 15 in the mid-level area. This temporary connection to the 20,000 gallon steel tank shall be removed and connected to the new 1.5 MG mid-level water tank upon completion of said tank.
9. Paragraph B.4 of the Agreement is hereby deleted in its entirety and replaced with the following:
 4. The Developer shall build a 1.5 MG tank at elevation 670± feet to service development within the mid-level service area. A booster station shall also be constructed at this site that will subsequently feed the high-level water tank and system. The mid-level tank shall be constructed concurrently with the development of modules within the mid-level service area, with the exception of Module 15. Module 15 shall be temporarily serviced in accordance with item (3) described above. The Developer shall provide a new site for the 1.5 MG mid-level water tank, adjacent to the existing 20,000 gallon steel tank site, located just south of Kuikahi. The approximate size of the new tank site is 1.5± acres. The mid-level tank site shall be subdivided and dedicated to the County of Maui. Additional lots, created with the subdivision for the new mid-level tank

site, shall be entitled to improvement deferrals by the Department until such time as they are re-subdivided for development.

10. Paragraph C of the Agreement is hereby deleted in its entirety and replaced with the following:

C. High-Level System (Area Between Elevations 565'± and 715'± Tank at Elevation 900'±)

11. Paragraph C.4.a of the Agreement is hereby deleted in its entirety and replaced with the following:

a. A 300,000 gallon high-level tank at elevation 900'± (although Developer or Department may elect to increase the capacity of said tank);

12. Paragraph C.4.b of the Agreement is hereby deleted in its entirety and replaced with the following:

b. A booster station at the 1.5 MG mid-level tank site, as further described under item (B4);


13. Confirmation and Ratification of Agreement. Except as expressly provided hereinabove, the Agreement shall remain unmodified and in full force and effect, and the respective obligations of the parties thereunder, are hereby ratified and confirmed.

14. Counterparts/Facsimile. The parties hereto agree that (i) this instrument 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, and (ii) facsimile signatures on this instrument or signatures by a similar medium shall be binding and effective for all purposes and shall be treated the same as signatures on the original document. The parties agree to promptly forward signed hard copies of the originals to the other parties. However, the signed facsimile documents or documents in a similar medium will remain effective if the signed originals are not so received.


[remainder of page left intentionally blank]

written. **IN WITNESS WHEREOF**, the parties hereto execute as of the date first above

KEHALANI HOLDINGS COMPANY, INC.,
a Hawaii corporation

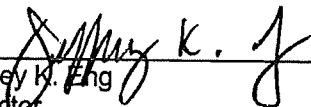
By: 
Name: Stanford S. Carr
Title: President

KEHALANI MAUKA, LLC,
a Hawaii limited liability company

By: 
Name: Stanford S. Carr
Title: Manager

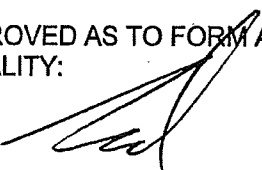
"Developer"

DEPARTMENT OF WATER SUPPLY OF
THE COUNTY OF MAUI, an agency of the
County of Maui, a body politic and corporate,
and a subdivision of the State of Hawaii

By: 
Name: Jeffrey K. Eng
Title: Director

"Department"

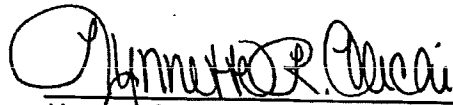
APPROVED AS TO FORM AND
LEGALITY:

By: 
EDWARD S. KUSHI, JR.
Deputy Corporation Counsel
County of Maui

STATE OF HAWAII)
CITY AND COUNTY OF HONOLULU) ss.

On this 29th day of July, 2008, before me personally appeared STANFORD S. CARR, to me personally known, who, being by me duly sworn or affirmed, did say that he is the President of KEHALANI HOLDINGS COMPANY, INC., a Hawaii corporation, and that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

LS



Name: **Lynnette R. Tachi**

Notary Public, State of Hawaii

My commission expires: 06/11/10

NOTARY CERTIFICATION ON NEXT PAGE

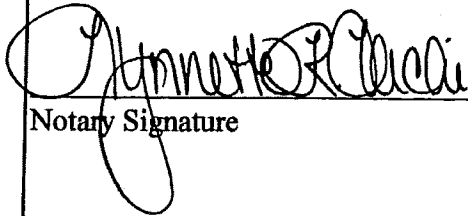
Doc. Date: undated at time of notarization

Pages: 11

Notary Name: Lynnette R. Tachi

First Circuit

Doc. Description: First Amendment to Agreement for Implementation of Water Master Plan for Kehalani (Wailuku Project District 3)



7/29/08

LS

Notary Signature

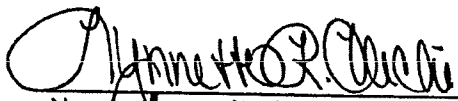
Date

NOTARY CERTIFICATION

STATE OF HAWAII)
CITY AND COUNTY OF HONOLULU) ss.

On this 29th day of July, 20 08, before me personally appeared STANFORD S. CARR, to me personally known, who, being by me duly sworn or affirmed, did say that he is the Manager of KEHALANI MAUKA, LLC, a Hawaii limited liability company, and that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

LS


Name: **Lynnette R. Tachi**
Notary Public, State of Hawaii
My commission expires: 06/11/10

NOTARY CERTIFICATION ON NEXT PAGE

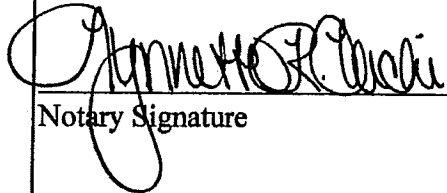
Doc. Date: undated at time of notarization

Pages: 11

Notary Name: Lynnette R. Tachi

First Circuit

Doc. Description: First Amendment to Agreement for Implementation of Water Master Plan for Kehalani (Wailuku Project District 3)

 7/29/08

Notary Signature

Date

LS

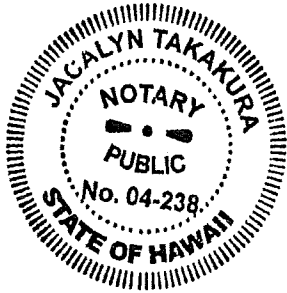
NOTARY CERTIFICATION

STATE OF HAWAII
COUNTY OF MAUI

)
) ss.
)

On this 13th day of August, 2008, before me appeared JEFFREY K. ENG, to me personally known, who, being by me duly sworn, did say that he is the Director of the Department of Water Supply of the County of Maui, a political subdivision of the State of Hawaii, and that the seal affixed to the foregoing instrument is the lawful seal of the County of Maui, and that the said instrument was signed and sealed on behalf of said County of Maui by authority of its Council, and the said JEFFREY K. ENG acknowledged the said instrument to be the free act and deed of said County of Maui.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



Jacalyn Takakura
Name: Jacalyn Takakura

Notary Public, State of Hawaii

My commission expires: 05/02/12

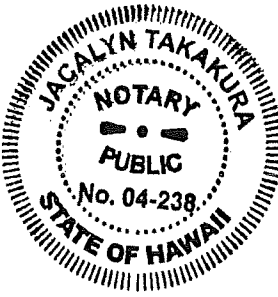
Date: <u>August 13, 2008</u>	# Pages: <u>11</u>
Name: <u>Jacalyn Takakura</u>	<u>Second</u> Circuit
Doc. Description: <u>First Amendment to Agreement for Implementation of Water Master Plan for Kehalani (Wailuku Project District 3)</u>	
<u>Jacalyn Takakura</u> Notary Signature	
NOTARY CERTIFICATION	

EXHIBIT E

>>
C



R-1657 STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED
DEC 30, 2002 10:45 AM
Doc No(s) 2002-234295



/s/ CARL T. WATANABE
REGISTRAR OF CONVEYANCES

7 1/1 Z1

LAND COURT

Handwritten mark

REGULAR SYSTEM

AFTER RECORDATION, RETURN BY: MAIL () PICK-UP ()
HAWAII LAND & FARMING COMPANY, INC.
745 Fort Street, Suite 2110
Honolulu, Hawaii 96813
Phone: 537-5220

Total No. of Pages: 7

TMK No(s): (2) 3-5-01-01 (portion) and -17;
(2) 3-5-01-60, -61, -62, -63 and -64;
(2) 3-5-02-01

KEHALANI-WAILUKU PROJECT DISTRICT 3 OFFSITE SEWER IMPROVEMENTS

THIS AGREEMENT is entered into as of this 24th day of DECEMBER, 2002 by and among HAWAII LAND & FARMING COMPANY, INC., a Delaware corporation, KEHALANI MAUKA LLC, a Hawaii limited liability company, whose mailing addresses are 745 Fort Street, Suite 2110, Honolulu, Hawaii 96813, hereinafter jointly referred to as the "Developer", and the DEPARTMENT OF PUBLIC WORKS AND WASTE MANAGEMENT, an agency of the County of Maui a body politic and corporate, and a political subdivision of the State of Hawaii, whose mailing address is 200 South High Street, Wailuku, Hawaii 96793, hereinafter referred to as the "Department".

BACKGROUND STATEMENT:

- A. Developer is the developer of the Kehalani master-planned community, which consists of the 549 acres of land within Wailuku-Kahului Project District 3, as described in Maui County Code Section 19.80.050 (the "Project").
- B. The Department requires that Developer make various offsite sewer improvements (the "Improvements") in connection with the development of the Project.
- C. The Developer and the Department desire to set forth their agreement as to the type of Improvements and the timing for their completion.

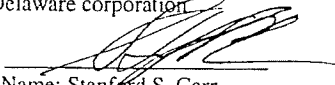
NOW, THEREFORE, parties agree as follows:

1. The Developer shall install approximately 700 lineal feet of 15-inch sewer line within the Lower Main Street corridor from Mission Street to Mill Street in order to provide for increased capacity and allow for the connection of additional units to the Department's sewer system servicing the area. The Developer shall commence installation of the sewer line no later than the date upon which the 525th residential unit has been constructed within the Project or within areas outside of the Project that are serviced by the same sewer system, it being acknowledged and agreed that 320 residential units have been constructed within the Project as of the date of this Agreement. The Developer shall complete the installation of the sewer line within one year of the commencement date thereof.
2. Upon the Developer's commencement of the sewer line described in Paragraph 1 above or the bonding of the completion of the sewer line, the Developer shall be allowed to complete the construction, sale and occupancy of the modules that are within Phase I, as set forth in the Conceptual Development Master Plan Map and Development Sequence Chart, which are attached hereto as Exhibits "A" and "B", respectively, and incorporated for all purposes hereof. Nothing contained herein, however, shall be construed to guarantee that the Department's sewer system servicing the Project will have sufficient capacity (e.g., pump stations; wastewater treatment facilities) downstream of the sewer line described in Paragraph 1 above.
3. During the period of the construction, sale and occupancy of the modules that are within Phases II and III, as set forth Conceptual Development Master Plan Map and Development Sequence Chart, the Developer shall improve the sewer system within the Lower Main corridor extending from the point past the Mill Street intersection to Waena Street and such other improvements pertaining to the sewer system within the Lower Main corridor that may be required by the Department.
4. The Department and the Developer mutually acknowledge that there is a significant amount of storm water infiltration into the Department's sewer system servicing the Project, but that the sources of such infiltration have not yet been identified nor have the repairs, if any, necessary to prevent such infiltration been determined. Upon such identification and determination, the Developer and the Department will make good faith efforts to mutually agree upon the type of repairs to the sewer system for which the Developer will be responsible and adjustments to the scheduled improvements in the event that more capacity is realized.
5. The Developer acknowledges and agrees that the cost of the Improvements shall be borne by the Developer and, further, that current wastewater assessment fees are based upon capital improvements completed at the Wailuku-Kahului wastewater reclamation facility and, therefore, cannot be credited against sewer impact fees that may be levied against the Developer in connection with building permits for the construction of residential units within the Project.

(The remainder of this page is intentionally left blank; the signature page follows.)

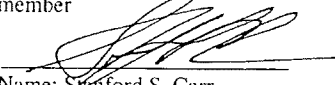
IN WITNESS WHEREOF, the parties hereto execute as of the date first above written.

HAWAII LAND & FARMING COMPANY, INC.,
a Delaware corporation

By 
Name: Stanford S. Carr
Title: President

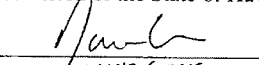
KEHALANI MAUKA LLC,
a Hawaii limited liability company

By Milwaukee Holdings, LLC,
a Hawaii limited liability company,
its member

By 
Name: Stanford S. Carr
Title: Manager

"Developer"

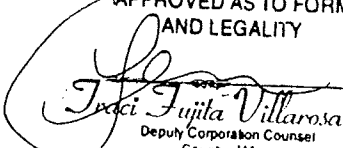
DEPARTMENT OF PUBLIC WORKS
AND WASTE MANAGEMENT,
an agency of the County of Maui,
a body politic and corporate, and
a subdivision of the State of Hawaii

By 
Name: Darin Google
Title: Director

By _____
Name:
Title:

"Department"

~~XXXX~~

APPROVED AS TO FORM
AND LEGALITY

Traci Fujita Villanosa
Deputy Corporation Counsel
County of Maui

STATE OF HAWAII)

) ss.

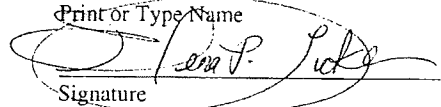
CITY AND COUNTY OF HONOLULU)

On this 18 day of December, 2002, before me personally appeared STANFORD S. CARR, to me personally known, who, being by me duly sworn, did say that he executed the foregoing instrument as the free act and deed of such person and in the capacities shown, having been duly authorized to execute such instrument in such capacities.

L.S.

Elena P. Luke

Print or Type Name



Signature

Notary Public, State of Hawaii

My Commission Expires: 3/12/03

STATE OF HAWAII)

) ss.

COUNTY OF MAUI)

On this 24th day of December, 2002, before me appeared David Goode, to me personally known, who, being by me duly sworn, did say that he is the Director of the Department of Public Works and Waste Management, an agency of the County of Maui, a body politic and corporate, and a political subdivision of the State of Hawaii, and that the said instrument was signed in behalf of the said Department of Public Works and Waste Management, and the said person acknowledged the said instrument to be the free act and deed of the said Department of Public Works and Waste Management.

Evelyn I. Kinoshita

Print or Type Name

Evelyn I. Kinoshita

Signature

Notary Public, State of Hawaii

My Commission Expires: 2/14/03

STATE OF HAWAII)

) ss.

COUNTY OF MAUI)

On this ____ day of _____, 2002, before me appeared _____, to me personally known, who, being by me duly sworn, did say that ____ is the _____ of the Department of Public Works and Waste Management, an agency of the County of Maui, a body politic and corporate, and a political subdivision of the State of Hawaii, and that the said instrument was signed in behalf of the said Department of Public Works and Waste Management, and the said person acknowledged the said instrument to be the free act and deed of the said Department of Public Works and Waste Management.

Print or Type Name

Signature

Notary Public, State of Hawaii

My Commission Expires: _____

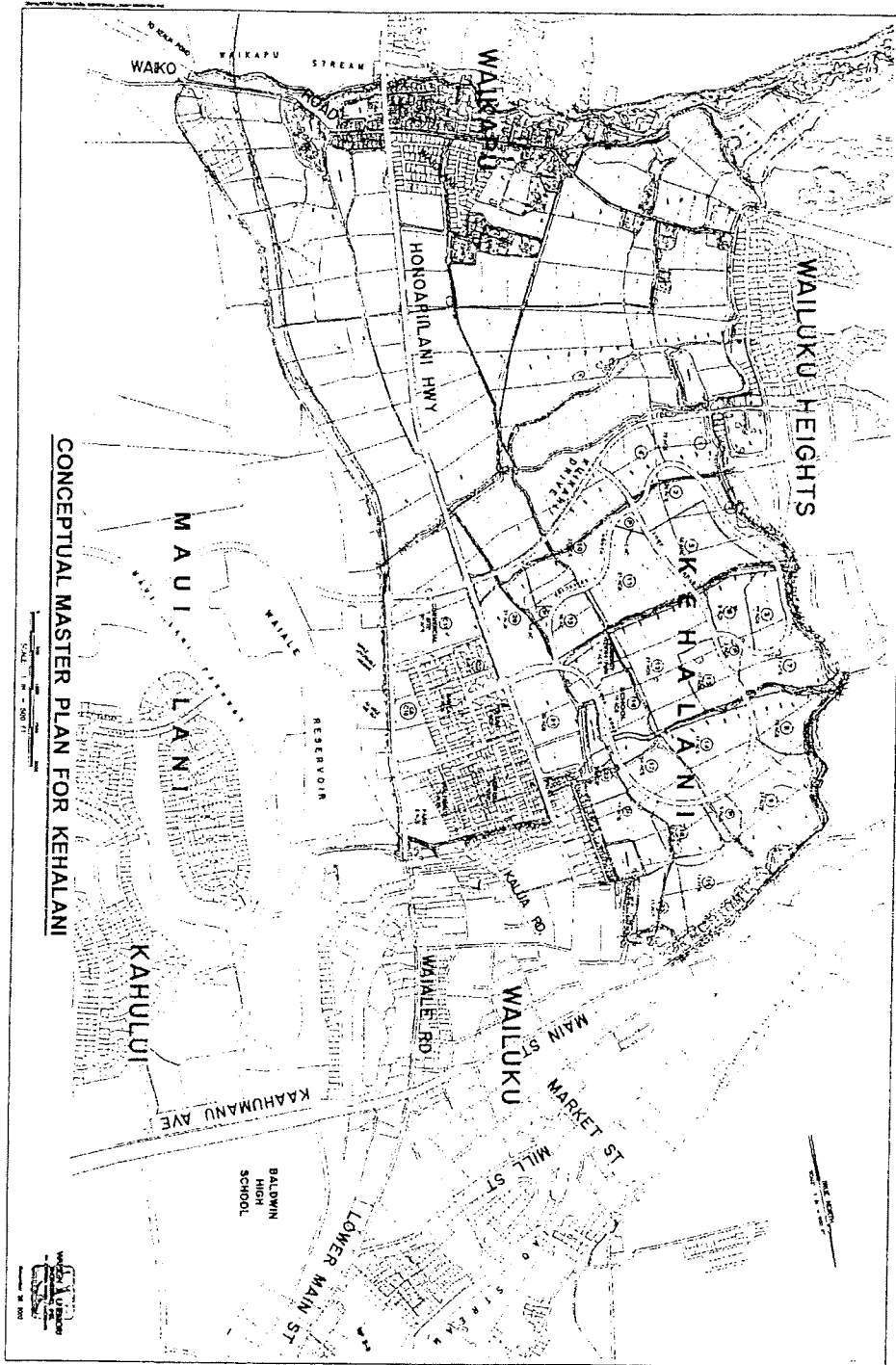


Exhibit "A"

KEHALANI - Development Sequence

Phase	Module	Type	Acreage	Density	Aggregate Density	Density/Acre	Projected Start of Construction	Projected Occupancy Date
completed	Kaunana	Moderate SFD	28	179	179	6.4	completed	occupied
completed	Halemalu	Affordable SFD	5	30	209	6.0	completed	occupied
completed	Nanea	Moderate SFD	17	80	289	4.7	completed	occupied
completed	Olena C-3	Moderate SFD	6	31	320	5.2	completed	occupied
I	C-2	Moderate SFD	6	32	352	5.3	2003	2004
I	C-6/10	Affordable MF	11	132	484	12.0	2003	2004
I	21	Moderate SFD	29	145	629	5.0	2003	2004
I	20	Moderate SFD	21	84	713	4.0	2003	2004
I	4	Luxury SFD	11	33	746	3.0	2004	2005
I	1	Luxury SFD	11	33	779	3.0	2004	2005
I	15	Moderate MF	10	150	929	15.0	2004	2005
I	C-11	Commercial	13	0	929	na	2004	2005
II	22	Moderate SFD	10	50	979	5.0	2005	2006
II	2	Luxury SFD	20	60	1,039	3.0	2006	2007
II	5	Luxury MF	18	120	1,159	6.7	2005	2006
II	10	Moderate SFD	27	85	1,244	3.1	2005	2006
II	11	Moderate SFD	21	65	1,309	3.1	2007	2008
II	6	Luxury MF	9	60	1,369	6.7	2007	2008
II	C-11	Commercial	7	0	1,369	na	2007	2008
II	7	Luxury SFD	17	43	1,412	2.5	2008	2009
II	3	Luxury SFD	10	30	1,442	3.0	2009	2010
III	23	Senior MF	11	119	1,561	10.8	2008	2009
III	12	Moderate SFD	27	122	1,683	4.5	2009	2010
III	8	Luxury MF	14	84	1,767	6.0	2009	2010
III	19	Senior SFD	14	70	1,837	5.0	2010	2011
III	13	Moderate MF	10	70	1,907	7.0	2009	2010
III	14	Moderate SFD	17	77	1,984	4.5	2011	2012
III	9	Luxury SFD	31	95	2,079	3.1	2011	2012
III	18	Moderate MF	13	150	2,229	11.5	2011	2012
III	17	Moderate MF	14	140	2,369	10.0	2012	2013
			458	2,369		5.9		

Exhibit "B"

EXHIBIT F

Education Contribution Agreement for
WAILUKU-KAHULUI PROJECT DISTRICT 3

THIS INDENTURE, made this 14 day of January, 2003, by and between KEHALANI MAUKA, LLC, whose principal place of business and mailing address (if different) is 745 Fort Street, Suite 2110, Honolulu, Hawai'i 96813, and the State of Hawai'i DEPARTMENT OF EDUCATION, hereinafter referred to as "DOE," whose mailing address is Department of Education, Facilities and Support Services Branch, 809 8th Avenue, Honolulu, Hawai'i 96816.

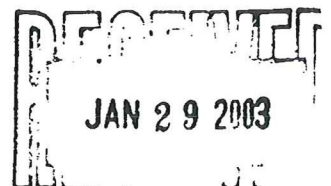
WHEREAS KEHALANI MAUKA, LLC is the developer and recorded owner of that certain parcel of land comprised of approximately 549 acres and identified as Tax Map Key parcels: 3-4-07:02, 3-5-01, 3-5-18, 3-5-19, 3-5-20, and 3-5-21, also known as "Kehalani" or "Wailuku-Kahului Project District 3;"

WHEREAS the Wailuku-Kahului Project District 3 is anticipated to contain a total of 2,400 units in the entire project;

WHEREAS KEHALANI MAUKA, LLC and DOE have mutually agreed that the educational contribution set forth in this Agreement will satisfy Condition No. 7 of Land Use Commission Docket No. A89-642 for the Wailuku-Kahului Project District 3 (formerly known as Wailuku and Piihaha Project Districts) based on a maximum of 2,400 residential units;

NOW THEREFORE, KEHALANI MAUKA, LLC and DOE agree as follows:

1. KEHALANI MAUKA, LLC's Land Contribution. KEHALANI MAUKA, LLC shall dedicate a total of 12 acres, more or less, ("school site") to the State of Hawai'i.
 - a. The location of the school site shall be as shown on the map attached hereto and incorporated herein as Exhibit "A."



- b. The school site may be comprised of a 10-acre parcel and a 2-acre parcel. Both parcels shall be dedicated to the State of Hawai'i for use as a school site.
- c. Use of the school site shall be limited to public school and ancillary school recreational uses.
- d. KEHALANI MAUKA, LLC shall commit to the completion of the following (up to the property line of the school site) prior to the start of construction of the school:
 - (1) Potable water distribution systems for irrigation, domestic, and fire flow needs;
 - (2) Sewage collector, treatment and disposal systems;
 - (3) Drainage collector and disposal systems;
 - (4) Access roadway systems sufficient for bus and vehicular traffic (minimum 60-foot right-of-way);
 - (5) Electrical, telephone, CATV and any other telecommunication distribution systems.
- e. KEHALANI MAUKA, LLC shall secure adequate allocations of the above services prior to the start of construction of the school.
 - (1) The potable water allocations for domestic use should be based on 60 gallons per person, per day (peak enrollment plus staff) for domestic use plus 4,000 gallons per day per acre for irrigation needs.
 - (2) A water capacity of 2,000 gallons per minute for a 2-hour duration (with residual critical pressure of 20 psi at the fire hydrants) is required for fire flow.

- (3) Average sewage flow allocations should be based on 25 gallons per person, per day (peak enrollment plus staff) plus 1,250 gallons per acre per day for wet weather infiltration/inflow or plus 2,750 gallons per acre per day for wet weather if the sewer line is laid below the normal ground water table.
 - (4) Allocations or capacity requirements for drainage, power, telephone, CATV and any other telecommunication systems need to be determined on a case-by-case basis.
- f. KEHALANI MAUKA, LLC shall conduct a title search of the school site at no cost to the State of Hawai'i. Two copies of the report shall be provided to DOE.
- g. If the school site contains encumbrances deemed unnecessary by DOE, KEHALANI MAUKA, LLC shall clear such encumbrances prior to dedication at no cost to the State of Hawai'i.
- h. If necessary, KEHALANI MAUKA, LLC shall be responsible for rezoning the school site to an appropriate zone prior to dedication to the State of Hawai'i.
- i. KEHALANI MAUKA, LLC shall be responsible for the subdivision of the school site at no cost to the State of Hawai'i.
- j. KEHALANI MAUKA, LLC shall, prior to dedication, conduct a Phase I Level Hazardous Material study for the school site at no cost to the State of Hawai'i. The study shall satisfy the requirements of the State Department of Health. Two copies of the study shall be provided to DOE. If required by the State Department of Health, a mitigation plan shall also be prepared and implemented by KEHALANI MAUKA, LLC, prior to dedication, at no cost to the State of Hawai'i.

- k. The school site shall not contain any known historical or archaeological sites.
- l. KEHALANI MAUKA, LLC shall provide a topographic map of the school site.
- m. KEHALANI MAUKA, LLC shall provide a metes and bounds description and map of the school site.
- n. The school site shall be conveyed to the State of Hawai'i prior to the closing of the 1,000th residential unit in the Wailuku-Kahului Project District 3. The conveyance to the State of Hawaii may be delayed if deemed appropriate by DOE.
- o. Conveyance of the school site shall be via Warranty Deed.
- p. If requested by DOE, KEHALANI MAUKA, LLC shall grant a right-of-entry to the State of Hawai'i and its consultants for preliminary data gathering (archaeological, soil testing, topographic surveys, etc.) and construction on the school site prior to the transfer of title.
- q. KEHALANI MAUKA, LLC recognizes that the State of Hawaii's acquisition and disposition of private property is subject to approval by the Board of Land and Natural Resources.

2. FAIR-SHARE CONTRIBUTION.

- a. Fair-share credits for the Wailuku-Kahului Project District 3 shall be calculated as follows:

(1) The 12-acre dedication for an elementary school site in Wailuku-Kahului Project District 3 and the 4.585-acre dedication for a new playfield at Waihee Elementary School shall be credited to KEHALANI MAUKA, LLC at a rate of \$100,000 per acre (\$1,658,500 credit).

(2) At \$850 per unit, the \$1,658,500 credit will cover the following number of units, in order:

- a. Waiolani 116 units
- b. Wailuku Parkside 119 units
- c. Wailuku-Kahului Project District 3 1,716 units

(3) Residential units in excess of 1,716 at Wailuku-Kahului Project District 3 shall require a fair-share contribution of \$850 per unit. The cash contribution shall be paid out of Escrow and made payable to the "State of Hawai'i, Department of Education" in accordance with the following schedule:


- a. Eight Hundred Fifty Dollars (\$850.00) payable within thirty (30) days of the closing and recordation of each unit in Wailuku-Kahului Project District 3 in excess of 1,716 units.
- b. An escalation factor shall be applied to the balance of the Cash Contribution that remains to be paid after the closing and recordation of a total of 1,800 residential units within the project. The escalation factor shall be based on the change in the Consumer Price Index (CPI) for the City and County of Honolulu, now issued by the

Bureau of Labor Statistics of the United States Department of Labor, utilizing the average CPI rate for the six (6) months preceding the date on which the escalation factor is triggered. The escalation factor shall thereafter be adjusted annually, based on the published average CPI rate for the preceding year.

3. This Agreement shall be binding upon KEHALANI MAUKA, LLC, or its successor in interest.

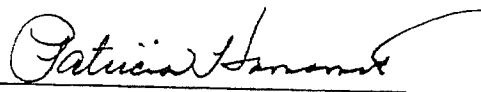
IN WITNESS WHEREOF, the parties have executed and delivered this Agreement the day and year first above written.

KEHALANI MAUKA, LLC

By 
Stanford S. Carr
Its President

Date: 12/16/02

DEPARTMENT OF EDUCATION

By 
Patricia Hamamoto
Its Superintendent

Date: 1-14-03

STATE OF HAWAII)
)
CITY AND COUNTY OF HONOLULU) ss.

On this 14th day of January, 2003, before me personally appeared Patricia Hamamoto, Superintendent of the State of Hawai'i DEPARTMENT OF EDUCATION, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that she executed the same as her free act and deed.

Vinit K. Oyamare
Notary Public, State of Hawai'i

My commission expires: 7-6-06

L.S.

STATE OF HAWAII)
)
COUNTY OF HONOLULU) ss.

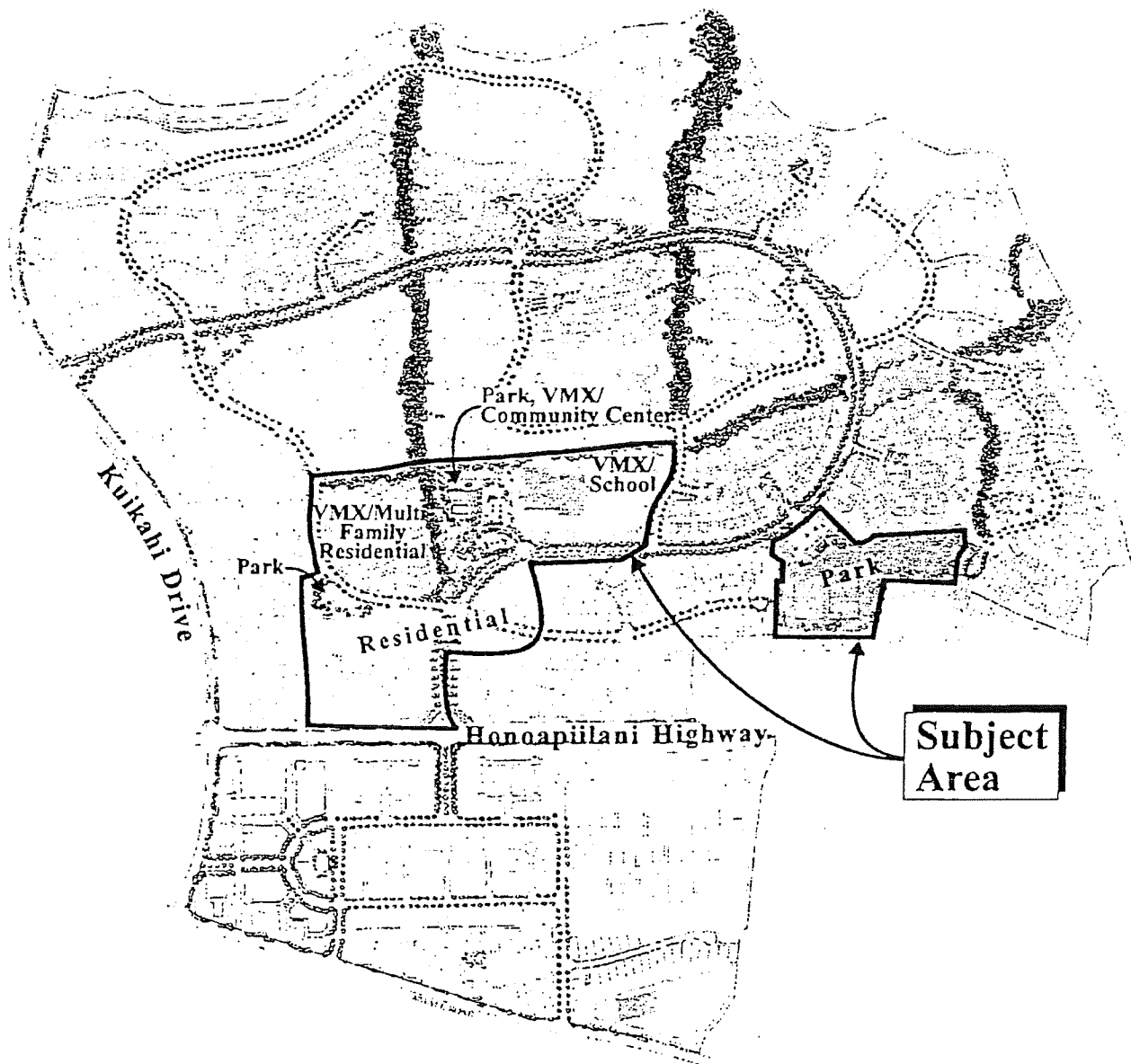
On this 16th day of December, 2002 before me personally appeared Stanford S. Carr, President of KEHALANI MAUKA, LLC, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

Elena P. Luke
Notary Public, State of Hawai'i

Name: Elena P. Luke
My commission expires: 3/12/03

L.S.

Wailuku Heights



Source: SCD International, Revised April 2002

Figure 3 Wailuku Project District No. 3 NOT TO SCALE
Project District Phase II Amendment
Area (65 acres)



Prepared for: Kehalani Mauka, LLC

MUNEKIYO & HIRAGA, INC.



STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2360
HONOLULU, HAWAII 96804

OFFICE OF BUSINESS SERVICES

February 14, 2007

Mr. Stanford S. Carr, President
Kehalani Mauka, LLC
745 Fort Street, Suite 2110
Honolulu, Hawai'i 96813

Dear Mr. Carr:

Subject: Timing of School Site Conveyance in the Kehalani Project

The Department of Education (DOE) and Kehalani Mauka, LLC have an agreement concerning the school fair-share contribution for the Kehalani project entitled: *Education Contribution Agreement for Wailuku-Kahului Project District 3*, dated January 14, 2002. The agreement states that a school site shall be conveyed to the State of Hawai'i prior to the closing of the 1,000th residential unit in the project. The conveyance could also be delayed if deemed appropriate.

The purpose of this letter is to inform you that the DOE does feel it is appropriate to delay the conveyance of the school site until just prior to the start of construction. At this time, we anticipate needing title to the school site no later than May 1, 2008. The 2002 agreement requires that the school site be conveyed via Warranty Deed. A sample of the deed format used by the Department of Land and Natural Resources is attached.

If you have any questions, please call me at 586-0430 or Heidi Meeker of the Facilities Development Branch at 733-4862.

Sincerely yours,

Duane Y. Kashiwai
Public Works Administrator

DYK:jmb

Attachment

c: Ken Nomura, CAS, Baldwin/Kekaulike Maui Complex Areas

**FIRST SUPPLEMENT TO
EDUCATION CONTRIBUTION AGREEMENT FOR WAILUKU-KAHULUI
PROJECT DISTRICT 3**

This First Supplement, made this 14th day of August, 2008, by and between KEHALANI MAUKA, LLC a Hawaii limited liability company, hereinafter referred to as "Kehalani Mauka", whose mailing address is 1100 Alakea St., Honolulu, Hawaii 96813, and the State of Hawaii DEPARTMENT OF EDUCATION, hereinafter referred to as the "DOE", whose mailing address is Department of Education, Facilities Development Branch, Kalani High School, Building TB1A, 4680 Kalaniana'ole Highway, Honolulu, Hawaii 96821.

WITNESSETH

Whereas, Kehalani Mauka and the DOE entered into that certain Education Contribution Agreement For Wailuku-Kahului Project District 3 (the "Agreement") made as of January 14, 2003 pursuant to which Kehalani Mauka agreed to certain land contributions for the expansion and development of new elementary school facilities;

Whereas Kehalani Mauka shall develop no more than 2,400 residential units within Kehalani Mauka; and

Whereas Kehalani Mauka shall provide a 12-acre elementary school site in Kehalani Mauka and a 4.585-acre site for the expansion of Waihee Elementary School; and

Whereas the land contributions cover 116 units at Waiolani, 119 units at Wailuku Parkside and 1,716 units at Kehalani Mauka; and

Whereas any residential units at Kehalani Mauka in excess of the 1,716 units shall require a cash fair-share contribution of \$850 per unit; and

Whereas approximately 684 residential units in Kehalani Mauka shall be required to pay the cash fair-share contribution, for a total of approximately \$581,400; and

Whereas it is beneficial to both Kehalani Mauka and the DOE to expand the 12-acre school site to include seven tenths (7/10) of an acre corridor along the north boundary of the school site and an approximately one half (1/2) an acre section on the southeast corner of the site;

NOW THEREFORE, KEHALANI MAUKA AND DOE agree to add to the Agreement as follows:

Section 2.a. is hereby supplemented with the addition of the following sections:

(4) The DOE intends to locate a school within Kehalani Mauka and requires a total of 13.175 acres for the school campus. The total acreage of the campus exceeds the 12 acres of land required in the Land Contribution outlined in Section 2.a.(1) above by 1.175 acres. The DOE shall purchase the balance of the land required by foregoing all of the Cash Contribution outlined in Section 2.a.(3), in accordance with the following terms:


a. All acreage purchased by the DOE must meet all of the requirements and conditions placed on the lands being donated to the DOE and listed in Section 1.a. through Section 1.q. of the Agreement.

b. All acreage purchased by the DOE must include an exclusive easement to provide access to the Kehalani Community Association across the driveway within the approximately half an acre expansion on the school site's southeast corner.

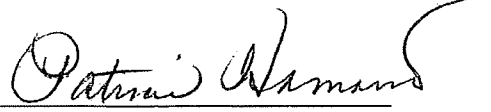
Save and except as amended herein, the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed on the date first above written.

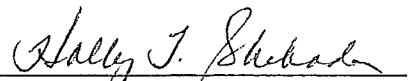
KEHALANI MAUKA, LLC

By  Date: 8/6/08
Stanford S. Carr
Its Manager

DEPARTMENT OF EDUCATION

By  Date: 8.14.08
Patricia Hamamoto
Its Superintendent

Approved as to form:

By  Date: 7-3-08
Deputy Attorney General
State of Hawai'i

STATE OF HAWAII)
)
CITY AND COUNTY OF HONOLULU) ss.

On this 14th day of August, 2008, before me personally appeared Patricia Hamamoto, Superintendent of the State of Hawai'i DEPARTMENT OF EDUCATION, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that she executed the same as her free act and deed.

28
Doc. Date: Aug 14, 2008 # Pages: 4 Sharon K.M. Tong Notary Public, State of Hawai'i
Notary Name: Sharon K.M. Tong 1st Circuit
Doc. Description: 1st Supplement to Edu Contributions for Proj Kehalani Mauka My commission expires: November 27, 2010
Sharon K.M. Tong 8-14-08
Notary Signature Date
NOTARY CERTIFICATION

STATE OF HAWAII)
)
CITY AND COUNTY OF HONOLULU) ss.

On this 6th day of August, 2008, before me personally appeared Stanford S. Carr, of KEHALANI MAUKA, LLC, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

LS
Lynnette R. Tachi
Notary Public, State of Hawai'i
Lynnette R. Tachi
My commission expires: October

NOTARY CERTIFICATION ON NEXT PAGE

Doc. Date: August 6, 2008

Pages: 4

Notary Name: Lynnette R. Tachi

First Circuit

Doc. Description: First Supplement to Education Contribution Agreement for Wailuku-Kahului
Project District 3



Notary Signature

8/6/08

Date

LS

NOTARY CERTIFICATION