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County of Kaua'i Housing Agency

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of	)	Docket No. A17-802
	)	
COUNTY OF KAUA'I HOUSING	)	PETITIONER COUNTY OF KAUA'I
AGENCY	)	HOUSING AGENCY'S RESPONSE TO
	)	OFFICE OF PLANNING'S STATEMENT
To Amend the Agricultural Land Use	)	OF POSITION; CERTIFICATE OF
District Boundaries into the Urban Land	)	SERVICE
Use District for certain lands situated at	)	
'Ele'ele, Kaua'i, Hawai'i; consisting of	)	
approximately 75 acres, Tax Map Key	)	
No. (4) 2-1-001:054	)	
_____	)	

**PETITIONER COUNTY OF KAUA'I HOUSING AGENCY'S  
RESPONSE TO OFFICE OF PLANNING'S STATEMENT OF POSITION**

In response to the Statement of Position, Written Testimony, and Exhibits filed by the Office of Planning (“OP”), Petitioner County of Kaua'i Housing Agency (“**Petitioner**”) submits this Response in support of the Lima Ola Workforce Housing Development (“**Lima Ola**” or the “**Project**”). In its Statement of Position, OP discusses, *inter alia*, the issues of state concern enumerated in HRS § 205-17. This Response summarizes Petitioner's responses to those issues that OP has identified as requiring the imposition of additional mitigation measures or conditions.

**A. Petitioner’s Responses to OP’s Issues of Concern**

OP has raised the following key issues of statewide concern in accordance with HRS § 205-17: (i) Preservation of maintenance of important natural systems or habitats; (ii) Maintenance of valued cultural, historical, or natural resources; (iii) Maintenance of other natural resources relevant to Hawaii’s economy, including agricultural resources; (iv) Commitment of state funds and resources; (v) Provision for employment opportunities and economic development; and (vi) Provision for housing opportunities for all income groups, particularly the low, low-moderate, and gap groups. OP also reviewed the adequacy of public services and facilities. Of the aforementioned issues of concern, the following concerns are discussed below: (1) preservation of maintenance of important natural systems or habitats; (2) adequacy of public services and facilities; (3) commitment of state funds and resources; (4) provision for employment opportunities and economic development; and (5) provision for housing opportunities for all income groups.

OP’s Proposed Condition Nos. 1, 8, 9, and 10 are substantially in the form proposed by Petitioner in its Proposed Findings of Fact, Conclusions of Law, and Decision and Order. See Petitioner’s (“P.”) Ex. 8. Accordingly, Petitioner has no issue with the inclusion of such conditions.

**1. Preservation of Maintenance of Important Natural Systems or Habitats: Endangered Species**

The majority of OP’s Proposed Condition No. 2 is substantially similar to Petitioner’s Proposed Condition No. 6. However, Petitioner agrees that Subpart B of OP’s Proposed Condition No. 2 should be incorporated into Petitioner’s Proposed Condition No. 6. Like OP, Intervenor Jean Nishida Souza (“Intervenor”) also expressed concern regarding outdoor lighting. Petitioner thus recommends amending its Proposed Condition No. 6, to incorporate both Intervenor’s and OP’s proposed conditions to add the additional subpart:

E. All outdoor lighting shall be shielded to prevent upward radiation so as to reduce the potential for seabird attraction. Shielding shall conform to the County's standards for street lights to prevent light diffusion upward into the night sky.

**2. Adequacy of Public Services and Facilities**

**a. Groundwater Resources**

The Commission on Water Resource Management (“CWRM”) has recommended (i) the use of water-efficient fixtures and water-efficient practices be implemented throughout the development; (ii) that best management practices be used for stormwater management to minimize the impact to the area's hydrology while maintaining on-site infiltration and preventing polluted runoff from storm events; and (iii) plantings appropriate for the area's rainfall regime be used to lessen the need for irrigation water. OP's Statement of Position, at 7.

In regards to CWRM's concern regarding water efficiency, Petitioner will advocate construction practices that reduce water usage such as water catchments for irrigation and ENERGYSTAR appliances. **P. Ex. 13-B** at Ex. 1.

As to the concern regarding stormwater management, Petitioner will develop a Stormwater Prevention Plan prior to construction of the Project to: identify sources of stormwater pollution, describe the practices used to prevent stormwater pollution, and identify Best Management Practices and procedures the Project's contractor(s) would implement to comply with a National Pollution Discharge Elimination System permit. **P. Ex. 13-B** at Ex. 1. In addition, as discussed in the Petition, Section VI.E, development of the Project will include the construction of a surface water drainage system in which stormwater would initially enter vegetated drainage swales located along internal roadways, which would provide natural filtering. Water would collect into subsurface pipe culverts, channeling water to an on-site vegetated detention basin, which allows for further natural filtration, as well as groundwater recharge and particle deposition. See P. Ex.

**3** at Section 4.3.7.2; **P. Ex. 13-A** at Chapter 5; **P. Ex. 13-B** at Ex. 5.

The Lima Ola Workforce Housing Sustainability Plan incorporates recommendations and models from sustainability programs and plans including the Environmental Protection Agency’s Land Use and Development Practices – Low Impact Development, which employs principals such as creating functional and appealing site drainage that treats stormwater as a resource rather than a waste product. **P. Ex. 16** at Ex. 1. One of the goals of the Sustainability Plan is to “[d]esign and develop a community that allows building ‘green’ and is environmentally sustainable.” Id. To accomplish this goal, one of the objectives of the Sustainability Plan is to design units that have a rainwater catchment for irrigation. Id. Design elements of the homes also include a residential rain garden and bioswales. Id.

OP also proposed a condition regarding stormwater management and drainage that Petitioner does not oppose. To incorporate OP’s proposed condition regarding stormwater management and drainage, Petitioner agrees to amend its Proposed Condition No. 9 to read as follows:

Petitioner shall design and construct stormwater and drainage system improvements in compliance with applicable federal, State, and County laws and rules, and maintain the improvements, or cause to be maintained, as designed. To the extent feasible, Petitioner shall mitigate nonpoint source pollution by incorporating low impact development practices for on-site stormwater capture and reuse into the Petition Area's site design and landscaping to reduce runoff and prevent pollution of affected State highway facilities, downstream properties, receiving gulches and streams, and estuaries that connect with coastal waters. Petitioner shall submit the drainage plan to the appropriate State and County agencies for review and approval.

As to CWRM’s concern regarding plantings, Petitioner will develop sustainable landscape guidelines that incorporate use of plant materials that are durable and appropriate to Lima Ola’s leeward climate. **P. Ex. 13-B** at Ex. 1. Further, Petitioner is amenable to the inclusion of OP’s Proposed Condition No. 7 (Water Conservation Measures).

CWRM has also requested that the proposed source for irrigation water be identified. The source for irrigation water does not differ from the source of water for potable uses. **Petitioner’s Rebuttal (“PR”) Ex. 27.** Accordingly the water sources are the four well sources in the Hanapēpē-‘Ele‘ele Water System. **P. Ex. 11**, at 24.

In response to CWRM’s request, the water demands for each phase of the Project are shown below:

**Table 7: Phase 1 Development**

<b>Development Type</b>	<b>No. of Units</b>	<b>Average Daily Demand (GPD)</b>	<b>Maximum Daily Demand (GPD)</b>	<b>Peak Hour Demand (GPD)</b>
Single Family	38	19,000	28,500	57,000
Multi-Family	111	38,850	58,275	116,550
Community Center (3,000 GPD/acre)	3	9,000	13,500	27,000
Irrigation (4,000 GPD/acre)	2.5	10,000	15,000	30,000
Total		76,850	115,275	230,550
Total (Including 20% loss)		92,220	138,330	276,660

**Table 8: Phase 2 Development\***

<b>Development Type</b>	<b>No. of Units</b>	<b>Average Daily Demand (GPD)</b>	<b>Maximum Daily Demand (GPD)</b>	<b>Peak Hour Demand (GPD)</b>
Single Family	75	37,500	56,250	112,500
Multi-Family	97	33,950	50,925	101,850
Irrigation (4,000 GPD/acre)	3.35	13,400	20,100	42,200
Total		84,850	127,275	254,550
Total (Including 20% loss)		101,820	152,730	305,460

**Table 9: Phase 3 Development\***

Development Type	No. of Units	Average Daily Demand (GPD)	Maximum Daily Demand (GPD)	Peak Hour Demand (GPD)
Single Family	34	17,000	25,500	51,000
Multi-Family	102	35,700	53,550	107,100
Irrigation (4,000 GPD/acre)	0.5	2,000	3,000	6,000
Total		54,700	82,050	164,100
Total (Including 20% loss)		65,640	98,460	196,920

**Table 10: Phase 4 Development\***

Development Type	No. of Units	Average Daily Demand (GPD)	Maximum Daily Demand (GPD)	Peak Hour Demand (GPD)
Single Family	18	9,000	13,500	27,000
Multi-Family	75	26,250	39,375	78,750
Irrigation (4,000 GPD/acre)	0.5	2,000	3,000	6,000
Total		37,250	55,875	111,750
Total (Including 20% loss)		44,700	67,050	134,100

\*Water demands shown were calculated based on the current overall Land Use Master Plan. Due to uncertainty in the development schedules for Phases 2 through 4 and the potential for changes to the development density and configuration could occur in which water demands could also change. Water demands for future phases would have to be re-evaluated upon commencement of the planning and design of those phases.

**P. Ex. 18, Tables 7-10.**

CWRM recommends that non-potable demands be met with alternative sources of water to the greatest extent possible. OP’s Statement of Position, at 7. However, there are no usable non-potable water sources in the vicinity of Lima Ola. **PR Ex. 27.** The Water Master Plan takes into consideration the Project’s potable and non-potable water demands and concluded that the pumping capacity and source availability is adequate to accommodate the demand for Phase 1, with reevaluation for future phases once planning and design begin. **P. Ex. 18.**

**b. Highway, Roadway, and Airport Facilities**

As to highway and roadway facilities, OP’s concerns are addressed by Proposed Condition No. 2. See P. Ex. 8. Further, OP’s proposed condition is in substantially the same form as Condition No. 2.

OP also states that the State Department of Transportation (“**DOT**”) provided the following airport-related comments: (1) the Project will be subject to noise due to aircraft and helicopter

overflights from Port Allen Airport; (2) the Project must comply with Federal regulations for construction within 20,000 feet of a public use airport, and (3) plants and grasses used for the proposed park not be attractive to wildlife that may create hazardous conditions for aircraft operations at the Port Allen Airport. OP's Statement of Position, at 7-8. On March 22, 2017, Community Planning and Engineering, Inc. ("CPE") responded to DOT's comments on behalf of Petitioner. **PR Ex. 28.** Per DOT's instruction, CPE informed Petitioner that the project site will be subject to noise due to aircraft and helicopter overflights and recommended that the developer follow the guidance contained in the Federal Aviation Administration's ("FAA") Advisory Circular 150/5200-33B, Hazardous Wildlife Attractants On or Near Airports and that the plant and grass varieties used not be attractive to wildlife that may cause hazardous conditions for aircraft operations. Id. In regards to DOT's second concern, the FAA issued a "Determination of No Hazard to Air Navigation issued for the Project stating that it had conducted an aeronautical study and this study revealed "the structure does not exceed obstruction standards and would not be a hazard to air navigation" if FAA Form 7460-2 is e-filed within five days after the construction reaches its greatest height. Id. In DOT's letter dated April 13, 2017, DOT stated that "[t]he Airports Division has read the response to [ ]DOT comments . . . and finds the responses adequate." **P. Ex. 25.** It thus appears that DOT's airport-related comments have been resolved.

**c. Civil Defense**

HI-EMA has recommended that the Project incorporate hardening measures for safe rooms within planned residential facilities, and that the proposed community facilities be hardened to withstand high-wind and/or seismic events. OP's Statement of Position, at 10. OP has likewise recommended the proposed condition stating, "Petitioner shall construct the proposed community facilities so as to withstand high-wind and/or seismic events." OP Written Testimony, at 17. If

required by the Land Use Commission (the “LUC”), Petitioner will construct the multi-use facility to also serve as an emergency shelter.

**3. Commitment of State Funds and Resources**

As noted by OP, Petitioner entered into a Memorandum of Agreement with Hawai‘i Housing Financing & Development Corporation (“HHFDC”). **P. Ex. 25.** HHFDC requested a State of Hawai‘i Dwelling Unit Revolving Fund (“DURF”) infusion from the Hawai‘i State Legislature to be loaned to the Petition for infrastructure for the Project. HHFDC has obtained an initial reservation of DURF funds in the amount of \$13,000,000. Petitioner may thus apply for up to \$13,000,000 in DURF funds. **PR Ex. 29.** Petitioner intends to seek funding from the State to support development of additional phases of the Project.

**4. Provision for Employment Opportunities and Economic Development**

**a. Capital Investment**

The development of Lima Ola will bring in an estimated \$190 million of new, direct capital investment with significant unquantified indirect expenditures into Kaua‘i’s real estate market and generate \$391.7 million in total new economic activity islandwide during its buildout over a 12-year period (circa 2018 to 2029). The development will contribute approximately \$21.9 million in annual economic activity on a stabilized business thereafter. See PR Ex. 30; see also PR Ex. 31.

**b. Worker-Years and Wages**

The construction of Lima Ola infrastructure, completed single family homes and multifamily units will directly create an estimated 1,057 “worker-years” of employment in the trades and supply businesses during buildout. Worker-years are the equivalent of 52 work weeks at 40 hours per week. This total number of worker-years averages to approximately 88 worker-



years annually, with an estimated \$83.6 million in wages, or \$7 million in wages per year. See PR Ex. 30.

The community homeowners' association, the condominium owners' association, and the upkeep, maintenance, and renovations of the 550 units will create 455 worker-years of employment from 2020 through 2030, with associated wages of \$15.1 million. Once stabilized, these activities will create 61 full-time positions and annual wages of \$2 million. Id.

Associated secondary/off-site employment during the overall development and absorption time frame will total 504 worker-years with wages of \$27.3 million. Once stabilized, 20 full-time positions in associated secondary/off-site employment will be created, with annual wages of \$1 million. Id.

**c. Discretionary Spending in Kaua'i Businesses**

At buildout, the resident population is estimated to be 1,508 persons. The cumulative resident household income during the first 11 years of occupancy will total \$375.2 million and is expected to stabilize at \$42.1 million annually thereafter. Discretionary spending into Kaua'i businesses by the Lima Ola population will be approximately \$150.1 million during buildout, and an average \$16.8 million annually on a stabilized basis. Id.

**d. Tax Increases**

The Economic Impact Analysis assumes that the residents of Lima Ola will be relocating within the island, and therefore government fiscal costs are already in-place and factored into existing County and State budgets. This assumption also led to the conclusion that the taxable household income is also in-place. Id.

The new homes at Lima Ola will add to the real property tax base of the County. The County will realize "new" real property taxes in the amount of \$5.7 million from 2017 to 2030, with annual collections of \$826,509 thereafter. Secondary receipts and development fee will total

an estimated \$9 million from 2018 to 2030, and \$1.3 million annually on a stabilized basis thereafter. Id.

Due to maintenance and renovations, the State will receive “new” gross excise and income taxes and secondary revenues of \$20.2 million from 2017 to 2030, and \$319,000 per year thereafter. Id.

#### **5. Provision for Housing Opportunities for All Income Groups**

All of the units of the Project will be offered for sale or rent to buyers/renters who earn no more than 140% of the Kaua‘i median household income. CBRE, Inc. has completed an updated Market Study that provides current information regarding the housing demand, absorption period, and proposed unit inventory pricing. Id.

Demand for new housing units in the Līhu‘e-Kekaha corridor will range from 7,358 to 9,753 units by 2040. Gross demand for additional housing units in the study area will exceed supply between 2017 and 2040. If only “entitled residential” units are considered as comprising the competitive supply, the regional shortfall over the next 23 years would be between 3,107 and 5,492 units. The Market Study states that the Project “will achieve a solid market standing and prove strongly competitive in the regional housing market” and estimates that the Project could achieve an average market shares rate of between 16 and 25 percent of the total demand for new housing units in the Līhu‘e-Kekaha corridor. A total absorption period for the Project is between 6-plus and 11-plus years, assuming pre-sales start in 2019. Id.

The proposed unit inventory pricing has been revised as follows:

<b>Proposed Lima Ola Unit Inventory Pricing</b>					
	<u>Rental Units (1)</u>		<u>For Sale Units (3)</u>		Total Units/% of Total
Type/Tenure	General (2)	Multifamily	Single Family		
<b>Number of Units</b>	<b>215</b>	<b>210</b>	<b>125</b>	<b>550</b>	
Studios	64 \$976 to \$1,445				64 12%
One Bedroom	80 \$1,037 to \$1,540	84 \$177,150 to \$347,900			164 30%
Two Bedroom	59 \$1,235 to \$1,838	95 \$231,800 to \$436,800	13 \$274,500 to \$479,400		167 30%
Three Bedroom	12 \$1,413 to \$2,110	31 \$282,800 to \$519,450	75 \$304,150 to \$562,150		118 21%
Four Bedroom			37 \$369,300 to \$590,400		37 7%

(1) Monthly net rents, exclusive of utilities.

(2) Elderly housing units are omitted from this pricing provided above. The rental range shown is for household incomes between 80% and 120% of median.

(3) Price range shown for household income between 80% and 140% of median.

Id. The development timetable will vary depending upon a number of variables, including access to funding and affordable housing needs.

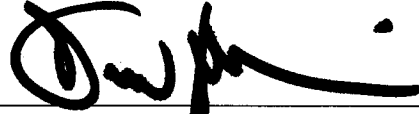
**B. Conclusion**

Petitioner is committed to avoiding, minimizing, and/or mitigating impacts identified by OP. In this effort, Petitioner has proposed the conditions and commitments discussed herein.

Based on the foregoing, Petitioner respectfully requests that the LUC find that the Petition complies with the necessary requirements of a petition for boundary amendment pursuant to HAR § 15-15-50. Petitioner also respectfully requests that the LUC find that the proposed development meets the standards for determining Urban District boundaries pursuant to HAR § 15-15-18, and

therefore, grant the reclassification of the Petition Area from the Agricultural District to the Urban District.

Dated: Honolulu, Hawai'i, June 2, 2017.

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DAVID J. MINCHIN  
PETER J. HAMASAKI  
KELSEY S. YAMAGUCHI

Attorneys for Petitioner  
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‘Ele‘ele, Kaua‘i, Hawai‘i; consisting of	)	
approximately 75 acres, Tax Map Key	)	
No. (4) 2-1-001:054	)	
_____	)	

CERTIFICATE OF SERVICE

I hereby certify that on this date, a copy of the foregoing document will be duly served upon the following by mailing said copy, postage prepaid, first class, in a United States post office (“MAIL”) or by hand delivery (“HD”):

COUNTY OF KAUA‘I PLANNING DEPARTMENT 4444 Rice Street Līhu‘e, Kaua‘i, Hawai‘i 96766	MAIL
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STATE OF HAWAI‘I OFFICE OF PLANNING 235 South Beretania Street 6th Floor, Leiopapa A Kamehameha Building Honolulu, Hawai‘i 96813	HD
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DAWN TAKEUCHI-APUNA, ESQ. Deputy Attorney General 425 Queen Street Honolulu, Hawai‘i 96813	HD
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KAUA‘I COUNTY PLANNING COMMISSION c/o County of Kaua‘i, Planning Department 4444 Rice Street Līhu‘e, Kaua‘i, Hawai‘i 96766	MAIL
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JEAN NISHIDA SOUZA  
P.O. Box 450  
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(Intervenor)

MAIL

DATED: Honolulu, Hawai'i, June 2, 2017.

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