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October 13, 2022

Mr. Daniel E. Orodener, Executive Officer  
Land Use Commission, State of Hawai'i  
P.O. Box 2359  
Honolulu, Hawai'i 96804



Re: Annual Report to the Land Use Commission - Hawaiian Memorial Life Plan, Ltd.; LUC Docket No. A17-804

Dear Mr. Orodener:

Pursuant to Condition No. 20 of the Findings of Fact, Conclusions of Law, and Decision, and Order ("Decision and Order") of the Land Use Commission ("Commission") in the above-entitled docket, the Petitioner hereby submits the annual report for the year 2022, regarding the (1) status of the subject project ("Project"), and the (2) progress in complying with the conditions imposed herein.

## **1. General Progress of the Project**

The Decision and Order for the above-entitled docket was entered on October 13, 2020. Grading work for an unpaved roadway to move equipment to the boring sites started in August 2022 and was completed in September 2022. Geotechnical borings are expected to be completed by the date of this annual report.

The geotechnical report is a requirement for engineering and design for the project. It is anticipated that engineering and pre-final design plans will be completed by the end of January 2023, after which the permitting submittal and review phase will begin.

Based upon the United States Army Corps of Engineers ("USACE") rules regulating "waters of the United States," the Lipalu Channel would not be a jurisdictional waterway. However, the USACE are in the process of vacating these rules, and the Petitioner will be submitting a request for a jurisdictional determination.

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Monitoring of the seep commenced in September of 2021. Monitoring is ongoing and is being conducted pursuant to Condition 12.

Archaeological work is proceeding. Data Recovery Fieldwork is complete. Honua Consulting submitted its End of Fieldwork letter to the State Historic Preservation Division ("SHPD") on March 11, 2022. Honua Consulting is awaiting lab results and SHPD response prior to submitting the Data Recovery Report.

The Archaeological Monitoring Plan ("AMP") is complete and the Preservation Plan will be at or near completion as of the date of this annual report.

The conservation easement was signed between the Hawaiian Islands Land Trust ("HILT") and Petitioner on June 30, 2022 and recorded at the Bureau of Conveyances, State of Hawaii on July 5, 2022.

On August 11, 2022, Petitioner and the Ko'olau Foundation signed the management agreement for the Cultural Preserve. Also on August 11, 2022, Petitioner, Service Corporation International and the Ko'olau Foundation signed the indemnification agreement to indemnify the Ko'olau Foundation in connection with the Cultural Preserve.

## **2. Progress in Complying with Conditions Imposed**

### **Condition No. 1:**

"1. Representations Made. Petitioner shall take and complete the actions described, including but not limited to, those described in Findings of Fact Nos. 324-370 as represented to the Commission."

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**Status:**

**SCI Guaranty**

Service Corporation International (“SCI”) has confirmed that the Project will begin construction upon receiving the necessary approvals in its letter dated May 1, 2020.

In its letter dated August 10, 2022, SCI confirmed that \$25,000,000.00 has been committed for the development, grading and infrastructure of Hawaiian Memorial Park, and includes the set aside of 100 interment spaces within the cultural preservation area for the benefit of the Ko’olaupoko Hawaiian Civic Club to use for traditional Hawaiian burial practices, as well as access to the cultural preservation area, and protecting and monitoring the endangered damselfly habitat.

SCI has also executed an indemnification agreement dated August 11, 2022, for the benefit of the Ko’olau Foundation in connection with the Cultural Preserve.

**Rockfall Mitigation**

Signage warning of rockfall at the entrance of the Cultural Preserve will be developed in cooperation with the Ko’olau Foundation, Ko’olaupoko Hawaiian Civic Club and the Hawaii Islands Land Trust at the time access to the Cultural Preserve is built. Access will be through the cemetery expansion area, so the timing will be coordinated with the cemetery development. The 1,000-foot rockfall catchment ditch and chain link fence to be located up slope of the cemetery expansion area will also be built in conjunction with the cemetery expansion construction.

**NPDES Permit**

The National Pollution Discharge Elimination System (“NPDES”) permit was issued on July 6, 2021 for the unpaved roadway work. The NPDES permit will be revised for the development work at the appropriate time, prior to the start of construction for the cemetery expansion.

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### **Noise Permit**

The grading contractor obtained a State Department of Health (“DOH”) noise permit for the trail clearing grading work that was conducted to perform geotechnical borings. Another DOH noise permit will be obtained when mass grading commences.

### **Traffic**

Austin, Tsutsumi and Associates, Inc. has completed the intersection improvement plans for the HMP Expansion for improvements at the existing HMP intersections with Kamehameha Highway. The improvements contained in the plans include striping improvements to allow two outbound lanes at the HMP side of the both the Mahinui Road and Halekou Road intersections. The two proposed lanes include a right turn lane and a shared through/left turn lane. Proposed work to include striping improvements only. Earth disturbing activities/grading are not proposed as part of these improvements, nor are repaving or expansion of any of the pavements at the intersections.

The intersection improvement plans were submitted to the State of Hawaii Department of Transportation-Highways Division for plan review on August 15, 2022. The plans are currently under review.

### **Archaeology**

Honua Consulting has submitted its End of Fieldwork letter to SHPD dated March 11, 2022, for fieldwork conducted in accordance with the SHPD approved Data Recovery Plan. After the lab report is received and the SHPD response to the End of Fieldwork letter is received, Honua will then prepare the Data Recovery Report.

The Preservation Plan is at or near completion, and archaeological monitoring has been conducted with the geologic borings as a part of the Data Recovery Plan and will also be conducted when mass grading for the project commences.

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**Condition No. 2:**

"2. Buffer Areas. Petitioner shall establish a buffer between the proposed cemetery expansion, Pohai Nani project, and other adjacent residential properties in substantial compliance with representations made to the commission and contained in the Ko'olau Poko Sustainable Communities Plan."

**Status:**

The buffer areas have been established by the Conservation Easement where no cemetery use will be permitted to occur within the buffer areas.

**Condition No. 3:**

"3. Conservation Easement and Restrictive Covenant. Petitioner shall record with the State of Hawai'i Bureau of Conveyances or the State of Hawai'i Land Court, or both, as appropriate, a conservation easement and related declaration of restrictive covenant on the entirety of the 156.5-acre undeveloped portion of its Pikoiloa Tract property (TMK No. 4-5-033: 001) that limits, in perpetuity, any other future development on the property, except for the 27.5-acre portion of the property that encompasses the proposed Hawaiian Memorial Park expansion site, and the 14.5-acre portion of the property that encompasses the proposed Kawa'ewa'e Heiau cultural preserve.

A copy of the recorded conservation easement and declaration of restrictive covenant shall be submitted to the City and County of Honolulu, Department of Planning and Permitting ("DPP"), prior to the issuance of any grading permit or any other permit which involves ground disturbance.

Should the Petitioner desire to make any major changes to the conservation easement or the declaration of restrictive covenant, a request to amend the Decision and Order shall be made to the LUC. The LUC shall be the ultimate arbiter of whether a proposed change is major.

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Petitioner shall formulate the easement and stewardship of the easement with a Land Trust that is accredited and in good standing with the Land Trust Accreditation Commission for the long-term management of the area.”

**Status:**

The Grant of Conservation Easement and Declaration of Restrictive Covenants was executed between Hawaiian Memorial Life Plan, Ltd., as Grantor, and Hawaiian Islands Land Trust dba Hawaii Land Trust, as Grantee, on June 30, 2022.

The Grant of Conservation Easement and Declaration of Restrictive Covenants was recorded at the State of Hawaii Bureau of Conveyances on July 5, 2022.

**Condition No. 4:**

“4. Landscape Plan and Tree Replacement. Prior to the issuance of a grading permit, the Petitioner shall submit to the DPP, a landscape plan and schedule of planting. In consideration for the potential impact of Climate Change, within the Petition Area, the loss of mature trees, defined as having a trunk diameter of six inches or greater, shall be replaced on a one-for-one basis, at a minimum, with preferably field stock trees that will have approximately similar size canopy coverage within a reasonable period of time. The locations of replacement trees are not limited to the Petition Area.”

**Status:**

The design of the Landscape Plan is in progress and will be submitted with the construction plans for the HMP Expansion as part of the Grading Permit application. A conceptual landscape plan was submitted as part of the unpaved roadway work grading permit application.

The Hawaiian Memorial Park Cemetery Expansion Project Tree Replacement Plan was finalized and completed July 2022 after receiving comments on an earlier draft by the City DPP. The Tree Replacement Plan encompasses the Petition Area.

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A topographic survey of the area needed for the design work and cemetery expansion was conducted in 2021. As part of the survey work, trees having trunk diameter greater than six inches were identified in the entire Petition Area. The survey identified 4711 trees with trunk diameter of more than six inches in the Petition Area, which is comprised of 1,277 trees counted in the buffer area and 3,434 trees counted in the non-buffer area of the Petition Area. The final count of trees to be removed from the buffer area will be determined after design plans are completed identifying improvements within the buffer area.

The list of potential recipients of trees includes, but is not limited to, Hawaiian Memorial Park, State Department of Land and Natural Resources, Division of Forestry and Wildlife, First Presbyterian Church of Honolulu, Ko'olau Foundation, Hawaii Construction Alliance, and City Department of Parks and Recreation.

A preliminary list of tree species includes, but is not limited to, 'Ohi'a lehua, Hala, Alahe'e, Kau, Neneleau, Milo, Koki'o ke'oke'o, Loulu, Lonomea, Kamani, Kukui, 'Ohi'a 'ai, Ulu, Noni, Orchid Tree, Monkeypod, Poinciana, Plumeria, Puakenikeni, Various Palms, and Shower Trees.

Tree planting is expected to start in 2023 and take 6 years to complete.

**Condition No. 5:**

"5. Detention Basin Analysis. The Petitioner shall prepare a detailed "Detention Basin Analysis", using appropriate computer modeling software, to determine the size of the detention basins to be constructed immediately upstream of each of the existing drainage inlets that will receive runoff from the project. The inflow will be calculated based on at least a 10-year, 24-hour rainfall event and the basins shall be designed so that the outflow from each basin will be limited to the capacity of the existing downstream drainage improvements. The Detention Basin Analysis shall be submitted to DPP for approval. After the Detention Basin Analysis is approved, the detention basins shall be constructed as soon as practical after the start of grading for the project."

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**Status:**

The detention basin analysis for the required detention basins and/or other water quantity storage devices and their outflow design to discharge runoff into the existing City and County of Honolulu Drainage System are approximately 40% complete. The detention basin design and analysis will need information provided in the geotechnical investigative report which is being prepared. The detention basin analysis is expected to be complete by February 2023.

**Condition No. 6:**

"6. Stormwater Management and Drainage Improvements. Notwithstanding other conditions related to the preservation of the habitat for the endangered Hawaiian damselfly, to the extent possible, Petitioners shall implement applicable BMPs to minimize infiltration and runoff from construction and vehicle operations, reduce or eliminate the potential for soil erosion and ground water pollution, and formulate dust control measures to be implemented during and after the development process in accordance with State Department of Health ("DOH") guidelines and City ordinances and rules.

Petitioner, shall at the start of construction, install erosion and sediment controls and retention/detention basins prior to the clearing and grubbing of the site."

**Status:**

Petitioner has installed a composite filter sock for the trail clearing grading work and will continue to implement BMP's as construction progresses in accordance with its representations and State DOH and City ordinances and rules.

**Condition No. 7:**

"7. Air Quality Monitoring. Petitioners shall participate in an air quality monitoring program as required by the DOH."



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**Status:**

It is anticipated that air quality monitoring may be required during mass grading. If so, Petitioner will perform air quality monitoring in accordance with State DOH rules and this condition.

**Condition No. 8:**

“8. Established Access and Gathering Rights Protected. Pursuant to Article XII, Section 7, of the Hawai`i State Constitution, Petitioner shall preserve any established gathering and access rights of Native Hawaiians who have customarily and traditionally used the Petition Area to exercise subsistence, cultural, gathering, and religious practice, or for access to other areas for such purposes.”

**Status:**

Petitioner has preserved and will continue to preserve any established gathering and access rights of Native Hawaiians who have customarily and traditionally used the Petition Area to exercise subsistence, cultural, gathering, and religious practice, or for access to other areas for such purposes.

**Condition No. 9:**

“9. Previously Unidentified Burials and Archaeological/Historic Sites. In the event that historic resources, including human skeletal remains, are identified during construction activities, all work shall cease in the immediate vicinity of the find, the find shall be protected from additional disturbance, and State Department of Land and Natural Resources - State Historic Preservation Division (“SHPD”) shall be contacted immediately. Without any limitation to any other condition found herein, if any burials or archaeological or historic sites are discovered during the course of construction of the Project, all construction activity in the vicinity of the discovery shall stop until the issuance of an archaeological clearance from the SHPD that mitigation measures have been implemented to its satisfaction.”

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**Status:**

Honua Consulting has been and will continue monitoring construction in accordance with the approved archaeological monitoring plan and this condition.

**Condition No. 10:**

“10. Relocation of Rocks. Petitioner shall consult with the Cultural Preserve manager to determine whether any of the rocks that were part of the historic features should be relocated to the cultural preserve after data recovery.”

**Status:**

Petitioner will consult with the Ko'olau Foundation to determine whether any of the rocks that were part of the historic features should be relocated to the cultural preserve after data recovery.

**Condition No. 11:**

“11. Establishment of Cultural Preserve. Petitioner shall establish the Cultural Preserve in conjunction with an appropriate Native Hawaiian group (Group). The Petitioner shall work with the community and the Ko'olaupoko Hawaiian Civic Club in order to establish a preservation and management plan for the Cultural Preserve, in perpetuity. Petitioner shall also execute the agreement with the Ko'olaupoko Hawaiian Civic Club, in the event the Ko'olaupoko Hawaiian Civic Club does not execute the agreement, then with another local Native Hawaiian Organization, to manage and steward the Cultural Preserve that supports native Hawaiian cultural practices, containing all provisions consistent with the Petitioner's representations before any work involving ground disturbance occurs.

Petitioner shall pay for or otherwise assume financial responsibility for expenses associated with capital improvements within the preserve required to fulfill the conditions set forth by the Commission for all on-going maintenance of the preserve. Petitioner shall cover reasonable expenses incurred by the Group associated with the management of the preserve, including rockfall hazard mitigation and liability.”

**Status:**

On August 11, 2022, Petitioner and the Ko'olau Foundation signed a management agreement for the Cultural Preserve. Petitioner will pay or perform all associated capital improvements and on-going maintenance for the preserve, as well as reasonable expenses as required by this condition. In addition, Petitioner, SCI and the Ko'olau Foundation executed an indemnification agreement dated August 11, 2022, whereby Petitioner and SCI agreed to indemnify the Ko'olau Foundation in connection with the Cultural Preserve.

**Condition No. 12:**

- "12. Endangered Species. Petitioners shall undertake the following:
- a. A subsurface drainage system designed utilizing a herringbone configuration shall be implemented in the cemetery expansion area planned for fill activities above the seep. The system shall be comprised of three subsurface drainage mainlines with smaller subdrains branching laterally from them. This system will help ensure water flow to the well and seep is maintained.
  - b. A well monitoring gauge shall be installed inside the wall of the well, located upslope from the seep to monitor water levels prior to, during and after the project construction.
  - c. Before earthmoving activities begin a minimum 50-meter buffer area above the seep where there will be no grading will be established, then a temporary water line shall be extended to the well from the cemetery's irrigation system. This irrigation line will serve as a short-term means of ensuring continued water flow to the seep. If the gauge indicates water levels have declined to levels potentially affecting the seep, water from the irrigation line to the well will be provided to stabilize water levels.
  - d. Once earthmoving activities conclude, a permanent water line shall be extended to the well from the expanded cemetery's irrigation system. This irrigation line will serve as a long-term means of ensuring continued water flow to the seep. If the gauge indicates water levels have declined to levels potentially affecting the seep, water from the irrigation line to the well shall be provided to stabilize water levels.

- e. Small sticks upright and away from the edges of the waterlogged areas shall be placed along the seep to serve as molting safe zone for damselflies to avoid predation from crawling predators.
- f. Habitat boundaries currently shown in the Final Environmental Impact Statement (FEIS) shall be reviewed during project final design based upon more accurate data collected from a topographic survey, and consultation with the State Department of Land and Natural Resources, Division of Forestry and Wildlife ("DLNR-DOFAW") and U.S. Fish and Wildlife Service ("USFWS"). Habitat boundary shall be revised as appropriate. Fencing shall be constructed around the damselfly habitat boundary to protect the native damselfly from disturbance from feral pigs. Fencing shall consist of livestock panels appropriate to exclude pigs, with lower barbed strand to resist digging.
- g. Regular inspection of the seep shall occur to ensure the present flow of water is continued.
- h. Inspection of the seep shall be conducted at monthly intervals for one year prior to construction to establish baseline water flow conditions.
- i. Monitoring shall continue during construction, with the seep area inspected on a weekly basis to evaluate water flow in coordination with BMP (erosion control) measures.
- j. Once construction concludes, monitoring shall continue for six months to ensure continued water flow to the seep. Inspections shall occur weekly for the first three months, and every two weeks for the following three months.
- k. After the six-month monitoring period elapses, HMP staff shall conduct monthly water flow inspections.
- l. At any time, if water flow is documented to be outside of the range observed in the pre-construction monitoring phase, the temporary or permanent irrigation lines shall be used to provide supplemental water to the seep. Additional mitigation measures shall be determined through consultation between the contractor, design team, DLNR-DOFAW, USFWS and other specialists.
- m. Regular inspections of the seep (at intervals described in 12a-k) shall also include surveys to ensure that non-native fish, specifically poecilid fish, are not present within this habitat area. If fish are observed, surveyors

shall notify experienced biologists to ensure prompt identification, and USFWS and DLNR-DOFAW shall be consulted on what control measures can be implemented.

- n. Establish an education and outreach program to raise awareness of the existence of the blackline damselfly and habitat area on the property. The outreach shall include informing visitors to Hawaiian Memorial Park as well as members of the adjacent community. The program shall include information on restricted activities and other best practices to avoid and minimize adverse impacts to the habitat and the species."

**Status:**

12.a.: The subsurface herringbone drainage system will be installed during mass grading which is expected to start in November of 2023 and conclude in fall of 2025.

12.b.: The well monitoring gauge was installed on September 15, 2021.

12.c.: The 50 meter buffer area above the seep has been established and the temporary water line has been installed.

12.d.: A permanent water line will be installed after construction is completed.

12.e.: Small sticks are being placed along the seep to aid in molting.

12.f.: The topographical survey has been completed and consultation with DOFAW and USF&W will be conducted to finalize the damselfly habitat boundaries. Fencing will be constructed during mass grading in coordination with a Preservation Plan developed for the seep.

12.g.: The seep inspection and monitoring started in September of 2021 and is ongoing.

12.h.: Monitoring was conducted during the year prior to the start of Geotech road trail clearing grading to monitor water level in the dug well, water flow at the dam/weir, rainfall, and water quality.

12.i.: Monitoring was conducted weekly during the trail clearing grading and will be conducted weekly during mass grading.

12.j.: Monitoring will be weekly three months after construction concludes and then every two weeks for the following three months.

12.k.: After the six month period following construction, monitoring will be conducted monthly.

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12.l.: The water flow has been monitored during the Geotech road construction in consultation with the design team to determine if the temporary water line needs to be used to supplement the water flow. Use of a temporary water line was not needed during this timeframe.

12.m.: Monitoring includes surveying for fish. To date, no fish have been observed.

12.n.: An education and outreach program regarding the damselfly has been incorporated into the HMPFacts.com website. The preservation plan developed for the seep will include more information on an education program.

**Condition No. 13:**

“13. Hawaiian Hoary Bat. To avoid potential impacts to the Hawaiian hoary bat, the clearing of dense vegetation, including woody plants greater than 15 feet, along the periphery of the Petition Area shall not occur between June 1 to September 15 when bats may be carrying young and potentially could be at risk by such clearing activities.”

**Status:**

Petitioner will comply. Tree cutting for the trail clearing grading needed for the exploratory borings was conducted in April of 2022. The contractor has been instructed that woody vegetation greater than 15 ft. may not be cut down from June 1 to September 15.

**Condition No. 14:**

“14. Disposal of Waste Material. Petitioner shall not dispose as waste material any clean fill at the PVT Land Company, Ltd. or any other construction and demolition landfill commercially in operation on the island of O’ahu as a result of grading work in the Petition Area.

Clean Fill is defined as “natural materials consisting of soil, clay, sand, volcanic cinder and ash, rock, and boulders measuring twelve inches or less in diameter; or a mixture or combination of such materials, which are not suspected to contain hazardous

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substances or concentrations of chemical contaminants of concern above the DOH's Tier I Environmental Action Levels."

**Status:**

Petitioner will not be disposing of any Clean Fill at the PVT Land Company, Ltd. or any other construction and demolition landfill commercially in operation on the island of Oahu as a result of grading work in the Petition Area.

**Condition No. 15:**

"15. Community Outreach. Petitioner shall establish an ongoing construction-related community outreach program to inform area residents and businesses of construction milestones and activities occurring on the property. In addition, the Petitioner shall establish a hotline and a dedicated email address to for immediate and prompt responses to questions, concerns or comments from the community and other stakeholders."

**Status:**

HMPFacts.com is Petitioner's website established to facilitate ongoing community outreach. It has been active since 2017. In 2021, the website was updated to include the community outreach required by this Condition 15.

In March 2022, 1,800 letters were sent to area residents informing them of the website and that the website will contain information relating to construction, the damselfly, historic and cultural sites and project information.

The most recent construction information on HMPfacts.com was posted on August 21, 2022. The posting provided that (i) permits for geotechnical testing operations and trail clearing were obtained from the Department of Planning and Permitting, (ii) heavy equipment will be utilized to work through the trail and utilize the fell trees as part of our required erosion control and mitigation plan, and (iii) there may be areas where the trail will widen, particularly in and around the areas where the

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actually drilling will take place. The time frame associated with this work will begin in late August and will continue through the end of the year (2022).

HMPfacts.com also includes information relating to the damselfly. The website has a page dedicated to the damselfly and informs the community that the rare and endangered damselfly was identified on a lower section of Hawaiian Memorial Park's undeveloped property, and that the damselfly habitat is outside of the proposed cemetery development.

Damselfly history is provided in the website to educate the public on background and unique qualities of the damselfly including the following: "Native Hawaiian damselflies are a remarkable cluster of 25 species diversified from a single waif arriving in Hawai'i long ago to occupy many aquatic niches and rain holding lily and 'ie'ie leaves. The Blackline Damselfly or Rainbow-Eye Damselfly, Pinao Ānuenuē, (*Megalagrion nigrohamatum nigrolineatum*), ranges on O'ahu from sea level to 2,400 feet. Most remarkable are their luminous, compound eyes in colors from lime to turquoise to red, this rainbow-eye damselfly is visually striking but very hard to notice. These large, wrap-around eyes give panoramic vision to easily detect and catch flying prey. The brown, 2-inch-long damselfly nymphs (babies) favor a concealed existence clinging under stones or hiding in algae masses, both in moving and quiet waters, for long intervals."

A description of the efforts to preserve the damselfly are also discussed on the website and provides the following: "Since the recent discovery of a small, relict, lowland population of Pinao Ānuenuē on an undeveloped portion of HMP's property, the small population is being monitored and protected by several activities supported by HMP to help them remain safe. The native damselflies observed on HMP's property are seen only along a slow moving seep of water that includes an abandoned well, likely dug before 1930 during the area's use as a dairy farm. The area of HMP's property where the native damselfly are observed is outside the portion of the property where cemetery expansion improvements would occur. This area would be preserved, and a management plan has been developed to support its continued presence."

The website also provides damselfly best practices to help the public care for the damselfly with the following information:



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“Best management practices that would be followed to ensure the safety of the native damselfly and preserve its habitat are listed below:  
NOT releasing aquarium fish, Jackson’s chameleons, or chickens which eat nymphs or adults.  
NOT uprooting nearby plants or moving stones along the seep that provide shade or hold soil.  
NOT removing kalo along the seep, which provide safe perches for emerging young.  
NOT planting vegetation at the water’s edge where an emerging young native damselfly may climb for molting to adults and be vulnerable to predatory ants.  
NOT placing trash on the ground that can cover or divert water.  
DO NOT ACCESS – No Trespassing – Hawaiian Memorial Park (“HMP”) is Private Property and has “No Trespassing signs posted along with motion detection cameras. No one is permitted on HMP land without written permission from Hawaiian Memorial Park Management.”

The website also has a telephone hotline and dedicated email address where the public can make inquiries to obtain information.

**Condition No. 16:**

“16. Development Timetable. Petitioner shall provide the Commission with a development timetable prior to obtaining grading permits from the City.”

**Status:**

Completion of site grading for Geotechnical Investigation trails.....September 2022  
Start of Geotechnical Investigation Field Work.....September 2022  
Completion of Geotechnical Investigation Field Work and  
Start of Geotechnical Investigation Report..... October 2022  
Completion of Permit Set of Construction Drawings including  
Grading Design, Drainage Design, Drainage Report,  
Stormwater Quality Report, Water Utility Design,

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Retaining Wall Design and Miscellaneous Details ..... February 2023  
Completion of Geotechnical Investigation Report..... February 2023  
Completion of NPDES Permit Application..... February 2023  
Submittal of Grading Permit Application to City DPP ..... February 2023  
Permit Review including Addressing Comment Sets ..February2023-October 2023  
Projected NPDES NGPC Approval..... April 2023  
Projected Grading Permit Approval .....November 2023

**Construction Items:**

Mobilization and Miscellaneous Site Orientations .....November 2023  
Installation of Site Best Management Practices .....November 2023  
Start of Grading Work.....November 2023  
Projected Completion.....Fall 2025

**Condition No. 17:**

“17. Infrastructure Deadline. Petitioners shall complete construction of the proposed backbone infrastructure, which consists of the primary roadways and access points, internal roadways, on- and offsite water and electrical system improvements, and stormwater/drainage and other utility system improvements, within ten (10) years from the date of the Decision and Order approving the Petition.”

**Status:**

Petitioner anticipates completion of infrastructure by fall of 2025, well within the ten (10) year infrastructure deadline of October 13, 2030.

**Condition No. 18:**

“18. Compliance with Representations. Petitioner shall develop the Petition Area in substantial compliance with the representations made to the Commission as reflected in the Findings of Fact, Conclusions of Law, and Decision and Order. Absent substantial commencement of use of the land in accordance with such representations,

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the Commission shall issue and serve upon the party bound by the condition and order to show cause why the property should not revert to its former land use classification or be changed to a more appropriate classification.”

**Status:**

Petitioner has substantially commenced developing the Petition Area in substantial compliance with the representations made to the Commission as reflected in the Findings of Fact, Conclusions of Law, and Decision and Order.

“19. Notice of Change in Ownership. Petitioner shall give notice to the Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interests in the Property, prior to development of the Property.”

**Status:**

Petitioner has no intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interests in the Property prior to development of the Property. Development of the Property has substantially commenced and is expected to be complete by the Fall of 2025.

“20. Annual Reports. Petitioner shall timely provide without any prior notice, annual reports to the Commission, the Office of Planning, and the Department of Planning and Permitting in connection with the status of the subject project and Petitioner’s progress in complying with the conditions imposed herein. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission.”

**Status:**

Petitioner has provided its annual reports dated October 13, 2021 and October 13, 2022.

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"21. Release of Conditions. The Commission may fully or partially release the conditions provided herein 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."

**Status:**

Petitioner acknowledges this condition.

"22. Notice of Imposition of Conditions. Within seven (7) days of the issuance of the Commission's Decision and Order for the subject reclassification, Petitioner shall: (a) record with the Bureau of Conveyances or the State of Hawai'i Land Court, or both, as appropriate, a statement that the Property is subject to conditions imposed herein by the Land Use Commission in the reclassification of the Property; and (b) shall file a copy of such recorded statement with the Commission."

**Status:**

Petitioner has satisfied this condition by recording the Notice of Imposition of Conditions, identified as Document No. A-75980682, with the Bureau of Conveyances on October 20, 2020.

"23. Recordation of Conditions. Petitioner shall record the conditions imposed herein by the Commission with the Bureau of Conveyances or the State of Hawai'i Land Court, or both, as appropriate, pursuant to section 15-15-92 Hawai'i Administrative Rules.

This Declaration of Conditions shall supersede the Notice of Imposition of Conditions by the Land Use Commission dated October 14, 2020 upon the recordation at the Bureau of Conveyances of this Declaration of Conditions."

Mr. Daniel E. Orodener, Executive Officer  
Land Use Commission, State of Hawai`i  
October 13, 2022  
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**Status:**

Petitioner has satisfied this condition by recording the Declaration of Conditions, identified as Document No. A-76460491, with the Bureau of Conveyances on December 7, 2020.

Please do not hesitate to contact the undersigned should you have any questions or comments with respect to the matters discussed above.

Very truly yours,

MATSUBARA, KOTAKE & TABATA

A handwritten signature in black ink, appearing to be 'CT Tabata', is centered on a light gray rectangular background.

Curtis T. Tabata

cc: Office of Planning and Sustainable Development  
Department of Planning and Permitting  
Intervenor Hui O Pikoiloa c/o Grant Yoshimori