

WILLIAM W.L. YUEN 1359

DENTONS US LLP
1001 Bishop Street, Suite 1800
Honolulu, Hawaii 96813
Telephone: (808) 524-1800
Facsimile: (808) 524-4591
Email: william.yuen@dentons.com



Attorney for Petitioner
RCFC KALOKO HEIGHTS, LLC,
KALOKO HEIGHTS B1A HOLDINGS, LLC, and
KALOKO HEIGHTS INVESTORS, LLC

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of
Y-O LIMITED PARTNERSHIP

To Amend the Agricultural Land Use District Boundary to the Urban Land Use District for Approximately 408.719 Acres of Land at Kaloko and Kohanaiki, North Kona, Hawaii, Hawaii TMK Nos.: (3) 7-3-09:19, 20 and 57 to 62.

DOCKET NO. A81-525

**PETITIONER'S SUPPLEMENTAL
MEMORANDUM IN SUPPORT OF
MOTION FOR EXTENSION OF TIME
TO APPLY FOR REDISTRICTING OF
PHASE II; DECLARATION OF
WILLIAM W. L. YUEN; EXHIBITS 1
THROUGH 32; CERTIFICATE OF
SERVICE**

**PETITIONER'S SUPPLEMENTAL MEMORANDUM IN SUPPORT OF MOTION FOR
EXTENSION OF TIME TO APPLY FOR REDISTRICTING OF PHASE II**

RCFC KALOKO HEIGHTS, LLC, a Delaware limited liability company, KALOKO HEIGHTS B1A HOLDINGS, LLC, a Delaware limited liability company, and KALOKO HEIGHTS INVESTORS, LLC, a Delaware limited liability company, Successor Petitioner ("**Petitioner**") to Y-O Limited Partnership ("**Y-O**") in the above-captioned docket, by and through its attorneys Dentons US LLP, submits this Supplemental Memorandum in Support of Motion for Extension of Time to Apply for Redistricting of Phase II, to present additional

information and documents to describe Petitioner’s development progress and schedule for future development.

I. BACKGROUND

On January 19, 1983, the State of Hawaii Land Use Commission (“**Commission**”) reclassified approximately 213.473 acres of land, now identified as Hawaii TMK (3) 7-3-09: 20, 32 and 57 through 62, at Kaloko and Kohanaiki, North Kona, Hawaii, from the State Land Use Agricultural District to the State Land Use Urban District, subject to six conditions. This area is referred to as **Phase I** of the Kaloko Heights Project (the “**Project**”). The Commission also granted incremental redistricting of approximately 195.246 acres, immediately across Hina Lani Street now identified as Hawaii TMK (3) 7-3-09:19. This portion of the Project is referred to as **Phase II**. The lands comprising the Project are referred to as the “**Petition Area**.” Since the January 19, 1983 issuance of the original Decision and Order (“**D & O**”) redistricting the Phase I, the Project has changed ownership several times, and the Commission has issued five orders extending the time to apply for redistricting of Phase II.

The purpose of this Supplemental Memorandum is to demonstrate that Petitioner and its predecessors have in fact spent substantial sums and made substantial progress in developing the backbone infrastructure for the Project. Petitioner expects that construction will commence at the Project within a year, and that the request for a ten (10) year extension to apply for the redesignation of Phase II is reasonable.

Petitioner RCFC KALOKO HEIGHTS, LLC, a Delaware limited liability company acquired the Petition Area from Kaloko Heights Associates, LLC, a Delaware limited liability company, by Quitclaim Deed dated January 22, 2013. Kaloko Heights Associates, LLC had acquired the Petition Area from Y-O in 2004. RCFC KALOKO HEIGHTS, LLC in turn conveyed the Phase II land, Hawaii TMK (3) 7-3-09:19, to its affiliate KALOKO HEIGHTS

INVESTORS, LLC, a Delaware limited liability company, on April 15, 2016. RCFC KALOKO HEIGHTS, LLC also conveyed Hawaii TMK (3) 7-3-09:59, to its affiliate KALOKO HEIGHTS B1A HOLDINGS, LLC, a Delaware limited liability company in December, 2017. We will discuss progress in subject areas and describe what Petitioner's predecessors had accomplished, and where Petitioner has built on the work of its predecessors.

II. ROADWAY IMPROVEMENTS

Condition B of the D & O required Petitioner and its predecessors to participate in the construction of a roadway through the Petition Area, connecting the Petition Area to Queen Kaahumanu Highway and Mamalahoa Highway, a distance of over 3.5 miles. Petitioner's predecessors completed construction of the portion of the connector roadway running through the Petition Area, Hina Lani Street, as well as signalized intersection improvements at the intersection of Hina Lani Street and Mamalahoa Highway. See Petitioner's **Exhibit 1**. Petitioner's predecessors completed dedication of Hina Lani Street and all roadway improvements, including water transmission lines and street lighting systems to the County of Hawaii prior to Petitioner's acquisition of the Project, and the County of Hawaii released Petitioner's predecessor's \$9,000,000 performance bond. The cost of the roadway improvements exceeded \$9,000,000 in 1992.

III. WATER SOURCE AND TRANSMISSION IMPROVEMENTS

Condition C of the D & O required Petitioner to perform its obligations to fund water source development for the Project prior to applying for County general plan or zoning changes. Petitioner and its predecessors have paid all charges and satisfied all requirements with respect to water source development and transmission systems, at a cost in excess of \$9 million.

Prior to Commission approval, Petitioner's predecessor Y-O had entered into the County of Hawaii Water Commission's ("**Water Commission**") May 28, 1982 Kona Source

Agreement I to pay a share of the \$1.5 million cost of an exploratory well-drilling program for a North Kona water system. Following the successful completion of the exploratory well-drilling program, Petitioner’s predecessor Y-O entered into the Water Commission’s Kona Source Agreement II on July 8, 1986 (**Exhibit 2**), which agreement provided for the County to issue water commitments for potable water for the Project at a cost of \$1,500 per unit. If the development were not completed by June 30, 1991, the developer would be subject to the water facilities charge prevailing at the time, with prior payments credited to the facilities charge.

On June 14, 1989, Petitioner’s predecessor Y-O and the Water Commission entered into an agreement for construction of a water transmission and distribution system. Y-O agreed to construct an oversized 16 inch line 1,525 lineal feet along Hina Lani Street from the County’s 1.0 MG reservoir to be constructed at the 1180 feet elevation mauka of the Project to two booster pumps and a 0.5 MG reservoir to be constructed at the 900 feet elevation in the Project and an oversized 20 inch line from the booster pumps and reservoir to the Project’s makai boundary. The County would pay for oversizing and Petitioner and its predecessors would be responsible for the balance of the costs. A copy of this Agreement is attached as **Exhibit 3**. Petitioner and its predecessors have completed the work required under the Agreement.

The following table describes the progress in completing the water infrastructure, including payment of extension fees to the Water Commission and its successor the County Department of Water Supply (“**DWS**”). Although Y-O made initial payments and signed the agreements, Petitioner completed construction of water improvements, made final payments and dedicated land and water system facilities to the County after Petitioner purchased the Petition Area.

Date	Action or Agreement
June 14, 1989	Agreement for Water Transmission System executed.

Date	Action or Agreement
September 10, 1991	County Department of Water Supply (“DWS”) confirms water facilities charge increase from \$1,500 to \$1,800 per unit (t).
1999	Conditions for time extension additional deposit of \$150 per unit, with credit of 37% of facilities fee for money spent to drill wells. (Exhibit 5).
June 13, 2013	DWS acknowledged receipt of \$224,100 for extension of water commitments. Total facilities charge \$8,217,000 for 1,494 units. Total payments, including construction credits \$9,090,990. (Exhibit 6).
June 30, 2014	DWS approves construction drawings for subdivision improvements, considers facilities charge paid. (Exhibit 7).
March 23, 2017	DWS confirms facilities charges is paid in full. (Exhibit 8).
August 8, 2017	Petitioner completed water system improvements and dedicated water system improvements to BWS. (Exhibit 9).

IV. ARCHEOLOGICAL APPROVALS

Petitioner’s predecessors have obtained all necessary approvals of the archaeological plans for Phase I of the Project. The State of Hawaii Department of Land and Natural Resources, Historic Preservation Division (“SHPD”) has approved the Project’s Archeological Inventory Survey, data recovery plan, archaeological preservation plan and burial treatment plan for Phase I of the Project in accordance with the requirements of HRS Chapter 6E:

Summary of Archaeological Approvals

Date of SHPD Approval	Plan Approved
October 24, 2005	Archaeological Inventory Survey
June 15, 2006	Final Data Recovery Plan and Final Preservation Plan
November 6, 2006	Burial Treatment Plan

V. AFFORDABLE HOUSING

Condition A of the D & O required Petitioner to offer 10% of the lots or houses and lots in the Project for sale to Hawaii residents of low and moderate family income as determined by the Hawaii Housing Authority or the County of Hawaii. On November 22, 2016, the Commission modified this condition to permit the condition to be satisfied by affordable rental housing as well as for sale housing. The following table describes what Petitioner has accomplished to satisfy this condition since acquiring the Project in 2013.

Date	Action or Agreement
2014	Petitioner and Hawaii Island Community Development Corporation (“ HICDC ”) commenced discussions to determine if HICDC could develop an affordable housing project within the Petition Area to address Petitioner’s affordable housing requirements.
March 20, 2015	Petitioner and HICDC enter agreement for HICDC to develop an 80 unit affordable housing project within the Petition Area on land to be donated at no cost together with 80 water units subject to the County redesignating the site to allow the development and assignment of 80 Affordable Housing Credits (“ AHC ”) to Petitioner.
March 30, 2015	Petitioner and County of Hawaii Office of Housing and Community Development (“ OHCD ”) execute Affordable Housing Agreement recognizing Petitioner had purchased four excess housing credits entitling Petitioner to develop 40 market price residential units.
November 22, 2016	Commission approved Petitioner’s motion to amend Condition A to allow the satisfaction of the affordable housing requirement through the sale or rent of affordable price housing units to Hawaii residents of low and moderate family income.
January 25, 2017	Hawaii County Council approved Ordinance 31-17 re-zoning the Affordable Housing Site (“ AHS ”) to the RM-3 multi-family district.
February 2, 2017	HICDC reaches agreement with OHCD that County will award 80 Affordable Housing Credits (“ AHC ”) upon conveyance of the AHS to HICDC.
April 3, 2017 (recorded May 11, 2017)	Petitioner executed Limited Warranty Deed donating and conveying ownership of the 10.755 acre AHS to HICDC. (Exhibit 10)

Date	Action or Agreement
April 19, 2017	HICDC and County enter into Agreement under which HICDC agrees to develop at least 80 affordable housing units. Upon conveyance of AHS to HICDC County will award 80 AHC to Petitioner and deem Petitioner's affordable housing condition satisfied for 800 market price units. Upon completion of construction County will award excess AHC. (Exhibit 11)
July 25, 2017	OHCD confirmed assignment of 80 AHC to Petitioner in consideration of conveyance of AHS.
August 15, 2017	Petitioner assigns 81 water units to HICDC. (Exhibit 12)
November 14, 2019, January 21, 2020	County grants final subdivision approval for consolidation and re-subdivision of AHS. HICDC files Affidavit re Subdivision Approval (Exhibit 13)
February 18, 2020	Supplemental Agreement for Petitioner to assign an additional 19 water units to HICDC to allow the development of a total of 99 affordable Housing Units.
May 14, 2020	Petitioner and County of Hawaii execute Affordable Housing Agreement recognizing Petitioner may use 80 AHC credits to satisfy affordable housing requirements for up to 800 units; upon assignment of 19 additional water units to HICDC Petitioner will receive 19 additional AHC, and Petitioner will receive an additional 27 AHC upon completion of the HICDC affordable housing project. (Exhibit 14)
May 19, 2020	Petitioner assigned 19 additional water units to HICDC to enable development of additional units.

VI. KALOKO HEIGHTS SITE PLAN

A. County Required Site Plan

On December 19, 1983, the County of Hawaii approved Change of Zone Ordinance No. 83-63 which rezoned the Petition Area to a mix of single family residential zoning (RS-15, RS-10 and RS-7.5), multi-family residential zoning (RM-3.0), commercial zoning (CN-20), and open zoning (O).

Condition E of Change of Zone Ordinance No. 83-63 required the submittal of:

An overall site plan showing the increments of development, proposed roadway layout, location of park sites and drainage systems, in conformance with the conditions of the rezoning ordinance.

On May 8, 1984, the Planning Department approved the conceptual site plan that was submitted in compliance with this condition. A copy of the approved site plan, with the zoning district designations is included as **Exhibit 15**.

On August 19, 1986, the County of Hawaii approved Ordinance 86-91, which amended certain conditions in Ordinance 83-63. As amended Condition F of the Change of Zone Ordinance provides for the single family residential portion of the Project be developed in four increments.

Increment 1: 85-100 acres of land north of the mauka-makai road (Hina Lani Street).

Increment 2: Remainder of RS zoned area north of Hina Lani Street.

Increment 3: 100-120 acres of land south of Hina Lani Street.

Increment 4: Remaining RS zoned lands south of Hina Lani Street.

The Condition further requires that effective date of the second and subsequent Increments shall be after “development” has occurred in the previous increment(s).

Development means that building permits have been issued and construction partially completed to the extent roofs have been constructed on a minimum of 25% of the units proposed within the previous increment or combination of increments. Based on the requirements of this condition, the effective date of zoning of Phase 2 will occur once development of Increment 1 has occurred.

For consistency purposes, Petitioner will request that satisfaction of the requirement to substantially complete Phase I and apply for reclassification of Phase II be based on completion

of all off-site infrastructure for the Phase 1 area and “Development” of Increment 1 as required by Condition F or Ordinance No. 83-63.

B. Petitioner’s Revised Site Plan

Upon its acquisition of the Petition Area in 2013, Petitioner began to evaluate the viability of development of the Project using the original conceptual site plan. There were several factors which required the re-evaluation and re-design of the site plan, including:

1. The completion of the Archaeological Inventory Survey in 2005 that identified a total of 18 preservation sites within Phase I of the Petition Area. The subsequent preparation and approval of the Burial Treatment Plan and Preservation Plan and park area required preservation of over 25 acres of land to include the 18 preservation areas. In addition, Petitioner’s agreement to preserve the historic Road to the Sea Trail along with a buffer area as a preservation site impacted the master plan. **(Exhibit 16)**

2. In February 2013, the Planning Department released the Kealakaa Extension Final Report which proposed a revised alignment for Holoholo Street, a connector road between Palani Road and Kaimi Nani Street. The Report recommended that Holoholo Street be extended through Phase I of Kaloko Heights area as a through street in lieu of the previously-approved master plan’s alignment as a road intersecting with the “Loop Road.” Implementing this recommendation required the redesign of the roadway system within Phase I. **(Exhibit 17)**

3. In May 2015, Petitioner commissioned its surveyor to prepare a topographic survey encompassing the entire Phase I area with two feet contour intervals in order to facilitate the design and engineering of the Phase I roadways, utilities and homesites. **(Exhibit 18)**

4. In 2015, Petitioner agreed to donate approximately 10 acres of land to HICDC for the development of an affordable housing project. The area initially identified was in a portion of Hawaii TMK No. 7-3-09:58 within an area zoned in the RM-3.0 district. HICDC

determined that the required site work to address slopes in excess of 20% would not be feasible for a multi-family project. HICDC determined that the portion of Phase I with an Open Zone designation would be a preferable site. Petitioner agreed to donate this site to HICDC if the County would rezone the site to allow the affordable rental project. The County Council approved the redesignation of the area to the RM-3.0 residential multi-family zoning district in January 2017 (see discussion on Affordable Housing). This change required the relocation of the 5-acre park that Petitioner was required to provide as a condition of the Project's zoning.

5. In response to these factors as well as a review of infrastructure costs and market conditions, Petitioner retained the land use planning firm, Hart Howerton to update the master plan. Petitioner also retained Nancy E Burns, P.E. LLC to review the engineering and site work requirements to ensure that the Project was in fact developable given the slope and other physical constraints.

The factors involved in revising the Phase I Site Plan included:

- Accommodate Holoholo Street as a “through” road across the northern portion of the Petition Area in accordance with the Kealakaa Extension Final Report Alignment.
- Relocate the HICDC affordable housing project to the former Open zoned land at the corner of the future Holoholo Street and Hina Lani Street.
- Set aside the archaeological preservation sites.
- Relocate the 5 acre park that is required pursuant to Condition O of Change of Zone Ordinance No 86-91, to be located reasonably close to the HICDC affordable housing project.
- Create a road network/development plan that can reasonably balance the earthwork to be done minimize amount of material that needs to either be imported to or exported from the Petition Area.
- Optimize lot configurations within the existing zoning district boundaries.

The revised Site Plan resulted in a decrease in planned density within Phase I as follows:

Kaloko Heights Revised Site Plan Residential Density

	Phase I Revised Site Plan	Phase II	Total with Revised Site Plan
RS-15 Units	150	129	279
RS-10 Units	150	248	398
RS-7.5 Units	80	243	223
Multi-Family Units	300	-	300
Total	680	620	1,300

Petitioner submitted the resulting Revised Site Plan to the County Planning Department for approval on July 19, 2017. A copy of the Revised Phase I Master Plan submission, including plan rationale is included as **Exhibit 19**. On September 8, 2017, the Planning Director approved the Revised Site Plan, and confirmed that the Revised Site Plan was consistent with the requirements of Conditions M, N and O of Change of Zone Ordinance 83-67, as amended. The County’s approval is attached as **Exhibit 20**.

6. Petitioner’s Current Development Plan

The Project is currently planned to be a private, gated residential community. While the existing entitlements allow the development of up to 1,433 residential units (including the affordable housing units), the Project’s current master Site Plan proposes a development of approximately 1,141 units, based upon the site factors described above. (**Exhibit 21**)

The current Master Plan was revised based on detailed planning and engineering work as Petitioner’s consultants prepared site grading plans to minimize import of construction material and to incorporate the archaeological preservation sites as an integral part of the Project. The revised Master Plan takes into consideration the relocation of Holoholo Street, the constraints of topography and the location of archeological and cultural sites. At the same time, the revised Master Plan respects and follows the existing zoning boundaries and concepts of the original master plan. The revised density is depicted below.

Kaloko Heights Current Site Plan Residential Density

	Phase I Revised Site Plan	Phase II	Total with Revised Site Plan
RS-15 Units	141	129	270
RS-10 Units	153	248	401
RS-7.5 Units	77	243	320
Multi-Family Units	150	-	150
Subtotal	521	620	1,141
HICDC Rental Project	100	-	100
Total	621	620	1,241

Following Petitioner’s submission of the revised Site Plan, in 2017 Petitioner prepared two subdivision applications for two 49 lot subdivisions within Phase I. Petitioner initially proposed 49 lot subdivisions as the County would allow subdivisions of up to 50 lots with on-site wastewater treatment facilities. Petitioner also prepared grading plans and subdivision improvement plans for portions of the two subdivisions. The following are the milestones Petitioner has achieved in obtaining approvals to construct subdivision improvements:

Date	Action	Description
January 18, 2017	Topographic Survey	Completion of topographic survey of Phase I area with 2’ contours.
August 15, 2017	SUB-17-001748	Submittal of subdivision application for proposed 49 lot and remainder area subdivision within the RS-15 zoned area TMK 7-3-09:62 (Exhibit 22)
September 8, 2017	Phase I Site Plan	Planning Department approval of Revised Phase I Site Plan (Exhibit 20)
December 22, 2017	SUB-18-001779	Submittal of subdivision application for proposed 49 lot and remainder area subdivision within the RS-10 zoned area TMK 7-3-09:59 (Exhibit 23)
April 9, 2018	Grading Permit	Submittal to SHPD that required buffer fencing around archaeological preservation sites has been installed.
May 29, 2018	Grading Permit	SHPD confirmation that no historic sites will be affected by the grading work proposed for the 57.3 acre portion of the Project Site.
June 13, 2018	Grading Permit	DPW approval of the Grading Permit for the two subdivisions comprising a 57.3 acre portion of the Project Site.
October 8, 2018	SUB-17-001748	Tentative Subdivision Approval (TA) for Kaloko Heights Lot 7 Subdivision (Exhibit 24)

October 8, 2018	SUB-18-001779	Tentative Subdivision Approval (TA) for Kaloko Heights Lot 4 Subdivision (Exhibit 25)
April 10, 2020	SUB-17-001748	Final Construction Plan approval for subdivision improvements for a 22 lot increment of SUB-17-001748. (Exhibit 26)
April 10, 2020	SUB-18-001779	Final Construction Plan approval for subdivision improvements for a 24 lot increment of SUB-18-001779. (Exhibit 27)

Petitioner has received all approvals necessary to construct subdivision improvements for the first 46 lots, and HICDC has the approvals necessary to construct its affordable rental housing project. Petitioner and HICDC are awaiting construction of the wastewater transmission line described below to commence construction of the subdivision improvements and affordable housing project, respectively.

VII. PETITIONER’S RESOLUTION OF OUTSTANDING ISSUES

In addition to the planning and due diligence activities discussed above, when Petitioner acquired the Petition Area in 2013, Petitioner was required to resolve a number of outstanding matters that were the responsibility of Petitioner’s predecessors. These issues, and their resolution included:

Outstanding Issue	Resolution
2010 Grading Permit violation citation for work within Hina Lani Street that was subsequently abandoned by contractor.	Petitioner retained Isemoto Construction Co., Ltd. to construct the required improvements. On February 26, 2015, DPW confirmed that the required corrections had been provided resolving the matter.
Complete required upgrades to an off-site water tank and water transmission line facilities in order to complete water system requirements per prior agreements with DWS to secure water service for the Project	Petitioner completed the required improvements, and on August 8, 2017 dedicated the improvements to DWS
Finalize Water Facilities Fees and payment to secure 1,494 water commitments for Project.	On March 23, 2017, DWS confirmed that the water facilities fees for 1,494 units had been paid in full.

VIII. WASTEWATER TRANSMISSION LINE

The final offsite infrastructure improvement required for development of the entire Project is construction of a wastewater transmission line. Y-O had originally proposed on-site wastewater treatment. After acquiring the Petition Area, Petitioner began assessing the strategy to address the wastewater treatment requirements, including development of an on-site wastewater treatment plant or constructing a new wastewater transmission line to connect to the County's Kealakehe Wastewater Treatment Plant (WWTP). Petitioner determined that an on-site plant was the less desirable option based on the concern for possible impact to the Kaloko-Honokohau National Historic Site's fishponds and near shore waters.

Based on this assessment, in 2017, Petitioner initiated formal discussions with the County to extend the service area of the County's sewer system to serve the Petition Area as well as HICDC's Affordable Rental Project.

On January 15, 2019, Petitioner and the County of Hawaii entered into a Memorandum of Understanding under which the County agreed to support the extension of the Kealakehe wastewater treatment plant's service area to include the Project, and to pursue public financing for construction of a new wastewater transmission line. The following is a timeline of major actions and approvals Petitioner and the County have undertaken in implementation of the Memorandum of Understanding.

Date	Action/Approval
March 28, 2019	County Council adopts Resolution 86-19 authorizing the extension of the County sewer system to connect to the Petition Area (Exhibit 28)
November 18, 2020	County approval of the wastewater transmission line construction plans
July 7, 2021	County Council adopts Resolution 158-21 authorizing the creation of a Community Facilities District ("CFD") to finance construction of the Kaloko Heights wastewater transmission line project. (Exhibit 29)

August 11, 2021	County Council accepts the Director of the Department of Environmental Management's Report of Facilities for the CFD
September 8, 2021	County Council adopts Ordinance No. 21-67 authorizing the formation of the CFD for construction of Kaloko wastewater transmission line improvements (Exhibit 30)
April 7, 2022	County Council adopts Ordinance No. 22-33 authorizing the issuance of the CFD bonds to finance the construction of Kaloko wastewater transmission line improvements. (Exhibit 31)
November 16, 2022	County Council adopts Resolution 618-22 approving the issuance of the CFD Bonds (Exhibit 32)
January 2023	Execution of contract for the construction of the Kaloko wastewater transmission line improvements
January 2023	County issues the CFD Bonds
January 2023	Petitioner issues Notice to Proceed for the construction of the wastewater transmission line improvements

Petitioner and Goodfellow Bros. Hawaii, Inc. will execute a construction contract in the amount of \$9,656,566 for the construction of the wastewater transmission line improvements in January 2023. In addition to the construction costs, Petitioner has expended over \$275,000 in design and related costs and over \$1.2 million in CFD formation costs, including payment of the fees and costs incurred by the County of Hawaii for its special counsel, appraisals and underwriting. Petitioner expects to begin construction of the wastewater treatment line following the sale of the CFD bonds, to occur in early 2023. Petitioner expects that construction of the wastewater transmission line will be completed and accepted by the County in mid-2024.

VIII. PETITIONER'S INFRASTRUCTURE EXPENDITURES

Since obtaining the discretionary approvals for the Project Petitioner and its predecessors have spent significant sums on planning, engineering, archeological, surveys, traffic and other studies and plans. Petitioner and its predecessors have invested over \$24 million in construction of infrastructure improvements:

Category	Description	Expenditures
Roads	Hina Lani Street Improvements	\$9,000,000
Roads	Hina Lani Street-Mamalahoa Highway intersection traffic signals	\$350,000
Water	1.0 MG Reservoir	\$4,000,000
Water	Water Facilities Charges	\$9,000,000
Electrical	10 MVA Substation	\$515,000
Wastewater	Design and related costs for wastewater transmission line	\$275,000
Wastewater	CFD formation costs, including payment of the fees and costs incurred by the County of Hawaii for its special counsel, appraisals and underwriting.	\$1,200,000
Total		\$24,340,000

IX. PETITIONER’S FUTURE DEVELOPMENT ACTIVITIES

Petitioner will begin construction of the wastewater transmission line upon the issuance of the CFD bonds. Petitioner expects that construction of the wastewater transmission line will be completed and accepted by the County in mid-2024. Petitioner anticipates that HICDC will commence construction of its 100 unit affordable rental project once construction of the wastewater transmission line has started, and expects completion of the first affordable units in mid-to late 2024. These affordable units will be the first residential units to be constructed in Phase I of the Petition Area.

The County has approved construction plans for the main entry road to Phase I and the initial 22 lots in Increment A1 and 24 lots in Increment B1 of Phase I. Petitioner intends to commence construction of onsite infrastructure improvements within Increment A1 and Increment B1 of the Petition Area, including construction of interior wastewater transmission lines, potable water lines, electrical and telecommunication systems and development of additional access roads and development, maintenance and preservation of various archaeological and cultural preservation sites, parks, and open space and the delivery of finished lots after construction of the wastewater transmission line is completed.

The site improvements for Increments A1 and B1 described above are anticipated to take approximately nine to twelve months to complete. Construction of these subdivision

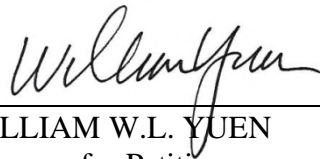
improvements is currently anticipated to be completed by mid-2025, after which time Petitioner plans to construct and sell homes on the finished lots.

Petitioner is current proposing that the initial development phase will consist of the construction and sale of custom homes.

Future onsite infrastructure and improvements to be constructed to serve potential development increments of Phase I development area include construction of the Holoholo Street improvements extending from Hina Lani Street to the north boundary of Phase 1. These future road improvements will be constructed in conjunction with the incremental development of the areas fronting these road alignments. Based on its current financial model, the Petitioner anticipates that buildout of the remaining units within the Phase I area will occur by 2033, depending on market conditions.

Detailed development plans for Phase II have not yet been determined and will be guided by the existing zoning boundaries as well as future market and economic conditions.

DATED: Honolulu, Hawaii, January 3, 2023.



WILLIAM W.L. YUEN
Attorney for Petitioner
RCFC KALOKO HEIGHTS, LLC,
KALOKO HEIGHTS B1A HOLDINGS,
LLC, and KALOKO HEIGHTS
INVESTORS, LLC



BEFORE THE LAND USE COMMISSION
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To Amend the Agricultural Land Use District
Boundary to the Urban Land Use District for
Approximately 408.719 Acres of Land at
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Hawaii TMK Nos.: 7-3-09:19, 20, 32, and 57 to
62.

DOCKET NO. A81-525

**DECLARATION OF WILLIAM W.L.
YUEN**

DECLARATION OF WILLIAM W.L. YUEN

I, WILLIAM W.L. YUEN, hereby declare:

1. I am a partner in the firm of Dentons US LLP, located at 1001 Bishop Street, Suite 1800, American Savings Tower, Honolulu, Hawaii, 96813, am duly admitted to practice law in the State of Hawaii, and am one of the attorneys for Petitioner, RCFC KALOKO HEIGHTS, LLC, KALOKO HEIGHTS INVESTORS, LLC and KALOKO HEIGHTS B1A HOLDINGS, LLC (“**Petitioner**”) in the above-referenced Docket.

2. I make this Declaration upon my personal knowledge and belief, and I am competent to testify to the matters set forth in the Memorandum described below.

3. Attached as Exhibit 1 is a true copy of a map illustrating the location of Hina Lani Street in Kona, Hawaii.

4. Attached as Exhibit 2 is a true copy of Agreement II dated July 8, 1986 between Water Commission of the County of Hawaii and Y-O Limited Partnership regarding Kona Water Source development.

5. Attached as Exhibit 3 is a true copy of Agreement dated June 14, 1989 between Water Commission of the County of Hawaii and Y-O Limited Partnership for construction of a water transmission and distribution system.

6. Attached as Exhibit 4 is a true copy of a letter dated September 10, 1991 from the Department of Water Supply of the County of Hawaii confirming the water facilities charge.

7. Attached as Exhibit 5 is a true copy of the 1999 Conditions for Time Extension of Kona Source Agreement II.

8. Attached as Exhibit 6 is a true copy of a letter dated June 27, 2013 from the Department of Water Supply of the County of Hawaii confirming receipt of payment of the water facilities charge.

9. Attached as Exhibit 7 is a true copy of a letter dated June 30, 2014 from the Department of Water Supply of the County of Hawaii approving construction plans for water service laterals to the Kaloko Heights Project.

10. Attached as Exhibit 8 is a true copy of a letter dated March 23, 2017 from the Department of Water Supply of the County of Hawaii confirming the water facilities charges for 1,494 units in the Project has been paid in full.

11. Attached as Exhibit 9 is a true copy of a letter dated August 8, 2017 from Thomas Yeh, Esq. transmitting a bill of sale dedicating the water tank and transmission lines and easements to the Department of Water Supply of the County of Hawaii.

12. Attached as Exhibit 10 is a true copy of a Limited Warranty Deed dated April 3, 2017, recorded on May 11, 2017, donating and conveying ownership of the 10.755 acre Affordable Housing Site from RCFC Kaloko Heights, LLC to Hawaii Island Community Development Corporation (“HICDC”).

13. Attached as Exhibit 11 is a true copy of the Agreement dated April 19, 2017 between HICDC and the County of Hawaii regarding the Kaloko Heights affordable housing project.

14. Attached as Exhibit 12 is a true copy of the Assignment of Water Units dated August 15, 2017 from RCFC Kaloko Heights, LLC to HICDC.

15. Attached as Exhibit 13 is a true copy of the Affidavit re Subdivision Approval dated November 14, 2019, recorded on January 21, 2020, by HICDC.

16. Attached as Exhibit 14 is a true copy of the Affordable Housing Agreement (Credits) dated May 14, 2020, recorded on August 3, 2020, between RCFC Kaloko Heights, LLC and the County of Hawaii.

17. Attached as Exhibit 15 is a true copy of the Kaloko Heights site plan approved by the County of Hawaii on May 8, 1984.

18. Attached as Exhibit 16 is a true copy of a letter dated July 19, 2017, from William L. Moore Planning, Inc. to the County of Hawaii transmitting revised master plan and requesting county approval of satisfaction of certain conditions.

19. Attached as Exhibit 17 is a true copy of the County of Hawaii Planning Department's Kealakaa-Holoholo Street Extension Final Report dated February 13, 2013.

20. Attached as Exhibit 18 is a true copy of Phase I Topographic Survey and Slope Analysis.

21. Attached as Exhibit 19 is a true copy of Phase I Revised Site Plan submission dated July 19, 2017.

22. Attached as Exhibit 20 is a true copy of a letter dated September 8, 2017, from the County of Hawaii Planning Department approving consistency of Revised Site Plan with Conditions M, N and O of Change of Zone Ordinance 86-91.

23. Attached as Exhibit 21 is a true copy of the current Kaloko Heights Phase I Site Plan (2019).

24. Attached as Exhibit 22 is a true copy of Submittal of subdivision application for proposed Lot 4-49 lot and remainder area subdivision within the RS-15 zoned area TMK 7-3-09:62 dated August 15, 2017.

25. Attached as Exhibit 23 is a true copy of Submittal of subdivision application for proposed Lot 7-49 lot and remainder area subdivision within the RS-10 zoned area TMK 7-3-09:59 dated December 22, 2017.

26. Attached as Exhibit 24 is a true copy of a letter from the County of Hawaii Planning Department dated October 8, 2018 granting Tentative Approval of the Lot 7 subdivision (SUB-17-001748).

27. Attached as Exhibit 25 is a true copy of a letter from the County of Hawaii Planning Department dated October 8, 2018 granting Tentative Approval of the Lot 4 subdivision (SUB-17-001779).

28. Attached as Exhibit 26 is a true copy of Final Construction Plan approval for subdivision improvements for a 22 lot increment of SUB-17-001748 dated April 10, 2020.

29. Attached as Exhibit 27 is a true copy of Final Construction Plan approval for subdivision improvements for a 24 lot increment of SUB-17-001779 dated April 10, 2020.

30. Attached as Exhibit 28 is a true copy of County of Hawaii Council Resolution 86-19 dated March 28, 2019 authorizing extension of County sewer system to Petition Area.

31. Attached as Exhibit 29 is a true copy of County of Hawaii Council Resolution 158-21 dated July 7, 2021 authorizing creation of Community Facilities District to finance construction of the wastewater transmission line.

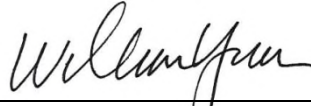
32. Attached as Exhibit 30 is a true copy of County of Hawaii Ordinance 21-67 dated September 8, 2021 authorizing formation of the Community Facilities District.

33. Attached as Exhibit 31 is a true copy of County of Hawaii Ordinance 22-33 dated April 7, 2022 authorizing issuance of the Community Facilities District Bonds.

34. Attached as Exhibit 32 is a true copy of County of Hawaii Council Resolution 618-22 dated November 16, 2022 approving issuance of Community Facilities District Bonds.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Honolulu, Hawaii, on January 3, 2023.



WILLIAM W.L. YUEN

EXHIBIT LIST

Ex. No.	Description
1	Map of Hina Lani Street
2	Agreement dated July 8, 1986 between Water Commission of the County of Hawai`i and Y-O Limited Partnership
3	Agreement dated June 14, 1989 between Water Commission of the County of Hawai`i and Y-O Limited Partnership
4	Letter dated September 10, 1991 from the Department of Water Supply of the County of Hawai`i
5	1999 Conditions for Time Extension of Kona Source Agreement II.
6	Letter dated June 27, 2013 from the Department of Water Supply of the County of Hawai`i
7	Letter dated June 30, 2014 from the Department of Water Supply of the County of Hawai`i
8	Letter dated March 23, 2017 from the Department of Water Supply of the County of Hawai`i
9	Letter dated August 8, 2017 and bill of sale dedicating water tank, transmission lines and easements to the Department of Water Supply of the County of Hawai`i
10	Limited Warranty Deed dated April 3, 2017
11	Agreement dated April 19, 2017 between HICDC and the County of Hawaii
12	Assignment of Water Units dated August 15, 2017
13	Affidavit re Subdivision Approval dated November 14, 2019
14	Affordable Housing Agreement (Credits) dated May 14, 2020
15	Kaloko Heights site plan approved by the County of Hawai`i on May 8, 1984.
16	Letter dated July 19, 2017, to County of Hawai`i transmitting revised master plan
17	Kealakea-Holoholo Street Extension Final Report dated February 13, 2013
18	Phase I Topographic Survey
19	Phase I Revised Site Plan Submission
20	Letter dated September 8, 2017 from the County of Hawaii Planning Department
21	Current Kaloko Heights Phase I Site Plan (2019)
22	Submittal of subdivision application for proposed Lot 4 49 lot subdivision
23	Submittal of subdivision application for proposed Lot 7 49 lot subdivision
24	Tentative Approval of the Lot 7 subdivision (SUB-17-001748)
25	Tentative Approval of the Lot 4 subdivision (SUB-17-001779)
26	Final Construction Plan approval for subdivision improvements for a 22 lot increment of SUB-17-001748
27	Final Construction Plan approval for subdivision improvements for a 24 lot increment of SUB-17-001779
28	Hawai`i Council Resolution 86-19 dated March 28, 2019
29	Hawai`i Council Resolution 158-21 dated July 7, 2021
30	Hawai`i County Ordinance 21-67 dated September 8, 2021
31	Hawai`i County Ordinance 22-33 dated April 7, 2022
32	Hawai`i Council Resolution 618-22 dated November 16, 2022

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII



In the Matter of the Petition of

Y-O LIMITED PARTNERSHIP

DOCKET NO. A81-525

CERTIFICATE OF SERVICE

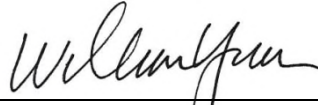
To Amend the Agricultural Land Use District Boundary to the Urban Land Use District for Approximately 408.719 Acres of Land at Kaloko and Kohanaiki, North Kona, Hawaii, Hawaii TMK Nos.: (3) 7-3-09:19, 20 and 57 to 62.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was duly mailed via U.S. Mail, postage prepaid, or by hand delivery, or by electronic mail to the following:

<p>Lorene Maki, Planner Office of Planning State of Hawaii, Office of Planning 235 South Beretania Street, 6th Floor Honolulu, HI 96813 Email: lorene.k.maki@hawaii.gov</p>	<p>Zendo Kern, Director Planning Department County of Hawaii 101 Pauahi Street, Suite 3 Hilo, HI 96720 Email: planning@hawaiicounty.gov</p>
<p>Bryan C. Yee, Esq. Dept. of the Attorney General CED 425 Queen Street Honolulu, HI 96813 Email: bryan.c.yee@hawaii.gov</p>	<p>Elizabeth A. Strance Corporation Counsel Office of the Corporation Counsel County of Hawaii 101 Aupuni Street, Unit 325 Hilo, HI 96720 Email: corpcounsel@hawaiicounty.gov</p>
<p>Keith Kato, Executive Director Hawaii Island Community Development Corporation 100 Pauahi Street Suite 204 Hilo HI 96720 Email: Keith.hicdc@gmail.com</p>	<p>Nakamoto, Okamoto & Yamamoto 187 Kapiolani Street Hilo, HI 96720 Attn: Alan Okamoto Email: alan@noyhawaii.com</p>

Dated: Honolulu, Hawaii, January 3, 2023.



WILLIAM W. L. YUEN
Attorney for Petitioner
RCFC KALOKO HEIGHTS, LLC,
KALOKO HEIGHTS B1A HOLDINGS,
LLC, and KALOKO HEIGHTS
INVESTORS, LLC