

FILE COPY

AGREEMENT

FEB 0 3 1995

This Agreement made this 7th day of December, 1992, by and between GAMREX, INC. (GAMREX), a Hawaii corporation, whose address is Century Square, Suite 903, 1188 Bishop Street, Honolulu, Hawaii 96813, and the COUNTY OF HAWAII, a municipal corporation of the State of Hawaii ("County"), through its County Housing Agency ("CHA"), whose address is 25 Aupuni Street, Hilo, Hawaii 96720.

WITNESSETH:

WHEREAS, GAMREX is the owner of land at Holualoa 1 and 2, North Kona, Hawaii, identified as TMK: (3)7-6-21: 4, 9-13, and 15-17 (the "subject property"); and

WHEREAS, on December 13, 1983, the State Land Use Commission (SLUC) approved the reclassification of the subject property from an Agricultural to an Urban district; and

WHEREAS, Condition A of the SLUC reclassification required that 10 percent of the lots or house and lots to be developed on the subject property be offered to residents of the State of low and moderate income; and

WHEREAS, the County Council adopted Ordinance Nos. 84-23, 84-42, 88-4, 90-62, and 91-96, which rezoned the subject property for single-family and multiple-family residential uses; and

WHEREAS, Condition J of Ordinance 84-23 requires that housing opportunities for Hawaii residents shall be provided in

accordance with the condition imposed by the State Land Use Commission. The number of units and manner in which they are to be provided shall meet with the approval of the Hawaii County Housing Agency; and

WHEREAS, GAMREX desires to satisfy Condition J of Ordinance 84-23 and Condition A of the Decision and Order dated December 13, 1983, by conveying title to 12.004 acres of land located at Holualoa, North Kona, Hawaii, identified as TMK: 7-6-24: 25, to the County; and

WHEREAS, the Interim Housing Policy for the County, contained in CHA Resolution No. 65, states that contributions of developable property may be accepted to satisfy employee/affordable housing requirements; and

WHEREAS, Resolution No. 65 further states that the amount of land required will be determined by an assessment of the value (by appraisal) of that contribution measured against the projected in-lieu fee value that would otherwise have been required.

NOW, THEREFORE, the parties hereby agree that Condition J of Ordinance 84-23 shall be satisfied upon the following terms and conditions:

1. GAMREX shall convey the 12.004-acre parcel, identified as TMK: 7-6-24: 25, to the County on or before December 31, 1993.

2. An appraisal of the 12.004-acre parcel was done in July 1992, and the property value was appraised at \$1,450,000. In addition, GAMREX is credited for expenditures including a topographical survey, prorated costs for engineering studies and drainage improvements, archaeologic survey, appraisal, and 62 water commitments, for a total contribution of \$1,795,372.
3. The ten percent affordable housing requirement for GAMREX is to address the low- and moderate-income target group (those families earning less than 80 percent of the median family income). The in-lieu fee for this low-end target group is \$26,700/affordable unit. The in-lieu contribution of \$1,795,372 is equivalent to 67.24 affordable units ($\$1,795,372 \div \$26,700$). The 67.24 affordable housing unit credits will allow GAMREX to construct 672 market units ($67.24 \div .10 = 672$).
4. The 67.24 affordable housing credits will not be awarded until the 12.004-acre parcel is conveyed to the County and all required drainage improvements from Kupuna Street to the mauka boundary of the subject property are constructed and approved by the County Department of Public Works.

5. This agreement shall be filed with the Land Court of the State of Hawaii or the Bureau of Conveyances, whichever is applicable, and shall be noted on the Certificate of Title and Transfer Certificate of Title for the subject property, if applicable. Upon full satisfaction of the terms of this agreement, the County shall execute a release of this agreement in a form sufficient for filing at the Land Court or recording at the Bureau of Conveyances, whichever is applicable, and shall deliver such release to GAMREX.
6. In the event of a default arising out of or in connection with this agreement, the non-defaulting party shall be entitled to have and recover from the defaulting party reasonable attorneys' fees and costs. If a party commences an action against the other party arising out of or in connection with this agreement, the prevailing party shall be entitled to have and recover from the losing party reasonable attorneys' fees and costs of suit.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed as of the day and year first above written.

RECOMMEND APPROVAL:

Brian T. Nishimura
BRIAN T. NISHIMURA
Housing Administrator
Office of Housing and
Community Development

Date: 12/3/92

APPROVED AS TO FORM
AND LEGALITY:

Steven H. King
Deputy Corporation Counsel

Date: 12-4-92

GAMREX, INC.
a Hawaii corporation

By Carl W. Willis
CARL W. WILLIS
Its President

HAWAII COUNTY HOUSING
AGENCY

By Harry S. Ruddle
HARRY S. RUDDLE
Its Chairman

COUNTY OF HAWAII

By Lorraine R. Inouye
LORRAINE R. INOUE
Its Mayor

STATE OF HAWAII)
)
COUNTY OF HAWAII)

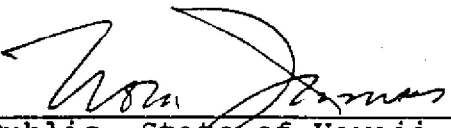
SS:

On this 4th day of December, 1992, before me personally appeared LORRAINE R. INOUE, to me personally known, who, being by me duly sworn, did say that she is the Mayor of the COUNTY OF HAWAII, a municipal corporation of the State of Hawaii; that the seal affixed to the foregoing instrument is the corporate seal of said County of Hawaii; that the foregoing instrument was signed and sealed in behalf of the County of Hawaii by authority given to said Mayor of the County of Hawaii by Section 5-1.3(g) of the County Charter, County of Hawaii (1991), as amended; and said LORRAINE R. INOUE acknowledged said instrument to be the free act and deed of said County of Hawaii.

Jean Verne
Notary Public, State of Hawaii
My Commission expires: 11/1/93

STATE OF HAWAII)
)
COUNTY OF HAWAII) SS:

On this 7th day of December, 1992, before me
personally appeared Harry S. Ruddle, known to be the
person described in and who executed the foregoing instrument and
acknowledged that he executed the same as his free act and deed.



Notary Public, State of Hawaii

My commission expires: 9/14/96