

LAND BOARD MEETING

DECEMBER 09, 2016

D-22

Discussion Regarding Proposed Settlement Agreement for Blake v. County of Kauai Planning Commission, et al., Civ. No. 09-1-0069 (5th Cir. Ct.); Blake v. Bd of Land and Natural Resources, et al., Civ. No. 12-1-2491-10 (1st Cir. Ct.); and Blake v. Bd of Land and Natural Resources, Civ. No. 12-1-2492-10 (1st Cir. Ct.).

The Board may go into Executive Session pursuant to Section 92-5(a)(4), Hawaii Revised Statutes, in order to consult with its attorneys on questions and issues pertaining to the Board's powers, duties, privileges, immunities and liabilities.

NO STAFF SUBMITTAL

SETTLEMENT AGREEMENT

This settlement agreement ("Agreement") is made and entered into effect the _____ day of _____, 20____ ("Effective Date"), by and between THEODORE K. BLAKE, whose mailing address is _____ Kōloa, Kaua'i, Hawai'i 96756 ("Blake"), GEORGE R. ROBINSON, MATTHEW B. GUARD, PETER BALDWIN and JOHN HORWITZ, as Successor Co-Trustees of the Eric A. Knudsen Trust, all of whose mailing address is _____ Kōloa, Kaua'i, Hawai'i 96756 ("EAK Trust"), THE BOARD OF LAND AND NATURAL RESOURCES ("Land Board"), THE DEPARTMENT OF LAND AND NATURAL RESOURCES ("DLNR"), and SUZANNE D. CASE, in her official capacity as Chairperson of the Land Board, all of whose mailing address is c/o Linda L. W. Chow, Esq., Department of the Attorney General, 465 S. King Street, Room 300, Honolulu, Hawai'i 96813 ("State"), and the COUNTY OF KAUA'I PLANNING COMMISSION, COUNTY OF KAUA'I PLANNING DEPARTMENT, and MICHAEL A. DAHILIG, in his official capacity as Director of Planning of the County of Kaua'i, all of whose mailing address is c/o Mauna Kea Trask, Esq., County Attorney, Office of the County Attorney, 4444 Rice Street, Suite 220, Lihu'e, Kaua'i, Hawai'i 96766 ("County").

I. SCOPE OF AGREEMENT/BACKGROUND

A. This Agreement involves the following cases ("Lawsuits"):

1. *Theodore K. Blake v. County of Kaua'i Planning Commission, County Of Kaua'i Planning Department, Michael Dahilig in his official capacity as planning director, Department of Land and Natural Resources, William Aila, Jr. in his official capacity as chair of the department of land and natural resources, and Stacey T.J. Wong, as Successor Trustee of the Eric A. Knudsen Trust*, Civil No. 09-1-0069, Fifth Circuit Court, State of Hawai'i ("Lawsuit I").
2. *Theodore Kawahinehelelani Blake v. Board of Land and Natural Resources, the Department of Land and Natural Resources, William Aila, Jr. in his official capacity as Chairperson of the Board of Land and Natural Resources and Stacey T.J. Wong, as Successor Trustee of the Eric A. Knudsen Trust*, Civil No. 12-1-2491-10 RAN, First Circuit Court, State of Hawai'i ("Lawsuit II").
3. *Theodore Kawahinehelelani Blake v. Board of Land and Natural Resources, the Department of Land and Natural Resources, William Aila, Jr. in his official capacity as Chairperson of the Board of Land and Natural Resources and Stacey T.J. Wong, as Successor Trustee of the Eric A. Knudsen Trust*, Civil No. 12-1-2492-10 RAN, First Circuit Court, State of Hawai'i ("Lawsuit III").

B. This Agreement involves the following parcels of land:

1. Certain land known as Lot 19-B located in Po'ipū, Kōloa, Kaua'i, Hawai'i, upon which Hapa Road is located. Lot 19-B is shown on Map 28 in Land Court Application 956 filed in the Land Court of the State of Hawaii (the "Hapa Road Lot"). A portion of the Hapa Road Lot (from Po'ipū Road on its south end to the vicinity of the St. Rafael Catholic Church on its north end) is the alignment of the historic Hapa Trail and is used primarily for pedestrian and bike access purposes ("Hapa Trail"). Near the St. Rafael Catholic Church, the historic Hapa Trail veers to the east into Lot 172 of the EAK Trust Lots (defined below) and stops at a gate near Lot 181-C. A portion of the Hapa Road Lot (from the St. Rafael Catholic Church on the south to Weliweli Road on the north) is an improved, asphalt road and is used for vehicular access. The portion of Hapa Trail located within the Hapa Road Lot is shown colored in blue on the Overall Site Map, attached as Exhibit "1". The portion of Hapa Trail located within Lot 172 is shown colored in pink on the Overall Site Map. The paved portion of the Hapa Road Lot is shown colored in red on the Overall Site Map. Located within and/or adjacent to portions of the Hapa Road Lot are rock walls, or remnants thereof, which are associated with Hapa Trail ("Hapa Trail Walls"). Hapa Road has been identified as State Inventory of Historic Property Site #50-30-10-992 and is owned by the State as shown on Certificate of Title No. 15,826, registered in the Office of the Assistant Registrar of the Land Court of the State of Hawai'i ("Land Court").

2. Lands owned by the EAK Trust in Po'ipū, Kōloa, Kaua'i, Hawai'i, in the area east of the Hapa Road Lot as shown colored in green and in yellow on the Overall Site Map and as more fully described in the EAK Trust Land Index attached as Exhibit "2" ("EAK Trust Lots").

C. This Agreement involves the following decisions made by government agencies, which were challenged by Blake:

1. The January 13, 2009 COUNTY OF KAUA'I PLANNING COMMISSION final subdivision approval of the Village At Po'ipū Subdivision Phase I, being all of the lots shown colored in green on the Overall Site Map ("VAP Subdivision");

2. The County's decisions made pursuant to HRS Chapter 6E regarding the VAP Subdivision;

3. The State's decisions made pursuant to HRS Chapter 6E regarding the VAP Subdivision; and

4. The State's decision made in 2012 to deny Blake a contested case hearing on, and its decision to grant, an easement over the Hapa Road Lot to the EAK Trust.

D. This Agreement involves the following significant historic sites:

1. Hapa Trail, which is designated as State Inventory of Historic Property Site #50-30-10-992;

2. The Kōloa Field System, an enormous irrigation system, which consisted of a set of interrelated features harmoniously interacting to form a unified whole, a portion of which lies within the EAK Trust Lots; and

3. State Inventory Historic Property Sites #50-30-10-86. -900. -911. -912. -913. -913A. -913B. -919. -926. -927. -928. -929. -936. -937. -938. -939. -940. -945. -946. -953. -966. -967 and -3900 on the EAK Trust Lots, as identified in the Historic Site Index attached as Exhibit "3".

II. AGREEMENT

In consideration of the following terms, covenants and conditions, the parties agree as follows:

A. THE EAK TRUST'S PROMISES.

1. Within sixty (60) days after the Effective Date, the EAK Trust will submit to the County an application to amend the final subdivision approval for the VAP Subdivision ("Subdivision Amendment"), together with the Declaration Of Covenants, Conditions And Restrictions ("CC&Rs"), substantially in the form attached as Exhibit "8", and with an amended subdivision map substantially in the form attached as Exhibit "4". The amended subdivision map shall show the following:

a. a new access road to the VAP Subdivision designated as the Hoaka Street Extension which runs from the VAP Subdivision to Po'ipū Road, as shown colored in orange on the Overall Site Map;

b. a thirty (30) foot setback between the Hapa Road Lot and the VAP Subdivision; and

c. the areas within the VAP Subdivision covered by the new conservation easement, described below.

2. The EAK Trust agrees that except as otherwise provided herein or in the CC&Rs, no construction activities or new structures shall be allowed within any areas designated or referred to as "setback" or "buffer" areas, including but not limited to, the thirty (30) foot setback between the Hapa Road Lot and the VAP Subdivision. Provided, however, that the following construction activities and new structures may be allowed in the setback area between the Hapa Road Lot and the Hoaka Street Extension:

- a. Underground utilities.
- b. Grading work relating to the construction of the Hoaka Street Extension or the creation of grass drainage swales.

3. The EAK Trust will continue to process a grading permit and such other additional permits (including a National Pollutant Discharge Elimination System ["NPDES"] permit) as may be necessary with the County for the construction of the Hoaka Street Extension (collectively, the "Hoaka Street Extension Permits") in accordance with the Hoaka Street Site Plan attached as Exhibit "5".

4. Within thirty (30) days after the County approves both the Subdivision Amendment and the Hoaka Street Extension Permits, the EAK Trust shall withdraw its request with the State (through DLNR and the Land Board) for a vehicular access easement across Hapa Trail and shall not seek thereafter to obtain vehicular access to the VAP Subdivision or the EAK Trust Lots across Hapa Trail.

5. Within thirty (30) days after the County approves both the Subdivision Amendment and the Hoaka Street Extension Permits, the EAK Trust will execute a grant of conservation easement in favor of the Hawaiian Islands Land Trust, a Hawai'i nonprofit corporation ("HILT"), substantially in the form attached as Exhibit "7". The conservation easement shall include all of the historic sites identified in Exhibit "3" and as shown on the conservation easement map attached as Exhibit "6".

6. Although the EAK Trust may enter into agreements with other entities or persons, including HILT, to maintain the historic sites, the EAK Trust, or any subsequent owner of the portion of the EAK Trust Lots in which a historic site is located, shall have the duty to insure that each historic site is maintained, protected and preserved as set forth in the archaeological surveys, plans and studies applicable to each site. At a minimum, the vegetation in the historic sites shall be trimmed and/or cleared on a semi-annual basis (two times a year).

7. Within one hundred eighty (180) days after the effective date of this Agreement, the EAK Trust shall submit burial treatment plans for historic sites 919, 936, 939, 946 and 953 to SHPD and the Ni'ihau/Kaua'i Islands Burial Council. The burial plans shall include, where appropriate, a dry stack wall around the entirety of each site.

8. Effective as of the effective date of this Agreement, the EAK Trust shall maintain Hapa Trail pursuant to the provisions of Condition 2 of County Ordinances PM-200-90 and PM-201-90. At a minimum, this maintenance shall include the clearing of vegetation from Hapa Trail on a quarterly basis (four times per year). Vegetation shall be sufficiently maintained to allow pedestrians to easily walk the Hapa Trail without being impeded. Nothing herein shall prohibit the County or its assigns from assuming the concurrent or exclusive responsibility for maintaining Hapa Trail.

9. The EAK Trust agrees that it will not undertake any new development on any portion of the EAK Trust Lots unless as part of any such permitting it complies with all of the requirements of HRS Chapter 6E, including the preparation of a new Archaeological Inventory Survey.

10. Within ninety (90) days of the effective date of this Agreement, the EAK Trust shall complete an accurate survey of the boundaries of that portion of the Hapa Road Lot which contains Hapa Trail, marked (or flagged) on the ground from Po'ipū Road to the northern termination of Hapa Trail (near the St. Rafael Catholic Church property). The survey shall be prepared by Esaki Surveying & Mapping, Inc. or another surveyor acceptable to the EAK Trust and Blake.

B. THE COUNTY'S DECLARATIONS AND PROMISES.

1. The County shall process on an expedited basis: the EAK Trust's Subdivision Amendment; and the EAK Trust's application for the Hoaka Street Extension Permits.

2. This Agreement shall be rendered null and void if the County fails to approve the applications for the Subdivision Amendment and the Hoaka Street Extension Permits; provided, however, that the County shall not be required by this Agreement to approve the EAK Trust's applications.

3. The County shall pay for the airfare of an attorney from the Native Hawaiian Legal Corporation ("NHL") to provide training on Kaua'i on the historic preservation review process. This training shall take place within six (6) months of the Effective Date and shall include to the extent possible: all members of the County Planning Department; the County Planning Commission Members; and any other County employees who wish to attend. Staff from the State Historic Preservation Division ("SHPD") may participate in the training as well.

4. The County shall, in the future, consider the Kōloa Field System to be a significant historic property, which consisted of a set of interrelated features harmoniously interacting to form a unified whole.

5. The County admits that when it granted subdivision for the EAK Trust's VAP Subdivision it failed to: (a) adequately protect significant historic properties on the EAK Trust Lots; (b) comply with the historic preservation review process; and (c) adequately protect traditional and customary practices.

C. THE STATE'S DECLARATIONS AND PROMISES.

1. The State shall provide historic preservation review process trainings for the Planning Departments of the counties of Maui, Hawai'i and O'ahu within twelve (12) months of the Effective Date at which training sessions both SHPD and the NHL will present

information. The State shall pay the airfare of an attorney from the NHLHC to provide the training for the counties of Maui and Hawai'i.

2. The State shall work with Blake to restore Hapa Trail and the Hapa Trail Walls located within the Hapa Road Lot from Po'ipū Road to the St. Rafael Catholic Church. The State agrees to provide Blake with a point of contact within DLNR who will facilitate and assist in the processing of any necessary DLNR permits or approvals in connection with specific restoration projects for Hapa Trail and the Hapa Trail Walls.

3. The State (through its Land Court) shall process on an expedited basis all documents, petitions, and maps that will need to be filed in the Land Court to accomplish the purposes of this Agreement, including the grant of conservation easement and the Declaration Of Covenants, Conditions And Restrictions.

4. The State (through its Department of Health) shall process on an expedited basis the NPDES permit.

5. The State shall, in the future, consider the Kōloa Field System to be a significant historic property, which consisted of a set of interrelated features harmoniously interacting to form a unified whole.

6. The State admits that it did not properly comply with the historic preservation review process when it reviewed the subdivision for the EAK Trust's VAP Subdivision.

7. The State (through DLNR and the Land Board) shall process on an expedited basis any request by the EAK Trust for permission and/or for an easement to allow the installation of underground utilities under the Hapa Road Lot for the VAP Subdivision, provided such utilities are installed either in or adjacent to the right of way of the existing service road that currently crosses the Hapa Road Lot.

D. ATTORNEYS' FEES.

Within thirty (30) days of the date that the Subdivision Amendment and the Hoaka Street Extension Permits are approved by the County, the County and the EAK Trust shall pay the NHLHC as and for attorneys' fees in this matter the sum of Two Hundred Fifty Eight Thousand And Eight Hundred And No/100 Dollars (\$258,800.00) ("Attorneys' Fees") and costs in this matter of the sum of Eleven Thousand One Hundred Sixty One And 43/100 Dollars (\$11,161.43).

E. HAPA TRAIL.

The County and the State agree that vehicular use of Hapa Trail shall be prohibited except: as necessary for any restoration, repair, maintenance or management of Hapa Trail or the Hapa Trail Walls; for emergency vehicles; or for emergency evacuation

purposes. The County and State also agree that the walls of Hapa Trail should be restored to a height of four (4) feet running on both sides of Hapa Trail from Po'ipū Road to the St. Rafael Catholic Church.

F. BLAKE'S PROMISES.

1. Within thirty (30) days of the Effective Date, Blake shall file a Stipulation To Substitute Parties and To Stay Proceedings in Lawsuit I, in a form substantially the same as Exhibit "9" attached hereto.

2. Within thirty (30) days of the payment of Attorneys' Fees, Blake shall dismiss the Lawsuits with prejudice. A draft of the stipulation for dismissal for Lawsuit I is attached as Exhibit "10", and a draft of the stipulation for dismissal for Lawsuit II and Lawsuit III is attached as Exhibit "11", and all parties to this Agreement have agreed to sign the Stipulations to Dismiss.

3. Blake will support, and will not oppose, the Subdivision Amendment and the Hoaka Street Extension Permits.

4. Blake will not oppose any request from the EAK Trust submitted to the Land Board, DLNR, or the County for permission, or for an easement which would allow, the installation of underground utilities across the Hapa Road Lot for the VAP Subdivision, provided that such utilities are installed in or adjacent to the right of way of the existing service road which currently crosses the Hapa Road Lot.

G. CONTINGENCY.

This Agreement shall be rendered null and void if the County fails to approve the Subdivision Amendment and the Hoaka Street Extension Permits.

H. RELEASE OF CLAIMS.

1. The parties have agreed to release each other from any of the claims raised, or which could have been raised, in the Lawsuits in accordance with the principles of res judicata and claim preclusion set forth in East Savings Bank, FSB v. Esteban, 129 Hawai'i 154, 296 P.3d 1062 (2013) and Land v. Highway Const. Co. Ltd., 64 Haw. 545, 645 P.2d 295 (1982).

2. Blake hereby releases and forever discharges the EAK Trust (including its current trustees and its former trustee, Stacey T. J. Wong), the State, and the County (collectively, the "Other Parties") from the claims.

I. WARRANTY OF AUTHORITY, INDEMNITY.

1. Blake warrants and represents to the Other Parties that Blake has not heretofore assigned or transferred or purported to assign or transfer to any person any of the claims, or any part thereof.

2. Each person signing this Agreement on behalf of the EAK Trust, the State, and the County hereby warrants that he or she is duly authorized and empowered to execute this Agreement on behalf of the party for whom he or she signs, and agrees to indemnify, defend and hold harmless the other parties from and against any claim that such authority does not exist.

J. BINDING EFFECT.

This Agreement shall be binding upon and inure to the benefit of the parties hereto. Nothing in this Agreement, expressed or implied, is intended to confer upon any person other than the parties hereto, any rights or benefits under or by reason of this Agreement.

K. INTEGRATION CLAUSE.

This Agreement represents and contains the entire agreement and understanding among the parties hereto with respect to the subject matter of this Agreement and supersede any and all prior oral and written agreements and understandings. It is agreed by the parties that no representation, warranty or condition, understanding or agreement of any kind with respect to the subject matter hereof, shall be relied upon by the parties unless incorporated herein, that this compromise is made by the parties with full knowledge of the facts and possibilities of the case, and that the terms of the release contained herein is contractual and not a mere recital. This Agreement may not be amended or modified except by an agreement in writing signed by the party against whom the enforcement of any modification or amendment is sought.

L. MISCELLANEOUS.

1. If any party commences an action against any other party for breach of this Agreement, the prevailing party shall be entitled to have and recover from the losing party reasonable attorney's fees, cost of suit and other expenses incurred in the litigation.

2. In the event that one or more of the provisions, or portions thereof, of this Agreement is determined to be illegal or unenforceable, the remainder of this Agreement shall not be affected thereby, and each remaining provision or portion thereof shall continue to be valid and effective and shall be enforceable to the fullest extent permitted by law.

3. This Agreement has been executed by the Trustees of the Eric A. Knudsen Trust in their fiduciary capacity as said Trustees, and not in their individual capacities. No personal liability or obligation under this Agreement shall be imposed or assessed against the Trustees, or their successors in trust and assigns, in their individual capacities.

M. COUNTERPARTS.

This Agreement may be executed in counterparts, and when all counterparts have been executed, each counterpart shall constitute one and the same document, and in making proof of this Agreement, it shall not be necessary to prove or account for more than one such counterpart.

N. APPLICABLE LAW.

This Agreement is entered into in the State of Hawai'i and shall be construed and interpreted in accordance with its laws.

IN WITNESS WHEREOF, the parties have executed this Settlement Agreement effective as of the Effective Date.

(SIGNATURES ON NEXT PAGE)

BLAKE:

THEODORE K. BLAKE

EAK TRUST:

GEORGE R. ROBINSON,
Successor Co-Trustee

MATTHEW B. GUARD,
Successor Co-Trustee

PETER BALDWIN, Successor Co-Trustee

JOHN HORWITZ, Successor Co-Trustee

STATE:

STATE OF HAWAII

COUNTY:

COUNTY OF KAUAI

By _____

Its

By _____

Its

EXHIBIT LIST
(Settlement Agreement)

EXHIBIT	ITEM
"1"	Overall Site Map
"2"	EAK Trust Land Index
"3"	Historic Site Index
"4"	Amended Subdivision Map
"5"	Hoaka Street Site Plan
"6"	Conservation Easement Map
"7"	Conservation Easement
"8"	Declaration Of Covenants, Conditions And Restrictions
"9"	Stipulation To Substitute Parties And To Stay Proceedings
"10"	Stipulation To Dismiss (Civil No. 09-1-0069)
"11"	Stipulation To Dismiss (Civil No. 12-1-2491-10 RAN)

EXHIBIT "1"

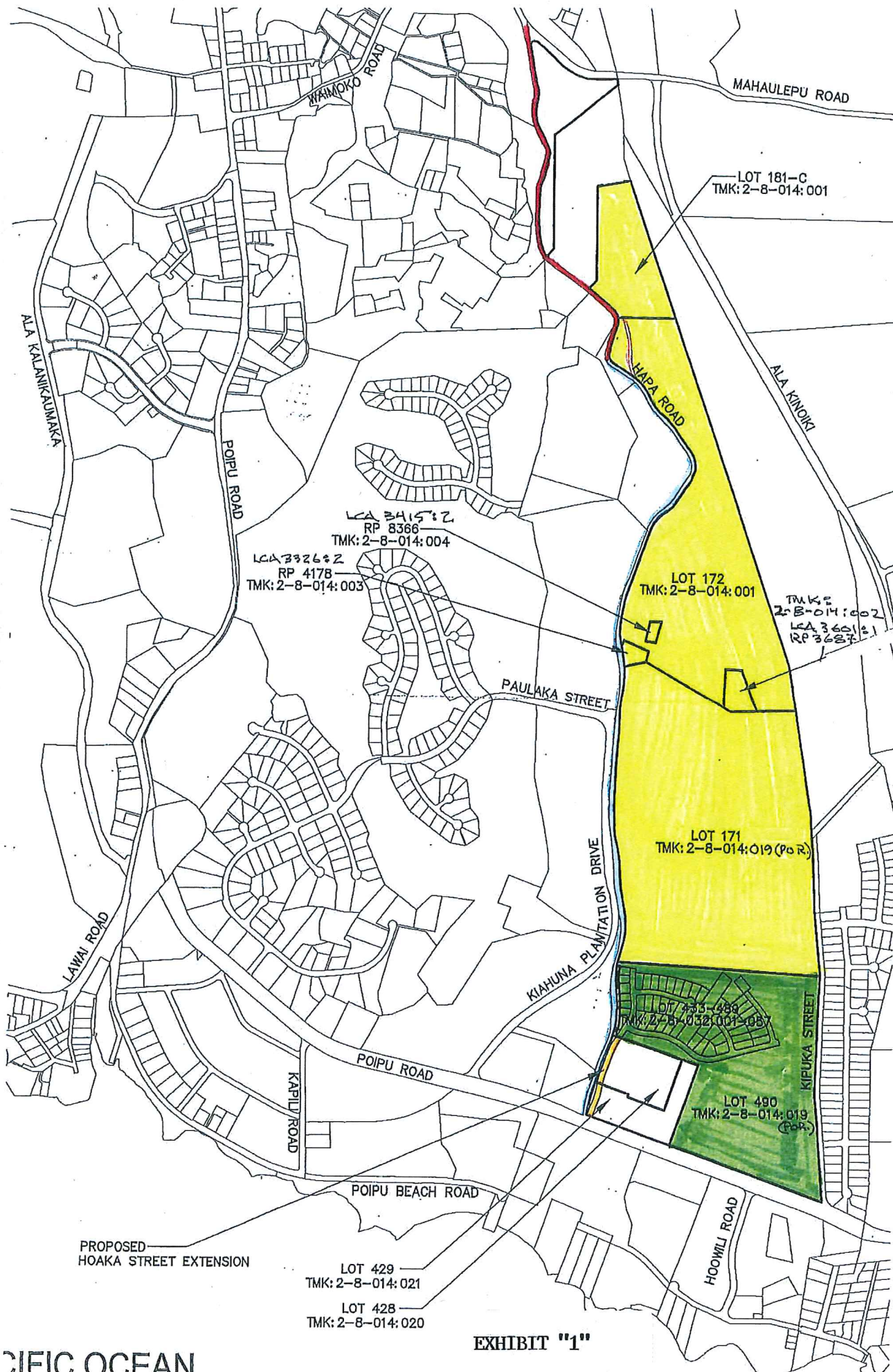


EXHIBIT "1"

EXHIBIT "2"

EAK TRUST LAND INDEX

PARCEL I:

All of that certain parcel of land situate at Koloa, Island and County of Kauai, State of Hawaii, described as follows:

LOT 171, area 75.016 acres, more or less, as shown on Map 18, filed with Land Court Application No. 956 of Bishop Trust Company, Limited, Trustee of Eric A. and Augustus F. Knudsen.

Being a portion of that land identified by Kauai Tax Map Key No. (4) 2-8-014:019.

Being a portion of the land described in Transfer Certificate of Title No. 567,200.

PARCEL II:

All of that certain parcel of land situate at Koloa, Island and County of Kauai, State of Hawaii, described as follows:

LOT 172, area 47.027 acres, more or less, as shown on Map 18, filed with Land Court Application No. 956 of Bishop Trust Company, Limited, Trustee of Eric A. and Augustus F. Knudsen.

Being a portion of that land identified by Kauai Tax Map Key No. (4) 2-8-014:001.

Being a portion of the land described in Transfer Certificate of Title No. 567,200.

PARCEL III:

All of that certain parcel of land situate at Koloa, Island and County of Kauai, State of Hawaii, described as follows:

LOT 181-C, area 10.393 acres, more or less, as shown on Map 59, filed with Land Court Application No. 956 of Bishop Trust Company, Limited, Trustee of Eric A. and Augustus F. Knudsen.

Being a portion of that land identified by Kauai Tax Map Key No.
(4) 2-8-014:001.

Being a portion of the land described in Transfer Certificate of Title No. 567,200.

PARCEL IV:

All of that certain parcel of land situate at Koloa, Island and County of Kauai, State of Hawaii, described as follows:

LOT 490, area 35.234 acres, more or less, as shown on Map 121, filed with Land Court Application No. 956 of Bishop Trust Company, Limited, Trustee of Eric A. and Augustus F. Knudsen.

Being a portion of that land identified by Kauai Tax Map Key No.
(4) 2-8-014:019.

Being a portion of the land described in Transfer Certificate of Title No. 967,408.

PARCEL V:

All of those certain parcels of land situate at Koloa, District of Koloa, Island and County of Kauai, State of Hawaii, described as follows:

<u>LOT</u>	<u>AREA</u>	<u>TAX KEY</u>	<u>MAP</u>
433	7,311 square feet	(4) 2-8-032:001	121
434	7,222 square feet	(4) 2-8-032:002	121
435	6,899 square feet	(4) 2-8-032:003	121
436	6,895 square feet	(4) 2-8-032:004	121
437	6,735 square feet	(4) 2-8-032:005	121
438	7,789 square feet	(4) 2-8-032:006	121
439	7,185 square feet	(4) 2-8-032:007	121
440	8,972 square feet	(4) 2-8-032:008	121
441	9,992 square feet	(4) 2-8-032:009	121
442	9,576 square feet	(4) 2-8-032:010	121
443	9,101 square feet	(4) 2-8-032:011	121
444	8,560 square feet	(4) 2-8-032:012	121
445	8,218 square feet	(4) 2-8-032:013	121
446	8,564 square feet	(4) 2-8-032:014	121
447	8,599 square feet	(4) 2-8-032:015	121
448	8,368 square feet	(4) 2-8-032:016	121

<u>LOT</u>	<u>AREA</u>	<u>TAX KEY</u>	<u>MAP</u>
449	8,741 square feet	(4) 2-8-032:017	121
450	8,454 square feet	(4) 2-8-032:018	121
451	8,448 square feet	(4) 2-8-032:019	121
452	8,176 square feet	(4) 2-8-032:020	121
453	8,022 square feet	(4) 2-8-032:0	121
454	7,763 square feet	(4) 2-8-032:022	121
455	7,141 square feet	(4) 2-8-032:023	121
456	7,646 square feet	(4) 2-8-032:024	121
457	8,181 square feet	(4) 2-8-032:025	121
458	8,086 square feet	(4) 2-8-032:026	121
459	8,138 square feet	(4) 2-8-032:027	121
460	7,740 square feet	(4) 2-8-032:028	121
461	7,796 square feet	(4) 2-8-032:029	121
462	8,804 square feet	(4) 2-8-032:030	121
463	9,070 square feet	(4) 2-8-032:031	121
464	9,017 square feet	(4) 2-8-032:032	121
465	9,031 square feet	(4) 2-8-032:033	121
466	8,600 square feet	(4) 2-8-032:034	121
467	9,707 square feet	(4) 2-8-032:035	121
468	9,740 square feet	(4) 2-8-032:036	121
469	8,471 square feet	(4) 2-8-032:037	121
470	8,119 square feet	(4) 2-8-032:038	121
471	8,089 square feet	(4) 2-8-032:039	121
472	9,136 square feet	(4) 2-8-032:040	121
473	8,903 square feet	(4) 2-8-032:041	121
474	8,953 square feet	(4) 2-8-032:042	121
475	9,333 square feet	(4) 2-8-032:043	121
476	8,313 square feet	(4) 2-8-032:044	121
477	9,107 square feet	(4) 2-8-032:045	121
478	8,219 square feet	(4) 2-8-032:046	121
479	7,585 square feet	(4) 2-8-032:047	121
480	7,872 square feet	(4) 2-8-032:048	121
481	7,805 square feet	(4) 2-8-032:049	121
482	8,400 square feet	(4) 2-8-032:050	121
483	2,334 square feet	(4) 2-8-032:051	121
484	2,177 square feet	(4) 2-8-032:052	121
485	24,866 square feet	(4) 2-8-032:053	121
486	55,835 square feet	(4) 2-8-032:054	121
487	15,221 square feet	(4) 2-8-032:055	121
488	21,120 square feet	(4) 2-8-032:056	121
489	20,736 square feet	(4) 2-8-032:057	121

filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 956 of the Trustee for Eric A. and Augustus F. Knudsen.

Being a portion of the land described in Transfer Certificate of Title 967,408.

PARCEL VI:

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Royal Patent Number 4178, Land Commission Award Number 3326, Apana 2 to Wahapuu) situate, lying and being at Weliweli, District of Koloa, Island and County of Kauai, State of Hawaii, being Exclusion 19 of Land Court Application No. 956, and thus bounded and described:

Beginning at a concrete post marked "+" at the south corner of this piece of land, the coordinates of said point beginning referred to Government Survey Triangulation Station "PAA" being 1,296.2 feet north and 4,999.5 feet west and running by true azimuths:

- | | | | |
|----|----------|-------|---|
| 1. | 165° 31' | 151.5 | feet to a pipe; |
| 2. | 200° 38' | 60.1 | feet to a pipe; |
| 3. | 293° 35' | 213.7 | feet to a pipe; |
| 4. | 8° 30' | 84.7 | feet to a pipe; |
| 5. | 78° 35' | 170.0 | feet to the point of beginning and containing an area of 0.66 acre, more or less. |

PARCELL VII:

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Royal Patent Number 8366, Land Commission Award Number 3415, Apana 2 to Pehu) situate, lying and being at Koloa, Island and County of Kauai, State of Hawaii, being Exclusion 20 of Land Court Application No. 956, and thus bounded and described:

Beginning at a pipe at the west corner of this piece of land, the coordinates of said point beginning referred to Government Survey Triangulation Station "PAA" being 1,492.1 feet north and 4,840.5 feet west and running by true azimuths:

- | | | | |
|----|----------|-------|----------------------|
| 1. | 193° 45' | 166.2 | feet to an iron pin; |
| 2. | 272° 42' | 95.3 | feet to a pipe; |

3. 20° 15' 169.1 feet to a pipe;
4. 91° 17' 76.2 feet to the point of beginning and containing an area of .032 acre, more or less.

PARCEL VIII:

All of that certain parcel of land (being all of the land(s) described in and covered by Royal Patent Number 3687, Land Commission Award Number 3601, Apana 1 to Keno) situate, lying and being at Koloa, Island and County of Kauai, State of Hawaii, being Exclusion 21 of Land Court Application No. 956 of Bishop Trust Company, Limited, Trustee for Eric A. and Augustus F. Knudsen and thus bounded and described:

Beginning at a concrete post marked "+" at the west corner of this piece of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PAA" being 997.9 feet north and 4,233.3 feet west and running by true azimuths:

1. 180° 31' 297.80 feet to a concrete post marked "+";
2. 270° 22' 131.00 feet to a pipe;
3. 339° 52' 234.60 feet to a pipe;
4. 342° 07' 116.50 feet to a pipe;
5. 88° 55' 195.20 feet to a concrete post marked "+";
6. 124° 30' 66.80 feet to the point of beginning and containing an area of 1.45 acres, more or less.

Together with EASEMENT "Q" for the benefit of the owners and occupants of EXCLUSION 21 as shown on Map 1, Land Court Application No. 956 of Bishop Trust Company, Limited, Trustee for Eric A. and Augustus F. Knudsen, over and across the following described strip of land:

Beginning at a pipe at the southeast corner of this strip of land, being also the end of Course No. 2 of Exclusion 21, and running by true azimuths:

1. 90° 22' 12.10 feet along Exclusion No. 21;
2. 172° 01' 1076.45 feet;

- | | | | |
|----|----------|---------|---|
| 3. | 155° 59' | 563.90 | feet; |
| 4. | 180° 00' | 29.45 | feet to a "=" on pahoehoe; |
| 5. | 335° 59' | 592.50 | feet to a pipe; |
| 6. | 352° 01' | 1079.90 | feet to the point of beginning and containing an area of 0.46 acre. |

END OF EXHIBIT "2"

EXHIBIT "3"

HISTORIC SITES INDEX

SITE (50-30-10)	LOT	TMK (4) 2-8-014:	ARCHAEOLOGICAL REPORT
86	172	001	AIS (July 1991) DR/PP (July 1991) CIA (June 2005)
900	490	019	AIS (July 1991) DR/PP (July 1991) IPP (October 2004) CIA (June 2005) PP (July 2009)
911	490	019	AIS (July 1991) CIA (June 2005) PP (July 2009)
912	490	019	AIS (July 1991) CIA (June 2005) PP (July 2009)
913	171	019	AIS (July 1991) DR/PP (July 1991) IPP (October 2004) CIA (June 2005)
913A	171	019	AIS (July 1991) CIA (June 2005)
913B	171	019	AIS (July 1991) CIA (June 2005)
919	171	019	AIS (July 1991) CIA (June 2005)
926	171/172	019/001	AIS (July 1991) DR/PP (July 1991) CIA (June 2005)

SITE (50-30-10)	LOT	TMK (4) 2-8-014:	ARCHAEOLOGICAL REPORT
927	171	019	AIS (July 1991) CIA (June 2005)
928	171	019	AIS (July 1991) CIA (June 2005)
929	171	019	AIS (July 1991) CIA (June 2005)
936	172	001	AIS (July 1991) CIA (June 2005)
937	172	001	AIS (July 1991) CIA (June 2005)
938	172	001	AIS (July 1991) DR/PP (July 1991) CIA (June 2005)
939	172	001	AIS (July 1991) DR/PP (July 1991) CIA (June 2005)
940	172	001	AIS (July 1991) CIA (June 2005)
945	172	001	AIS (July 1991) CIA (June 2005)
946	181-C	001	AIS (July 1991) DR/PP (July 1991) CIA (June 2005) BTP (February 2011)
953	171	019	AIS (July 1991) DR/PP (July 1991) IPP (October 2004) CIA (June 2005)

SITE (50-30-10)	LOT	TMK (4) 2-8-014:	ARCHAEOLOGICAL REPORT
966	490	019	AIS (July 1991) AIS (May 2005) DR/PP (July 1991) CIA (June 2005) IPP (October 2004) PP (July 2009)
967	490	019	AIS (July 1991) DR/PP (July 1991) CIA (June 2005) IPP (October 2004) PP (July 2009)
3900	490	019	AIS (July 1991) AIS (May 2005) CIA (June 2005)

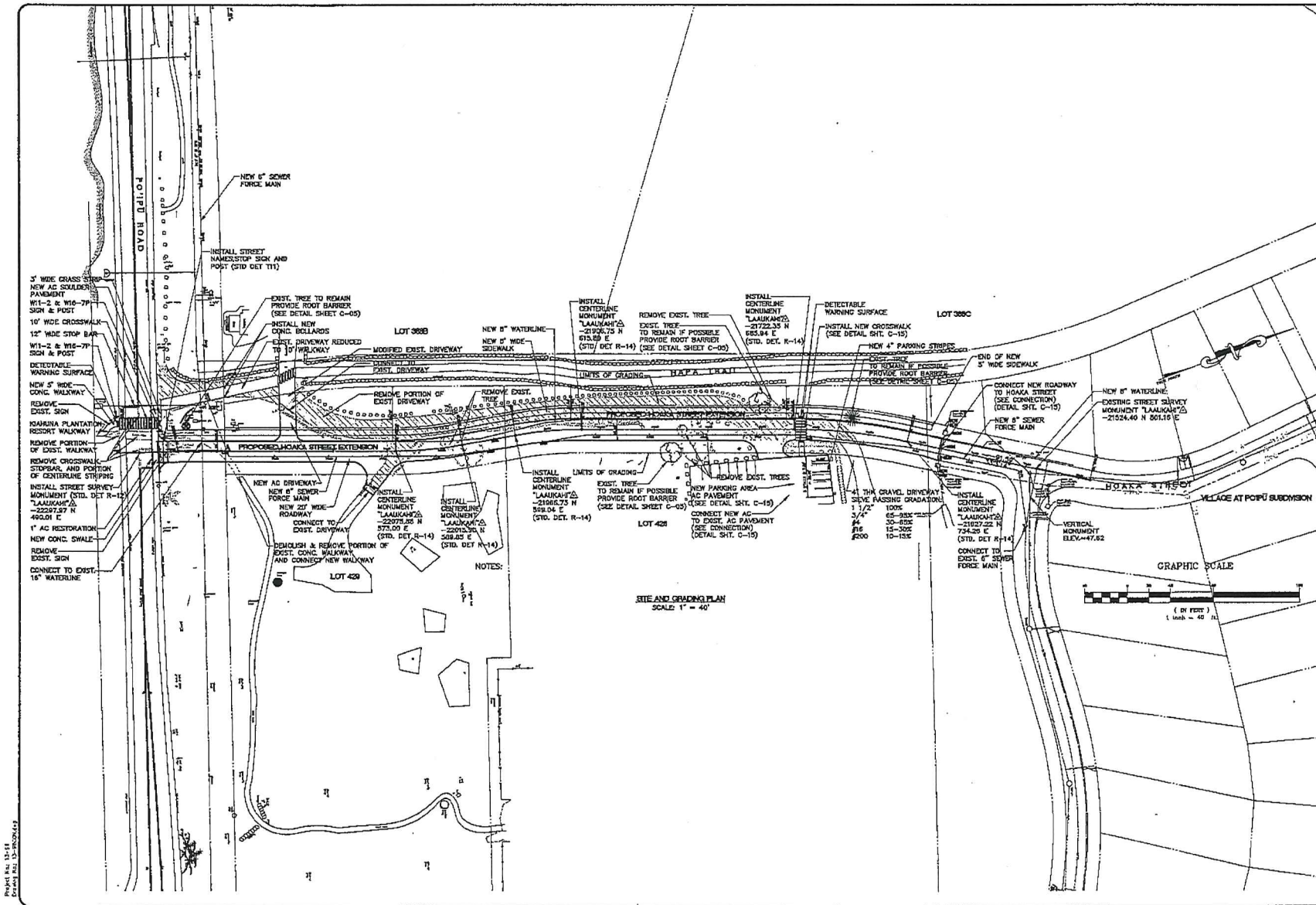
- AIS (July 1991) - Archaeological Inventory Survey Of The Proposed Poipulani Golf Course And Residential Development, Koloa, Kauai (Hammatt, July 1991)
- AIS (May 2005) - Archaeological Inventory Survey For The Makai Portion Of Parcel 19 Of The Eric A. Knudsen Trust Lands, Koloa Ahupua'a, Kona District, Kauai (Hammatt, May 2005)
- BTP (February 2011) - A Burial Treatment Plan For SIHP Site 946 (Rechtman, February 2011)
- CIA (June 2005) - Cultural Impact Assessment For An Approximately 203-Acre Parcel In Koloa Ahupua'a, Kona District, Island of Kauai (Hammatt, June 2005)
- DR/PP (July 1991) - Data Recovery And Preservation Plan For The Poipulani Development Area (Hammatt, July 1991)
- IPP (October 2004) - Interim Protection Plan For The Knudsen Trust Lands Phase I Portion Of The Village At Poipu Project (Hammatt, October 2004)
- PP (July 2009) - Preservation Plan For Historic Properties Located In The Villages Of Poipu, Koloa Ahupua'a, Kona District, Island of Kauai (Hammatt, July 2009)

EXHIBIT "4"

EXHIBIT "4"

(AMENDED SUBDIVISION MAP)

EXHIBIT "5"



LYON
 4514 King Street, Suite 301
 Honolulu, HI 96817 USA
 Phone: (808) 534-4211
 Fax: (808) 534-4212
 Email: info@lyon.com

REVISION	DATE	DESCRIPTION	BY	APPROVED



PROJECT: CONSTRUCTION GRADING PLAN
 VILLAGE AT POPO'
 HOAKA STREET EXTENSION
 Tax Map Key: (4) 2-3-14; 19, 20, 21
 Kāhala, Honolulu, Hawaii

CLIENT: Peter Balzhis
 P.O. Box 130
 Kāhala, Hawaii 96756

SITE & GRADING PLAN - 1

DESIGNED BY: SD	CHECKED BY: FE
DRAWN BY: FE	DATE: 10/02/14
SHEET: 1 OF 5	DATE: 10/02/14

EXHIBIT "S"

EXHIBIT "6"

EXHIBIT "6"

(CONSERVATION EASEMENT MAP SHOWING HISTORIC SITES)

EXHIBIT "7"

REGULAR SYSTEM

This document contains _____ pages.

GRANT OF CONSERVATION EASEMENT

GRANTOR: JOHN HORWITZ, PETER BALDWIN, MATTHEW B. GUARD,
and GEORGE R. ROBINSON, Successor Co-Trustees of the
Eric A. Knudsen Trust under Deed of Trust dated April 30, 1922,
recorded in Liber 639 at Page 326, and also filed as Land Court
Document No. 27057, as amended
Kōloa, Kaua'i, Hawai'i 96756

GRANTEE: HAWAIIAN ISLANDS LAND TRUST, a non-profit corporation organized under the laws of the State of Hawai'i and under Section 501 (c)(3) of the Internal Revenue Code, as may be amended
P. O. Box 965, Wailuku, Maui, Hawai'i 96793

(4) 2-8-014:001, 002, 003, 004 and 019

{W:/DOCS/27551/19/W0146065.DOCX }

GRANT OF CONSERVATION EASEMENT

THIS GRANT OF CONSERVATION EASEMENT ("Conservation Easement") is made this _____ day of _____, 20____ ("Effective Date"), by and between JOHN HORWITZ, PETER BALDWIN, MATTHEW B. GUARD, and GEORGE R. ROBINSON, Successor Co-Trustees of the Eric A. Knudsen Trust under Deed of Trust dated April 30, 1922, recorded in Liber 639 at Page 326, and also filed as Land Court Document No. 27057, as amended, all of whose mailing address is _____ Kōloa, Kaua'i, Hawai'i 96756 ("Grantor"), and the HAWAIIAN ISLANDS LAND TRUST, a non-profit corporation organized under the laws of the State of Hawai'i and under Section 501(c)(3) of the Internal Revenue Code, as may be amended, whose mailing address is P. O. Box 965, Wailuku, Maui, Hawai'i 96793 ("Grantee").

A. RECITALS

1. The Grantor is the owner in fee simple of certain real property in Po'ipū, Kōloa, Island and County of Kaua'i, State of Hawai'i, more particularly described in Exhibit "A", attached hereto and incorporated herein ("Property"). The term "Grantor", as used herein, shall mean this Grantor, or any successor owner of the Property, or any portion thereof.

2. Hawai'i Revised Statutes ("HRS") Chapter 198 provides that any public body and any organization which qualifies for and holds an income tax exemption under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and whose organizational purposes are designed to facilitate the purposes of HRS Chapter 198, may acquire and hold conservation easements by purchase, agreement, donation, devise or bequest.

3. The Grantee is publicly supported, tax-exempt non-profit organization qualified under Section 501(c)(3) and 170(h) of the Internal Revenue Code, as may be amended, whose primary purpose is the protection of land with conservation values by, among other methods, holding conservation easements. The term "Grantee", as used herein, shall include any assignee of Grantee, as provided herein.

4. Located within the Property are certain sites shown on the State of Hawai'i Inventory Of Historic Property Sites, together with a buffer area adjacent to each site (the buffer area and site being jointly referred to as the "Historic Sites"). The Historic Sites are listed on the Historic Sites Index attached hereto and incorporated herein as Exhibit "B" and shown on Exhibit "C".

5. The Historic Sites possess Native Hawaiian archaeological, historical, and cultural values (collectively, the "Conservation Values").

6. The specific Conservation Values of the Historic Sites are documented in the studies, reports, maps, photographs, and other documentation listed in the Baseline Documentation Index attached hereto and incorporated herein as Exhibit "D"

("Baseline Documentation") that the parties agree collectively provides an accurate description of the Historic Sites as of the Effective Date and which is intended to serve as an objective information baseline for monitoring compliance with the terms set forth herein.

7. The Grantor and the Grantee recognize the value and special character of the Historic Sites and acknowledge a common purpose to conserve their Conservation Values of the Historic Sites, and to prevent their use or development for any purpose or in any manner that would conflict with their Conservation Values.

8. The Grantor, as owner of the Property, intends to convey to the Grantee a conservation easement ("Conservation Easement") which provides the Grantee with the right to preserve and protect the Conservation Values of the Historic Sites in perpetuity.

B. GRANT

NOW, THEREFORE, in consideration of the above and the mutual covenants, terms, conditions and restrictions contained herein, and pursuant to Section 170(h) of the Internal Revenue Code, as may be amended, the laws of the State of Hawai'i, and in particular HRS Chapter 198, as may be amended, the Grantor hereby voluntarily grants and conveys unto the Grantee, its successors and permitted assigns, a Conservation Easement in perpetuity over the Historic Sites, of the nature and character, and to the extent hereinafter set forth. The Grantor declares that the Historic Sites shall be held, mortgaged, encumbered, transferred, sold, conveyed, used and occupied subject to the covenants, conditions, restrictions, and easements hereinafter set forth, all of which shall be deemed to run with the land in perpetuity and to burden the Historic Sites in perpetuity.

TO HAVE AND TO HOLD the same unto the Grantee and the Grantee's successors and assigns for the purposes stated herein, forever; subject, however, to all of the terms, conditions and limitations stated herein and to all easements, restrictions and encumbrances of record on the Historic Sites and the Property.

EXCEPTING AND RESERVING, HOWEVER, from this Conservation Easement the right of the Grantor to make use of the land within the Historic Sites in any manner which is not inconsistent with the rights of the Grantee hereunder and the right to grant other easements within the Historic Sites for such purposes as are not inconsistent with and will not unreasonably interfere with the rights of the Grantee hereunder.

In consideration of the rights hereby granted and the acceptance thereof and the obligations hereby assumed, the parties mutually covenant and agree as follows:

I. PURPOSE

1. Purpose. It is the purpose of this Conservation Easement ("Purpose") to assure that the Historic Sites will be forever used and maintained in ways that preserve their Conservation Values and to prevent any use of the Historic Sites that will significantly impair or

interfere with their Conservation Values. The Grantor intends that this Conservation Easement will confine the use of the Historic Sites to those uses consistent with the purpose of this Conservation Easement, with the Baseline Documentation, and with any Management Plan adopted as provided herein.

II. MANAGEMENT PLAN

2. Management Plan. The parties agree that uses and activities within the Historic Sites shall be consistent with a Management Plan to be prepared by the Grantor and mutually approved by both parties, which is intended to support the Purpose of the Conservation Easement. The Management Plan will establish specific procedures by which the Historic Sites shall be maintained including, but not limited to, the adequate maintenance of the Historic Sites to conserve the Conservation Values and other matters as may be required for the preservation of the Historic Sites. The Grantor and the Grantee shall mutually agree on the Management Plan and shall have the right from time to time to propose amendments to the Management Plan. Any such amendment must be jointly approved as provided herein. Pending adoption of a Management Plan, the Historic Sites shall be maintained as provided by the provisions of this Conservation Easement.

III. RIGHTS AND RESTRICTIONS

2. Grantee's Rights. To accomplish the Purpose of this Conservation Easement, the following rights are conveyed by Grantor to the Grantee pursuant to the terms of this Conservation Easement ("Grantee's Rights"):

a. To preserve and protect the Conservation Values of the Historic Sites;

b. To enter upon the Historic Sites upon reasonable notice, in a reasonable manner, and at reasonable times in order to: (i) monitor and inspect the Grantor's, or its successors' or assigns', compliance with the covenants and Purposes of this Conservation Easement; (ii) investigate a suspected, alleged or threatened violation and, if found, to enforce the terms of this Conservation Easement; and (iii) take any and all actions as may be necessary or appropriate, to remedy or abate the violation hereof;

c. To prevent any activity or use of the Historic Sites that is inconsistent with the Purpose of this Conservation Easement and the Management Plan;

d. To place and maintain one (1) sign on the Property at a mutually agreeable location, which is clearly visible to the public from the abutting road, which indicates the Historic Sites are conserved by the Grantee.

e. To maintain, repair, and restore the Historic Sites consistent with the archaeological reports listed in the Baseline Documentation or any other archaeological inventory surveys, protection plans, preservation plans, burial treatment plans, monitoring plans,

cultural impact assessments, or other archaeological studies (collectively, the "Archaeological Reports"); and

f. To conduct walking tours of the Historic Sites at such times and hours, and subject to the conditions, contained in the Management Plan, and in any case not less than once every three (3) months on a Saturday from 9:00 a.m. to 3:00 p.m..

3. Prohibited Uses. Any activity on or use of the Historic Sites inconsistent with the Purpose of this Conservation Easement is prohibited. Without limiting the generality of the foregoing, and except as otherwise permitted herein, the following activities, improvements, and uses are expressly prohibited:

a. The placement or construction of any buildings, structures, or other improvements of any kind (collectively, the "Improvements"), other than those Improvements currently on the Historic Sites as of the Effective Date, or as may be permitted herein or in the Management Plan;

b. Any vehicular roads other than those roads, driveways, parking areas, and trails in existence as of the Effective Date ("Existing Roads") or new roads permitted in the Management Plan or as needed and used to enhance the Conservation Values of the Historic Sites ("New Roads");

c. Paved surfaces, including but not limited to, roads, driveways, parking areas, and trails ("Roads"), except for Existing Roads, New Roads, or other paved surfaces permitted in the Management Plan;

d. Any grading, grubbing, ditching, draining, diking, filling, excavating, dredging, mining or drilling, removal of topsoil, sand, gravel, rock, minerals or other materials, or change in the topography of the land in any manner, except for those activities permitted herein or in the Management Plan;

e. Any removal, destruction or cutting of trees or plants, except for those activities necessary to maintain the Historic Sites or otherwise permitted herein or in the Management Plan;

f. The dumping or storing of any materials (including soil, rocks, trash, garbage, waste, refuse, debris, or other substances) or the changing of the topography through the placing of soil or other substance or material such as landfill or dredging spoils, except material to be used to enhance the Historic Sites or material from the Historic Sites to be taken away (in both cases stored on a temporary basis) as may be allowed herein or in the Management Plan; and

g. Any activities on the Historic Sites which could cause erosion or siltation, except for those activities permitted herein or in the Management Plan.

4. Grantor's Rights of Ownership. It is the Purpose and intent of all parties to restrict any uses of the Historic Sites which are inconsistent with the Conservation Values. However, it is not the Purpose or intent to restrict the Grantor's exercise of its rights incident to ownership and alienation. The Grantor shall have the unfettered right to lease, sell, mortgage, give, grant or otherwise convey the Property, including Historic Sites, provided that any such conveyances are expressly subject to the terms of this Conservation Easement.

5. Grantor's Reserved Rights. Without limiting the generality of the other rights retained by or granted to the Grantor, the Grantor reserves and is granted the right to undertake the following uses on the Historic Sites ("Permitted Uses"), or a portion of the Historic Sites as the case may be, in accordance with applicable laws and subject to this Conservation Easement and the Management Plan:

a. To engage in all uses not prohibited herein, and to have all manner of access to and personal use and enjoyment of the Historic Sites, including, without limitation, the right to undertake uses reasonably necessary to carry out the rights reserved to the Grantor, provided such uses are not inconsistent with the terms, conditions and purposes of this Conservation Easement;

b. To construct, reconstruct, place, replace, repair and maintain ("Maintain") and to use any underground utilities, Existing Roads, New Roads and other Improvements located on the Historic Sites;

c. To perform routine maintenance and upkeep (utilizing maintenance equipment of every type and description) and to undertake other activities consistent with the terms, conditions and Purposes of this Conservation Easement, the Archaeological Reports and the Management Plan;

d. To conduct selective cutting, trimming, removing, mowing or clearing of vegetation for the enhancement and protection of the Conservation Values of the Historic Sites, public safety, fire protection, trail maintenance, pest control, or to otherwise enhance the Conservation Values or preserve the present or permitted condition of the Historic Sites as consistent with the terms, conditions and Purposes of this Conservation Easement, the Maintenance Plan and the Archaeological Reports;

e. To develop and use the Property for any legally permitted uses (including for agricultural, residential, resort, commercial, and other lawful uses), to subdivide the Property, and to amend the land use designations for the Property (including the State Land Use Commission District, the Kauai General Plan, the Kauai Comprehensive Zoning Ordinance, the South Kauai Community Plan, or any other applicable land use designations) provided that any proposed development, subdivision or land use changes follow all applicable governmental regulations;

f. To construct and Maintain any New Roads and any new Improvements ("New Improvements") with the prior approval of the Grantee, which approval shall not be unreasonably withheld, provided such New Roads and New Improvements are consistent with the Conservation Values, the provisions of this Conservation Easement, the Maintenance Plan, and the Archaeological Reports;

g. To make use of all water rights appurtenant to or otherwise benefiting the Property;

h. To construct fences around or within the Historic Sites;

i. To grant utility easements encumbering the Historic Sites for the purpose of providing utilities to other parts of the Property or to other properties;

j. To conduct non-commercial, non-motorized, outdoor recreational activities which do not otherwise conflict with the Conservation Values, and to transport people to and from such activities with motorized vehicles, provided such transportation takes place only on permitted trails and roads;

k. To conduct horseback riding activities and to graze livestock, including horses and cattle;

l. To conduct commercial outdoor educational or recreational activities which do not otherwise conflict with the Conservation Values;

m. To operate motorized vehicles on permitted trails and roads for the purpose of obtaining access to other parts of the Property that have no alternative access;

n. To use motorized vehicles and equipment in the Historic Sites for land management, environmental restoration or agricultural activities within the Historic Sites, including but not limited to, ATVS, trucks, excavators, graders, chainsaws, chippers and "weed eaters";

o. To compost, burn, or store vegetative waste generated by permitted activities and uses and to store for removal at reasonable intervals normal and customary waste generated on the Historic Sites by permitted activities and uses, including maintenance activities;

p. To post all or a portion of the Historic Sites against trespassing and hunting and erect identification, interpretive and warning signs;

q. To lease, license, or grant other less-than-fee interests in all or any portion of the Historic Sites for any permitted use;

r. To deny access to any person to any portion of the Historic Sites except as expressly provided herein; and

s. To take any emergency action that the Grantor reasonably believes necessary to protect human, animal or plant life, or Improvements within the Historic Sites.

6. Notice of Intention to Undertake Certain Permitted Uses. In order to ensure that certain of the Permitted Uses are designed and carried out in a manner consistent with the Purpose of this Conservation Easement, the Grantor shall give the Grantee written notice ("Notice") of Grantor's intention to undertake any Permitted Uses which involves the construction of New Roads or New Improvements. The Notice shall be in writing and delivered not less than thirty (30) days prior to the date the Grantor intends to undertake construction of any such Permitted Uses on the Historic Sites. The Notice shall describe the proposed Permitted Uses in sufficient detail to allow the Grantee to make an informed judgment as to its consistency with the Purpose of this Conservation Easement, and to consent or object accordingly. Where the Grantee's approval is required, as set forth herein, the Grantee shall grant or withhold its approval by written notice given to Grantor within thirty (30) days of receipt of the Grantor's written request therefore. To the extent such approval may be required, the Grantee's approval of any Permitted Use may not be unreasonably withheld, and can only be withheld upon a reasonable determination by the Grantee that the action, as proposed, would be inconsistent with the Purpose of this Conservation Easement. The failure of Grantee to respond within the time limits contained herein shall be deemed an approval of the request.

IV. REMEDIES

7. Grantee's Remedies. If the Grantee determines that the Grantor is in violation of the terms of this Conservation Easement or that such a violation is threatened, the Grantee shall give written notice to the Grantor of such violation ("Violation Notice") and demand corrective action sufficient to cure the violation. The Grantor shall cure any such violations with the following time measured from the Grantor's receipt of the Violation Notice:

a. For violation cures that do not require governmental approvals, within sixty (60) days;

b. For violation cures that require governmental approval, the Grantor shall apply for approval within sixty (60) days, and shall cure such violation within sixty (60) days of issuance of all necessary governmental approvals; or

c. Where a cure cannot be completed within the timeframes given above through no fault of the Grantor, the time for completing the cure shall be extended a reasonable amount of time, but in no case greater than one hundred eighty (180) days from receipt of the Violation Notice (for subsection a.) or 180 days from issuance of governmental approval (for subsection b.).

If the Grantor fails to cure the violation within such timelines, the Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Conservation Easement, to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction, to recover any damages to which the Grantee may be entitled for violation of the terms of this Conservation Easement or injury to any Conservation Values protected by this Conservation Easement, and to require the restoration of the Historic Sites to the condition that existed prior to any such injury. Without limiting the Grantor's liability therefore, the Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Historic Sites. If the Grantee shall determine that circumstances require immediate action in order to prevent or mitigate significant damage or other adverse consequences to the Conservation Values of the Historic Sites, the Grantee may pursue its remedies under this paragraph without prior notice to the Grantor or without waiting for the period provided for cure to expire. The Grantee's rights under this paragraph apply equally in the event of either actual or threatened violations of the terms of this Conservation Easement, and the Grantor agrees that if the Grantee's remedies at law for any violation of the terms of this Conservation Easement are inadequate, that the Grantee shall be entitled to the injunctive relief described in this paragraph, both prohibitive and mandatory, in addition to such other relief to which the Grantee may be entitled, including specific performance of the terms of this Conservation Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. The Grantee's remedies described in this paragraph shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity. Nothing contained in this Conservation Easement shall be construed to entitle either party to bring any action against the other for any injury to or change in the Historic Sites resulting from any causes beyond their reasonable control and occurring without their fault or negligence, including, without limitation, fire, flood, storm or earth movement.

8. Costs of Enforcement. In the event of the failure of the Grantor to adhere to any one or more of the terms, conditions, or provisions herein, and in the event it becomes necessary for the Grantee to enforce its rights under the terms of this Conservation Easement, the Grantor shall be liable for any and all legal fees, court costs, and other expenses incurred by the Grantee as a result of the Grantor's breach.

9. Grantee's Discretion. Enforcement of the terms of this Conservation Easement shall be at the sole discretion of the Grantee, and any forbearance or delay by the Grantee to exercise its rights under this Conservation Easement, in the event of any breach of any term of this Conservation Easement by the Grantor, shall not be deemed or construed to be a waiver by the Grantee of such terms or of any subsequent breach of the same or any other terms of this Conservation Easement or of any of the Grantee's rights under this Conservation Easement. No delay or omission by the Grantee in the exercise of any right or remedy upon any breach by the Grantor shall impair such right or remedy or be construed as a waiver.

V. GENERAL PROVISIONS

10. Public Access. Except as provided herein, a right of access by the general public to the Historic Sites is not secured by this Conservation Easement, and the Grantor retains the right to exclude any person from the Property or Historic Sites.

11. Upkeep and Maintenance of Historic Sites. The Grantor retains all responsibilities and shall bear all costs and liabilities of any kind necessary to Maintain the Historic Sites in accordance with this Conservation Easement, the Management Plan, and the Archaeological Reports.

12. Costs and Liabilities. The Grantor retains all responsibilities and shall bear all costs and liabilities of any kind necessary to Maintain the Historic Sites, or related to the ownership or operation of the Historic Sites. The Grantor remains solely responsible for obtaining any applicable governmental permits and approvals for any Permitted Uses. All Permitted Uses shall be undertaken in accordance with all applicable federal, state and local laws, regulations and requirements. The foregoing notwithstanding, the Grantee shall bear all costs and liabilities of any kind arising from, relating to, or associated with the exercise by Grantee of the Grantee's Rights on the Historic Sites.

13. Real Property Taxes. If the Historic Sites are subject to real property taxes, assessments, fees, and/or charges of whatever description, then the Grantor shall pay before delinquency all such real property taxes, assessments, fees, and charges of whatever description levied on or assessed against the Historic Sites by competent authority.

14. Indemnification.

a. The Grantor hereby releases and agrees to hold harmless, indemnify, and defend the Grantee and its members, directors, officers, employees, agents, contractors, and the heirs, personal representatives, successors, and assigns of each of them (collectively, the "Grantee's Agents") from and against any and all liabilities, penalties, fines, charges, costs, losses, damages, expenses, causes of action, claims, demands, orders, judgments, or administrative actions, including, without limitation, reasonable attorneys' fees (collectively, "Grantor's Claims"), arising from or in any way connected with injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Historic Sites, with the exception of Grantee's Claims as defined below.

b. The Grantee hereby releases and agrees to hold harmless, indemnify, and defend the Grantor and its members, directors, officers, employees, agents, contractors, and the heirs, personal representatives, successors, and assigns of each of them (collectively, the "Grantor's Agents") from and against any and all liabilities, penalties, fines, charges, costs, losses, damages, expenses, causes of action, claims, demands, orders, judgments, or administrative actions, including, without limitation, reasonable attorneys' fees (collectively, "Grantee's Claims"), arising from or in any way connected with injury to or the death of any

person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or arising out of the Grantee's exercise of Grantee's Rights on or about the Historic Sites.

15. Insurance.

a. As long as this Conservation Easement remains in effect, the Grantor shall maintain one or more policies of insurance (e.g. homeowner's insurance, umbrella insurance, or commercial general liability insurance), certifying the Grantee as an additional insured against all Grantor's Claims, which collectively provide coverage for bodily injury and property damage occurring on or about the Historic Sites with minimum limits of One Million Dollars (\$1,000,000.00) per occurrence. Such insurance shall be effected under valid enforceable policies with insurers authorized to do business in Hawaii. Certificates of all such insurance shall be delivered to the Grantee upon the Effective Date. Each such policy shall provide against cancellation without at least thirty (30) days prior written notice to the Grantee, pursuant to clauses typically available in the State of Hawaii, if such clauses are available.

b. As long as this Conservation Easement remains in effect, the Grantee shall maintain one or more policies of insurance (e.g. homeowner's insurance, umbrella insurance, or commercial general liability insurance), certifying the Grantor as an additional insured against all Grantee's Claims, which collectively provide coverage for bodily injury and property damage occurring on or about the Historic Sites with minimum limits of One Million Dollars (\$1,000,000.00) per occurrence. Such insurance shall be effected under valid enforceable policies with insurers authorized to do business in Hawaii. Certificates of all such insurance shall be delivered to the Grantee upon the Effective Date. Each such policy shall provide against cancellation without at least thirty (30) days prior written notice to the Grantee, pursuant to clauses typically available in the State of Hawaii, if such clauses are available.

16. Liability for Damages. The Grantee agrees to use due care in exercising the Grantee's Rights hereunder so as to avoid any damage to the Historic Sites, to the Property, and to any Improvements located thereon, and to be liable to the Grantor for the full extent of any damages which the Grantee may cause to the Historic Sites, to the Property, or to the Improvements located thereon, resulting from the Grantee's negligence or the negligence of the Grantee's Agents, in exercising the Grantee's Rights as granted herein. The Grantee shall also provide to the Grantor a certificate of liability insurance coverage which certificate names the Grantor as an insured party under the liability insurance policy and which policy provides coverage against liability for personal injury or property damage arising out of the Grantee's or any person's use of or presence upon the Historic Sites. Such insurance coverage shall be in an amount not less than: Bodily Injury and Property Damage Liability - \$1,000,000.00 each occurrence; and Personal Injury Liability - \$1,000,000.00 each occurrence. Such policy of insurance shall contain a provision that such coverage is primary and non-contributing with any other policy in the event of overlapping coverage, and a provision that no cancellation or reduction in coverage shall be effective until thirty (30) days after written notice to the Grantor. Any Grantee who fails to provide and maintain insurance as required herein shall be prohibited

from entering the Historic Sites or exercising the Grantee's Uses until such Grantee fully complies with the insurance requirements contained herein.

17. Release of Claims. The Grantee hereby releases the Grantor, and the Grantor's successors and assigns, from any and all liability, losses and damages arising out of or related to the Grantee's, or the Grantee's Agents', exercise of Grantee's Rights or entry upon or use of the Historic Sites or the Property, including but not limited to any such liability related to the physical condition of the Historic Sites or the Property.

18. Condition of Historic Sites. The Grantor has not made and does not make any representation or warranty with respect to the condition of the Historic Sites, and the Grantee hereby accepts the Historic Sites in its "as is" conditions.

19. Limitation of Use. The Grantee's rights shall be strictly limited to those necessary to allow each party to utilize the Historic Sites for the Purposes intended and described herein. The Grantee shall have no right to utilize the Historic Sites for Purposes unrelated to the exercise of the Grantee's rights hereunder. The Grantee's rights hereunder shall be limited to those uses legally permitted on the Historic Sites and for no other Purposes.

20. Utilities. For the Purposes of this document, the following definitions shall apply:

a. The term "underground utility" shall include services which are placed underground for: drainage; sewer lines; gas; water (including potable water and/or irrigation water); and telephone, electric, cable television and other services employing electrical or electronic means of transmission.

b. The term "drainage" shall include the grading and grubbing of property, the creation of ditches or swales, and the installation of improvements in order to collect, direct, redirect, concentrate, and discharge surface water flows.

c. Notwithstanding the use of the term "underground utilities", improvements for drainage may be located on the surface of the ground, and improvements for underground utilities that must be placed above ground (e.g., electrical transformers and pads) may be located on the surface of the ground.

21. Amendment. If circumstances arise under which an amendment to or modification of this Conservation Easement and/or Management Plan would be appropriate, the Grantor and the Grantee are free to jointly amend this Conservation Easement and/or Management Plan, provided that no amendment shall be allowed that will affect the qualification of this Conservation Easement or the status of the Grantee under any applicable laws, including HRS Chapter 198, as may be amended, or Section 170(h) of the Internal Revenue Code of 1954, as amended, and any amendment shall be consistent with the Purposes of this Conservation Easement, and shall not affect its perpetual duration. Furthermore, any such amendment to the

Conservation Easement must be recorded in the Bureau of Conveyances of the State of Hawai'i or the Land Court of the State of Hawai'i, as applicable.

22. Assignment. Subject to the Grantor's prior written approval, in the Grantor's sole discretion, the Grantee may make an assignment of its rights and obligations under this Conservation Easement ("Assignment") to an organization that is a qualified organization at the time of transfer under Section 170(h) of the Internal Revenue Code (or any successor provision then applicable), and authorized to acquire and hold Conservation Easements under HRS Chapter 198 (or any successor provision then applicable) or the laws of the United States.

23. Executory Limitation. If the Grantee shall cease to exist or to be a qualified organization under Section 170(h) of the Internal Revenue Code, as may be amended, or to be authorized to acquire and hold Conservation Easements under HRS Chapter 198, as may be amended, and a prior assignment is not made as provided herein, then the Grantee's rights and obligations shall be come immediately vested in the State of Hawai'i, acting by and through the Department of Land and Natural Resources or any successor agency. If the State of Hawaii, acting by and through the Department of Land and Natural Resources or any successor agency, is no longer in existence at the time the rights and obligations under this Conservation Easement would otherwise vest in it, or if the State of Hawai'i, acting by and through the Department of Land and Natural Resources or any successor agency, is not qualified or authorized to hold Conservation Easements at that time, or if it shall refuse such rights and obligations, then the rights and obligations under this Conservation Easement shall vest in such organization with a similar mission as a court of competent jurisdiction shall direct pursuant to applicable laws and with due regard to the Grantor's Assignment rights contained herein.

24. Subsequent Transfers. The Grantor agrees to incorporate the terms of this Conservation Easement in any deed or other legal instrument by which the Grantor transfers, conveys, or assigns any interest in all or a portion of the Historic Sites, including, without limitation, a leasehold interest. The Grantor shall notify the Grantee in writing of any proposed transfer of the Historic Sites at least thirty (30) days before any such transfer.

25. Termination and Proceeds. This Conservation Easement constitutes a property right owned by the Grantee. Notwithstanding that this Conservation Easement is an obligation, and not a financial asset, should it be extinguished, which may be accomplished only by judicial proceedings, or should any interest in the Historic Sites be taken by the exercise of the power of eminent domain or acquired by purchase in lieu of condemnation subject to the prior written consent of the Grantee, the Grantee is entitled to a share of the proceeds of any such sale, exchange, or involuntary conversion of the Historic Sites formerly subject to this Conservation Easement, according to the Grantee's proportional interest in the Historic Sites, as determined and as required under Treasury Regulations §1.170-A-14(g)(6)(ii), as may be amended. The Grantee's proportional interest will be determined as of the Effective Date and will not include value attributable to Improvements on the Historic Sites made, except as to Improvements that are made by or at the expense of the Grantee. The Grantee will use such proceeds for its conservation Purposes.

26. Miscellaneous Provisions.

a. Entire Agreement. This Conservation Easement, the exhibits and attachments, the Baseline Documentation and the Management Plan, set forth all of the covenants, provisions, agreements, conditions and understandings between the parties hereto.

b. Successors. The covenants, terms, conditions and restrictions of this Conservation Easement shall be binding upon, and inure to the benefit of the parties hereto and their respective heirs, transferees, successors and assigns, and shall continue as a servitude running in perpetuity with the Historic Sites.

c. Hawai'i Law. This Conservation Easement shall be and is deemed to be a conservation restriction under the laws of the State of Hawai'i only, and shall be construed and given effect in accordance with the laws of the State of Hawai'i and not otherwise.

d. Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Conservation Easement shall be liberally construed in favor of this Conservation Easement to effect the purpose of this Conservation Easement and the policy and Purposes of the Grantee. If any provision in this Conservation Easement is found to be ambiguous, an interpretation consistent with the Purpose of this Conservation Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

e. Severability. If any provision of this Conservation Easement or the application thereof to any entity or circumstance is found to be invalid, the remainder of the provisions of this Conservation Easement shall not be affected thereby.

f. Covenants Running With The Land. The rights and obligations set forth herein shall be covenants running on the Property in favor of the Grantee, and shall be binding upon, and inure to the benefit of, the parties and their respective estates, heirs, personal representatives, successors, successors in trust and assigns.

g. Mediation and Arbitration. In the event a dispute arises between any of the parties regarding the application, interpretation or enforcement of any provision of this Conservation Easement, the dispute shall be submitted for mediation between the affected parties. The parties shall select a mutually acceptable third-party to act as mediator. If the dispute cannot be resolved within five (5) business days after commencement of the mediation process the dispute shall be resolved by arbitration. Conduct of arbitration and decisions entered by the arbitrator shall be subject to the provisions of Hawai'i Revised Statutes Chapter 658A. The request for arbitration shall be in writing and delivered to the other party and shall set forth the issue to be arbitrated, the amount involved, if any, and the remedy sought. Such arbitration shall be conducted in an expedited manner so that a final decision shall be made by the arbitrator as quickly as possible and in any event not more than thirty (30) days after the request for arbitration was first made. The arbitration shall be conducted by a single arbitrator, mutually selected by the parties. If the parties cannot agree as to the selection of an arbitrator, then the

arbitrator shall be selected by the judge of the Fifth Circuit Court, State of Hawai'i. The decision of the arbitrator shall be final and binding and may be enforced in any court of competent jurisdiction. All proceedings before the arbitrator shall be held in Lihu'e, Kaua'i, Hawai'i. The non-prevailing party as determined by the arbitrator shall pay the costs and expenses of the prevailing party, including reasonable attorney's fees and the arbitrator's costs and fees; provided, however, if the arbitrator decides that neither party is the prevailing party, each party involved in the dispute shall bear his own costs and expenses and pro rata share of the arbitrator's costs and fees.

h. Service of Notice. Any written notice or request required or authorized to be served hereunder shall be deemed delivered and received either upon the actual personal receipt thereof by the receiving party or within five (5) business days after the notice has been posted with the U.S. Mail, return receipt requested, addressed to the receiving party at its address as stated herein, or at such other address as the receiving party may have previously designated to the sending party in writing.

i. No Liens. The Grantee shall take no action nor refrain from taking any action, nor shall the Grantee allow or authorize its Agents to take any action or refrain from taking any action, by or as a result of which the Historic Sites, the Property or any portion thereof shall be made subject to any mechanics' or materialmen's lien or any other attachment, execution or judgment lien, or any other charge or encumbrance whatsoever. Should any such lien, charge or encumbrance or notice thereof be recorded, filed or attached to the Property as a result of the Grantee's actions, then the Grantee shall immediately pay off the same and cause the same to be satisfied and discharged of record, all at the sole expense of the Grantee. If the Grantee does not cause to be discharged any mechanic's or materialmen's lien or any other attachment, execution or judgment lien, or any other charge or encumbrance whatsoever which has been recorded, filed or attached to the Property as a result of the Grantee's actions, the Grantor may cause the same to be discharged of record, and any amount so paid by the Grantor shall thereupon be and become immediately due and payable by the Grantee to the Grantor, together with interest calculated from the date such sums were so paid by the Grantor at the rate of eighteen percent (18%) per annum, and the Grantor shall have a lien in the amount so paid by the Grantor together with the interest allowed hereunder, against the Property, including all fees and costs of recording such lien and collecting the same.

j. Headings For Reference Only. The headings of the sections and subsections herein are inserted only for convenience and reference and shall in no way define, limit or describe the scope or intent of any provision of this Conservation Easement.

k. Counterparts. This Conservation Easement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Signature pages from separate signed copies may be attached to a single copy for purposes of recording.

l. Terms. All defined terms (such as "Grantor", "Grantee", "party", etc.), as and when used herein, or any pronouns used in place thereof, shall mean and include the masculine or feminine, the singular or plural number, individuals or corporation and their and each of their respective successors, heirs, personal representatives and assigns, according to the context thereof.

m. Rule Against Perpetuities. If any of the covenants, conditions, agreements, restrictions, limitations or other provisions of this Conservation Easement shall at any time be interpreted or construed as unlawful, void or unenforceable for violation of the rule against perpetuities, then and in such case such covenant, condition, agreement, restriction, limitation or provision shall be construed and interpreted to continue only until the ninetieth (90th) anniversary of the effective date of this Conservation Easement.

n. Joint and Several Liability of Grantor and Grantee. The Grantor's and the Grantee's obligations under this Conservation Easement shall be joint and several among each Grantor and Grantee, respectively.

o. Trustees Not Personally Liable. This Conservation Easement has been executed by the Trustees of the Eric A. Knudsen Trust in their fiduciary capacity as said Trustees, and not in their individual capacities. No personal liability or obligation under this Conservation Easement shall be imposed or assessed against said Trustees, or their successors in trust and assigns, in their individual capacities.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first above written.

GRANTOR:

JOHN HORWITZ, Successor Co-Trustee of the
Eric A. Knudsen Trust under Deed of Trust dated
April 30, 1922, recorded in Liber 639 at Page 326,
and also filed as Land Court Document No. 27057,
as amended

STATE OF _____)
) SS:
COUNTY OF _____)

On this _____ day of _____, 20_____, before me appeared JOHN HORWITZ, Successor Co-Trustee of the Eric A. Knudsen Trust under Deed of Trust dated April 30, 1922, recorded in Liber 639 at Page 326, and also filed as Land Court Document No. 27057, as amended, to me personally known, who, being by me duly sworn or affirmed, did say that he executed the foregoing GRANT OF CONSERVATION EASEMENT dated _____, 20_____, which document consists of _____ page(s), as his free act and deed, and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.

Name of Notary:
Notary Public, in and for said County and State.

My commission expires: _____

GRANTOR:

PETER BALDWIN, Successor Co-Trustee of the
Eric A. Knudsen Trust under Deed of Trust dated
April 30, 1922, recorded in Liber 639 at Page 326,
and also filed as Land Court Document No. 27057,
as amended

STATE OF HAWAII)
) SS:
COUNTY OF KAUAI)

On this _____ day of _____, 20____, before me appeared
PETER BALDWIN, Successor Co-Trustees of the Eric A. Knudsen Trust under Deed of Trust
dated April 30, 1922, recorded in Liber 639 at Page 326, and also filed as Land Court Document
No. 27057, as amended, to me personally known, who, being by me duly sworn or affirmed,
did say that he executed the foregoing GRANT OF CONSERVATION EASEMENT dated
_____, 20____, which document consists of _____ page(s), as his free act and
deed, and if applicable, in the capacities shown, having been duly authorized to execute such
instrument in such capacities.

Name of Notary:
Notary Public, Fifth Judicial Circuit,
State of Hawai'i.

My commission expires:_____

GRANTOR:

MATTHEW B. GUARD, Successor Co-Trustee of
the Eric A. Knudsen Trust under Deed of Trust
dated April 30, 1922, recorded in Liber 639 at
Page 326, and also filed as Land Court Document
No. 27057, as amended

STATE OF _____)
) SS:
COUNTY OF _____)

On this _____ day of _____, 20_____, before me appeared
MATTHEW B. GUARD, Successor Co-Trustee of the Eric A. Knudsen Trust under Deed of
Trust dated April 30, 1922, recorded in Liber 639 at Page 326, and also filed as Land Court
Document No. 27057, as amended, to me personally known, who, being by me duly sworn or
affirmed, did say that he executed the foregoing GRANT OF CONSERVATION EASEMENT
dated _____, 20_____, which document consists of _____ page(s), as his free
act and deed, and if applicable, in the capacities shown, having been duly authorized to execute
such instrument in such capacities.

Name of Notary:
Notary Public, in and for said County and State.

My commission expires: _____

GRANTOR:

GEORGE R. ROBINSON, Successor Co-Trustee of
the Eric A. Knudsen Trust under Deed of Trust
dated April 30, 1922, recorded in Liber 639 at
Page 326, and also filed as Land Court Document
No. 27057, as amended

STATE OF _____)
) SS:
COUNTY OF _____)

On this _____ day of _____, 20____, before me appeared GEORGE R. ROBINSON, Successor Co-Trustee of the Eric A. Knudsen Trust under Deed of Trust dated April 30, 1922, recorded in Liber 639 at Page 326, and also filed as Land Court Document No. 27057, as amended, to me personally known, who, being by me duly sworn or affirmed, did say that he executed the foregoing GRANT OF CONSERVATION EASEMENT dated _____, 20____, which document consists of _____ page(s), as his free act and deed, and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.

Name of Notary:
Notary Public, in and for said County and State.

My commission expires: _____

GRANTEE:

HAWAIIAN ISLANDS LAND TRUST

By _____
EDWARD SORTWELL CLEMENT, JR.
Its Executive Director

STATE OF HAWAII)
) SS:
COUNTY OF MAUI)

On this _____ day of _____, 20____, before me appeared EDWARD SORTWELL CLEMENT, JR., Executive Director of the HAWAIIAN ISLANDS LAND TRUST, to me personally known, who, being by me duly sworn or affirmed, did say that he executed the foregoing GRANT OF CONSERVATION EASEMENT dated _____, 20____, which document consists of _____ page(s), as his free act and deed, and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.

Name of Notary:
Notary Public, Second Judicial Circuit,
State of Hawai'i.

My commission expires:_____

EXHIBIT "A"

PARCEL I:

All of that certain parcel of land situate at Kōloa, Island and County of Kaua'i, State of Hawai'i, described as follows:

LOT 171, area 75.016 acres, more or less, as shown on Map 18, filed with Land Court Application No. 956 of Bishop Trust Company, Limited, Trustee of Eric A. and Augustus F. Knudsen.

Being a portion of that land identified by Kaua'i Tax Map Key No. (4) 2-8-014:019.

Being a portion of the land described in Transfer Certificate of Title No. 567,200.

PARCEL II:

All of that certain parcel of land situate at Kōloa, Island and County of Kaua'i, State of Hawai'i, described as follows:

LOT 172, area 47.027 acres, more or less, as shown on Map 18, filed with Land Court Application No. 956 of Bishop Trust Company, Limited, Trustee of Eric A. and Augustus F. Knudsen.

Being a portion of that land identified by Kaua'i Tax Map Key No. (4) 2-8-014:001.

Being a portion of the land described in Transfer Certificate of Title No. 567,200.

PARCEL III:

All of that certain parcel of land situate at Kōloa, Island and County of Kaua'i, State of Hawai'i, described as follows:

LOT 181-C, area 10.393 acres, more or less, as shown on Map 59, filed with Land Court Application No. 956 of Bishop Trust Company, Limited, Trustee of Eric A. and Augustus F. Knudsen.

Being a portion of that land identified by Kaua'i Tax Map Key No. (4) 2-8-014:001.

Being a portion of the land described in Transfer Certificate of Title No. 567,200.

PARCEL IV:

All of that certain parcel of land situate at Kōloa, Island and County of Kaua'i, State of Hawai'i, described as follows:

LOT 490, area 35.234 acres, more or less, as shown on Map 121, filed with Land Court Application No. 956 of Bishop Trust Company, Limited, Trustee of Eric A. and Augustus F. Knudsen.

Being a portion of that land identified by Kaua'i Tax Map Key No. (4) 2-8-014:019.

Being a portion of the land described in Transfer Certificate of Title No. 967,408.

PARCEL V:

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Royal Patent Number 4178, Land Commission Award Number 3326, Apana 2 to Wahapuu) situate, lying and being at Weliweli, District of Kōloa, Island and County of Kaua'i, State of Hawai'i, being Exclusion 19 of Land Court Application No. 956, and thus bounded and described:

Beginning at a concrete post marked "+" at the south corner of this piece of land, the coordinates of said point beginning referred to Government Survey Triangulation Station "PAA" being 1,296.2 feet north and 4,999.5 feet west and running by true azimuths:

- | | | | |
|----|----------|-------|---|
| 1. | 165° 31' | 151.5 | feet to a pipe; |
| 2. | 200° 38' | 60.1 | feet to a pipe; |
| 3. | 293° 35' | 213.7 | feet to a pipe; |
| 4. | 8° 30' | 84.7 | feet to a pipe; |
| 5. | 78° 35' | 170.0 | feet to the point of beginning and containing an area of 0.66 acre, more or less. |

PARCELL VI:

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Royal Patent Number 8366, Land Commission Award Number 3415, Apana 2 to Pehu) situate, lying and being at Kōloa, Island and County of Kaua'i, State of Hawai'i, being Exclusion 20 of Land Court Application No. 956, and thus bounded and described:

Beginning at a pipe at the west corner of this piece of land, the coordinates of said point beginning referred to Government Survey Triangulation Station "PAA" being 1,492.1 feet north and 4,840.5 feet west and running by true azimuths:

- | | | | |
|----|----------|-------|---|
| 1. | 193° 45' | 166.2 | feet to an iron pin; |
| 2. | 272° 42' | 95.3 | feet to a pipe; |
| 3. | 20° 15' | 169.1 | feet to a pipe; |
| 4. | 91° 17' | 76.2 | feet to the point of beginning and containing an area of .032 acre, more or less. |

PARCEL VII:

All of that certain parcel of land (being all of the land(s) described in and covered by Royal Patent Number 3687, Land Commission Award Number 3601, Apana 1 to Kenoi) situate, lying and being at Kōloa, Island and County of Kaua'i, State of Hawai'i, being Exclusion 21 of Land Court Application No. 956 of Bishop Trust Company, Limited, Trustee for Eric A. and Augustus F. Knudsen and thus bounded and described:

Beginning at a concrete post marked "+" at the west corner of this piece of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PAA" being 997.9 feet north and 4,233.3 feet west and running by true azimuths:

- | | | | |
|----|----------|--------|--|
| 1. | 180° 31' | 297.80 | feet to a concrete post marked "+"; |
| 2. | 270° 22' | 131.00 | feet to a pipe; |
| 3. | 339° 52' | 234.60 | feet to a pipe; |
| 4. | 342° 07' | 116.50 | feet to a pipe; |
| 5. | 88° 55' | 195.20 | feet to a concrete post marked "+"; |
| 6. | 124° 30' | 66.80 | feet to the point of beginning and containing an area of 1.45 acres, more or less. |

Together with EASEMENT "Q" for the benefit of the owners and occupants of EXCLUSION 21 as shown on Map 1, Land Court Application No. 956 of Bishop Trust Company, Limited, Trustee for Eric A. and Augustus F. Knudsen, over and across the following described strip of land:

Beginning at a pipe at the southeast corner of this strip of land, being also the end of Course No. 2 of Exclusion 21, and running by true azimuths:

- | | | | |
|----|----------|---------|---|
| 1. | 90° 22' | 12.10 | feet along Exclusion No. 21; |
| 2. | 172° 01' | 1076.45 | feet; |
| 3. | 155° 59' | 563.90 | feet; |
| 4. | 180° 00' | 29.45 | feet to a "=" on pahoehoe; |
| 5. | 335° 59' | 592.50 | feet to a pipe; |
| 6. | 352° 01' | 1079.90 | feet to the point of beginning and containing an area of 0.46 acre. |

END OF EXHIBIT "A"

EXHIBIT "B"

HISTORIC SITES INDEX

SITE (50-30-10)	LOT	TMK (4) 2-8-014:	ARCHAEOLOGICAL REPORT
86	172	001	AIS (July 1991) DR/PP (July 1991) CIA (June 2005)
900	490	019	AIS (July 1991) DR/PP (July 1991) IPP (October 2004) CIA (June 2005) PP (July 2009)
911	490	019	AIS (July 1991) CIA (June 2005) PP (July 2009)
912	490	019	AIS (July 1991) CIA (June 2005) PP (July 2009)
913	171	019	AIS (July 1991) DR/PP (July 1991) IPP (October 2004) CIA (June 2005)
913A	171	019	AIS (July 1991) CIA (June 2005)
913B	171	019	AIS (July 1991) CIA (June 2005)
919	171	019	AIS (July 1991) CIA (June 2005)

SITE (50-30-10)	LOT	TMK (4) 2-8-014:	ARCHAEOLOGICAL REPORT
926	171/172	019/001	AIS (July 1991) DR/PP (July 1991) CIA (June 2005)
927	171	019	AIS (July 1991) CIA (June 2005)
928	171	019	AIS (July 1991) CIA (June 2005)
929	171	019	AIS (July 1991) CIA (June 2005)
936	172	001	AIS (July 1991) CIA (June 2005)
937	172	001	AIS (July 1991) CIA (June 2005)
938	172	001	AIS (July 1991) DR/PP (July 1991) CIA (June 2005)
939	172	001	AIS (July 1991) DR/PP (July 1991) CIA (June 2005)
940	172	001	AIS (July 1991) CIA (June 2005)
945	172	001	AIS (July 1991) CIA (June 2005)
946	181-C	001	AIS (July 1991) DR/PP (July 1991) CIA (June 2005) BTP (February 2011)
953	171	019	AIS (July 1991) DR/PP (July 1991)

SITE (50-30-10)	LOT	TMK (4) 2-8-014:	ARCHAEOLOGICAL REPORT
			IPP (October 2004) CIA (June 2005)
966	490	019	AIS (July 1991) AIS (May 2005) DR/PP (July 1991) CIA (June 2005) IPP (October 2004) PP (July 2009)
967	490	019	AIS (July 1991) DR/PP (July 1991) CIA (June 2005) IPP (October 2004) PP (July 2009)
3900	490	019	AIS (July 1991) AIS (May 2005) CIA (June 2005)

- AIS (July 1991) - Archaeological Inventory Survey Of The Proposed Poipulani Golf Course And Residential Development, Koloa, Kauai (Hammatt, July 1991)
- AIS (May 2005) - Archaeological Inventory Survey For The Makai Portion Of Parcel 19 Of The Eric A. Knudsen Trust Lands, Koloa Ahupua'a, Kona District, Kauai (Hammatt, May 2005)
- BTP (February 2011) - A Burial Treatment Plan For SIHP Site 946 (Rechtman, February 2011)
- CIA (June 2005) - Cultural Impact Assessment For An Approximately 203-Acre Parcel In Koloa Ahupua'a, Kona District, Island of Kauai (Hammatt, June 2005)

- DR/PP (July 1991) - Data Recovery And Preservation Plan For The Poipulani Development Area (Hammatt, July 1991)
- IPP (October 2004) - Interim Protection Plan For The Knudsen Trust Lands Phase I Portion Of The Village At Poipu Project (Hammatt, October 2004)
- PP (July 2009) - Preservation Plan For Historic Properties Located In The Villages Of Poipu, Koloa Ahupua'a, Kona District, Island of Kauai (Hammatt, July 2009)

END OF EXHIBIT "B"

EXHIBIT "C"

(HISTORIC SITES MAP)

EXHIBIT "D"

BASELINE DOCUMENTATION INDEX

The following documents constitute the initial description of the Historic Sites:

A. Archaeologic Reports.

1. AIS (July 1991) – Archaeological Inventory Survey Of The Proposed Poipulani Golf Course And Residential Development, Koloa, Kauai (Hammatt, July 1991).
2. AIS (May 2005) – Archaeological Inventory Survey For The Makai Portion Of Parcel 19 Of The Eric A. Knudsen Trust Lands, Koloa Ahupua'a, Kona District, Kauai (Hammatt, May 2005).
3. BTP (February 2011) – A Burial Treatment Plan For SIHP Site 946 (Rechtman, February 2011).
4. CIA (June 2005) – Cultural Impact Assessment For An Approximately 203-Acre Parcel In Koloa Ahupua'a, Kona District, Island of Kauai (Hammatt, June 2005).
5. DR/PP (July 1991) – Data Recovery And Preservation Plan For The Poipulani Development Area (Hammatt, July 1991).
6. IPP (October 2004) – Interim Protection Plan For The Knudsen Trust Lands Phase I Portion Of The Village At Poipu Project (Hammatt, October 2004).
7. PP (July 2009) – Preservation Plan For Historic Properties Located In The Villages Of Poipu, Koloa Ahupua'a, Kona District, Island of Kauai (Hammatt, July 2009).

B. Maps.

1. Site Map
2. Kauai Tax Map 2-8-14
3. Kauai Tax Map 2-8-32
4. Maps 18, 28, 59, 113 and 121, Land Court Application 956

C. Title.

1. Transfer Certificate of Title No. 567,200
2. Transfer Certificate of Title No. 967,408
3. Title Guaranty of Hawaii, Inc. Status Reports 201434083 (8/28/14), 201434084 (8/28/14), and 201434086 (8/28/14).

EXHIBIT "8"

EXHIBIT "8"

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I	DEFINITIONS.....3
ARTICLE II	RECITALS .....8
Section 2.1	Subject Property .....8
Section 2.2	Hapa Road Lot .....8
Section 2.3	Hapa Road/Hapa Trail .....8
Section 2.4	Declarant's Intention .....8
ARTICLE III	PROPERTY SUBJECT TO DECLARATION .....8
Section 3.1	Subject Property .....8
Section 3.2	Covenants Running with the Land.....9
ARTICLE IV	CONDOMINIUM PROPERTY REGIME .....9
ARTICLE V	SUBDIVISION .....9
ARTICLE VI	USE AND DEVELOPMENT RESTRICTIONS.....9
Section 6.1	Application of Restrictions .....9
Section 6.2	Use and Development Restrictions.....9
Section 6.3	Restrictions .....10
Section 6.4	Easements .....10
ARTICLE VII	ENFORCEMENT OF THIS DECLARATION.....10
Section 7.1	Persons Entitled to Enforce this Declaration .....10
Section 7.2	Breach .....11
ARTICLE VIII	INDEMNITY .....12
ARTICLE IX	ARBITRATION .....12
ARTICLE X	MISCELLANEOUS PROVISIONS.....12
Section 10.1	Assignment of Rights and Duties .....12
Section 10.2	Dedication .....12
Section 10.3	Notices .....13
Section 10.4	Joint and Several Liability .....13
Section 10.5	Duration .....13
Section 10.6	Severability .....13
Section 10.7	Interpretation; No Waiver .....13
Section 10.8	Invalidity .....13
Section 10.9	Trustees Not Personally Liable.....13

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

This Declaration Of Covenants, Conditions And Restrictions ("Declaration") is made this ____ day of _____, 20__, by KVH, LLC, a Hawai'i limited liability company, whose mailing address is 1000 Bishop Street, Suite 810, Honolulu, Hawai'i 96813, CGB PARTNERS, a Hawai'i limited partnership, whose mailing address is 1148 Marigold Drive, North East, Albuquerque, New Mexico 87122, MAKANA PROPERTIES LLC, a Hawai'i limited liability company, whose mailing address is 5451 Wailaau Road, Kōloa, Kaua'i, Hawai'i 96756, MOIR FAMILY LIMITED PARTNERSHIP, a Hawai'i limited partnership, whose mailing address is 334 Arcadia Avenue, Long Beach, California 90803, AUKAHI FARM LLC, a Hawai'i limited liability company, whose mailing address is P. O. Box 670, Kōloa, Kaua'i, Hawai'i 96756, JOCELYN BENSON, Trustee of that certain unrecorded Knudsen Irrevocable Trust dated December 12, 2012, whose mailing address is _____ Verdi, Nevada 89439, ABIGAIL G. BUCK, Co-Trustee under that certain unrecorded 1996 Sinclair K. Bill Revocable Trust dated December 20, 1996, as amended, whose mailing address is _____ Menlo Park, California 94025, ELI HUNTER WOOTEN, Co-Trustee under that certain unrecorded 1996 Sinclair K. Bill Revocable Trust dated December 20, 1996, as amended, whose mailing address is _____ Marina Del Rey, California 90292, and JOHN HORWITZ, PETER BALDWIN, MATTHEW B. GUARD, and GEORGE R. ROBINSON, Successor Co-Trustees of the Eric A. Knudsen Trust under Deed of Trust dated April 30, 1922, recorded in Liber 639 at Page 326, and also filed as Land Court Document No. 27057, as amended, all of whose mailing address is _____ Kōloa, Kaua'i, Hawai'i 96756, hereinafter collectively called the "Declarant".

ARTICLE I DEFINITIONS

The following words when used in this Declaration or any Supplemental Declaration (unless the context shall otherwise provide) shall have the following meanings:

"Accessory Building" or "Structure" means a building or structure which is subordinate to, and the use of which is incidental to that of the main building, structure or use on the same unit.

"Accessory Use" means a use customarily incidental, appropriate and subordinate to the main use of the unit or building.

"Agriculture", "Ag Activities", and "Agricultural Activities" means activities and uses for agricultural purposes: permitted by the CZO in either the CZO Agriculture District or the CZO Open District; allowed by Hawai'i Revised Statutes ("HRS") Sections 205-2(d) and 205-4.5 in the State Land Use Commission Agricultural District; or such activities and uses that qualify as "agricultural uses" as defined by the County of Kaua'i in Article 9, Chapter 5A of the Kaua'i County Code, 1987 ("KCC"), as amended from time-to-time, and/or in the Agricultural

Dedication Program Rules adopted by the County of Kaua'i to implement KCC Chapter 5A, Article 9, as amended from time-to-time.

"Ag Area" means the area within the Subject Property that shall be used for Agricultural Activities.

"Agricultural Building" means a building or structure, other than a Dwelling Unit, used in connection with agricultural activities within a unit or on the Property.

"Association" shall mean any Association Of Condominium Owners Of The Condominium that may be established on the Subject Property pursuant to HRS Chapter 514B; and their successors and assigns.

"Association Documents" means the Association Declaration, the Association Bylaws, and the Association Rules, if any.

"Association Rules" shall mean the rules from time to time in effect, adopted by the Board of Directors of the Association.

"Board" or "Board of Directors" shall mean the Board of Directors of the Association.

"Building" has the same meaning as contained in the CZO, and currently means a roofed structure, built for the support, shelter or enclosure of persons, animals, chattels or property of any kind. The word "Building" includes the word "Structure".

"Bureau of Conveyances" shall mean the Bureau of Conveyances of the State of Hawai'i, and any successor thereto.

"Bylaws" shall mean the Bylaws of the Association.

"Common Property" shall mean any property owned by the Association. Upon establishment of a Condominium Project, it shall have the same meaning as the definition of the term "Common Elements" as contained in HRS Chapter 514B.

"Condominium Declaration" shall mean the Declaration Of Condominium Property Regime for any condominium that may be established on the Subject Property, as amended from time-to-time.

"Condominium Project" shall mean any Condominium Property Regime established on the Subject Property.

"Condominium Unit" or "Unit" shall mean the structures and improvements comprising a condominium apartment unit within the Condominium Project together with its appurtenant common interests, limited common elements, and easements.

"Construction" shall mean exterior construction, alterations, repairs, replacements, additions, demolition, excavation, grading, paving and similar activities.

"County" shall mean the County of Kaua'i.

"CZO" shall mean the Comprehensive Zoning Ordinance of the County of Kaua'i as codified in Chapter 8 of the Kaua'i County Code, 1987, as amended from time to time.

"Declarant" shall mean KVH, LLC, a Hawai'i limited liability company, CGB PARTNERS, a Hawai'i limited partnership, MAKANA PROPERTIES LLC, a Hawai'i limited liability company, MOIR FAMILY LIMITED PARTNERSHIP, a Hawai'i limited partnership, AUKAHI FARM LLC, a Hawai'i limited liability company, JOCELYN BENSON, Trustee of that certain unrecorded Knudsen Irrevocable Trust dated December 12, 2012, ABIGAIL G. BUCK, Co-Trustee under that certain unrecorded 1996 Sinclair K. Bill Revocable Trust dated December 20, 1996, as amended, ELI HUNTER WOOTEN, Co-Trustee under that certain unrecorded 1996 Sinclair K. Bill Revocable Trust dated December 20, 1996, as amended, and JOHN HORWITZ, PETER BALDWIN, MATTHEW B. GUARD, and GEORGE R. ROBINSON, Successor Co-Trustees of the Eric A. Knudsen Trust under Deed of Trust dated April 30, 1922, recorded in Liber 639 at Page 326, and also filed as Land Court Document No. 27057, as amended, and their successors and assigns, or such other Person to whom Declarant, its successors or assigns, may assign its rights as the Declarant pursuant to this Declaration. (For purposes of this definition of "Declarant", the Declarant's "successors and assigns" shall not include any Person to whom Declarant conveys or leases a Lot or Unit, unless the rights of the "Declarant" expressly have been assigned to such Person).

"Declaration" shall mean this Declaration Of Covenants, Conditions And Restrictions, as amended from time to time.

"Dwelling Unit" shall have the same meaning as contained in Section 8-1.5 of the CZO, as amended from time to time, and shall include a Farm Dwelling. At present, this term means any building or any portion thereof which is designed or intended for occupancy by one (1) family or persons living together or by a person living alone and providing complete living facilities within the unit for sleeping, recreation, eating and sanitary facilities, including installed equipment for only one (1) kitchen.

"Enforcing Person" shall mean any of the Enforcing Persons identified in this Declaration.

"Farm Dwelling" shall have the same meaning as contained in HRS Section 205-4.5(a)(4), as amended from time to time. At present, this term means a single family dwelling located on and used in connection with a farm or where agricultural activity provides income to the family occupying the dwelling.

"Garage" has the same meaning as contained in the CZO, and currently means a carport, a Building, a Structure or a portion thereof, whether attached to or detached from a Residence or Guest House or other building, in which a motor vehicle is stored, housed, kept, repaired or serviced.

"Government Entity" shall mean any governmental body or agency, or any department thereof.

"Guest House" shall have the same meaning as contained in Section 8-1.5 of the CZO, as amended from time to time.

"Hapa Road Lot" means Lot 19-B as shown on Map 28 filed in Land Court in Land Court Application No. 956.

"Hapa Road Lot Owner" means the owner of the Hapa Road Lot.

"Hapa Road Lot Setback Area" means the area located between the Hapa Road Lot Setback Line and the Hapa Road Lot.

"Hapa Road Lot Setback Line" is a line located on the Subject Property at a distance of thirty (30) feet from the common boundary of the Hapa Road Lot and the Subject Property.

"Hapa Trail" means the historic road and trail between Po'ipū and Kōloa designated as State Inventory of Historic Property Site #50-30-10-992.

"Hapa Trail Remnant" means the portion of Hapa Trail that deviates from the Hapa Road Lot into Lot 172 of the Subject Property.

"Hapa Trail Setback Area" means the area located between the Hapa Trail Setback Line and the Hapa Trail.

"Hapa Trail Setback Line" is a line located on Lot 172 of the Subject Property at a distance of thirty (30) feet from any portions of the Hapa Trail Remnant located within Lot 172 of the Subject Property.

"HRS" shall mean the Hawai'i Revised Statutes, as amended from time to time.

"Improvement" means any physical improvement done to, constructed on, or placed on the Property, with the exception of Landscaping and underground utilities, and includes but is not limited to: Farm Dwellings; Guest Houses; Dwelling Units; Buildings; Structures; fences; walls; roads; driveways; Accessory Buildings; Agricultural Buildings; and Recreational Facilities.

"Land Court" means the Land Court of the State of Hawai'i.

"Landscaping" means grass, bushes, shrubs, trees or other vegetation that are maintained at a height above ground level of ten (10) feet or less.

"Laws" shall mean all applicable laws, ordinances, rules and regulations (state, federal or county or any agency thereof).

"Lot" shall mean any lot located within the Subject Property or created by the Subdivision of the Subject Property, or any portion thereof.

"Owner" shall mean the record owner (including Declarant) whether one or more persons, of a fee simple title to the Subject Property, or any portion thereof, including any Lot or any Dwelling Unit. Provided, however, that if a Condominium Project is established on the Subject Property, then the term "Owner" shall refer to any owner of a Condominium Unit within the Condominium Project.

"Person" shall mean any person, individual or entity, including, without limitation, any trustee, mortgagee, personal representative, corporation (profit or nonprofit), partnership (general or limited), joint venture, association of apartment owners established pursuant to Chapter 514A, HRS, unincorporated Association or trust.

"Recreational Facilities" means improvements for non-commercial recreational purposes, including but not limited to, parks, swimming pools, hot tubs, picnic areas, polo fields, golf courses and tennis courts.

"Restrictions" means this Declaration Of Covenants, Conditions And Restrictions.

"Setback Area" means the Hapa Road Setback Area and/or the Hapa Trail Setback Area.

"Subject Property" shall mean the property described in Exhibit "A", attached hereto and incorporated herein.

"Utilities" shall mean the Improvements and services for: sewer and wastewater disposal; gas; water (including potable water, water for fire protection, and/or Agricultural Water); drainage; and telephone, electric, cable television and other services for communications employing electrical or electronic means of transmission.

"Utility Companies" means any and all of the following: the Department of Water of the County of Kaua'i; the Board of Water Supply of the County of Kaua'i; Time Warner Entertainment Company, L.P., a Delaware limited partnership, doing business as Oceanic Time Warner Cable; Kaua'i Island Utility Cooperative, a cooperative association formed pursuant to the provision of Chapter 421C of the Hawai'i Revised Statutes; Hawaiian Telcom, Inc., a Hawai'i corporation; HOH Utilities LLC; or any other utility company regulated by the State Public Utilities Commission; and each of their assigns and successors in interest.

All references in this Declaration to any particular Government Entity, statute, ordinance or governmental approval or permit shall mean any successor thereto or replacement thereof or most nearly comparable substitution therefore.

ARTICLE II RECITALS

Section 2.1 Subject Property. The Declarant is the owner in fee simple of the Subject Property, as more particularly described in Exhibit "A", attached hereto and incorporated herein.

Section 2.2 Hapa Road Lot. Located adjacent to the Subject Property is certain land identified as Lot 19-B as shown on Map 28 filed in the Office of the Assistant Registrar of the Land Court, State of Hawai'i ("Land Court"), in Land Court Application No. 956 upon which is located Hapa Road and Hapa Trail ("Hapa Road Lot"). The Hapa Road Lot is owned by the State of Hawai'i as shown on Certificate Of Title No. 15,826 filed in the Land Court.

Section 2.3 Hapa Road/Hapa Trail. A portion of the Hapa Road Lot (from Po'ipū Road on its south end to the vicinity of the St. Rafael Catholic Church on its north end) is unimproved, is the alignment of the historic Hapa Trail, and is used primarily for pedestrian and bike access purposes. Near the St. Rafael Catholic Church, the historic Hapa Trail veers to the east into Lot 172 of the Subject Property and stops at a gate near Lot 181-C of the Subject Property. A portion of the Hapa Road Lot (from the St. Rafael Catholic Church on the south to Weliweli Road on the north) is an improved, asphalt road and is used for vehicular access. Located within and/or adjacent to portions of the Hapa Road Lot are rock walls, or remnants thereof, which are associated with the Hapa Trail. Hapa Trail and the associated walls have been designated as State Inventory of Historic Property Site #50-30-10-992.

Section 2.4 Declarant's Intention. The Declarant intends by this Declaration to impose Restrictions upon the Subject Property for the purpose of protecting and preserving the Hapa Trail and the associated walls. It is the further intention of the Declarant that the Subject Property shall be developed, maintained, used and enjoyed in a manner that will comply with the Restrictions.

ARTICLE III PROPERTY SUBJECT TO DECLARATION

Section 3.1 Subject Property. Except as otherwise provided herein, the Subject Property shall be subject to this Declaration. Declarant hereby declares that the Subject Property, and any Dwelling Unit located thereon, shall be held, sold, conveyed, leased, encumbered, occupied, used and improved subject to this Declaration.

Section 3.2 Covenants Running with the Land. All of the Subject Property and any Dwelling Unit located thereon shall be held, sold, conveyed, encumbered, leased, occupied, used and improved subject to the Restrictions set forth in this Declaration. Said Restrictions shall constitute covenants running with the land, binding according to the terms hereof and upon all Persons having or acquiring any right, title or interest or estate in the Subject Property or any part thereof. Each Person, upon acquiring title to or any other interest, right or estate in a Lot, Dwelling Unit or Unit, or by occupying any portion of the Subject Property, shall be deemed to covenant and agree to observe, perform and comply with each and every provision of this Declaration, whether or not it shall be so expressed in the instrument by which such Person acquired such title, interest, right or estate or commenced such occupancy. Each Owner shall be fully responsible for ensuring that all guests, tenants, invitees, employees, agents and customers of the Owner strictly comply with the provisions of this Declaration, and shall be personally liable for any non-compliance.

ARTICLE IV CONDOMINIUM PROPERTY REGIME

The Declarant may establish one or more condominium property regimes on the Subject Property pursuant to the provisions of HRS Chapter 514B. If the Hapa Road Setback Area or the Hapa Trail Setback Area are located within any of the condominium units, then such units shall be subject to all the terms and conditions of this Declaration.

ARTICLE V SUBDIVISION

The Declarant may subdivide the Subject Property or portions thereof. If the Hapa Road Setback Area or the Hapa Trail Setback Area are located within any of the new Lots created by any such subdivision, then such Lots shall be subject to all of the terms and conditions of this Declaration.

ARTICLE VI USE AND DEVELOPMENT RESTRICTIONS

Section 6.1 Application of Restrictions. The Subject Property shall be subject to the use, development and all other restrictions contained herein.

Section 6.2 Use and Development Restrictions. The provisions contained herein are standards, covenants, conditions, restrictions and requirements which apply to and govern the use of, and construction and development on, the Subject Property. These restrictions supplement any other provision, restriction, covenant or condition applicable to the Subject Property under Law or by separate instrument or agreement (including any Recorded Instrument), but in the event of any conflict, the strictest provision, restriction, covenant or condition shall apply and control.

Section 6.3 Restrictions. All Improvements on, and uses of, the Subject Property shall be subject to the following restrictions:

6.3.1 No Improvements, other than Landscaping and underground utilities, shall be allowed within any Setback Area.

6.3.2 The Setback Area shall not be used as a dumping ground for rubbish, trash, garbage, broken or unused vehicles, machinery or equipment or other waste.

6.3.3 The Owner of the Setback Area shall at all times maintain it in a good, neat and clean condition, so as to prevent it from becoming unsightly, or a hazard to health. The Setback Area shall not be allowed to become overgrown with weeds, thorn bushes, guava trees or poisonous plants.

6.3.4 The Owner of the Setback Area shall at all times ensure that no recreational trailers, motor vehicles, trailers, boats, machinery, equipment, or solid materials are parked, placed or maintained within the Setback Area.

6.3.5 No part of the Setback Area shall be filled, evacuated or otherwise altered as to grade in such a manner as to adversely affect the Hapa Road Lot or the Hapa Trail Walls, or drainage thereon.

6.3.6 No television tower or antennae, radio tower, wind generator, or any other such tower or antennae shall be erected, maintained or operated within the Setback Area.

Section 6.4 Easements. Nothing herein shall prevent any Owner from granting easements for underground utilities under the Setback Area to any other Person or property, including the Utility Companies or any Governmental Entity, provided any such easement shall be subject to the terms of this Declaration.

ARTICLE VII ENFORCEMENT OF THIS DECLARATION

Section 7.1 Persons Entitled to Enforce this Declaration. The following persons (the "Enforcing Persons") shall have the right to exercise any remedy at law or in equity for the enforcement of this Declaration:

7.1.1 Any Owner.

7.1.2 The Declarant.

7.1.3 The Hapa Road Lot Owner.

Section 7.2 Breach. If any Owner or other person subject to this Declaration shall breach or fail to comply with any provision of the Declaration, and such breach or non-compliance shall not be fully remedied within fifteen (15) days after notice of the breach or non-compliance is sent to or received by the Owner or, if such breach or non-compliance cannot reasonably be remedied within said 15-day period, such Owner shall have failed to begin to remedy such non-compliance within said 15-day period and shall have failed to exercise good faith and due diligence to remedy such breach or non-compliance as soon as reasonably possible, then each Enforcing Person (except as otherwise stated) shall have the following rights and remedies:

7.2.1 Any Enforcing Person, without liability to the Owner or any other person for trespass or damages, and upon not less than five (5) days prior written notice to the Owner, may enter upon the Lot or Unit or any improvements thereon (but not into any Building on a Lot or Unit used for residential purposes) and perform, or require the Owner to perform immediately, in either case at the Owner's cost and expense, all work (including the planting, watering, fertilizing, cutting and trimming of trees, shrubbery and other vegetation) necessary or desirable to remedy such breach or non-compliance, and/or to abate summarily and remove any improvement or anything else or any condition which is not in compliance.

7.2.2 Any Enforcing Person shall have the right to commence and maintain actions and suits to require the Owner to remedy such breach or non-compliance or for specific performance, or to enforce by mandatory injunction or otherwise all of the provisions of this Declaration, or to restrain or enjoin any breach or threatened breach of this Declaration, or to recover damages.

7.2.3 Any Enforcing Person shall have the right to pursue all other rights and remedies available at law or in equity.

In any action for the enforcement of the provisions of this Declaration or for damages or any other form of relief, the prevailing party in such action shall be entitled to recover from the losing party all of the prevailing party's costs, expenses and reasonable attorneys' fees.

No remedy herein reserved is intended to be exclusive of any other remedy, but each remedy shall be cumulative and in addition to any remedy given hereunder or now or hereafter existing at law or in equity. The Enforcing Person shall have the right to hire contractors and agents in performing any work.

No Enforcing Person, nor any other person, shall have any liability whatsoever if it or any other Enforcing Person elects not to enforce any of the provisions of this Declaration or if it or any other Enforcing Person undertakes such enforcement and thereafter terminates enforcement activities or does not succeed in such enforcement activities.

ARTICLE VIII INDEMNITY

As a condition of ownership, each Owner is deemed to have agreed to the provisions of this Declaration. Each Owner shall release, indemnify, defend and hold harmless the Declarant and all other Owners from and against any and all claims arising from any breach or default in the performance of any of such Owner's obligations under, or such Owner's non-compliance with, any of the provisions of this Declaration.

ARTICLE IX ARBITRATION

Whenever this Declaration requires or permits a dispute or disagreement to be submitted to arbitration, such arbitration shall be conducted in accordance with Chapter 658A, HRS and the following provisions. The dispute or disagreement shall be submitted to one arbitrator selected by the disputing parties, or if they cannot agree, by an arbitrator selected by a judge of the Fifth Circuit Court of the State of Hawai'i. The decision of the arbitrator shall be final, conclusive and binding upon the parties. The losing party in such arbitration (as determined by the arbitrator) shall pay for all costs and expenses of the arbitration, including the prevailing party's reasonable attorneys' fees, unless the arbitrator determines that there is no losing party, in which event each party shall pay the costs of its own witnesses and attorneys and the costs of the arbitrator shall be paid equally by the parties. The arbitrator's award shall be arrived at expeditiously, in writing, and final, conclusive and binding upon all parties to the arbitration, and may be entered as an order or judgment of the Fifth Circuit Court, State of Hawai'i, unless such award is vacated, modified or corrected pursuant to Chapter 658A, HRS. Except as set forth above (and in the event of any conflict, the provisions of this Article shall control), the arbitration shall be conducted in accordance with the then applicable Rules of the American Arbitration Association unless otherwise mutually agreed by the parties.

ARTICLE X MISCELLANEOUS PROVISIONS

Section 10.1 Assignment of Rights and Duties. Declarant, its successors and assigns, shall have the right to assign, delegate, convey or transfer in any manner, to any Person(s), without limitation, all or any part of its rights, privileges, powers, interests and obligations hereunder; provided, however, that there shall at all times be only one "Declarant" who shall be the sole person authorized to give any consents or approvals required or requested of the "Declarant" under this Declaration as Declarant, or to enforce this Declaration as Declarant or take any other action as Declarant hereunder.

Section 10.2 Dedication. If any portion of the Subject Property should be dedicated in fee simple or leased to any government entity, the government entity need not comply with the provisions of this Declaration; provided, however, that should such government entity thereafter convey, license, lease, sublease, assign or transfer its interest or rights in such portion, Lot or Unit to any person who is not a government entity, such portion, Lot or Unit and

conveyance, license, lease, sublease, assignment or transfer automatically shall be subject to and governed by this Declaration, whether or not such conveyance, license, lease, sublease, assignment or transfer expressly refers to or is made subject to this Declaration.

Section 10.3 Notices. Whenever any notices are sent to an owner, such notices shall be sent to the address of the Owner as listed on the current Notice of Property Assessment Card File located at the Real Property Division of the Department of Finance of the County of Kaua'i, and shall be deemed to be received by the owner on the earlier of actual date of delivery or three business days after postmark (whether or not actually received by the Owner). If a Unit or Lot is owned by more than one person, notice to any one person shall be deemed to be notice to all such persons.

Section 10.4 Joint and Several Liability. If an Owner consists of more than one person, all of the obligations of the Owner shall constitute the joint and several obligation of all such persons. Each Owner shall be liable for all acts and omissions of such Owner's guests, invitees, agents, employees, customers and contractors, and their failure to comply with the provisions of the Declaration.

Section 10.5 Duration. As to each Lot or Unit subject to this Declaration, this Declaration shall not be amended or terminated as to such Lot or Unit without the prior written consent of: the Hapa Road Lot Owner; and the Owner of the Lot or Unit in question.

Section 10.6 Severability. The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability or any other provisions hereof.

Section 10.7 Interpretation; No Waiver. The provisions hereof shall be construed and enforced under the Laws of the State of Hawai'i and shall be liberally construed to effectuate their purpose of protecting Hapa Trail and the associated walls. The headings of paragraphs, sections and Articles herein are inserted only for ease of reference and shall not define or limit the scope or intent of any provision of this Declaration. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce thereafter said provision or to enforce any other provision hereof.

Section 10.8 Invalidity. In the event any limitation, covenant, restriction, or reservation of the Declaration is held to be invalid or unenforceable in whole or in part, by an order, judgment or decree of any court, then such decision shall in no way affect the validity of the other limitations, covenants, restrictions or reservations therein contained, and they shall remain in full force and effect.

Section 10.9 Trustees Not Personally Liable. This Declaration has been executed by the respective Trustees of the Knudsen Irrevocable Trust dated December 12, 2012, the 1996 Sinclair K. Bill Revocable Trust dated December 20, 1996, as amended, and the Eric A. Knudsen Trust in their fiduciary capacity as said Trustees, and not in their individual

capacities. No personal liability or obligation under this Agreement shall be imposed or assessed against the Trustees, or their successors in trust and assigns, in their individual capacities.

IN WITNESS WHEREOF, the Declarant has caused this Declaration Of Covenants, Conditions And Restrictions to be duly executed on the day and year first above written.

DECLARANT:

KVH, LLC, a Hawai'i limited liability company

By _____

Its

STATE OF HAWAII)
) SS:
CITY AND COUNTY OF HONOLULU)

On this _____ day of _____, 20_____, before me appeared _____, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing Declaration Of Covenants, Conditions And Restrictions dated _____, 20_____, which document consists of _____ page(s), as the free act and deed of such person, and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.

Name of Notary:
Notary Public, First Judicial Circuit,
State of Hawai'i.

My commission expires:_____

DECLARANT:

CGB PARTNERS, a Hawai'i limited partnership

By _____

Its

STATE OF _____)
) SS:
COUNTY OF _____)

On this _____ day of _____, 20____, before me appeared _____, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing Declaration Of Covenants, Conditions And Restrictions dated _____, 20____, which document consists of _____ page(s), as the free act and deed of such person, and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.

Name of Notary:
Notary Public, in and for said County and State.

My commission expires: _____

DECLARANT:

MAKANA PROPERTIES LLC,
a Hawai'i limited liability company

By _____

Its

STATE OF HAWAII)
) SS:
COUNTY OF KAUAI)

On this _____ day of _____, 20____, before me appeared _____, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing Declaration Of Covenants, Conditions And Restrictions dated _____, 20____, which document consists of _____ page(s), as the free act and deed of such person, and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.

Name of Notary:
Notary Public, Fifth Judicial Circuit,
State of Hawai'i.

My commission expires: _____

DECLARANT:

MOIR FAMILY LIMITED PARTNERSHIP,
a Hawai'i limited partnership,

By: MAKANA KAUAI LLC, a Hawai'i limited
liability company, Its General Partner

By _____

Its

STATE OF _____)
) SS:
COUNTY OF _____)

On this _____ day of _____, 20____, before me appeared _____, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing Declaration Of Covenants, Conditions And Restrictions dated _____, 20____, which document consists of _____ page(s), as the free act and deed of such person, and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.

Name of Notary:
Notary Public, in and for said County and State.

My commission expires: _____

DECLARANT:

AUKAHI FARM LLC,
a Hawai'i limited liability company

By _____

Its

STATE OF HAWAII)
) SS:
COUNTY OF KAUAI)

On this _____ day of _____, 20____, before me appeared _____, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing Declaration Of Covenants, Conditions And Restrictions dated _____, 20____, which document consists of _____ page(s), as the free act and deed of such person, and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.

Name of Notary:
Notary Public, Fifth Judicial Circuit,
State of Hawai'i.

My commission expires: _____

DECLARANT:

JOCELYN BENSON, Trustee of that certain
unrecorded Knudsen Irrevocable Trust dated
December 12, 2012

STATE OF _____)
) SS:
COUNTY OF _____)

On this _____ day of _____, 20____, before me appeared JOCELYN BENSON, Trustee of that certain unrecorded Knudsen Irrevocable Trust dated December 12, 2012, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing Declaration Of Covenants, Conditions And Restrictions dated _____, 20____, which document consists of _____ page(s), as the free act and deed of such person, and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.

Name of Notary:
Notary Public, in and for said County and State.

My commission expires:_____

DECLARANT:

ABIGAIL G. BUCK, Co-Trustee under that certain
unrecorded 1996 Sinclair K. Bill Revocable Trust
dated December 20, 1996, as amended

STATE OF _____)
) SS:
COUNTY OF _____)

On this _____ day of _____, 20____, before me appeared
ABIGAIL G. BUCK, Co-Trustee under that certain unrecorded 1996 Sinclair K. Bill Revocable
Trust dated December 20, 1996, as amended, to me personally known, who, being by me duly
sworn or affirmed, did say that such person executed the foregoing Declaration Of Covenants,
Conditions And Restrictions dated _____, 20____, which document consists of
_____ page(s), as the free act and deed of such person, and if applicable, in the capacities
shown, having been duly authorized to execute such instrument in such capacities.

Name of Notary:
Notary Public, in and for said County and State.

My commission expires: _____

DECLARANT:

ELI HUNTER WOOTEN, Co-Trustee under that
certain unrecorded 1996 Sinclair K. Bill Revocable
Trust dated December 20, 1996, as amended

STATE OF _____)
) SS:
COUNTY OF _____)

On this _____ day of _____, 20____, before me appeared
ELI HUNTER WOOTEN, Co-Trustee under that certain unrecorded 1996 Sinclair K. Bill
Revocable Trust dated December 20, 1996, as amended, to me personally known, who, being by
me duly sworn or affirmed, did say that such person executed the foregoing Declaration Of
Covenants, Conditions And Restrictions dated _____, 20____, which document
consists of _____ page(s), as the free act and deed of such person, and if applicable, in the
capacities shown, having been duly authorized to execute such instrument in such capacities.

Name of Notary:
Notary Public, in and for said County and State.

My commission expires: _____

DECLARANT:

JOHN HORWITZ, Successor Co-Trustee of the
Eric A. Knudsen Trust under Deed of Trust dated
April 30, 1922, recorded in Liber 639 at Page 326,
and also filed as Land Court Document No. 27057,
as amended

STATE OF _____)
) SS:
COUNTY OF _____)

On this _____ day of _____, 20_____, before me appeared
JOHN HORWITZ, Successor Co-Trustee of the Eric A. Knudsen Trust under Deed of Trust
dated April 30, 1922, recorded in Liber 639 at Page 326, and also filed as Land Court Document
No. 27057, as amended, to me personally known, who, being by me duly sworn or affirmed, did
say that he executed the foregoing Declaration Of Covenants, Conditions And Restrictions dated
_____, 20_____, which document consists of _____ page(s), as his free act
and deed, and if applicable, in the capacities shown, having been duly authorized to execute such
instrument in such capacities.

Name of Notary:
Notary Public, in and for said County and State.

My commission expires: _____

DECLARANT:

PETER BALDWIN, Successor Co-Trustee of the
Eric A. Knudsen Trust under Deed of Trust dated
April 30, 1922, recorded in Liber 639 at Page 326,
and also filed as Land Court Document No. 27057,
as amended

STATE OF HAWAII)
) SS:
COUNTY OF KAUAI)

On this _____ day of _____, 20____, before me appeared
PETER BALDWIN, Successor Co-Trustees of the Eric A. Knudsen Trust under Deed of Trust
dated April 30, 1922, recorded in Liber 639 at Page 326, and also filed as Land Court Document
No. 27057, as amended, to me personally known, who, being by me duly sworn or affirmed,
did say that he executed the foregoing Declaration Of Covenants, Conditions And Restrictions
dated _____, 20____, which document consists of _____ page(s), as his free act
and deed, and if applicable, in the capacities shown, having been duly authorized to execute such
instrument in such capacities.

Name of Notary:
Notary Public, Fifth Judicial Circuit,
State of Hawai'i.

My commission expires: _____

DECLARANT:

MATTHEW B. GUARD, Successor Co-Trustee of
the Eric A. Knudsen Trust under Deed of Trust
dated April 30, 1922, recorded in Liber 639 at
Page 326, and also filed as Land Court Document
No. 27057, as amended

STATE OF _____)
) SS:
COUNTY OF _____)

On this _____ day of _____, 20____, before me appeared
MATTHEW B. GUARD, Successor Co-Trustee of the Eric A. Knudsen Trust under Deed of
Trust dated April 30, 1922, recorded in Liber 639 at Page 326, and also filed as Land Court
Document No. 27057, as amended, to me personally known, who, being by me duly sworn or
affirmed, did say that he executed the foregoing Declaration Of Covenants, Conditions And
Restrictions dated _____, 20____, which document consists of _____
page(s), as his free act and deed, and if applicable, in the capacities shown, having been duly
authorized to execute such instrument in such capacities.

Name of Notary:
Notary Public, in and for said County and State.

My commission expires: _____

DECLARANT:

GEORGE R. ROBINSON, Successor Co-Trustee of
the Eric A. Knudsen Trust under Deed of Trust
dated April 30, 1922, recorded in Liber 639 at
Page 326, and also filed as Land Court Document
No. 27057, as amended

STATE OF _____)
) SS:
COUNTY OF _____)

On this _____ day of _____, 20____, before me appeared
GEORGE R. ROBINSON, Successor Co-Trustee of the Eric A. Knudsen Trust under Deed of
Trust dated April 30, 1922, recorded in Liber 639 at Page 326, and also filed as Land Court
Document No. 27057, as amended, to me personally known, who, being by me duly sworn or
affirmed, did say that he executed the foregoing Declaration Of Covenants, Conditions And
Restrictions dated _____, 20____, which document consists of _____
page(s), as his free act and deed, and if applicable, in the capacities shown, having been duly
authorized to execute such instrument in such capacities.

Name of Notary:
Notary Public, in and for said County and State.

My commission expires: _____

EXHIBIT "A"

PARCEL I:

All of that certain parcel of land situate at Koloa, Island and County of Kauai, State of Hawaii, described as follows:

LOT 171, area 75.016 acres, more or less, as shown on Map 18, filed with Land Court Application No. 956 of Bishop Trust Company, Limited, Trustee of Eric A. and Augustus F. Knudsen.

Being a portion of that land identified by Kauai Tax Map Key No. (4) 2-8-014:019.

Being a portion of the land described in Transfer Certificate of Title No. 567,200.

PARCEL II:

All of that certain parcel of land situate at Koloa, Island and County of Kauai, State of Hawaii, described as follows:

LOT 172, area 47.027 acres, more or less, as shown on Map 18, filed with Land Court Application No. 956 of Bishop Trust Company, Limited, Trustee of Eric A. and Augustus F. Knudsen.

Being a portion of that land identified by Kauai Tax Map Key No. (4) 2-8-014:001.

Being a portion of the land described in Transfer Certificate of Title No. 567,200.

PARCEL III:

All of that certain parcel of land situate at Koloa, Island and County of Kauai, State of Hawaii, described as follows:

LOT 181-C, area 10.393 acres, more or less, as shown on Map 59, filed with Land Court Application No. 956 of Bishop Trust Company, Limited, Trustee of Eric A. and Augustus F. Knudsen.

Being a portion of that land identified by Kauai Tax Map Key No. (4) 2-8-014:001.

Being a portion of the land described in Transfer Certificate of Title No. 567,200.

PARCEL IV:

All of that certain parcel of land situate at Koloa, Island and County of Kauai, State of Hawaii, described as follows:

LOT 490, area 35.234 acres, more or less, as shown on Map 121, filed with Land Court Application No. 956 of Bishop Trust Company, Limited, Trustee of Eric A. and Augustus F. Knudsen.

Being a portion of that land identified by Kauai Tax Map Key No. (4) 2-8-014:019.

Being a portion of the land described in Transfer Certificate of Title No. 967,408.

PARCEL V:

All of those certain parcels of land situate at Koloa, District of Koloa, Island and County of Kauai, State of Hawaii, described as follows:

<u>LOT</u>	<u>AREA</u>	<u>TAX KEY</u>	<u>MAP</u>
433	7,311 square feet	(4) 2-8-032:001	121
434	7,222 square feet	(4) 2-8-032:002	121
435	6,899 square feet	(4) 2-8-032:003	121
436	6,895 square feet	(4) 2-8-032:004	121
437	6,735 square feet	(4) 2-8-032:005	121
438	7,789 square feet	(4) 2-8-032:006	121
439	7,185 square feet	(4) 2-8-032:007	121
483	2,334 square feet	(4) 2-8-032:051	121
484	2,177 square feet	(4) 2-8-032:052	121

filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 956 of the Trustee for Eric A. and Augustus F. Knudsen.

Being a portion of the land described in Transfer Certificate of Title 967,408.

PARCEL VI:

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Royal Patent Number 4178, Land Commission Award Number 3326, Apana 2 to Wahapuu) situate, lying and being at Weliweli, District of Koloa, Island and County of Kauai, State of Hawaii, being Exclusion 19 of Land Court Application No. 956, and thus bounded and described:

Beginning at a concrete post marked "+" at the south corner of this piece of land, the coordinates of said point beginning referred to Government Survey Triangulation Station "PAA" being 1,296.2 feet north and 4,999.5 feet west and running by true azimuths:

1. 165° 31' 151.5 feet to a pipe;
2. 200° 38' 60.1 feet to a pipe;
3. 293° 35' 213.7 feet to a pipe;
4. 8° 30' 84.7 feet to a pipe;
5. 78° 35' 170.0 feet to the point of beginning and containing an area of 0.66 acre, more or less.

PARCELL VII:

All of that certain parcel of land situate at Koloa, Island and County of Kauai, State of Hawaii, described as follows:

LOT 428, area 5.136 acres, more or less, as shown on Map 113, filed with Land Court Application No. 956 of Bishop Trust Company, Limited, Trustee of Eric A. and Augustus F. Knudsen.

Being a portion of that land identified by Kauai Tax Map Key No. (4) 2-8-014:020.

Being a portion of the land described in Transfer Certificate of Title No. 1,054,908.

PARCEL VIII:

All of that certain parcel of land situate at Koloa, Island and County of Kauai, State of Hawaii, described as follows:

LOT 429, area 5.093 acres, more or less, as shown on Map 113, filed with Land Court Application No. 956 of Bishop Trust Company, Limited, Trustee of Eric A. and Augustus F. Knudsen.

Being a portion of that land identified by Kauai Tax Map Key No. (4) 2-8-014:021.

Being a portion of the land described in Transfer Certificate of Title No. 1,054,908.

EXHIBIT "9"

TOM PETRUS & MILLER, LLC

MICHAEL D. TOM 1655-0
mtom@tpm-hawaii.com
JOSEPH F. KOTOWSKI, III 7973-0
jkotowski@tpm-hawaii.com
Finance Factors Center, Suite 650
1164 Bishop Street
Honolulu, Hawaii 96813
Telephone: (808) 792-5800
Facsimile: (808) 792-5809
Attorneys for Defendant
STACEY T. J. WONG, as Successor Trustee
of the ERIC A. KNUDSEN TRUST

IN THE CIRCUIT COURT OF THE FIFTH CIRCUIT

STATE OF HAWAII

THEODORE K. BLAKE,

Plaintiff,

vs.

COUNTY OF KAUA'I PLANNING
COMMISSION; *et al.*,

Defendants.

CIVIL NO. 09-1-0069

STIPULATION TO SUBSTITUTE PARTIES
AND TO STAY ACTION

TRIAL DATE: Not set

STIPULATION TO SUBSTITUTE PARTIES AND TO STAY ACTION

IT IS HEREBY STIPULATED, by and between the parties herein, through their respective counsel, that GEORGE R. ROBINSON, MATTHEW B. GUARD, PETER BALDWIN and JOHN HORWITZ be substituted for Defendant STACEY T. J. WONG, as Successor Co-Trustees of the ERIC A. KNUDSEN TRUST and that the caption herein be so amended.

IT IS FURTHER STIPULATED that the action be stayed until ***.

DATED: Honolulu, Hawaii, _____.

MICHAEL D. TOM
JOSEPH F. KOTOWSKI, III

Attorneys for Defendant
STACEY T. J. WONG, as Successor Trustee of
the ERIC A. KNUDSEN TRUST

DAVID KIMO FRANKEL

Attorney for Plaintiff
THEODORE K. BLAKE

LINDA L. W. CHOW

Attorney for Defendants DEPARTMENT OF
LAND AND NATURAL RESOURCES,
BOARD OF LAND AND NATURAL
RESOURCES and WILLIAM AILA, JR.

MAUNAKEA TRASK
ADAM P. ROVERSI

Attorneys for Defendants
COUNTY OF KAUA'I PLANNING
COMMISSION, COUNTY OF KAUA'I
PLANNING DEPARTMENT and IAN COSTA

Civil No. 09-1-0069, Theodore K. Blake, Plaintiff vs. County of Kaua'i Planning Commission,
et al., Defendants, "Stipulation to Substitute Parties and to Stay Action"

EXHIBIT "10"

TOM PETRUS & MILLER, LLC

MICHAEL D. TOM
mtom@tpm-hawaii.com
Finance Factors Center, Suite 650
1164 Bishop Street
Honolulu, Hawaii 96813
Telephone: (808) 792-5800
Facsimile: (808) 792-5809
Attorneys for Defendant
STACEY T. J. WONG, as Successor Trustee
of the ERIC A. KNUDSEN TRUST

1655-0

IN THE CIRCUIT COURT OF THE FIFTH CIRCUIT

STATE OF HAWAII

THEODORE K. BLAKE,

Plaintiff,

vs.

COUNTY OF KAUAI PLANNING
COMMISSION; *et al.*,

Defendants.

CIVIL NO. 09-1-0069

STIPULATION FOR DISMISSAL WITH
PREJUDICE OF ALL CLAIMS AND
PARTIES

Judge: Honorable Kathleen N. A. Watanabe

TRIAL DATE: Not set

STIPULATION FOR DISMISS WITH PREJUDICE OF ALL CLAIMS AND PARTIES

IT IS HEREBY STIPULATED, by and between the parties herein, through their respective counsel, that that the claims made by Plaintiff in the Complaint for Declaratory and Injunctive Relief, filed March 12, 2009, and in the First Amended Complaint for Declaratory and Injunctive Relief, filed August 20, 2009 are dismissed with prejudice, each party to bear its own attorneys' fees and costs.

The stipulations are made pursuant to Rules 41 (a)(1)(B) and 41.1 of the Hawaii Rules of Civil Procedure. The dismissal shall operate as an adjudication on the merits. All other claims

and parties are dismissed.

This stipulation is signed by all parties in this action. There remain no other parties in the action.

DATED: Honolulu, Hawaii, _____.

MICHAEL D. TOM

Attorneys for Defendant
STACEY T. J. WONG, as Successor Trustee of
the ERIC A. KNUDSEN TRUST

DAVID KIMO FRANKEL

Attorney for Plaintiff
THEODORE K. BLAKE

LINDA L. W. CHOW

Attorney for Defendants DEPARTMENT OF
LAND AND NATURAL RESOURCES,
BOARD OF LAND AND NATURAL
RESOURCES and SUZANNE CASE, in her official
capacity as chair of the Department of Land and
Natural Resources

MAUNAKEA TRASK
ADAM P. ROVERSI

Attorneys for Defendants
COUNTY OF KAUA'I PLANNING
COMMISSION, COUNTY OF KAUA'I
PLANNING DEPARTMENT and MICHAEL
DAHILIG, in his official capacity as planning
director

//

APPROVED AND SO ORDERED:

Kathleen N. A. Watanabe

Civil No. 09-1-0069, Theodore K. Blake, Plaintiff vs. County of Kaua'i Planning Commission, et al., Defendants, "Stipulation For Dismissal with Prejudice of all Claims and Parties"

EXHIBIT "11"

TOM PETRUS & MILLER, LLLC

MICHAEL D. TOM 1655-0
mtom@tpm-hawaii.com
JOSEPH F. KOTOWSKI, III 7973-0
jkotowski@tpm-hawaii.com
Finance Factors Center, Suite 650
1164 Bishop Street
Honolulu, Hawaii 96813
Telephone: (808) 792-5800
Facsimile: (808) 792-5809

Attorneys for Defendant
STACEY T.J. WONG, as Successor Trustee
of the Eric A. Knudsen Trust

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

Theodore Kawahinehelelani Blake,	)	Civil No. 12-1-2491-10 RAN
	)	(Declaratory Judgment)
Plaintiff,)	
	)	STIPULATION FOR DISMISSAL WITH
vs.	)	PREJUDICE OF ALL CLAIMS AND
	)	PARTIES; ORDER
Board of Land and Natural Resources, the)	
Department of Land and Natural Resources,)	
William Aila, Jr. in his official capacity as)	
Chairperson of the Board of Land and)	
Natural Resources and Stacey T.J. Wong, as	)	JUDGE: RHONDA A. NISHIMURA
Successor Trustee of the Eric A. Knudsen)	
Trust,	)	Trial Date: No Trial Date
)	
Defendants.)	
)	
)	
<hr/> Theodore Kawahinehelelani Blake,	)	Civil No. 12-1-2492-10 RAN
	)	(Agency Appeal)
Appellant,)	
vs.)	
)	
Board of Land and Natural Resources, the)	
Department of Land and Natural Resources,)	
William Aila, Jr. in his official capacity as	)	JUDGE: RHONDA A. NISHIMURA
Chairperson of the Board of Land and)	
<hr/>)	

Natural Resources and Stacey T.J. Wong, as)
 Successor Trustee of the Eric A. Knudsen)
 Trust,)
)
 Appellees.)
 _____)

STIPULATION FOR DISMISSAL WITH PREJUDICE OF ALL CLAIMS AND PARTIES

IT IS HEREBY STIPULATED, by and between the parties herein, through their respective counsel, that the claims made by Plaintiff THEODORE KAWAHINEHELELANI BLAKE in the Complaint filed on October 3, 2012 against Defendants Board of Land and Natural Resources, the Department of Land and Natural Resources, William Aila, Jr. in his official capacity as Chairperson of the Board of Land and Natural Resources and Stacey T.J. Wong, as Successor Trustee of the Eric A. Knudsen Trust and the claims made by Appellant THEODORE KAWAHINEHELELANI BLAKE in the Appeal filed on October 3, 2012 against Defendants Board of Land and Natural Resources, the Department of Land and Natural Resources, William Aila, Jr. in his official capacity as Chairperson of the Board of Land and Natural Resources and Stacey T.J. Wong, as Successor Trustee of the Eric A. Knudsen Trust are dismissed with prejudice, each party to bear its own attorneys' fees and costs. This stipulation is made pursuant to Rules 41(a)(1)(B) and 41.1 of the Hawaii Rules of Civil Procedure.

This stipulation is signed by all parties appearing in this action. There are no remaining parties, claims, and/or issues, and all claims and parties in the instant action are hereby dismissed with prejudice. The dismissal shall act as an adjudication on the merits.

//
 //
 //
 //

DATED: Honolulu, Hawaii, _____

MICHAEL D. TOM
JOSEPH F. KOTOWSKI, III
Attorneys for Defendant and Appellee
STACEY T.J. WONG, as Successor Trustee
of the Eric A. Knudsen Trust

DAVID KIMO FRANKEL
Attorney for Plaintiff and Appellant
THEODORE K. BLAKE

LINDA L.W. CHOW
Attorney for Defendant and Appellees
DEPARTMENT OF LAND AND NATURAL
RESOURCES, BOARD OF LAND AND
NATURAL RESOURCES and
WILLIAM AILA, JR.

APPROVED AND SO ORDERED:

JUDGE OF THE ABOVE-ENTITLED COURT

Civil No. 12-1-2491-10 RAN and Civil No. 12-1-2492-10 RAN
Theodore Kawahinehelelani Blake, Plaintiff vs. Board of Land and Natural Resources, et al.,
Defendants, et al., "STIPULATION FOR DISMISSAL WITH PREJUDICE OF ALL CLAIMS
AND PARTIES; ORDER"