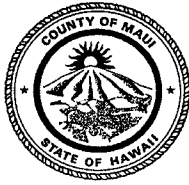


ALAN M. ARAKAWA
Mayor



RECEIVED
GLADYS C. BAISA
Director

2018 SEP 17 5:11 PM
SHAYNE B. AGAWA, P.E.
Deputy Director

OFFICE OF THE MAYOR

DEPARTMENT OF WATER SUPPLY

COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793-2155
www.mauewater.org

September 17, 2018

Honorable Alan M. Arakawa
Mayor, County of Maui
200 South High Street
Wailuku, Hawaii 96793

For Transmittal to:

Honorable Yuki Lei Sugimura
Chair Policy, Economic Development, and Agriculture Committee
200 South High Street
Wailuku, Hawaii 96793

Dear Chair Sugimura:

SUBJECT: **APPROVING THE ACQUISITION OF APPROXIMATELY 262 ACRES IN
PULEHUUI AND OMAOPIO (MAKAWAO) (PEA-71)**

Transmitted herewith in response to your letter dated August 21, 218, please find attached the "Emi Water Delivery Agreement," dated September 14, 2018 and the "Upcountry Maui Agricultural Park Water Delivery Agreement," dated September 14, 2018.

Should you have any questions, please contact Wendy Taomoto at Ext. 7669.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Baisa".

GLADYS C. BAISA
Director of Water Supply

GB:WKT

Attachments

xc: Wendy Taomoto, Engineering Program Manager

"By Water All Things Find Life"

UPCOUNTRY MAUI AGRICULTURAL PARK WATER DELIVERY AGREEMENT

THIS UPCOUNTRY MAUI AGRICULTURAL PARK WATER DELIVERY AGREEMENT ("Agreement") is made on September 14, 2018, by and between ALEXANDER & BALDWIN, LLC, a Delaware limited liability company, whose mailing address is 822 Bishop Street, Honolulu, Hawaii 96813, hereinafter referred to as "A&B", and the COUNTY OF MAUI, for its Department of Water Supply, whose principal place of business and mailing address is 200 South High Street, Wailuku, Hawaii 96793, hereinafter referred to as the "County".

Background of this Agreement

A. The County and A&B contemplate entering into a Real Property Purchase and Sale Agreement (the "Purchase Contract") pursuant to which the County will acquire approximately 262 acres of land for purposes of establishing the initial increment ("Increment 1") of a new County agricultural park (the "Upcountry Maui Agricultural Park"), such parcel being identified as Tax Map Key No. (2) 2-5-001:002.

B. A&B and its subsidiary, East Maui Irrigation Company, LLC ("EMI"), own and operate a system for the collection and transmission of surface water via the Wailoa and Hamakua Ditches (the "Ditch System").

C. The Ditch System delivers non-potable water to Reservoir 40, which is located on an A&B-owned parcel near the County's existing Kula Agricultural Park ("Existing Agricultural Park") and Increment 1, such parcel being identified as Tax Map Key No. (2) 2-5-002:001.

D. Pursuant to an existing agreement between EMI, A&B and the County ("Existing Agreement"), the County currently may draw up to 1.5 million gallons per day ("MGD") of water from the Ditch System by way of two (2) County pumps located on the Hamakua Ditch (collectively, the "Ag Park Pump") above the inlet to Reservoir 40 to provide non-potable water for certain agricultural uses.

E. In its June 2018 Interim Instream Flow Standard (IIFS) decision for East Maui streams, the State Commission on Water Resource Management ("CWRM") ordered significant reductions in the offstream diversions that source the Ditch System, and also urged improvements in water delivery systems to minimize leakage and waste.

F. At present, in order for the County to operate the Ag Park Pump, EMI must send an additional 1.0 MGD of water down the Hamakua Ditch above the 1.5 MGD that the County may withdraw. In light of the recent IIFS decision, and consistent with CWRM's directives, it would be prudent to improve the infrastructure to more efficiently use water from the Ditch System. Specifically, relocating the Ag Park Pump to the outlet of Reservoir 40 is expected to result in water savings of at least 1.0 MGD of water, which savings A&B believes is sufficient to meet the anticipated water needs of Increment 1.

G. Accordingly, A&B and the County want to document certain agreements regarding the Ditch System, Reservoir 40, and the delivery of water to Increment 1 of the Upcountry Maui Agricultural Park, all as set forth in this Agreement.

NOW, THEREFORE, A&B and the County hereby agree as follows:

1. Relocation of the Ag Park Pump to Reservoir 40. The County agrees to relocate the Ag Park Pump to a mutually-agreeable location at Reservoir 40 (the "Pump Improvements"). The County shall complete the Pump Improvements as soon as reasonably practicable following the close of the County's purchase of Increment 1, subject to release of funding from the State of Hawaii. In the event that the Pump Improvements are not completed for any reason, the County understands that only approximately 119 acres out of the total 262 acres can be irrigated directly from Reservoir 40 via gravity feed.

2. Delivery of Ditch System Water for Increment 1. A&B agrees that the County may draw from Reservoir 40 1.0 MGD of non-potable water to serve Increment 1. This 1.0 MGD is in addition to the 1.5 MGD that the County may draw under the Existing Agreement. Meters or other means to measure the County's withdrawals from Reservoir 40 shall be installed by the County at the points of withdrawal. Subject to Section 9 (Force Majeure), it shall be the responsibility of A&B to assure sufficient ditch flow to accommodate the non-potable water needs of Increment 1, in the amount stated herein, in a manner that will not diminish the County's maximum allowable withdrawals from the Wailoa Ditch for the County's Kamole Weir Water Treatment Facility and from the Hamakua Ditch for the Existing Agricultural Park pursuant to the terms of the Existing Agreement and that will abide by CWRM's IIFS decisions.

3. Water Delivery Charges. The County shall pay to A&B the sum of six cents per thousand gallons delivered by A&B to the County under this Agreement. No other fees or charges shall apply to the delivery of this water. It is understood that to change the rate, the parties will execute an amendment to this Agreement.

4. Maintenance. Subject to Section 9 (Force Majeure), A&B agrees to maintain, until such time that each are conveyed to the County, if any, Reservoir 40, A&B's existing storage cistern, the transmission ditch at the upper edge of Increment 1, the transmission ditch between Reservoir 40 and Increment 1, A&B's existing pump near the Ag Park Pump, and the 10" supply line between A&B's pump and Increment 1, provided that this commitment does not include making upgrades or improvements to such facilities relating to the County's development or use of Increment 1.

5. Term. This Agreement shall take effect upon the close of the County's purchase of Increment 1 and shall have a one-year term that shall automatically renew every year subject to EMI's continued receipt of permits or receipt of a lease from the State Board of Land and Natural Resources ("BLNR") to collect surface water sources that feed the Ditch System. If the BLNR grants EMI a long-term lease, this Agreement may be terminated on no less than twelve (12) months prior notice and during that period the parties shall negotiate in good faith for a long-term replacement of this Agreement to be executed concurrently with the effective date of

the termination of this Agreement.

6. Right of Entry. A&B hereby grants the County, its employees, agents, consultants and contractors a right-of-entry onto the premises designated as Tax Map Key Nos. (2) 2-5-001:002 and (2) 2-5-002:001 for the following purposes: a) surveying, planning, design, construction, and access to perform any work necessary to complete the Pump Improvements; b) until such time that easements are granted to the County pursuant to Paragraph 7 below, access to the Ditch System and Reservoir 40, including the right to maintain, operate, repair, and replace the Pump Improvements, associated pipelines, and related equipment and appurtenances necessary or expedient for the proper maintenance, operation, or repair of the Pump Improvements and associated pipelines; and c) access to and use of A&B's existing storage cistern, the transmission ditch at the upper edge of Increment 1, the transmission ditch between Reservoir 40 and Increment 1, A&B's existing pump near the Ag Park Pump, and the 10" supply line between A&B's pump and Increment 1. The County shall indemnify and hold A&B harmless from and against all claims for property damage, personal injury, or wrongful death arising out of or in connection with this right of entry, to the extent that the County's liability for such damage, loss or injury has been determined by a court of competent jurisdiction or otherwise agreed to by the County, and further, to the extent the payment for such damage, loss or injury is permitted by law and approved by the Maui County Council.

7. Easements. Upon completion of the Pump Improvements and any other improvements on A&B's lands, the County shall have a licensed surveyor prepare easement maps for such improvements and for its access and operational purposes. At such time, A&B and the County shall execute and record such easements over A&B's lands as are necessary for the improvements, access and operational purposes and for the County to transport water from Reservoir 40 to the Existing Agricultural Park, the other properties, and Increment 1 for no consideration.

8. Agreement Limited to Increment 1. The additional 1.0 MGD of water delivered under this Agreement is for use only at Increment 1. Supply of irrigation water to future increments of the Upcountry Maui Agricultural Park is subject to further agreement between the parties. Except with respect to the relocation of the Ag Park Pump, this Agreement does not affect the terms and conditions of water delivery under the Existing Agreement.

9. Conditions on Commitments; Force Majeure. The commitments in this Agreement shall be subject to (a) such standards, limitations and conditions that the CWRM or the BLNR impose from time to time in connection with interim instream flow standards and the state water permits/lease for the East Maui streams, and (b) other actions, orders and decisions of CWRM, BLNR and other government agencies, the orders and judgments of courts of competent jurisdiction, and to all other conditions and events including droughts, as declared by the Director of the County Department of Water Supply, and natural disasters beyond the control of the parties.

10. Governing Law. This Agreement shall be governed by the laws of the State of Hawaii.

11. Severability. If any provision of this Agreement or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby.

12. Assignees and Successors. This Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and permitted assigns.

13. Amendments. This Agreement may not be amended unless mutually agreed to in writing and signed by the parties hereto.

14. Default. If party fails cure a default on its obligations under this Agreement within thirty days of notice of such default, the non-defaulting party may pursue any remedies available to it at law or in equity. The prevailing party in any action arising from or relating to this Agreement shall be entitled to an award of its reasonable attorneys' fees and costs.

15. No Third-Party Beneficiary. Except as may be expressly set forth herein, no third-party beneficiaries are intended to be created by this Agreement or by any of the terms hereof. No person or entity other than A&B or the County, their successors or assigns, shall be entitled to claim any rights under, or to enforce any of the provisions hereof.

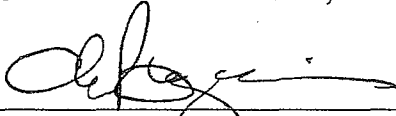
16. Capacity. Pursuant to Section 18-215 of the Delaware Limited Liability Company Act, A&B established within itself Series T, to which its rights and obligations with respect to the Memorandum have been allocated. A&B enters into this Amendment on behalf of said Series T.

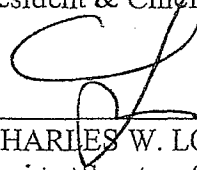
17. Counterparts. This Agreement may be executed in counterparts, and said execution shall have the same effect as if all parties executed the same original copy hereof.

[Rest of page left intentionally blank; signature pages follow.]

IN WITNESS WHEREOF, A&B and the County have executed this instrument the day and year first above written.

ALEXANDER & BALDWIN, LLC


By: 
CHRISTOPHER J. BENJAMIN
President & Chief Executive Officer, Series T

By: 
CHARLES W. LOOMIS
Assistant Secretary, Series T

COUNTY OF MAUI

By: 
ALAN M. ARAKAWA
Its Mayor

APPROVAL RECOMMENDED:


GLADYS C. BAISA
Director
Department of Water Supply

REVIEWED AS TO FORM AND
LEGALITY:

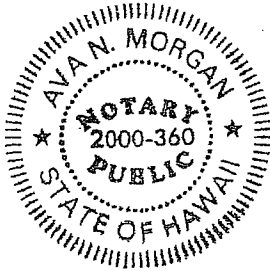

JENNIFER M.P.E. OANA
Deputy Corporation Counsel
County of Maui

STATE OF HAWAII

CITY AND COUNTY OF HONOLULU

)
) SS:
)

On this 14th day of September, 2018, before me personally appeared CHRISTOPHER J. BENJAMIN, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and in the capacity shown, having been duly authorized to execute such instrument in such capacity.



(Official Stamp or Seal)

A handwritten signature of Ava N. Morgan in black ink.

Name: Ava N. Morgan
Notary Public, State of Hawaii

My commission expires: 07/23/2020

NOTARY CERTIFICATION STATEMENT

Document Identification or Description: UPCOUNTRY MAUI
AGRICULTURAL PARK WATER DELIVERY AGREEMENT

Doc. Date: September 14, 2018 or ☐ Undated at time of notarization

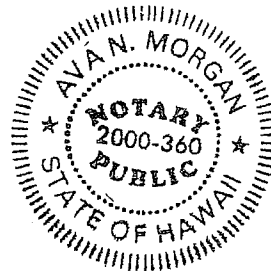
No. of Pages: 9

Jurisdiction: First Circuit
(in which notarial act is performed)

Signature of Notary

Ava N. Morgan
Printed Name of Notary

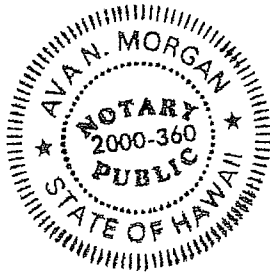
09/14/2018
Date of Notarization and
Certification Statement



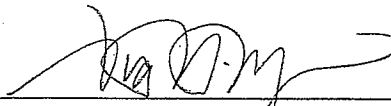
(Official Stamp or Seal)

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

On this 14th day of September, 2018, before me personally appeared CHARLES W. LOOMIS, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and in the capacity shown, having been duly authorized to execute such instrument in such capacity.



(Official Stamp or Seal)


Name: Ava N. Morgan
Notary Public, State of Hawaii

My commission expires: 07/23/2020

NOTARY CERTIFICATION STATEMENT

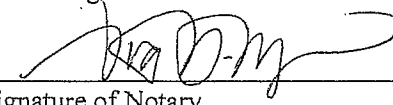
Document Identification or Description: UPCOUNTRY MAUI
AGRICULTURAL PARK WATER DELIVERY AGREEMENT

Doc. Date: September 14, 2018 or ☐ Undated at time of notarization

No. of Pages: 9

Jurisdiction: First Circuit

(in which notarial act is performed)

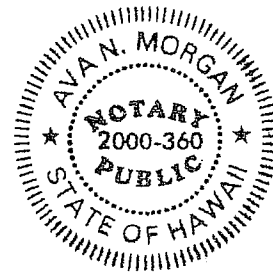

Signature of Notary

09/14/2018

Date of Notarization and
Certification Statement

Ava N. Morgan

Printed Name of Notary



(Official Stamp or Seal)

STATE OF HAWAII

)

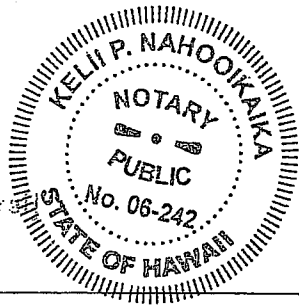
)SS.

COUNTY OF MAUI

)

On this 14th day of September, 2018, before me personally appeared **ALAN M. ARAKAWA**, to me personally known, who being by me duly sworn, did say that he is the Mayor of the County of Maui, a political subdivision of the State of Hawaii, and that the seal affixed to the foregoing instrument is the lawful seal of the said County of Maui, and that the said instrument was signed and sealed on behalf of said County of Maui by authority of its Charter; and the said **ALAN M. ARAKAWA** acknowledged the said instrument to be the free act and deed of the said County of Maui.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



Kelii P. Nahookaika

NOTARY PUBLIC, State of Hawaii.

Print Name: KELII P. NAHOOIKAICA

My commission expires: 4-30-22

NOTARY PUBLIC CERTIFICATION

Doc Date: 9-14-18

#Pages 9

Notary Name KELII P. NAHOOIKAICA

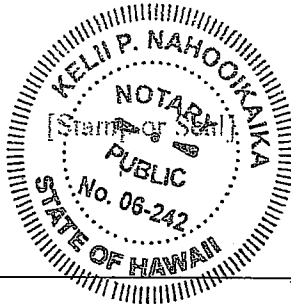
Judicial Circuit: 2nd

Doc. Description:

upcountry mau: agricultural park water
delivery agreement

Notary Signature: Kelii P. Nahookaika

Date: 9-14-18



EMI WATER DELIVERY AGREEMENT

THIS EMI WATER DELIVERY AGREEMENT ("Agreement") is made and entered into this 14th day of September, 2018, by and between EAST MAUI IRRIGATION COMPANY, LLC, a Hawaii limited liability company (successor by conversion to, and formerly known as East Maui Irrigation Company, Limited, a Hawaii corporation), whose mailing address is P.O. Box 266, Puunene, Hawaii 96784, hereinafter referred to as "EMI", ALEXANDER & BALDWIN, LLC, a Delaware limited liability company (successor by conversion of Alexander & Baldwin, Inc. and its division, HAWAIIAN COMMERCIAL & SUGAR COMPANY ("HC&S")), whose mailing address is P.O. Box 266, Puunene, Hawaii 96784, hereinafter referred to as "A&B", and the COUNTY OF MAUI, for its Department of Water Supply, whose principle place of business and mailing address is 200 South High Street, Wailuku, Hawaii 96793, hereinafter referred to as the "County".

Background of this Agreement

A. A&B and EMI own and operate a system for the collection and transmission of surface water from East Maui to Central and Upcountry Maui water via a series of ditches, tunnels and other improvements, including the Wailoa and Hamakua Ditches (the "Ditch System").

B. The County draws water from the Ditch System from the Wailoa Ditch to supply the County's Kamole Weir Water Treatment Facility, from the Hamakua Ditch to supply the County's Kula Agricultural Park, and from other points.

C. On December 31, 1973, the County Board of Water Supply entered in a Memorandum of Understanding with East Maui Irrigation Company, Limited and Alexander & Baldwin, Inc. concerning the County's draws of water from the Ditch System, which subsequently was amended, supplemented and extended by (1) letter agreement dated July 27, 1982 re Kula Agricultural Park, (2) Amendment dated May 1, 1992, (3) Second Amendment dated April 25, 1994, (4) Third Amendment dated January 3, 1996, (5) Agreement Re 1973 Memorandum of Understanding, Repairs to Waikamoi Water System, Construction of Reservoir at Kamole Weir dated March 21, 1996, (6) Fourth Amendment dated December 30, 1996, (7) Addendum to Fourth Amendment dated May 6, 1997, (8) Fifth Amendment dated January 20, 1998, (9) Sixth Amendment dated December 28, 1998, (10) Seventh Amendment dated December 29, 1999, and (11) Eighth Amendment dated March 28, 2000, (collectively, the "1973 Agreement"). The 1973 Agreement is attached hereto as Exhibit A.

D. The term of the 1973 Agreement expired on April 30, 2000, and thereafter EMI continued to deliver water to the County via the Ditch System and the County continued to draw such water in an informal, unwritten arrangement consistent with the terms of the 1973 Agreement and the parties' practices thereunder.

E. In June 2018, the State Commission on Water Resource Management

("CWRM") issued an Interim Instream Flow Standard (IIFS) decision for East Maui streams ("IIFS") that governs certain of the Ditch System's surface water sources.

F. In light of the IIFS, the parties now desire to formally document the ongoing and continuing delivery of Ditch System water to the County.

NOW, THEREFORE, EMI, A&B, and the County hereby agree as follows:

1. Delivery of Water. EMI shall continue to deliver water from the Ditch System to the County at the locations and on the rates, terms and conditions specified in the 1973 Agreement, which is incorporated herein by this reference.

2. Compliance with IIFS. A&B and EMI acknowledge and agree that, in performing their obligations under this Agreement, they shall observe and comply with their obligations under the IIFS.

3. Term. This Agreement shall have a one-year term that shall automatically renew every year subject to EMI's continued receipt of permits or receipt of a lease from the State Board of Land and Natural Resources ("BLNR") to collect surface water sources that feed the Ditch System. If the BLNR grants EMI a long-term lease, this Agreement may be terminated on no less than twelve (12) months prior notice and during that period the parties shall negotiate in good faith for a long-term replacement of this Agreement to be executed concurrently with the effective date of the termination of this Agreement.

4. Miscellaneous.

a. No Joint Venture. Nothing contained herein shall be deemed to create a joint venture or partnership.

b. Entire Agreement. This Agreement (inclusive of Exhibit A, attached hereto) constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior discussions, negotiations, term sheets and agreements of the parties.

c. Successors and Assigns. This Agreement and each and all of the covenants and obligations herein shall be binding upon and inure to the benefit of all the parties hereto and their respective successors and assigns.

d. Amendments. This Agreement may only be modified or amended by a writing executed by all of the parties hereto.

e. Construction. This Agreement shall be liberally construed to effectuate its purpose. The captions appearing at the commencement of the sections hereof are descriptive only and for convenience in reference. Unless the context otherwise requires, singular nouns and pronouns used in this Agreement are to be construed as including the plural thereof.

f. Capacity. Pursuant to Section 18-215 of the Delaware Limited Liability

Company Act, A&B established within itself Series T, to which its rights with respect to the Ditch System and the 1973 Agreement have been allocated. A&B enters into this Agreement on behalf of said Series T.


g. Execution. This Agreement shall take effect upon the complete execution hereof by EMI, A&B and the County. This Agreement may be executed in counterparts.

[Rest of page left intentionally blank; signature pages follow.]

IN WITNESS WHEREOF, EMI, A&B, and the County have executed this Agreement the day and year first above written.

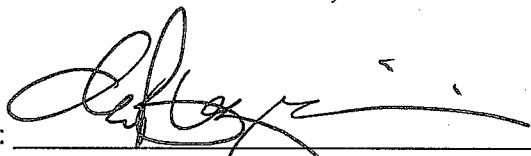
EAST MAUI IRRIGATION COMPANY,
LLC

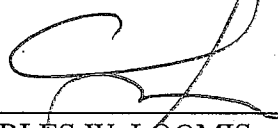
By: ALEXANDER & BALDWIN, LLC, SERIES T
Its Manager

By: 
CHRISTOPHER J. BENJAMIN
Its President & Chief Executive Officer

By: 
CHARLES W. LOOMIS
Its Assistant Secretary

ALEXANDER & BALDWIN, LLC

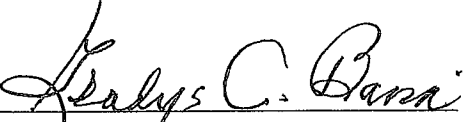
By: 
CHRISTOPHER J. BENJAMIN
President & Chief Executive Officer, Series T

By: 
CHARLES W. LOOMIS
Assistant Secretary, Series T

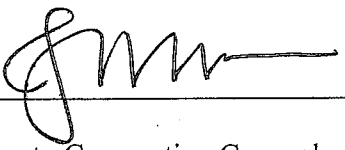
COUNTY OF MAUI

By: 
ALAN M. ARAKAWA
Its Mayor

APPROVAL RECOMMENDED:

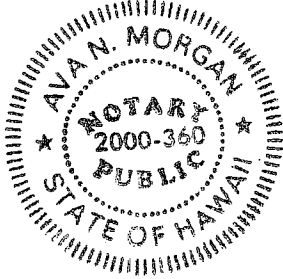

GLADYS C. BAISA
Director
Department of Water Supply

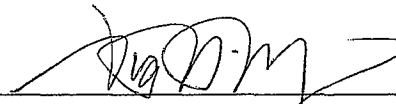
REVIEWED AS TO FORM AND
LEGALITY:


Deputy Corporation Counsel
County of Maui

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

On this 14th day of September, 2018, before me personally appeared CHRISTOPHER J. BENJAMIN, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and in the capacities shown, having been duly authorized to execute such instrument in such capacities.




Name: Ava N. Morgan
Notary Public, State of Hawaii

My commission expires: 07/23/2020

(Official Stamp or Seal)

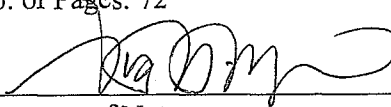
NOTARY CERTIFICATION STATEMENT

Document Identification or Description: EMI WATER DELIVERY AGREEMENT

Doc. Date: September 14, 2018 or ☐ Undated at time of notarization

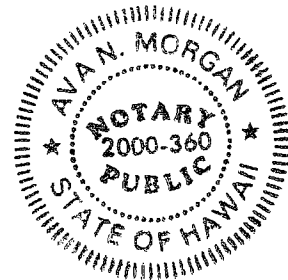
No. of Pages: 72

Jurisdiction: First Circuit
(in which notarial act is performed)


Signature of Notary

09/14/2018
Date of Notarization and
Certification Statement

Ava N. Morgan
Printed Name of Notary



(Official Stamp or Seal)

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

On this 14th day of September, 2018, before me personally appeared CHARLES W. LOOMIS, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and in the capacities shown, having been duly authorized to execute such instrument in such capacities.



(Official Stamp or Seal)

A handwritten signature of Ava N. Morgan in black ink.

Name: Ava N. Morgan
Notary Public, State of Hawaii

My commission expires: 07/23/2020

NOTARY CERTIFICATION STATEMENT

Document Identification or Description: EMI WATER DELIVERY AGREEMENT

Doc. Date: September 14, 2018 or ☐ Undated at time of notarization

No. of Pages: 72

Jurisdiction: First Circuit
(in which notarial act is performed)

Signature of Notary

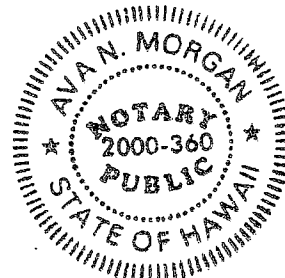
A handwritten signature of Ava N. Morgan in black ink.

09/14/2018

Date of Notarization and
Certification Statement

Ava N. Morgan

Printed Name of Notary

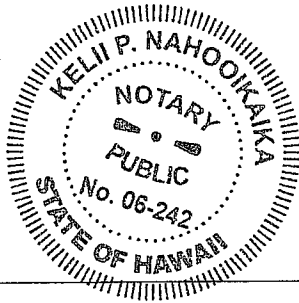


(Official Stamp or Seal)

STATE OF HAWAII)
)SS.
COUNTY OF MAUI)

On this 14th day of September, 2018, before me personally appeared **ALAN M. ARAKAWA**, to me personally known, who being by me duly sworn, did say that he is the Mayor of the County of Maui, a political subdivision of the State of Hawaii, and that the seal affixed to the foregoing instrument is the lawful seal of the said County of Maui, and that the said instrument was signed and sealed on behalf of said County of Maui by authority of its Charter; and the said **ALAN M. ARAKAWA** acknowledged the said instrument to be the free act and deed of the said County of Maui.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



[Stamp of Seal]

Kelii P. Nahooikaika
NOTARY PUBLIC, State of Hawaii.
Print Name: KELII P. NAHOOIKAIKA
My commission expires: 4-30-22

NOTARY PUBLIC CERTIFICATION

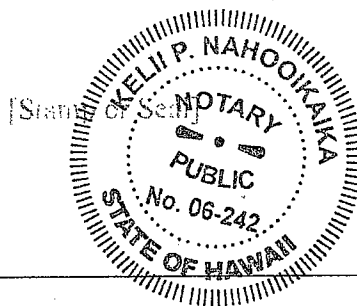
Doc Date: 9-14-18 #Pages 95

Notary Name KELII P. NAHOOIKAIKA Judicial Circuit: 2nd

Doc. Description:
EM1 Water Delivery
Agreement

Notary Signature: Kelii P. Nahooikaika

Date: 9-14-18



[Stamp of Seal]

EXHIBIT A

THE 1973 AGREEMENT

TO: Connie Vargas
FROM: R. A. Co.

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM made as of the 31st day of December, 1973, by and between the BOARD OF WATER SUPPLY OF THE COUNTY OF MAUI, whose post office address is Kalana O Maui, Wailuku, Maui, Hawaii, hereinafter called BWS, and EAST MAUI IRRIGATION COMPANY, LIMITED, a Hawaii corporation, whose post office address is Paia, Maui, Hawaii, hereinafter called EMI, and HAWAIIAN COMMERCIAL AND SUGAR COMPANY, a division of Alexander & Baldwin, Inc., whose post office address is Puunene, Maui, Hawaii, hereinafter called HC&S.

Background. At the present time EMI is the holder of three general licenses from the State of Hawaii covering the following areas: License No. 3505 (Nahiku), which license expires on June 30, 1976, General License No. S-3695 (Honomanu), which license expires June 30, 1986, and General License No. 3578 (Huelo), which license expires June 30, 1981. EMI also has a revocable permit for the Keahae area with the State of Hawaii, pending an offering for a new license for public bid sometime in 1974. The approximate locations of the respective license areas are indicated in Exhibit A attached hereto. Further, EMI, HC&S and BWS have entered into an agreement (herein called the "1961 Agreement") whereby BWS has the right to collect water in areas owned or leased by EMI and HC&S in the Waikamoi area and the Awaiau Intake area, the approximate boundaries of which are indicated in black on Exhibit B.

In order to establish a constant and steady flow of water for the continued growth and progress of the Island of Maui, the parties have agreed to the following terms and

conditions concerning the collection and delivery of water by EMI in the east Maui area with respect to the properties under license by EMI with the State of Hawaii and also on properties owned by EMI to be used by BWS for public water purposes in the Kula and Makawao and Nahiku water systems of BWS.

1. Nahiku. EMI will continue to collect and deliver to BWS at the rates provided herein up to 6,000 gallons of water per twenty-four hour day to serve the Nahiku community. The delivery point shall be the same point as presently used by EMI and BWS.

2. Waiakamoi and Awaleu Areas. As of January 1, 1974, EMI will be appointed the exclusive manager to collect and deliver water in the area presently under license to BWS from EMI and HC&S, the approximate area of which is indicated in red on Exhibit B. Within that area EMI shall be responsible, at its expense, for the operation, maintenance, repair of the water collection and conveying facilities and the operation of the water storage and pumping facilities and shall collect at the highest elevation possible the maximum quantity of water that is economically feasible. EMI agrees at its expense and at its sole discretion to replace existing collection facilities or install additional collection facilities, or both, in order to improve the collection of water in this area. Any replacements to the existing collection facilities or any additional collection facilities installed by EMI shall belong to BWS upon completion of construction of each item.

Title to the existing water collection facilities installed by BWS shall remain with BWS. BWS shall be responsible for the maintenance of the storage facilities in this area

except that EMI shall perform minor maintenance on Puohokamoa dam and the three Waiakamoi dams. The portion of the system under the operational jurisdiction of BWS is colored in blue and under the operational jurisdiction of EMI is colored in red on the sketch attached hereto as Exhibit C.

EMI will at its expense from time to time and at all times during the term of this agreement, repair, maintain, amend and keep water collection facilities at any time during the term of this agreement existing within the collection area in good operational order and condition and will not allow unnecessary loss or waste of water.

Extensive and substantial damages to the collection and conveying and storage facilities owned by BWS as provided herein due to acts of God or events beyond the control of EMI requiring restoration or replacement of the facilities shall be the responsibility of BWS. Actual restoration and replacement of the existing facilities shall be subject to budgetary limitations of BWS which agrees to exercise reasonable judgment and good faith to include the costs, or portions thereof, of restoration and replacement in the ensuing budget or budgets. Actual restoration and replacement of additional facilities constructed by EMI shall be made at the discretion of BWS which decision shall be final and shall not be subject to arbitration.

At the end of the term of this agreement or sooner termination as provided herein, EMI shall surrender the collection and conveying facilities presently existing on the property together with any and all improvements or additional

facilities EMI may have installed to BWS in good operational order and condition, ordinary wear and tear or damages due to acts of God or beyond the control of EMI being excepted.

To the extent inconsistent with the terms of this agreement, the provisions of the agreement dated January 22, 1961, ("1961" Agreement") by and between the parties herein shall be cancelled and terminated by mutual agreement.

All water collected by EMI in the Waiakamoi and Awalau Intake areas shall be discharged into the following points:

Waiakamoi and Olinda Reservoirs
Waiakamoi Pump
Awalau Intake
Pihoalo Reservoir

The parties shall, if necessary, execute a more definitive agreement outlining the duties and responsibilities of each party consistent with the terms of this agreement.

3. Wailoa Ditch. From the waters collected by EMI in the Wailoa Ditch System EMI will make available to BWS up to 12 million gallons of water per twenty-four hour period. An additional 4 million gallons of water per twenty-four hour period as needed by BWS will be made available by EMI to BWS upon one year's written notice to EMI.

Waters from the Wailoa Ditch shall be delivered to BWS at the following points presently used by EMI and BWS:
Huluhulunui, Lilikoi and Kamole Forebay.

4. Proportionate Reduction. If EMI is not successful in acquiring or holding the licenses mentioned hereinabove or in the event of a court ruling or the adoption of any governmental statute, ordinance, regulation or policy including but not limited to the withdrawal by the State of any lands under license or the condemnation of any lands under license, reducing the amount of water collected or

delivered by EMI or affecting the capability of EMI to collect or deliver water, then subject to and with the approval of the BWS by a vote of 2/3 of the members present, the amount of water to be delivered to BWS hereunder may be reduced proportionately; provided that in the event EMI is not successful in acquiring or holding the licenses mentioned hereinabove, then BWS will approve a proportionate reduction only (1) if the replacement State license included a provision wherein the licensee is required to make the proportionate amount of water available to BWS and (2) after a vote of 2/3 of the members present at a meeting duly called.

5. Due Diligence. EMI agrees to comply with the terms of the existing State licenses and to use due diligence to acquire replacement licenses as the present licenses, including the Keanae license, expire and replacement licenses for the same area containing substantially similar terms, other than the rent, are offered for bid by the State. BWS agrees to request the State Board of Land and Natural Resources to include a provision in any replacement license that the licensee make available to BWS amounts of water consistent with this agreement.

6. Additional Delivery Points. Additional delivery points may be added from time to time as mutually agreed between the parties. In the event the parties fail to agree and a party desires another delivery point to be added, then the same shall be determined by arbitration as provided herein.

7. Water Charges. BWS shall pay to EMI the sum of six cents per thousand gallons delivered by EMI to BWS from the Nahiku and Waikamoi and Awalaui Intake Systems and the Wailoa Ditch System. This rate shall remain fixed for the term of this agreement. After the lapse of fifteen (15) years of the term of this agreement, EMI may request for

an adjustment in the water charges due to increases in the cost to EMI of (1) payments to the State for water pursuant to the licenses mentioned herein; (2) fuel oil; (3) salaries and wages of EMI employees. BWS shall consider the request only after an affirmative vote of 2/3 of the members of the Board present at such meeting duly called agreeing to consider the request. In the event BWS should decide to consider the request by a vote of 2/3 of the members present, then BWS shall determine the request of EMI by a vote of 2/3 of the members present. The decision of BWS shall be final and shall not be subject to arbitration.

BWS shall install and maintain suitable meters or other measuring devices (hereinafter called meters) satisfactory to EMI for the purpose of measuring the total amount of water as provided herein. The meters shall be maintained within 2% accuracy and shall be tested every three years by BWS. Separate meters shall be installed by BWS to measure the water at any additional delivery point which may be required by EMI for a proper determination of the quantity of water being taken. Readings of the meters shall be taken and recorded by BWS at sufficient intervals so as to give a record in such form and degree of accuracy as shall be satisfactory to both parties. Reports of such readings shall be delivered by BWS to EMI at such intervals as shall be agreeable to the parties and EMI shall have the right at all times to inspect and make copies of the records of BWS and to make independent readings to verify all measurements taken by BWS. Where BWS operates a continuous water stage recorder which makes other water measurements within any of the sources listed above, copies of all the flow charts and/or records of individual water measurements shall be furnished to EMI.

BWS will pay the water charges hereinafter mentioned in lawful currency of the United States at times and in the manner provided above to EMI or such other person or corporation as shall be designated by EMI in writing at least 10 days prior to the next ensuing payment.

8. Priority. BWS shall use insofar as practical all of the water collected in the Waiakamoi and Awalaui Intake Systems prior to pumping water collected at Kamole Forebay. EMI shall give BWS priority in the use of water in fulfilling EMI's obligations set forth herein before any other private use.

9. Water Delivery. If the State of Hawaii requires in any replacement license to the licenses mentioned hereinabove that the licensee make available to BWS for public consumption and use certain portion of the water collected in the license area and the successful bidder is a person, partnership or corporation other than EMI or HC&S or any corporation affiliated with Alexander & Baldwin, Inc. and said licensee delivers said water to a convenient point of connection onto the Wailoa Ditch System, then EMI agrees to convey said water from the point of connection onto the Wailoa Ditch System to the points of delivery specified in this agreement to BWS free of any charge whatsoever.

10. Improvements to Wailoa Ditch System. EMI recognizes that improvements to the collection system for the Wailoa Ditch System may be necessary in order for EMI to provide the amount of water provided herein to BWS. EMI agrees that it shall at its expense make the necessary improvements as may be required. To the extent required by maintenance the parties recognize that portions of the Wailoa Ditch System may from time

to time be shut down for short periods of time. In such cases diversion of the water from one area to another may be necessary and each party shall cooperate with the other in order to permit the repair and maintenance of the Wailoa Ditch System.

11. Anti-Pollution. EMI agrees that it will use diligent efforts to prevent contamination or pollution of the water and that in the installation, maintenance and construction of collection facilities, and in the collection and delivery of water, it will in all cases comply with the rules and regulations of the Department of Land and Natural Resources, Department of Agriculture and the Department of Health of the State of Hawaii concerning the prevention of contamination or pollution. EMI shall not be otherwise responsible for the quality or potability of the water delivered to BWS according to the terms of this agreement.

12. Excuse of Performance. Anything in this agreement to the contrary notwithstanding, providing such cause is not due to the willful act or neglect of EMI, EMI shall not be deemed in default with respect to the performance of any of the terms, covenants and conditions of this agreement if same shall be due to any strike, lockout, civil commotion, war-like operation, invasion, rebellion, hostilities, military or usurped power, sabotage, governmental regulations or controls, inability to obtain any material, service, or financing, through act of God or other cause beyond the control of EMI.

13. Term. The term of this agreement shall be for twenty (20) years commencing January 1, 1974, and termi-

nating on December 31, 1993; provided, however, that this agreement may be extended from time to time by mutual agreement; provided further, that if any party decides not to extend the term of this agreement beyond December 31, 1993, then such party must give written notice of its decision to the other party prior to December 31, 1991; failure to provide such notice by December 31, 1991 shall extend, with the consent of the other party, this agreement for a period of two years if no notice is given by December 31, 1993, or if notice is given after December 31, 1991 but before December 31, 1993, then this agreement shall be extended, with the consent of the other party, for a period of two years from the date such notice was given.

14. Arbitration. Except as provided in paragraphs 2 and 7, if at any time during the term of this agreement or after the expiration or sooner determination thereof, any question, dispute, difference or disagreement shall arise between the parties hereto which cannot be adjusted or settled by them to their mutual satisfaction, then every such matter shall, at the desire of either party, be submitted to and be determined by three (3) arbitrators in the manner provided by Chapter 658 of the Hawaii Revised Statutes, as the same now is or may from time to time be amended, in which case either party may give to the other party written notice of its desire to have an arbitration of the matter in question and appoint one of the arbitrators in said notice, whereupon the other party, within ten (10) days after the receipt of such notice, shall appoint a second arbitrator and, in case of failure so to do, the party who has already appointed an arbitrator may have the second arbitrator appointed by a judge of the Circuit Court of the Second Judicial Circuit of the State of Hawaii, and the two arbitrators so appointed, in either manner, shall appoint

the third arbitrator, and in the event that the two arbitrators so appointed shall, within ten (10) days after the appointment of the second arbitrator, fail to appoint the third arbitrator, either party may have the third arbitrator appointed by said judge, and the three arbitrators so appointed shall thereupon proceed to determine the matter in question and the decision of any two of them shall be final, conclusive and binding upon the parties unless the same shall be vacated, modified or corrected as by said statute provided. The arbitrators shall have all the powers and duties prescribed by said statute and judgment may be entered upon such award by the said Circuit Court as provided by said statute and said judgment shall not be subject to appeal. Each of the parties shall pay its own expenses but the compensation and expenses of the arbitrators shall be borne equally by both parties.

15. Default. This agreement is upon the express condition that if any one or more of the following events of default shall occur, to wit:

a. BWS shall fail to pay the water rates herein reserved or any part thereof within thirty (30) days after the same become due, or

b. EMI shall fail to observe or perform any of the covenants herein contained and on the part of EMI to be observed and performed, and such failure shall continue for a period of sixty (60) days after written notice thereof given by BWS to EMI.

Then and in case of any such default EMI or BWS as the case may be, may, upon the occurrence of such event of default or at any time thereafter during the continuance

of such default, at its respective option, terminate this agreement by giving ten (10) days' written notice thereof to the defaulting party without resort to any legal process, all without prejudice to any other remedy or right of action which the other party may have for such default.

In addition the parties agree to enter into discussions for the purpose of entering into an alternate default provision in the event of default by EMI.

16. Acceptance of Water Rates Not Waiver. The acceptance of payment of water rates by EMI or its agents shall not be deemed to be a waiver by it of any breach by BWS of any covenant herein contained. The waiver by any party of any breach shall not operate to extinguish the covenant or condition, the breach whereof has been waived nor be deemed to be a waiver by such party of its right to terminate this agreement for any breach thereof.

17. Miscellaneous.

a. Definitions. The terms "party" and "parties" as used herein mean and include EMI, HC&S and the BWS.

b. Notices. Any notice or demand to be given to or served upon a party in connection with this agreement shall be deemed to have been sufficiently given or served for all purposes by being sent as registered mail, postage prepaid, addressed to such party at its post office address hereinbefore specified or at such other post office address as such party may from time to time designate in writing to the other party, or by being delivered personally to any officer of such party within the State of Hawaii, and any

such notice or demand shall be deemed conclusively to have been given or served on the date of such registration or personal delivery.

18. Successors and Assigns. All the terms, covenants, and conditions of this agreement shall inure to the benefit of and be binding upon the successors and assigns of all parties.

19. Private Contract. Nothing herein contained shall be construed as impressing this agreement with the character of a public service contract and no owner of any water privilege, domestic, commercial or otherwise, granted by BWS, shall have any right, title or interest in or to any of the water deliverable to BWS which shall be enforceable against or be binding upon EMI.

20. Rates Not Indicative. In the event of condemnation of any land or water rights in the areas covered by this agreement, the water rates contained in this agreement shall not be taken as indicative of the true value of the land or water rights, nor shall they be used for appraisal purposes on such taking.

21. Amendment. This agreement may be amended by mutual agreement in writing executed by both parties.

22. Consent. To the extent required by the above-mentioned State licenses the participation of EMI in this agreement is subject to the approval of the Board of Land and Natural Resources of the State of Hawaii.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed this 31st day of December, 1973, effective as of December 31, 1973.

BOARD OF WATER SUPPLY OF
THE COUNTY OF MAUI

By David M. Mungai
IES

EAST MAINE IRRIGATION COMPANY,
LIMITED

By William S. Hession
Its VICE - PRESIDENT

By Paul G. Goff
Its VICE President

ALEXANDER & BALDWIN, INC.

By Wesley H. Hession
Its EXECUTIVE VICE President

By William B. Hession
Its Secretary

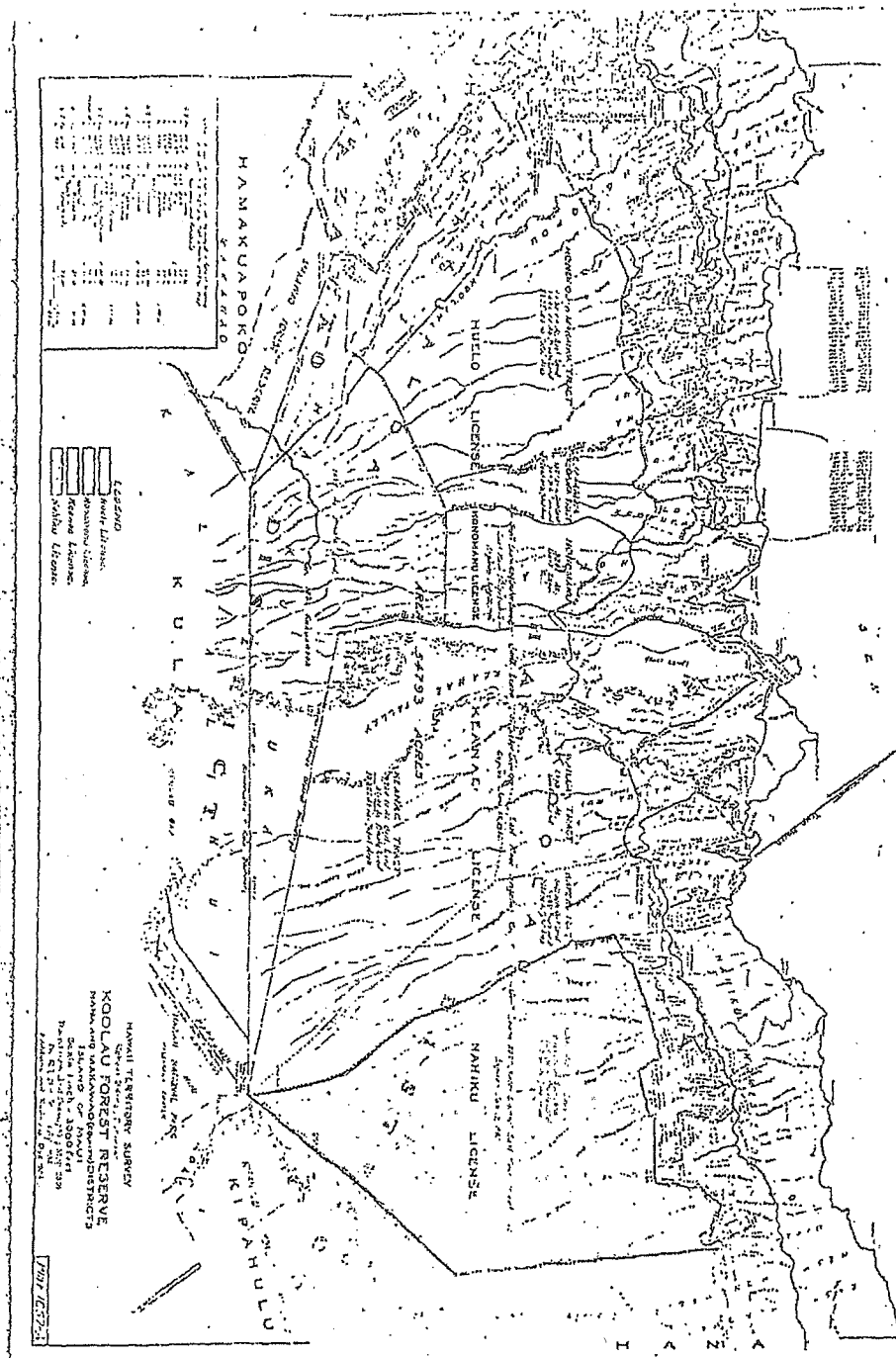
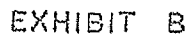
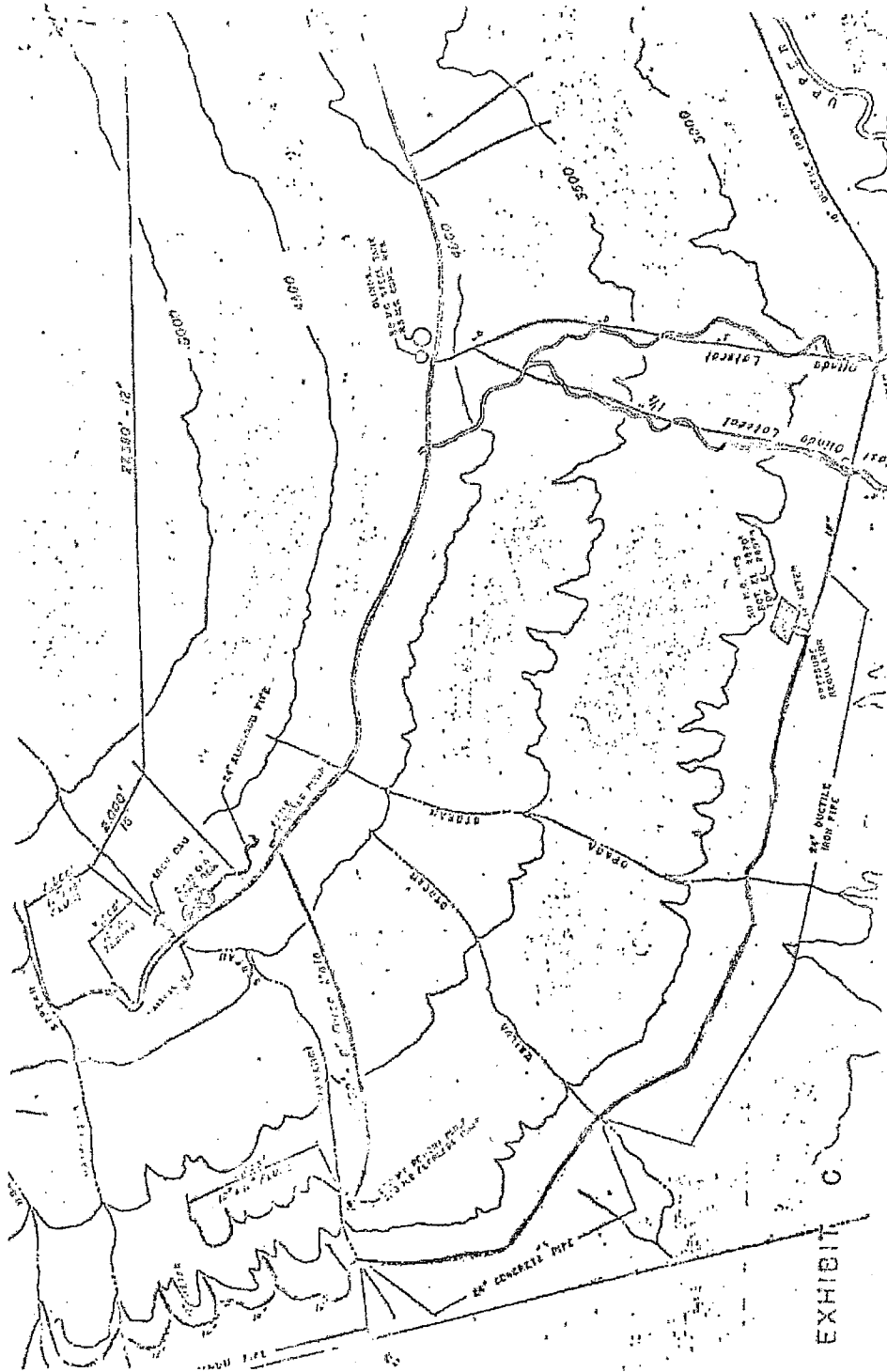


EXHIBIT A







ALEXANDER & BALDWIN, INC.

622 BISHOP STREET • P.O. BOX 3440
HONOLULU, HAWAII 96801

July 27, 1982

Department of Water Supply
County of Maui
Wailuku, Maui, Hawaii 96793

Re: Water Agreement dated December 22, 1961, as amended by
Memorandum of Understanding dated December 31, 1973/KULA AGRICULTURAL PARK

Gentlemen:

The purpose of this letter is to set forth our understandings with respect to the withdrawal of water by the Department of Water Supply ("herein Department") from the Wailoa Ditch for the Kula Agricultural Park.

1. Additional delivery point. Department has designated, pursuant to paragraph 6 of the Memorandum of Understanding dated December 31, 1973, and HC&S and EMI concur, the Hamakua Ditch at a location just beyond Reservoir 40, as outlined in red on the map attached hereto as Exhibit A and incorporated herein by reference, (the "delivery point") as the delivery point from which water will be withdrawn to serve the needs of the Kula Agricultural Park.
2. Delivery System.
 - a. The Department will construct a delivery system, consisting of a pump structure, measuring devices, diversion channel and pipeline system from the delivery point to the Kula Agricultural Park at locations generally shown on the attached Exhibit A (herein "delivery system"). Detailed plans and grants of easements with metes and bounds descriptions of easement locations shall be prepared by the Department after approval of the landowner involved. The Department shall be responsible for acquiring any easements necessary to accomplish the delivery of water from the delivery point to Kula Agricultural Park. Construction plans and specifications for the pump structure, measuring devices and diversion channel and pipeline system shall be prepared by the Department subject to the prior approval of HC&S.
 - b. The Department will be responsible for the repair, maintenance and replacement of the entire delivery system, or portions thereof, from the delivery point to the Kula Agricultural Park. Neither HC&S nor EMI shall be required to perform any repair, maintenance services to the delivery system or replace any portion thereof.

TELEPHONE (808) 525-8611 • TELEGRAPH ALEXBALD

Department of Water Supply
County of Maui
July 27, 1982
Page Two

- c. The Department shall install, as part of the delivery system, suitable meters or other measuring devices ("meters") having a two percent accuracy factor. Department agrees to repair, maintain and upkeep the meters within the tolerance factor and to test the meters at least once every three years so that the volume of water being withdrawn can be accurately measured.
3. Pumping Operations. In order to assure that water will be available at the delivery point, the Department shall, prior to the commencement of any pumping of water, provide HC&S with at least 24 hours' notice as to the (1) time for the commencement of pumping, (2) time for the cessation of pumping, and (3) the quantity of water to be pumped. If the commencement and cessation of pumping is done during HC&S's regular business hours, then HC&S will not charge for its employee's time and expenses to regulate the flow of water to the delivery point. If the commencement or cessation of pumping is done before or after HC&S's regular business hours, then HC&S's costs shall be paid by the Department.

We trust that the foregoing expresses our understandings regarding the delivery of water to the Kula Agricultural Park. We request that you sign in the spaces provided below and return the original to us. Your continued support and cooperation is deeply appreciated.

Very truly yours,

HAWAIIAN COMMERCIAL & SUGAR
COMPANY, a division of
Alexander & Baldwin, Inc.

By [Signature]
Its Executive Vice President - Agriculture

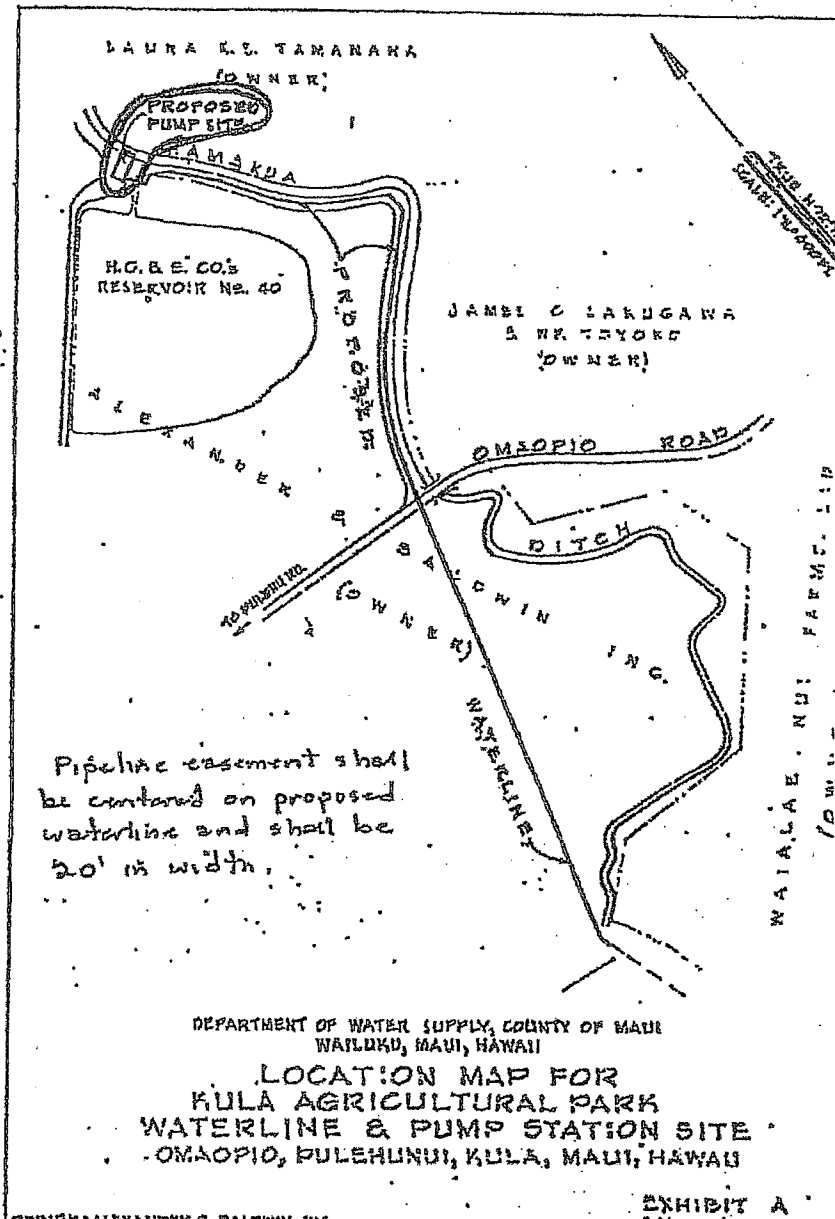
EAST MAUI IRRIGATION COMPANY

By [Signature]
Its Vice President

The foregoing terms are accepted and
approved this 29th day of July, 1982.

DEPARTMENT OF WATER SUPPLY
COUNTY OF MAUI

By [Signature]
Its Director





AMENDMENT TO
MEMORANDUM OF UNDERSTANDING

THIS AMENDMENT, made and entered into this 18th day of May, 1992, by and amongst EAST MAUI IRRIGATION COMPANY, LIMITED, a Hawaii corporation, whose mailin address is P. O. Box 266, Puunene, Hawaii 96784, referred to as "EMI", A&B-HAWAII, INC., HAWAIIAN COMMERCIAL AND SUGAR COMPANY, a division of Alexander & Baldwin, Inc., whose mailing address is P. O. Box 266, Puunene, Hawaii 96784, referred to as "HC&S", and the BOARD OF WATER SUPPLY of the County of Maui, whose principal place of business and mailing address is 250 S. High Street, Wailuku, Hawaii 96793, referred to as the "Board",

W I T N E S S E T H:

WHEREAS, on December 31, 1973, EMI, HC&S, and the Board entered into that certain Memorandum of Understanding relating, in part, to the collection and delivery of water by EMI, the maintenance of certain water collection facilities, and the furnishing of water to the Board; and

WHEREAS, the term of the Memorandum of Understanding is scheduled to terminate on December 31, 1993; and

WHEREAS, the parties hereto desire to extend the Memorandum of Understanding for a period of two years; now, therefore,

IN CONSIDERATION of the mutual promises and agreements hereinafter set forth, the parties hereto agree as follows:

1. Item 13 is deleted in its entirety and substituted with the following:

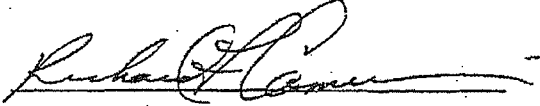
"13. ~~Term~~. The term of this agreement shall be for twenty two (22) years commencing January 1, 1974, and terminating on December 31, 1995; provided, however, that this agreement may be extended from time to time by mutual agreement."

2. Save and except as amended herein, the Memorandum of Understanding shall remain in force and effect.

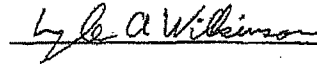
IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed on the date first above written.

EMI:

EAST MAUI IRRIGATION COMPANY,
LIMITED



(Please type or print name above)
Its _____



(Please type or print name above)
Its _____

HC&S:

HAWAIIAN COMMERCIAL AND SUGAR
COMPANY




(Please type or print name above)
Its _____

(Please type or print name above)
Its _____


Board:

BOARD OF WATER SUPPLY,
COUNTY OF MAUI



LARRY JEFFS
Its Chairperson

APPROVED AS TO FORM
AND LEGALITY:



Howard Fukushima
Deputy Corporation Counsel
County of Maui

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this 1st day of April, 1992, before me appeared Richard F. Cameron and Lyle A. Wilkinson, to me personally known, who, being by me duly sworn, did say that they are the Sr. Vice President and Asst. Secretary, respectively, of EAST MAUI IRRIGATION COMPANY, LIMITED, a Hawaii corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation; and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and the said officers acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Valerie L. Nakashima
Notary Public, State of Hawaii
My commission expires: 5/25/92

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this 1st day of April, 1992, before me appeared Richard F. Cameron and _____, to me personally known, who, being by me duly sworn, did say that they are the General Manager and _____, respectively, of HAWAIIAN COMMERCIAL AND SUGAR COMPANY, a Hawaii corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation; and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and the said officers acknowledged said instrument to be the free act and deed of said corporation.

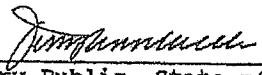
IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Valerie L. Nakashima
Notary Public, State of Hawaii
My commission expires: 5/25/92

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this 15th day of May, 1992, before me
appeared Larry Tetts, to me personally known, who,
being by me duly sworn, did say that he is the Chairperson of
the BOARD OF WATER SUPPLY of the County of Maui, and that the
seal affixed to the foregoing instrument is the lawful seal of
the said BOARD OF WATER SUPPLY, and that the said instrument was
signed and sealed on behalf of the said BOARD OF WATER SUPPLY,
and the said Larry Tetts acknowledged the said
instrument to be the free act and deed of the said BOARD OF WATER
SUPPLY.

IN WITNESS WHEREOF, I have hereunto set my hand and official
seal.


Notary Public, State of Hawaii
My commission expires: 4/19/94

SECOND AMENDMENT TO
MEMORANDUM OF UNDERSTANDING

THIS AMENDMENT, made and entered into this 25th day of April, 1994, by and amongst EAST MAUI IRRIGATION COMPANY, LIMITED, a Hawaii corporation, whose mailing address is P. O. Box 266, Puunene, Hawaii 96784, referred to as "EMI", A & B HAWAII, INC., through its division, HAWAIIAN COMMERCIAL AND SUGAR COMPANY, a Hawaii corporation, whose mailing address is P. O. Box 266, Puunene, Hawaii 96784, referred to as "HC & S", and the BOARD OF WATER SUPPLY of the County of Maui, whose principal place of business and mailing address is 200 S. High Street, Wailuku, Hawaii 96793, referred to as "BWS",

W I T N E S S E T H:

WHEREAS, on December 31, 1973, EMI, HC&S and BWS entered into that certain Memorandum of Understanding, referred to as the "Memorandum", relating, in part, to the collection and delivery of water by EMI to, the maintenance of certain water collection facilities of, and the furnishing of water to BWS; and

WHEREAS, on May 1, 1992, EMI, HC&S and BWS entered into that certain Amendment to Memorandum of Understanding relating to the extension of the Memorandum from December 31, 1993 until December 31, 1995; and

WHEREAS, the Memorandum permits BWS to withdraw up to 6,000 gallons of water per twenty-four hour day to serve the Nahiku community; and

WHEREAS, the maximum daily usage of the Nahiku community is

currently 12,600 gallons per day; and

WHEREAS, BWS desires to increase the withdrawal rate for the Nahiku community; now, therefore,

IN CONSIDERATION of the mutual promises and agreements hereinafter set forth, the parties hereto agree as follows:

1. Item 1 of the Memorandum is deleted in its entirety and substituted with the following:


"1. Nahiku. EMI will continue to collect and deliver to BWS at the rates provided herein up to 20,000 gallons of water per twenty-four hour day to serve the Nahiku community. The delivery point shall be the same point as presently used by EMI and BWS."


2. Save and except as amended herein, the Memorandum, as amended on May 1, 1992, remains in force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed on the date first above written.

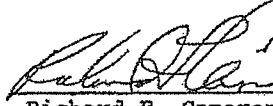
EMI:

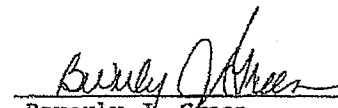
EAST MAUI IRRIGATION COMPANY, LIMITED


Richard F. Cameron
(Please type or print name above)
Its Executive Vice President


Beverly J. Green
(Please type or print name above)
Its Secretary

A & B HAWAII, INC.
through its division
HAWAIIAN COMMERCIAL AND SUGAR
COMPANY


Richard F. Cameron
(Please type or print name above)
its Senior Vice President



Beverly J. Green
(Please type or print name above)
its Secretary

BWS:

BOARD OF WATER SUPPLY
COUNTY OF MAUI

 Larry Jeffs
its Chairperson  Byron Walters

APPROVED AS TO FORM
AND LEGALITY:


John S. Rapacz
Deputy Corporation Counsel
County of Maui

On this 25th day of April, 1994, before me appeared Richard F. Cameron and Beverly J. Green, to me personally known, who, being by me duly sworn, did say that they are the Executive Vice President and Secretary, respectively, of EAST MAUI IRRIGATION COMPANY, LIMITED, a Hawaii corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation; and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and the said officers acknowledged said instrument to be the free act and deed of said corporation.

Ld.

My commission expires: 7/15/94

On this 25th day of April, 1994, before me appeared Richard F. Cameron and Beverly J. Green, to me personally known, who, being by me duly sworn, did say that they are the Senior Vice President and Secretary, respectively, of A&B-HAWAII, INC., through its division HAWAIIAN COMMERCIAL & SUGAR COMPANY, a Hawaii corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation; and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and the said officers acknowledged said instrument to be the free act and deed of said corporation.


L.V.

My commission expires: 7/15/94

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this 26th day of April, 19 94, before me appeared Byron Walters, to me personally known, who, being by me duly sworn, did say that he is the Chairperson of the BOARD OF WATER SUPPLY of the County of Maui, and that the seal affixed to the foregoing instrument is the lawful seal of the said BOARD OF WATER SUPPLY, and that the said instrument was signed and sealed on behalf of the said BOARD OF WATER SUPPLY, and the said Byron Walters acknowledged the said instrument to be the free act and deed of said BOARD OF WATER SUPPLY.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



Notary Public, State of Hawaii

My commission expires: 4/19/98

J. 7000

THIRD AMENDMENT TO
MEMORANDUM OF UNDERSTANDING

THIS AMENDMENT, made and entered into this 3rd day of January, 1996, by and among EAST MAUI IRRIGATION COMPANY, LIMITED, a Hawaii corporation, whose mailing address is P. O. Box 266, Puunene, Hawaii 96784, referred to as "EMI," A&B-HAWAII, INC., through its division HAWAIIAN COMMERCIAL & SUGAR COMPANY, a Hawaii corporation, whose mailing address is P. O. Box 266, Puunene, Hawaii 96784, referred to as "HC&S," and the BOARD OF WATER SUPPLY of the County of Maui, whose principal place of business and mailing address is 250 S. High Street, Wailuku, Hawaii 96793, referred to as "BWS,"

W I T N E S S E T H:

WHEREAS, the Memorandum of Understanding entered into on December 31, 1973 by and among EMI, HC&S and BWS, which subsequently was amended by an Amendment dated May 1, 1992 and Second Amendment dated April 25, 1994, permits BWS to withdraw up to 16 million gallons of water per twenty-four hour period from the Wailoa Ditch System; and

WHEREAS, the Wailoa Ditch System provides, on average, 55% of HC&S's water needs, is essential to HC&S's ability to pump the groundwater wells which provide the other 45% of HC&S's water needs, and is necessary to run HC&S's two mills and pumps for HC&S's 16 brackish water wells in the central isthmus; and

WHEREAS, on numerous occasions, BWS's right to withdraw water from the Wailoa Ditch System has, during times of extended drought, put HC&S under severe stress; and

WHEREAS, the term of the Memorandum of Understanding is scheduled to terminate on December 31, 1995; and

WHEREAS, the parties hereto desire to extend the Memorandum of Understanding for a period of one year; now, therefore,

IN CONSIDERATION of the mutual promises and agreements hereinafter set forth, the parties hereto agree as follows:

1. The following sentence is hereby added to the end of the first paragraph of Paragraph 3:

"BWS agrees to use its best efforts to minimize its intake of water from the Wailoa Ditch System whenever the total flow in the Wailoa Ditch System drops below 55 million gallons per twenty-four hour period, and to use its best efforts to move forward on a timely basis with necessary steps, including the installation and utilization of surface water storage of peak flows, so

73 memo-11/2/88

3/6/96 - IC - MJC

that BWS will be able to reduce its dependency on the Wailoa Ditch System whenever the total flow is below 55 million gallons per twenty-four hour period."

2. Paragraph 13 is hereby deleted in its entirety and substituted with the following:


"13. Term. The term of this agreement shall be for twenty-three (23) years commencing January 1, 1974 and terminating on December 31, 1996; provided, however, that this agreement may be extended from time to time by mutual agreement."

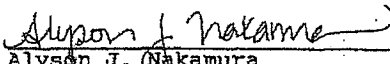
3. Save and except as amended herein, the Memorandum of Understanding, as previously amended, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed on the date first above written.

EMI:


EAST MAUI IRRIGATION COMPANY,
LIMITED

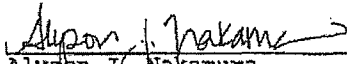

Richard F. Cameron
Its Executive Vice President


Alyson J. Nakamura
Its Secretary

HC&S:

A&B-HAWAII, INC., THROUGH ITS DIVISION
HAWAIIAN COMMERCIAL AND SUGAR COMPANY


Richard F. Cameron
Its Senior Vice President


Alyson J. Nakamura
Its Secretary

BWS:

BOARD OF WATER SUPPLY,
COUNTY OF MAUI

Marie Kimmey
Marie Kimmey
(Please type or print name above)

Its Chairperson

APPROVED AS TO FORM
AND LEGALITY:

GARY W. PERKINS
GARY W. PERKINS
(Please type or print name above)

Its Deputy Corporation Counsel
County of Maui

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this 5th day of January, 1996, before me appeared RICHARD F. CAMERON, to me personally known, who, being by me duly sworn, did say that he is the Executive Vice President of EAST MAUI IRRIGATION COMPANY, LIMITED, a Hawaii corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation; and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and the said officer acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

L.S.

Loraine L. Maunaloa
Notary Public, State of Hawaii

My commission expires: 9/6/96

STATE OF HAWAII)
) SS.
CITY & COUNTY OF HONOLULU)

On this 3rd day of January, 1996, before me appeared ALYSON J. NAKAMURA, to me personally known, who, being by me duly sworn, did say that she is the Secretary of EAST MAUI IRRIGATION COMPANY, LIMITED, a Hawaii corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation; and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and the said officer acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

L.S.

Aileen S. Nishikawa
Notary Public, State of Hawaii

My commission expires: 7/15/98

STATE OF HAWAII

COUNTY OF MAUI

SS.

On this 5th day of January, 1996, before me appeared RICHARD F. CAMERON, to me personally known, who, being by me duly sworn, did say that he is the Senior Vice President of A&B-HAWAII, INC., through its division HAWAIIAN COMMERCIAL & SUGAR COMPANY, a Hawaii corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation; and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and the said officer acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Lg.

Loraine K. Mann

Notary Public, State of Hawaii

My commission expires: 9/6/96

STATE OF HAWAII

CITY & COUNTY OF HONOLULU

SS.

On this 3rd day of January, 1996, before me appeared ALYSON J. NAKAMURA, to me personally known, who, being by me duly sworn, did say that she is the Secretary of A&B-HAWAII, INC., through its division HAWAIIAN COMMERCIAL & SUGAR COMPANY, a Hawaii corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation; and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and the said officer acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

L.S.

Shirley S. Higashihara
Notary Public, State of Hawaii

My commission expires: 7/15/98

STATE OF HAWAII

COUNTY OF MAUI

)
) SS.
)

On this 7th day of February, 1996, before me appeared Marie Kimrey, to me personally known, who, being by me duly sworn, did say that she is the Chairperson of the BOARD OF WATER SUPPLY of the County of Maui, and that the seal affixed to the foregoing instrument is the lawful seal of the said BOARD OF WATER SUPPLY, and that the said instrument was signed and sealed on behalf of the said BOARD OF WATER SUPPLY, and the said Marie Kimrey acknowledged the said instrument to be the free act and deed of the said BOARD OF WATER SUPPLY.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

[Signature]
Notary Public, State of Hawaii

My commission expires: 4/19/98

H. Hew

AGREEMENT RE 1973 MEMORANDUM OF UNDERSTANDING,
REPAIRS TO WAIKAMOI WATER SYSTEM,
CONSTRUCTION OF RESERVOIR AT KAMOLE WEIR

THIS AGREEMENT, made and entered into this 24th day of March, 1996, by and among A&B-HAWAII, INC., through its division HAWAIIAN COMMERCIAL AND SUGAR COMPANY, a Hawaii corporation, whose mailing address is P. O. Box 266, Puunene, Maui, Hawaii 96784, referred to as "HC&S", the BOARD OF WATER SUPPLY of the County of Maui, whose principal place of business and mailing address is 250 S. High Street, Wailuku, Hawaii 96793, referred to as the "BWS," EAST MAUI IRRIGATION COMPANY, LIMITED, a Hawaii corporation, whose mailing address is P. O. Box 266, Puunene, Hawaii 96784, referred to as "EMI," and KULAMALU, INC., a Hawaii corporation, whose mailing address is P. O. Box 1417, Wailuku, Hawaii 96793, referred to as "KULAMALU,"

W I T N E S S E T H:

WHEREAS, this Agreement is being entered into in connection with the proposed Agreement Concerning the Construction of Storage Tank, Transmission Line and Appurtenances, and Improvement and Dedication of Existing Well, dated March 21, 1996, between BWS and Kulamalu, and the proposed Agreement Re Well Easement and Contribution to Design Work, dated March 21, 1996, between HC&S, EMI and Kulamanu, concerning the development of a well for BWS on land owned by HC&S ("Well Agreement"); and

WHEREAS, in connection with such Well Agreement, the parties have negotiated certain agreements relating to the following: (i) acceptance by BWS of certain terms and conditions relating to the use by BWS of water from the Wailoa Ditch System, (ii) funding by BWS of certain repairs to the Waikamoi water collection delivery

BWS-3/19/96

20 '1

0100 07C 000 YN VHI

INTENTIONAL NOT A R H

29:6 301 96-61-WAN

system, and (iii) design and construction of a reservoir to serve Kamole Weir;

NOW, THEREFORE, IN CONSIDERATION of the mutual promises and agreements of the parties, the parties hereto agree as follows:

1. Amendment to 1973 Memorandum of Understanding. BWS, HC&S and EMI hereby amend the Memorandum of Understanding entered into on December 31, 1973 by and among EMI, HC&S and BWS ("1973 Memorandum of Understanding"), as follows:

(a) BWS shall not be permitted to withdraw more than 8 million gallons of water per twenty-four hour period from Wailoa Ditch under any circumstances. When the reservoir described in Section 3 below comes on line, the parties will discuss modification of the foregoing limitation in order to accommodate the reservoir.

(b) BWS shall not be permitted to withdraw water from Wailoa Ditch when the ditch flow drops below 11 million gallons of water per twenty-four hour period. This limitation is necessary in order to ensure sufficient water for the operation of HC&S' Puunene and Paia Mills, which provide 12% of the electricity consumed by the general public on Maui.

The limitations on withdrawal from Wailoa Ditch set forth above shall take effect at such time as Kulamalu (or its successors or assigns) begins to draw water from the BWS system for the parcels described in the Agreement Concerning the Construction of Storage Tank, Transmission Line and Appurtenances, and Improvement and Dedication of Existing Well, dated March 27, 1996, between BWS and Kulamalu.

2. Repairs to Waikamoi Water System. Notwithstanding any provision of the 1973 Memorandum of Understanding to the contrary, BWS hereby agrees to use its best efforts to fund as

BWS-3/18/96

-2-

expeditiously as possible the repairs currently necessary, in the discretion of EMI, to the Waikamoi Upper Flume. Said repairs shall include but not be limited to: replacement of the top cover of the Upper Flume, installation of non-slip surface on the Upper Flume cover, and replacement of portions of the Upper Flume trestle (i.e., braces, legs, runners, footings, etc.) as deemed necessary by EMI. The BWS and EMI agree to begin repairs as soon as practicable and to coordinate with each other to undertake such repairs.

3. Reservoir at Kamole Weir. BWS agrees to use its best efforts to seek and secure on a timely basis appropriate funding sources for the construction of the reservoir, and HC&S, EMI, and KULAMALU agree to provide reasonable and necessary support to obtain such funding sources. KULAMALU agrees to fund the design work, up to \$125,000, for the reservoir in coordination with BWS. BWS also agrees to use its best efforts to proceed with and to complete the construction of said reservoir as soon as possible.

IN WITNESS WHEREOF, the parties hereto have caused this

BWS-3/18/00

-3-

b7D 'H

0100 C70 000 '04 000

0100 C70 000 '04 000

0100 C70 000 '04 000

instrument to be duly executed on the date first above written.

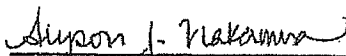
EMI:

EAST MAUI IRRIGATION COMPANY,
LIMITED



Richard F. Cameron
(Please type or print name above)

Its Executive Vice President



Alyson J. Nakamura
(Please type or print name above)

Its Secretary

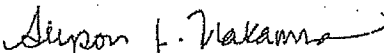
HC&S:

A&B-HAWAII, INC., THROUGH ITS DIVISION
HAWAIIAN COMMERCIAL AND SUGAR COMPANY



Richard F. Cameron
(Please type or print name above)

Its Senior Vice President



Alyson J. Nakamura
(Please type or print name above)

Its Secretary

KULAMALU:

KULAMALU, INC.

Ernst A. Dowling
Ernst A. Dowling
(Please type or print name above)

Its PRESIDENT

(Please type or print name above)

Its _____

BWS:

BOARD OF WATER SUPPLY,
COUNTY OF MAUI

Marie Timney
Marie Timney
(Please type or print name above)

Its Chairperson

APPROVED AS TO FORM
AND LEGALITY:

GARY W. ZAKIAN
(Please type or print name above)

Its Deputy Corporation Counsel
County of Maui

COUNTY OF MAUI

SS.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

L. S.

Lorelei K. Mawu
Notary Public, State of Hawaii

My commission expires: 9/6/96

COUNTY OF MAUI

SS.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

L.S.

Loralee K. Newton
Notary Public, State of Hawaii

My commission expires: 9/6/96

STATE OF HAWAII

) ss.

On this 2/9 day of March, 1996, before me appeared

Seal.

Levy & Co.

My commission expires: 4/19/98

STATE OF HAWAII

55.

On this 21st day of March, 1996, before me appeared

seal.

Joseph H. H. H. H.

My commission expires: 4/19/98

FOURTH AMENDMENT TO
MEMORANDUM OF UNDERSTANDING

THIS AMENDMENT, made and entered into this 30th day of December, 1996, by and between EAST MAUI IRRIGATION COMPANY, LIMITED, a Hawaii corporation, whose business mailing address is P. O. Box 266, Puunene, Hawaii 96784, referred to as "EMI," A&B-HAWAII, INC., through its division, HAWAIIAN COMMERCIAL & SUGAR COMPANY, a Hawaii corporation, whose mailing address is P. O. Box 266, Puunene, Hawaii 96784, referred to as "HC&S," and the BOARD OF WATER SUPPLY of the County of Maui, whose principal place of business and mailing address is 200 S. High Street, Wailuku, Hawaii 96793, referred to as "BWS,"

W I T N E S S E T H:

WHEREAS, on December 31, 1973, EMI, HC&S and BWS entered into that certain Memorandum of Understanding, which subsequently was amended by an Amendment dated May 1, 1992, Second Amendment dated April 25, 1994, Third Amendment dated January 3, 1996 and Agreement Re 1973 Memorandum of Understanding, Repairs to Waikamoi Water System, Construction of Reservoir at Kamole Weir dated March 21, 1996 (the Memorandum of Understanding, as so amended, is hereinafter referred to as the "Memorandum"), relating in part to the operation, maintenance and repair of the Waikamoi water system; and

WHEREAS, the term of the Memorandum is scheduled to terminate on December 31, 1996; and

WHEREAS, the parties hereto desire to extend the Memorandum for a period of one year; and

WHEREAS, on March 21, 1996, EMI, HC&S, and BWS entered into that certain Agreement Re 1973 Memorandum of Understanding, Repairs to Waikamoi Water System, Construction of Reservoir at Kamole Weir, relating to BWS using its best efforts to fund as expeditiously as possible the repairs currently necessary, in the discretion of EMI, to the Waikamoi Upper Flume, referred to as the "Flume"; and

WHEREAS, the Flume is under the operational jurisdiction of EMI as provided in the Memorandum; and

WHEREAS, the redwood covers, trestles, footings, braces, etc. of the Flume, are in need of replacement to maintain proper water transmission for the Upper Kula Water System; and

WHEREAS, the Flume is now in a state of major disrepair and there is concern that it may fail; and

WHEREAS, extensive and substantial damages to the Waikamoi collection and conveying and storage facilities owned by BWS due

73memo2

to acts of God or events beyond the control of EMI requiring restoration or replacement of the facilities is the responsibility of BWS; and

WHEREAS, EMI represents that, due to the sensitive nature of the ecological resources of the area serving as a source of domestic water, and its inaccessibility and varied terrain, EMI must limit access to its Waikamoi lands; and

WHEREAS, EMI reconstructed the Flume back in 1974-75, and is very familiar with both the Waikamoi water system and the area; and

WHEREAS, BWS has budgeted \$60,000.00 for the necessary maintenance and repair of the Flume for fiscal year 1996-1997; and

WHEREAS, BWS had previously purchased redwood lumber for the repairs to the Flume, which lumber was determined to be inadequate for said repairs; now, therefore,

IN CONSIDERATION of the mutual promises and agreements hereinafter set forth, the parties hereto agree as follows:

1. The fourth paragraph of Paragraph 2 is deleted in its entirety and substituted with the following:

"Extensive and substantial damages to the collection and conveying and storage facilities owned by BWS as provided herein due to acts of God or events beyond the control of EMI requiring restoration or replacement of the facilities shall be the responsibility of BWS. Actual restoration and replacement of existing facilities shall be subject to budgetary limitations of BWS, which agrees to exercise reasonable judgment and good faith to include the costs, or portions thereof, of restoration and replacement in the ensuing budget or budgets. Actual restoration and replacement of additional facilities constructed by EMI shall be made at the discretion of BWS, which decision shall be final and shall not be subject to arbitration. With regard to restoration of the Waikamoi Upper Flume required by damages, existing as of December 17, 1996, to the facilities (herein called the "1996 Repairs"), BWS shall use its best efforts to fund as expeditiously as possible the repairs deemed necessary in the discretion of EMI. BWS and EMI agree to begin the 1996 Repairs as soon as practicable and to coordinate with each other to undertake such repairs. If the Waikamoi Upper Flume fails or suffers a major disruption due to the delay in funding these necessary repairs, BWS shall not be permitted to compensate for the reduction of Waikamoi system water by taking water from the Wailoa Ditch System. The exact nature, scope and total cost of the 1996 Repairs, including total reasonable reimbursement

for labor (including overhead), will not be known until EMI proceeds with the repairs, but the cost during the fiscal year ending June 30, 1997 shall not exceed \$60,000.00."

2. With regard to the 1996 Repairs referred to in the new fourth paragraph of Paragraph 2 described above:

- a. EMI shall be responsible for designating the materials needed for the repairs, but shall not be responsible for any problems arising out of or related to the condition of the materials.
- b. BWS shall be responsible for ordering and purchasing all materials, including replacement of any materials that do not meet full specifications (e.g., replacement of that portion of BWS's previously-purchased lumber that EMI determines cannot be salvaged), and for the condition of the materials and delivery of same to the jobsite location designated by EMI, referred to as the "Jobsite."
- c. EMI shall, to the extent feasible in its sole discretion, salvage as much of BWS's previously-purchased redwood lumber (119 pieces 2"x12"x18' dimension, con heart, RS, and 279 pieces 2"x12"x20' dimension, con heart, RS), referred to as "Salvaged Lumber," for the repairs to the Flume, said salvage to include milling the redwood to proper dimensions at cost to BWS not to exceed \$2,500.00 for labor.
- d. BWS shall provide delivery of the Salvaged Lumber to the milling site designated by EMI, and later to the Jobsite.
- e. BWS shall provide a container for weather and security protection of all redwood lumber and all other materials delivered to the Jobsite for the repairs.
- f. EMI shall apply the non-skid surface treatment in accordance to the manufacture's recommendations.
- g. EMI shall be responsible for any loss or damage to materials accepted at the Jobsite in the event such loss or damage arises directly and solely from EMI's negligence, but EMI shall not be deemed a bailor or warehouseman with respect to such materials.
- h. BWS shall make payment on said invoices within 30 days after receipt, and agrees that interest will accrue on late payments at the rate of 12% per annum.

3. Paragraph 3 is hereby replaced in its entirety with the following:

73000000

-3-

"3. Wailoa Ditch. From the waters collected by EMI in the Wailoa Ditch System, EMI will make available to BWS up to 8-1/2 million gallons of water per twenty-four hour period, allocated as follows: up to 7 million gallons of water per twenty-four hour period from the Kamole Weir delivery point, and up to 1-1/2 million gallons of water per twenty-four hour period from the Hamakua Ditch delivery point to serve the needs of the Kula Agricultural Park (pursuant to the letter dated July 27, 1982 from HC&S and EMI to the Department of Water Supply of the County of Maui). The foregoing is subject to the limitations on withdrawal set forth in the Agreement Re 1973 Memorandum of Understanding, Repairs to Waikamoi Water System, Construction of Reservoir at Kamole Weir, dated March 21, 1996. BWS agrees to use its best efforts to minimize its intake of water from the Wailoa Ditch System whenever the total flow in the Wailoa Ditch System drops below 55 million gallons per twenty-four hour period, and to use its best efforts to move forward on a timely basis with necessary steps, including the installation and utilization of surface water storage of peak flows, so that BWS will be able to reduce its dependency on the Wailoa Ditch System whenever the total flow is below 55 million gallons per twenty-four hour period.

Waters from the Wailoa Ditch shall be delivered to BWS at the following points presently used by EMI/HC&S and BWS:

Kamole Forebay and Hamakua Ditch near Reservoir 40."

4. With regard to the construction of the proposed reservoir at Kamole Weir, BWS warrants that it will use its best efforts to meet, or cause to be met, the deadlines set forth in the engineering schedule attached hereto as Exhibit "A" and incorporated herein by reference. The parties agree to discuss modification of the '8-1/2 million gallons of water per twenty-four hour period' amount, referred to in Section 3 above, when the proposed reservoir comes on line.

5. Paragraph 13 is hereby deleted in its entirety and substituted with the following:

"13. Term. The term of this agreement shall be for twenty-four (24) years commencing January 1, 1974 and terminating on December 31, 1997; provided, however, that this agreement may be extended from time to time by mutual agreement."

6. Save and except as amended herein, the Memorandum, as previously amended, shall remain in full force and effect.

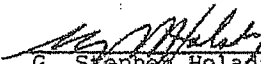
73mmcz

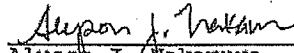
-4-

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed on the date first above written.

EMI:

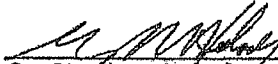
EAST MAUI IRRIGATION COMPANY,
LIMITED


G. Stephen Holaday
Its Vice President


Alyson J. Nakamura
Its Secretary

HC&S:

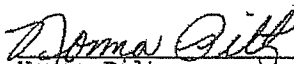
A&B-HAWAII, INC., THROUGH ITS DIVISION
HAWAIIAN COMMERCIAL AND SUGAR COMPANY


G. Stephen Holaday
Its Senior Vice President

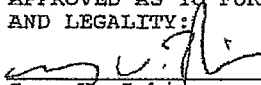

Alyson J. Nakamura
Its Secretary

BWS:

BOARD OF WATER SUPPLY
COUNTY OF MAUI


Norma Piltz
Its Chairperson

APPROVED AS TO FORM
AND LEGALITY:


Gary W. Zakian
Deputy Corporation Counsel
County of Maui

72jmsms2

-5-

STATE OF HAWAII)
City & County of Honolulu) SS.
~~COUNTY OF MAUI~~)

On this 3rd day of January, 1997, before me appeared G. Stephen Holaday, ~~December, 1996~~, to me personally known, who, being by me duly sworn, did say that he is the Executive Vice President of EAST MAUI IRRIGATION COMPANY, LIMITED, a Hawaii corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation; and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and the said officer acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Surfane K. McQuinn
Notary Public, State of Hawaii

My commission expires: 2/18/97

STATE OF HAWAII)
) SS.
CITY & COUNTY OF HONOLULU)

On this 30th day of December, 1996, before me appeared ALYSON J. NAKAMURA, to me personally known, who, being by me duly sworn, did say that she is the Secretary of EAST MAUI IRRIGATION COMPANY, LIMITED, a Hawaii corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation; and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and the said officer acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

William S. Miyajima
Notary Public, State of Hawaii

My commission expires: 7/15/98

STATE OF HAWAII)
City & County of Honolulu) SS.
~~COUNTY OF MAUI~~)

January, 1997 G. Stephen Holaday
On this 2nd day of ~~December, 1996~~, before me appeared
~~RICHARD P. CAMERON~~, to me personally known, who, being by me duly
sworn, did say that he is the Senior Vice President of
A&B-HAWAII, INC., through its division HAWAIIAN COMMERCIAL &
SUGAR COMPANY, a Hawaii corporation; that the seal affixed to the
foregoing instrument is the corporate seal of said corporation;
and that said instrument was signed and sealed on behalf of said
corporation by authority of its Board of Directors, and the said
officer acknowledged said instrument to be the free act and deed
of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official
seal.

G. Stephen Holaday
Notary Public, State of Hawaii

My commission expires: 2/18/97

STATE OF HAWAII)
CITY & COUNTY OF HONOLULU) SS.

On this 30th day of December, 1996, before me appeared
ALYSON J. NAKAMURA, to me personally known, who, being by me duly
sworn, did say that she is the Secretary of A&B-HAWAII, INC.,
through its division HAWAIIAN COMMERCIAL & SUGAR COMPANY, a
Hawaii corporation; that the seal affixed to the foregoing
instrument is the corporate seal of said corporation; and that
said instrument was signed and sealed on behalf of said corpora-
tion by authority of its Board of Directors, and the said officer
acknowledged said instrument to be the free act and deed of said
corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official
seal.

Alyson J. Nakamura
Notary Public, State of Hawaii

My commission expires: 7/15/98

STATE OF HAWAII

COUNTY OF MAUI

)
) SS.
)

On this 27th day of December, 1996, before me appeared Norma Piltz, to me personally known, who, being by me duly sworn, did say that she is the Chairperson of the BOARD OF WATER SUPPLY of the County of Maui, and that the seal affixed to the foregoing instrument is the lawful seal of the said BOARD OF WATER SUPPLY, and that the said instrument was signed and sealed on behalf of the said BOARD OF WATER SUPPLY, and the said Norma Piltz acknowledged the said instrument to be the free act and deed of the said BOARD OF WATER SUPPLY.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Josephine
Notary Public, State of Hawaii
My commission expires: 4/19/98

KAMOLE W

Activity ID	Description	Orig Dur	Phase	Responsibility	Total Float	WBS Code
T1	Preliminary Activities	128d	PH1		149d	1W1
T101	Conduct Hydrological Inventory and Prepare Report	41d	PH1	MY	0	1W1.01
T102	Conduct Topographic Survey	21d	PH1	WSUE	0	1W1.02
T103	Conduct Soil Investigation of Project Site	63d	PH1	WCC	22d	1W1.03
T104	Prepare Environmental Assessment	128d	PH1	RMTC	149d	1W1.04
T105	Develop Conceptual Plan	42d	PH1	WSUE	0	1W1.05
T106	Board Review/Approval of Hydro Report, Conc Plan	22d	PH1	DWS	0	1W1.06
T107	Conduct Land Appraisal	21d	PH1	ACM	43d	1W1.07
T108	Prepare Prel. Subdivision Map, Submit for Approval	22d	PH1	WSUE	0	1W1.08
T2	Engineering, Construction Plan Activities	278d	PH2		0	1W2
T201	Prepare Construction Plans for Reservoir, Appurt	128d	PH2	WSUE	0	1W2.01
T202	Prepare Const. Plans for Pump Station, Controls	84d	PH2	CJ	0	1W2.02
T203	Prepare Project Manual and Bid Documents	41d	PH2	WSUE	0	1W2.03
T204	Plan Review	42d	PH2	DWS	0	1W2.04
T205	Finalize Plans Incorporating Review Comments	42d	PH2	WSUE	0	1W2.05
T206	Prepare and Submit NPDES Permit Appl To DCH	105d	PH2	WSUE	0	1W2.06
T207	Prepare and Submit Dam Permit to DLNR	105d	PH2	WSUE	0	1W2.07
T208	Finalize Subdivision Process	63d	PH2	WSUE	42d	1W2.08
T209	Advertise for Bids	22d	PH2	DWS	0	1W2.09
T210	Open and Review Bids, Award Contract	21d	PH2	DWS	0	1W2.10
T3	Construction Activities	252d	PH3		0	1W3
T301	Issue Notice to Proceed	0	PH3	DWS	0	1W3.01
T302	Begin and Complete Construction Contract	252d	PH3	CNTR	0	1W3.02

EXHIBIT "A"

RESERVOIR PROJECT

1997 1998 1999
 FEB MAR APR MAY JUN JUL AUG SEP OCT NOV DEC JAN FEB MAR APR MAY JUN JUL AUG SEP OCT NOV DEC JAN FEB MAR APR MAY JUN JUL AUG SEP OCT

Preliminary Activities

- Conduct Hydrological Inventory and Prepare Report
- Conduct Topographic Survey
- Conduct Soil Investigation of Project Site
- Prepare Environmental Assessment
- Develop Conceptual Plan
- Board Review/Approval of Hydro Report, Conc Plan
- Conduct Land Appraisal
- Prepare Prel. Subdivision Map, Submit for Approval

Engineering, Construction Plan Activities

- Prepare Construction Plans for Reservoir, Appurt
- Prepare Const. Plans for Pump Station, Controls
- Prepare Project Manual and Bid Documents
- Plan Review
- Finalize Plans Incorporating Review Comments
- Prepare and Submit NPDES Permit Appl To DCH
- Prepare and Submit Dam Permit to DLNR
- Finalize Subdivision Process
- Advertise for Bids
- Open and Review Bids, Award Contract

Construction Activities

- Issue Notice to Proceed
- Begin and Complete Construction

ADDENDUM TO FOURTH AMENDMENT TO
MEMORANDUM OF UNDERSTANDING

THIS ADDENDUM, made and entered into this 6th day of May, 1997, by and between EAST MAUI IRRIGATION COMPANY, LIMITED, a Hawaii corporation, whose business mailing address is P. O. Box 266, Puunene, Hawaii 96784, referred to as "EMI," A&B-HAWAII, INC., through its division, HAWAIIAN COMMERCIAL & SUGAR COMPANY, a Hawaii corporation, whose mailing address is P. O. Box 266, Puunene, Hawaii 96784, referred to as "HC&S," and the BOARD OF WATER SUPPLY of the County of Maui, whose principal place of business and mailing address is 200 S. High Street, Wailuku, Hawaii 96793, referred to as "BWS,"

W I T N E S S E T H:

WHEREAS, on December 30, 1996, EMI, HC&S and BWS entered into that certain Fourth Amendment to Memorandum of Understanding (hereinafter referred to as the "Fourth Amendment"), relating in part to the repairs currently necessary to the Waikamoi Upper Flume, referred to in the Fourth Amendment as the "1996 Repairs"; and

WHEREAS, said Fourth Amendment contemplates, in accordance with the recommendation of EMI, the use of milled redwood lumber for the 1996 Repairs; and

WHEREAS, BWS now desires to use unmilled lumber for the 1996 Repairs; and

WHEREAS, EMI is willing to use unmilled redwood lumber for the 1996 Repairs only if it receives (i) specific authorization from BWS for such use and (ii) a complete release and indemnification from BWS from any claims or damages arising out of such use; now, therefore,

IN CONSIDERATION of the mutual promises and agreements hereinafter set forth, the parties hereto agree as follows:

1. Notwithstanding Paragraph 2 of the Fourth Amendment, BWS hereby requests and authorizes EMI to use unmilled redwood lumber for the 1996 Repairs. BWS hereby releases, indemnifies and holds harmless EMI and HC&S from any and all claims or damages (including reasonable attorney's fees) arising out of or otherwise related to the use of unmilled redwood lumber.

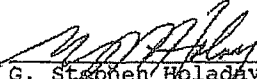
2. Save and except as amended herein, the Fourth Amendment shall remain in full force and effect.

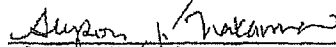
73memo2

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed on the date first above written.

EMI:


EAST MAUI IRRIGATION COMPANY,
LIMITED

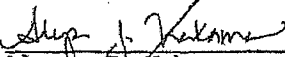

G. Stephen Holaday
Its Executive Vice President


Alyson J. Nakamura
Its Secretary

HC&S:

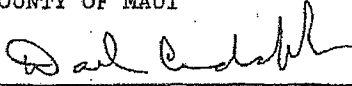

A&B-HAWAII, INC., THROUGH ITS DIVISION
HAWAIIAN COMMERCIAL AND SUGAR COMPANY


G. Stephen Holaday
Its Senior Vice President

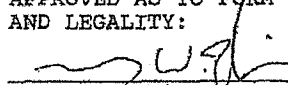

Alyson J. Nakamura
Its Secretary

BWS:

BOARD OF WATER SUPPLY
COUNTY OF MAUI


 ~~Derwin Leis~~ ~~David Credde~~
Its Chairperson ~~Director~~

APPROVED AS TO FORM
AND LEGALITY:


Gary W. Zakian
Deputy Corporation Counsel
County of Maui

73mama2

-2-

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this 14th day of May, 1997, before me appeared G. STEPHEN HOLADAY, to me personally known, who, being by me duly sworn, did say that he is the Executive Vice President of EAST MAUI IRRIGATION COMPANY, LIMITED, a Hawaii corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation; and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and the said officer acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

L.S.

Loaleu K. Mawin
Notary Public, State of Hawaii
My commission expires: 9/10/2000

STATE OF HAWAII)
) SS.
CITY & COUNTY OF HONOLULU)

On this 6th day of May, 1997, before me appeared ALYSON J. NAKAMURA, to me personally known, who, being by me duly sworn, did say that she is the Secretary of EAST MAUI IRRIGATION COMPANY, LIMITED, a Hawaii corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation; and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and the said officer acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

L.S.

Alyson J. Nakamura
Notary Public, State of Hawaii
My commission expires: 7/15/98

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this 14th day of May, 1997, before me appeared G. STEPHEN HOLADAY, to me personally known, who, being by me duly sworn, did say that he is the Senior Vice President of A&B-HAWAII, INC., through its division HAWAIIAN COMMERCIAL & SUGAR COMPANY, a Hawaii corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation; and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and the said officer acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

L.S.

Doreen H. Inami
Notary Public, State of Hawaii
My commission expires: 9/10/2000

STATE OF HAWAII)
) SS.
CITY & COUNTY OF HONOLULU)

On this 6th day of May, 1997, before me appeared ALYSON J. NAKAMURA, to me personally known, who, being by me duly sworn, did say that she is the Secretary of A&B-HAWAII, INC., through its division HAWAIIAN COMMERCIAL & SUGAR COMPANY, a Hawaii corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation; and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and the said officer acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

L.S.

Deirdre S. Mujakara
Notary Public, State of Hawaii
My commission expires: 7/15/98

13mmmc2

-4-

STATE OF HAWAII

COUNTY OF MAUI

SS.

On this 19th day of May, 1997, before me appeared ^{DAVID} ~~Derwin~~ *David* ^{Leis} ~~Leis~~, to me personally known, who, being by me duly sworn, did say that he is the ~~Chairperson~~ ^{Chairman} of the BOARD OF WATER SUPPLY of the County of Maui, and that the seal affixed to the foregoing instrument is the lawful seal of the said BOARD OF WATER SUPPLY, and that the said instrument was signed and sealed on behalf of the said BOARD OF WATER SUPPLY, and the said ~~Derwin Leis~~ ^{David Leis} acknowledged the said instrument to be the free act and deed of the said BOARD OF WATER SUPPLY.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

David Leis
Notary Public, State of Hawaii

My commission expires: 4/19/98

ORIGINAL

FIFTH AMENDMENT TO
MEMORANDUM OF UNDERSTANDING

THIS AMENDMENT, made and entered into this 20th day of January, 1998, by and between EAST MAUI IRRIGATION COMPANY, LIMITED, a Hawaii corporation, whose business mailing address is P. O. Box 266, Puunene, Hawaii 96784, referred to as "EMI," A&B-HAWAII, INC., through its division, HAWAIIAN COMMERCIAL & SUGAR COMPANY, a Hawaii corporation, whose mailing address is P. O. Box 266, Puunene, Hawaii 96784, referred to as "HC&S," and the BOARD OF WATER SUPPLY of the County of Maui, whose principal place of business and mailing address is 200 S. High Street, Wailuku, Hawaii 96793, referred to as "BWS,"

W I T N E S S E T H:

WHEREAS, on December 31, 1973, EMI, HC&S and BWS entered into that certain Memorandum of Understanding, which subsequently was amended by an Amendment dated May 1, 1992, Second Amendment dated April 25, 1994, Third Amendment dated January 3, 1996, Fourth Amendment dated December 30, 1996, Agreement Re 1973 Memorandum of Understanding, Repairs to Waikamoi Water System, Construction of Reservoir at Kamole Weir dated March 21, 1996, and Addendum to Fourth Amendment dated May 6, 1997 (the Memorandum of Understanding, as so amended, is hereinafter referred to as the "Memorandum"), relating in part to the operation, maintenance and repair of the Waikamoi water system; and

WHEREAS, the term of the Memorandum is scheduled to terminate on December 31, 1997; and

WHEREAS, the parties hereto desire to extend the Memorandum for a period of one year; and

WHEREAS, on March 21, 1996, EMI, HC&S, and BWS entered into that certain Agreement Re 1973 Memorandum of Understanding, Repairs to Waikamoi Water System, Construction of Reservoir at Kamole Weir, relating to BWS using its best efforts to fund as expeditiously as possible the repairs currently necessary, in the discretion of EMI, to the Waikamoi Upper Flume, referred to as the "Flume"; and

WHEREAS, BWS budgeted \$60,000.00 for the necessary maintenance and repair of the Flume for fiscal year 1996-1997; and

WHEREAS, BWS has budgeted \$60,000.00 for the necessary maintenance and repair of the Flume for fiscal year 1997-1998; and

WHEREAS, EMI has agreed to provide BWS with an additional 175,000 gallons per day from the Wailoa Ditch System;

NOW, THEREFORE, in consideration of the mutual promises and agreements hereinafter set forth, the parties agree as follows:

72mbr06

1. The fourth paragraph of Paragraph 2 is deleted in its entirety and substituted with the following:

"Extensive and substantial damages to the collection and conveying and storage facilities owned by BWS as provided herein due to acts of God or events beyond the control of EMI requiring restoration or replacement of the facilities shall be the responsibility of BWS. Actual restoration and replacement of existing facilities shall be subject to budgetary limitations of BWS, which agrees to exercise reasonable judgment and good faith to include the costs, or portions thereof, of restoration and replacement in the ensuing budget or budgets. Actual restoration and replacement of additional facilities constructed by EMI shall be made at the discretion of BWS, which decision shall be final and shall not be subject to arbitration. With regard to restoration of the Waikamoi Upper Flume required by damages, existing as of December 17, 1996, to the facilities (herein called the "1996 Repairs"), BWS shall use its best efforts to fund as expeditiously as possible the repairs deemed necessary in the discretion of EMI. BWS and EMI agree to begin the 1996 Repairs as soon as practicable and to coordinate with each other to undertake such repairs. If the Waikamoi Upper Flume fails or suffers a major disruption due to the delay in funding these necessary repairs, BWS shall not be permitted to compensate for the reduction of Waikamoi system water by taking water from the Wailoa Ditch System. The exact nature, scope and total cost of the 1996 Repairs, including total reasonable reimbursement for labor (including overhead), will not be known until EMI proceeds with the repairs, but the cost during the fiscal year ending June 30, 1998 shall not exceed the sum of \$60,000.00 and any additional funds appropriated by the BWS during such fiscal year pursuant to its best efforts obligations to expeditiously fund the 1996 Repairs."

2. The first sentence of Paragraph 3 is hereby replaced in its entirety with the following:

"From the waters collected by EMI in the Wailoa Ditch System, EMI will make available to BWS up to 8.675 million gallons of water per twenty-four-hour period, allocated as follows: up to 7.175 million gallons of water per twenty-four-hour period from the Kamole Weir delivery point, and up to 1-1/2 million gallons of water per twenty-four-hour period from the Hamakua Ditch delivery point to serve the needs of the Kula Agricultural Park (pursuant to the letter dated July 27, 1982 from HC&S and EMI to the Department of Water Supply of the County of Maui)."

3. Paragraph 13 is hereby deleted in its entirety and substituted with the following:

"13. Term. The term of this agreement shall be for twenty-five (25) years commencing January 1, 1974 and terminating on December 31, 1998; provided, however, that this agreement may be extended from time to time by mutual agreement."

4. Save and except as amended herein, the Memorandum, as previously amended, shall remain in full force and effect.


5. Facsimile signatures shall be deemed valid as original signatures. However, each party shall forward original signature pages to the other parties upon execution.

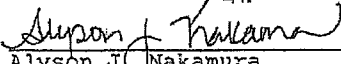
6. This Amendment may be executed in counterpart signature pages.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed on the date first above written.

EMI:

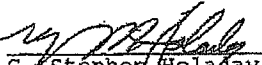
EAST MAUI IRRIGATION COMPANY,
LIMITED

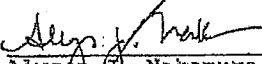

G. Stephen Holaday
Its Vice President
EXEC. VICE PRESIDENT


Alyson J. Nakamura
Its Secretary

HC&S:

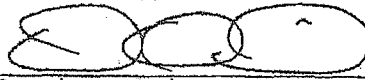
A&B-HAWAII, INC., THROUGH ITS DIVISION
HAWAIIAN COMMERCIAL AND SUGAR COMPANY


G. Stephen Holaday
Its Senior Vice President


Alyson J. Nakamura
Its Secretary

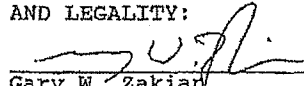
BWS:

BOARD OF WATER SUPPLY
COUNTY OF MAUI



Dorvin D. Leis
Its Chairperson

APPROVED AS TO FORM
AND LEGALITY:



Gary W. Zakian
Deputy Corporation Counsel
County of Maui

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

On this 23rd day of February 1998, before me appeared G. STEPHEN HOLADAY, to me personally known, who, being by me duly sworn or affirmed, did say that he is the Executive Vice President of EAST MAUI IRRIGATION COMPANY, LIMITED, a Hawaii corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation; and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and the said officer acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

L.S.

Simon S. Miyahara
Notary Public, State of Hawaii

My Commission Expires: 7/15/98

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

On this 27th day of February 1998, before me appeared ALYSON J. NAKAMURA, to me personally known, who, being by me duly sworn or affirmed, did say that she is the Secretary of EAST MAUI IRRIGATION COMPANY, LIMITED, a Hawaii corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation; and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and the said officer acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

L.S.

Simon S. Miyahara
Notary Public, State of Hawaii

My Commission Expires: 7/15/98

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

On this 23rd day of February 1998, before me appeared G. STEPHEN HOLADAY, to me personally known, who, being by me duly sworn or affirmed, did say that he is the Senior Vice President of A&B-HAWAII, INC., a Hawaii corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation; and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and the said officer acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

L.S.

William J. Miyahara
Notary Public, State of Hawaii
My Commission Expires: 7/15/98

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

On this 27th day of February 1998, before me appeared ALYSON J. NAKAMURA, to me personally known, who, being by me duly sworn or affirmed, did say that she is the Secretary of A&B-HAWAII, INC., a Hawaii corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation; and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and the said officer acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

L.S.

William J. Miyahara
Notary Public, State of Hawaii
My Commission Expires: 7/15/98

STATE OF HAWAII

COUNTY OF MAUI

)
) SS.
)

On this 12th day of ^{February} ~~January~~, 1998, before me appeared Dorvin D. Leis, to me personally known, who, being by me duly sworn, did say that he is the Chairperson of the BOARD OF WATER SUPPLY of the County of Maui, and that the seal affixed to the foregoing instrument is the lawful seal of the said BOARD OF WATER SUPPLY, and that the said instrument was signed and sealed on behalf of the said BOARD OF WATER SUPPLY, and the said Dorvin D. Leis acknowledged the said instrument to be the free act and deed of the said BOARD OF WATER SUPPLY.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

[Signature]

Notary Public, State of Hawaii

My commission expires: 4/19/98

0197.580

SIXTH AMENDMENT TO
MEMORANDUM OF UNDERSTANDING

THIS AMENDMENT, made and entered into this 28th day of December, 1998, and effective as of December 31, 1998, by and between EAST MAUI IRRIGATION COMPANY, LIMITED, a Hawaii corporation, whose business mailing address is P. O. Box 266, Puunene, Hawaii 96784, referred to as "EMI," A&B-HAWAII, INC., through its division, HAWAIIAN COMMERCIAL & SUGAR COMPANY, a Hawaii corporation, whose mailing address is P. O. Box 266, Puunene, Hawaii 96784, referred to as "HC&S," and the BOARD OF WATER SUPPLY of the County of Maui, whose principal place of business and mailing address is 200 S. High Street, Wailuku, Hawaii 96793, referred to as "BWS,"

W I T N E S S E T H:

WHEREAS, on December 31, 1973, EMI, HC&S and BWS entered into that certain Memorandum of Understanding, which subsequently was amended by an Amendment dated May 1, 1992, Second Amendment dated April 25, 1994, Third Amendment dated January 3, 1996, Fourth Amendment dated December 30, 1996, Agreement Re 1973 Memorandum of Understanding, Repairs to Waikamoi Water System, Construction of Reservoir at Kamole Weir dated March 21, 1996, Addendum to Fourth Amendment dated May 6, 1997, and Fifth Amendment dated January 20, 1998 (the Memorandum of Understanding, as so amended, is hereinafter referred to as the "Memorandum"), relating in part to the operation, maintenance and repair of the Waikamoi water system; and

WHEREAS, the term of the Memorandum is scheduled to terminate on December 31, 1998; and

WHEREAS, the parties hereto desire to extend the Memorandum for a period of one year; and

WHEREAS, on March 21, 1996, EMI, HC&S, and BWS entered into that certain Agreement Re 1973 Memorandum of Understanding, Repairs to Waikamoi Water System, Construction of Reservoir at Kamole Weir, relating to BWS using its best efforts to fund as expeditiously as possible the repairs currently necessary, in the discretion of EMI, to the Waikamoi Upper Flume, referred to as the "Flume"; and

WHEREAS, BWS budgeted \$60,000.00 for the necessary maintenance and repair of the Flume for fiscal year 1997-1998; and

WHEREAS, BWS has budgeted \$60,000.00 for the necessary maintenance and repair of the Flume for fiscal year 1998-1999;

NOW, THEREFORE, in consideration of the mutual promises and agreements hereinafter set forth, the parties agree as follows:

73menad6

1. BWS agrees to make available and to utilize the \$60,000.00, budgeted in the fiscal year 1998-1999 budget, for the necessary repair and maintenance of the Flume.

2. Paragraph 13 is hereby deleted in its entirety and substituted with the following:

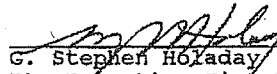
"13. Term. The term of this agreement shall be for twenty-six (26) years commencing January 1, 1974 and terminating on December 31, 1999; provided, however, that this agreement may be extended from time to time by mutual agreement."

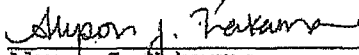
3. Save and except as amended herein, the Memorandum, as previously amended, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed on the date first above written.

EMI:


EAST MAUI IRRIGATION COMPANY,
LIMITED

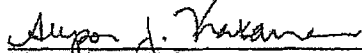

G. Stephen Holaday
Its Executive Vice President


Alyson J. Nakamura
Its Secretary

HC&S:

A&B-HAWAII, INC., THROUGH ITS DIVISION
HAWAIIAN COMMERCIAL AND SUGAR COMPANY


G. Stephen Holaday
Its Senior Vice President

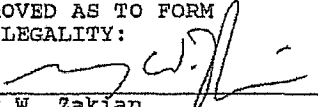

Alyson J. Nakamura
Its Secretary

BWS:

BOARD OF WATER SUPPLY
COUNTY OF MAUI


Robert Takitani
Its Chairperson

APPROVED AS TO FORM
AND LEGALITY:


Gary W. Zakian
Deputy Corporation Counsel
County of Maui

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this 20th day of December, 1998, before me appeared G. STEPHEN HOLADAY, to me personally known, who, being by me duly sworn, did say that he is the Executive Vice President of EAST MAUI IRRIGATION COMPANY, LIMITED, a Hawaii corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation; and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and the said officer acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Lorain K. Mawri
Notary Public, State of Hawaii
My commission expires: 9/10/2000

STATE OF HAWAII)
) SS.
CITY & COUNTY OF HONOLULU)

On this 28th day of December, 1998, before me appeared ALYSON J. NAKAMURA, to me personally known, who, being by me duly sworn, did say that she is the Secretary of EAST MAUI IRRIGATION COMPANY, LIMITED, a Hawaii corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation; and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and the said officer acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



Aileen S. Miyahara
Notary Public, State of Hawaii
My commission expires: 7/15/02

73mm06

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this 29th day of December, 1998, before me appeared G. STEPHEN HOLADAY, to me personally known, who, being by me duly sworn, did say that he is the Senior Vice President of A&B-HAWAII, INC., through its division HAWAIIAN COMMERCIAL & SUGAR COMPANY, a Hawaii corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation; and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and the said officer acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

L.S.

Loralee K. Mauw
Notary Public, State of Hawaii

My commission expires: 9/10/2000

STATE OF HAWAII)
) SS.
CITY & COUNTY OF HONOLULU)

On this 27th day of December, 1998, before me appeared ALYSON J. NAKAMURA, to me personally known, who, being by me duly sworn, did say that she is the Secretary of A&B-HAWAII, INC., through its division HAWAIIAN COMMERCIAL & SUGAR COMPANY, a Hawaii corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation; and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and the said officer acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



Aileen S. Miyahara
Notary Public, State of Hawaii

My commission expires: 7/5/02

73m11006

STATE OF HAWAII

COUNTY OF MAUI

)
) SS.
)

On this 26th day of January 1999, before me appeared Robert K. Takitani, to me personally known, who, being by me duly sworn, did say that he is the Chairperson of the BOARD OF WATER SUPPLY of the County of Maui, and that the seal affixed to the foregoing instrument is the lawful seal of the said BOARD OF WATER SUPPLY, and that the said instrument was signed and sealed on behalf of the said BOARD OF WATER SUPPLY, and the said Robert K. Takitani acknowledged the said instrument to be the free act and deed of the said BOARD OF WATER SUPPLY.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Jerry Ann Wells
Notary Public, State of Hawaii
My commission expires: 4/19/2002

SEVENTH AMENDMENT TO
MEMORANDUM OF UNDERSTANDING

THIS AMENDMENT, made and entered into this 29 day of December, 1999, and effective as of December 31, 1999, by and between EAST MAUI IRRIGATION COMPANY, LIMITED, a Hawaii corporation, whose business mailing address is P. O. Box 266, Puunene, Hawaii 96784, referred to as "EMI," A&B-HAWAII, INC., through its division, HAWAIIAN COMMERCIAL & SUGAR COMPANY, a Hawaii corporation, whose mailing address is P. O. Box 266, Puunene, Hawaii 96784, referred to as "HC&S," and the BOARD OF WATER SUPPLY of the County of Maui, whose principal place of business and mailing address is 200 S. High Street, Wailuku, Hawaii 96793, referred to as "BWS,"

W I T N E S S E T H:

WHEREAS, on December 31, 1973, EMI, HC&S and BWS entered into that certain Memorandum of Understanding, which subsequently was amended by an Amendment dated May 1, 1992, Second Amendment dated April 25, 1994, Third Amendment dated January 3, 1996, Fourth Amendment dated December 30, 1996, Agreement Re 1973 Memorandum of Understanding, Repairs to Waikamoi Water System, Construction of Reservoir at Kapele Weir dated March 21, 1996 ("1996 Agreement"), Addendum to Fourth Amendment dated May 6, 1997, Fifth Amendment dated January 20, 1998, and Sixth Amendment dated December 28, 1998 (the Memorandum of Understanding, as so amended, is hereinafter referred to as the "Memorandum"), relating in part to the collection and delivery of water by EMI to BWS, and to the operation, maintenance and repair of the Waikamoi water system; and

WHEREAS, the term of the Memorandum is scheduled to terminate on December 31, 1999; and

WHEREAS, the parties hereto desire to extend the Memorandum for a period of two months;

NOW, THEREFORE, in consideration of the mutual promises and agreements hereinafter set forth, the parties agree as follows:

1. Paragraph 13 of the Memorandum is hereby deleted in its entirety and substituted with the following:

"13. **Term.** The term of this agreement shall be for twenty-six (26) years and two (2) months commencing January 1, 1974 and terminating on February 29, 2000; provided, however, that this agreement may be extended from time to time by mutual agreement."

2. Save and except as amended herein, the Memorandum, as previously amended, shall remain in full force and effect.

13wcm07-12/29/99

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed on the date first above written.

EMI:


EAST MAUI IRRIGATION COMPANY,
LIMITED


G. Stephen Holaday
Its President


Alyson J. Hakamaea
Its Secretary

HCS:

A&B-HAWAII, INC., THROUGH ITS DIVISION
HAWAIIAN COMMERCIAL AND SUGAR COMPANY


G. Stephen Holaday
Its Senior Vice President



Alyson J. Hakamaea
Its Secretary

BWS:

BOARD OF WATER SUPPLY
COUNTY OF MAUI


Robert Takitani
Its Chairperson

APPROVED AS TO FORM
AND LEGALITY:


Thomas P. Race
Deputy Corporation Counsel
County of Maui

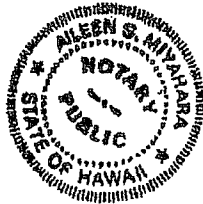
STATE OF HAWAII

CITY & COUNTY OF HONOLULU

) SS.

On this 29th day of December, 1999, before me appeared G. STEPHEN HOLADAY, to me personally known, who, being by me duly sworn, did say that he is the President of EAST MAUI IRRIGATION COMPANY, LIMITED, a Hawaii corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation; and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and the said officer acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



Aileen S. Miyahara AILEEN S. MIYAHARA
Notary Public, State of Hawaii

My commission expires: 7/15/02

STATE OF HAWAII

CITY & COUNTY OF HONOLULU

) SS.

On this 29th day of December, 1999, before me appeared ALYSON J. NAKAHURA, to me personally known, who, being by me duly sworn, did say that she is the Secretary of EAST MAUI IRRIGATION COMPANY, LIMITED, a Hawaii corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation; and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and the said officer acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



Aileen S. Miyahara AILEEN S. MIYAHARA
Notary Public, State of Hawaii

My commission expires: 7/15/02

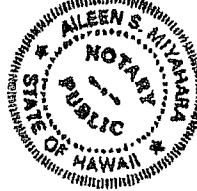
STATE OF HAWAII

CITY & COUNTY OF HONOLULU

} ss.

On this 29th day of December, 1999, before me appeared G. STEPHEN HOLADAY, to me personally known, who, being by me duly sworn, did say that he is the Senior Vice President of A&B-HAWAII, INC., through its division HAWAIIAN COMMERCIAL & SUGAR COMPANY, a Hawaii corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation; and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and the said officer acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



Aileen S. Miyahara AILEEN S. MIYAHARA
Notary Public, State of Hawaii

My commission expires: 7/15/02

STATE OF HAWAII

CITY & COUNTY OF HONOLULU

} ss.

On this 29th day of December, 1999, before me appeared ALYSON J. NAKAMURA, to me personally known, who, being by me duly sworn, did say that she is the Secretary of A&B-HAWAII, INC., through its division HAWAIIAN COMMERCIAL & SUGAR COMPANY, a Hawaii corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation; and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and the said officer acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



Aileen S. Miyahara AILEEN S. MIYAHARA
Notary Public, State of Hawaii

My commission expires: 7/15/02

STATE OF HAWAII

COUNTY OF MAUI

SS.

On this 30th day of December, 1999, before me appeared Robert Taitani, to me personally known, who, being by me duly sworn, did say that he is the Chairperson of the BOARD OF WATER SUPPLY of the County of Maui, and that the seal affixed to the foregoing instrument is the lawful seal of the said BOARD OF WATER SUPPLY, and that the said instrument was signed and sealed on behalf of the said BOARD OF WATER SUPPLY, and the said Robert Taitani acknowledged the said instrument to be the free act and deed of the said BOARD OF WATER SUPPLY.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



Jerry Ann Wells
Notary Public, State of Hawaii
Jerry Ann Wells
My commission expires: 4/19/2002

EIGHTH AMENDMENT TO
MEMORANDUM OF UNDERSTANDING

THIS AMENDMENT, made and entered into this 28TH day of March, 2000, and effective as of February 29, 2000, by and between EAST MAUI IRRIGATION COMPANY, LIMITED, a Hawaii corporation, whose business mailing address is P. O. Box 266, Puunene, Hawaii 96784, referred to as "EMI," ALEXANDER & BALDWIN, INC., through its division, HAWAIIAN COMMERCIAL & SUGAR COMPANY, a Hawaii corporation, whose mailing address is P. O. Box 266, Puunene, Hawaii 96784, referred to as "HC&S," and the BOARD OF WATER SUPPLY of the County of Maui, whose principal place of business and mailing address is 200 S. High Street, Wailuku, Hawaii 96793, referred to as "BWS,"

W I T N E S S E T H:

WHEREAS, on December 31, 1973, EMI, HC&S and BWS entered into that certain Memorandum of Understanding, which subsequently was amended by an Amendment dated May 1, 1992, Second Amendment dated April 25, 1994, Third Amendment dated January 3, 1996, Fourth Amendment dated December 30, 1996; Agreement Re 1973 Memorandum of Understanding, Repairs to Waikamoi Water System, Construction of Reservoir at Kamole Weir dated March 21, 1996 ("1996 Agreement"), Addendum to Fourth Amendment dated May 6, 1997, Fifth Amendment dated January 20, 1998, Sixth Amendment dated December 28, 1998, and Seventh Amendment dated December 29, 1999 (the Memorandum of Understanding, as so amended, is hereinafter referred to as the "Memorandum"), relating in part to the collection and delivery of water by EMI to BWS, and to the operation, maintenance and repair of the Waikamoi water system; and

WHEREAS, the term of the Memorandum is scheduled to terminate on February 29, 2000; and

WHEREAS, the parties hereto desire to extend the Memorandum for a period of two months;

NOW, THEREFORE, in consideration of the mutual promises and agreements hereinafter set forth, the parties agree as follows:

1. Paragraph 13 of the Memorandum is hereby deleted in its entirety and substituted with the following:

"13. Term. The term of this agreement shall be for twenty-six (26) years and four (4) months commencing January 1, 1974 and terminating on April 30, 2000; provided, however, that this agreement may be extended from time to time by mutual agreement."

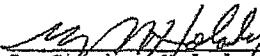
2. Save and except as amended herein, the Memorandum, as previously amended, shall remain in full force and effect.

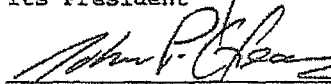
73memo8-03/23/00

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed on the date first above written.

EMI:

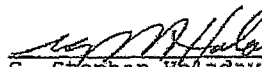
EAST MAUI IRRIGATION COMPANY,
LIMITED

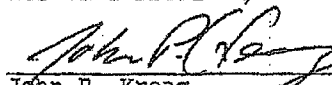

G. Stephen Moladay
Its President


John P. Kreag
Its Assistant Secretary

HC&S:


ALEXANDER & BALDWIN, INC.,
THROUGH ITS DIVISION, HAWAIIAN
COMMERCIAL & SUGAR COMPANY


G. Stephen Moladay
Its Vice President

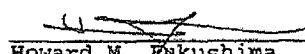

John P. Kreag
Its Assistant Treasurer

BWS:

BOARD OF WATER SUPPLY
COUNTY OF MAUI


Robert Takitani
Its Chairperson

APPROVED AS TO FORM
AND LEGALITY:


Howard M. Fukushima
Deputy Corporation Counsel
County of Maui

73memoB-02/22/00

-2-

STATE OF HAWAII)
MAUI) SS.
CITY & COUNTY OF HONOLULU)

On this 14th day of ^{April} ~~March~~, 2000, before me appeared G. STEPHEN HOLADAY, to me personally known, who, being by me duly sworn, did say that he is the President of EAST MAUI IRRIGATION COMPANY, LIMITED, a Hawaii corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation; and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and the said officer acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

L.S.

Valerie L. Nakashima
Valerie L. Nakashima
Notary Public, State of Hawaii

My commission expires: 5/25/00

STATE OF HAWAII)
MAUI) SS.
CITY & COUNTY OF HONOLULU)

On this 14th day of ^{April} ~~March~~, 2000, before me appeared JOHN P. KREAG, to me personally known, who, being by me duly sworn, did say that he is the Assistant Secretary of EAST MAUI IRRIGATION COMPANY, LIMITED, a Hawaii corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation; and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and the said officer acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

L.S.

Valerie L. Nakashima
Valerie L. Nakashima
Notary Public, State of Hawaii

My commission expires: 5/25/00

STATE OF HAWAII)
Maui) SS.
CITY & COUNTY OF HONOLULU)

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

My commission expires: 5/25/00

STATE OF HAWAII)
Mauu) SS.
CITY & COUNTY OF HONOLULU)

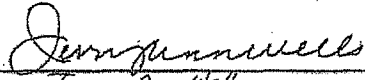
IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

My commission expires: 5/25/00

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this 28th day of March, 2000, before me appeared Robert Takitani, to me personally known, who, being by me duly sworn, did say that he is the Chairperson of the BOARD OF WATER SUPPLY of the County of Maui, and that the seal affixed to the foregoing instrument is the lawful seal of the said BOARD OF WATER SUPPLY, and that the said instrument was signed and sealed on behalf of the said BOARD OF WATER SUPPLY, and the said Robert Takitani acknowledged the said instrument to be the free act and deed of the said BOARD OF WATER SUPPLY.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



Terry Ann Wells
Notary Public, State of Hawaii
My commission expires: 4/19/2002