JEFFREY T. KUWADA
County Clerk

LANCE TAGUCHI
Deputy County Clerk

OFFICE OF THE COUNTY CLERK

COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.mauicounty.gov/county/clerk

June 17, 2011

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Honorable G. Riki Hokama, Chair
Policy Committee
Council of the County of Maui
Wailuku, Hawaii 96793

Dear Chair Hokama:

Respectfully transmitted are copies of the following communications that were referred to your Committee by the Council of the County of Maui at its meeting of June 17, 2011:

COUNTY COMMUNICATIONS:

No. 11-176 - Teena M. Rasmussen, Economic Development Coordinator
No. 11-177 - Jo-Ann T. Ridao, Director of Housing and Human Concerns

Respectfully,

JEFFREY T. KUWADA
County Clerk

/jym

Enclosures

cc: Director of Council Services

DEPARTMENT OF
HOUSING AND HUMAN CONCERNS
COUNTY OF MAUI

ALAN M. ARAKAWA
Mayor
JO-ANN T. RIDAO
Director
JAN SHISHIDO
Deputy Director

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2011 JUN -3 AM 9: 38
OFFICE OF THE MAYOR

2200 MAIN STREET • SUITE 546 • WAILUKU, HAWAII 96793 • PHONE (808) 270-7805 • FAX (808) 270-7165
MAILING ADDRESS: 200 SOUTH HIGH STREET • WAILUKU, HAWAII 96793 • EMAIL: director.hhc@mauicounty.gov

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2011 JUN -3 PM 12: 20
OFFICE OF THE
COUNTY CLERK

June 2, 2011

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

For Transmittal to:

Honorable Danny A. Mateo, Chair
and Members of the Maui County Council
200 South High Street
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL
6/8/11
Mayor **Date**

Dear Chair Mateo and Members:

SUBJECT: RESOLUTION APPROVING THE KULA RIDGE AFFORDABLE HOUSING SUBDIVISION RESIDENTIAL WORKFORCE HOUSING AGREEMENT

I am transmitting a proposed resolution entitled "APPROVING THE KULA RIDGE AFFORDABLE HOUSING SUBDIVISION RESIDENTIAL WORKFORCE HOUSING AGREEMENT."

The purpose of the proposed resolution is to comply with Modification Number 5 referenced in Exhibit "1" of Resolution No. 10-57 entitled "APPROVING WITH MODIFICATION THE KULA RIDGE AFFORDABLE HOUSING SUBDIVISION PROJECT PURSUANT TO SECTION 201H-38, HAWAII REVISED STATUTES."

I respectfully request that this matter be referred to the appropriate Council committee for review and discussion.

Thank you for your attention to this matter. Should you have any questions or require additional information, please feel free to contact me at Ext. 7805.

Sincerely,

JO-ANN T. RIDAO
Director of Housing and Human Concerns

Attachment

COUNTY COMMUNICATION NO. 11-177

Resolution

No. _____

APPROVING THE KULA RIDGE AFFORDABLE HOUSING SUBDIVISION RESIDENTIAL WORKFORCE HOUSING AGREEMENT

WHEREAS, Council of the County of Maui through Resolution 10-57 approved, with modification, the Kula Ridge Affordable Housing Subdivision Project pursuant to Section 201H-38, Hawaii Revised Statutes; and

WHEREAS, Project Modification Number 5 to the Kula Ridge 201H Affordable Housing Application ("Modification No. 5") requires that upon completion of the affordable housing agreement between Kula Ridge, LLC, and the County of Maui Department of Housing and Human Concerns, the plan be forwarded to the Council for approval; and

WHEREAS, Kula Ridge, LLC, has completed its Residential Workforce Housing Agreement, attached hereto as Exhibit "1" and by reference made a part hereof, as required by Modification No. 5; and

WHEREAS, the Department of Housing and Human Concerns is in support of the Residential Workforce Housing Agreement completed by Kula Ridge, LLC; and

WHEREAS, pursuant to Modification No. 5, Council approval is required; now therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That, it does hereby approve the Residential Workforce Housing Agreement completed by Kula Ridge, LLC; and

2. That, it does hereby authorize the Mayor of the County of Maui, or the Mayor's duly authorized representative, to execute the Residential Workforce Housing Agreement; and

Resolution No. _____

3. That, certified copies of this resolution be transmitted to the Director of Public Works, the Planning Director, the Director of Housing and Human Concerns, and Kula Ridge, LLC.

APPROVED AS TO FORM
AND LEGALITY:

JEFFREY UEOKA
Deputy Corporation Counsel
County of Maui

S:\ALL\JTU\RESOS\Kula Ridge RWHA.wpd

LAND COURT | REGULAR SYSTEM

Return By Mail ☐ Pick-Up ☐ To:

CARLSMITH BALL LLP
One Main Plaza, Suite 400
2200 Main Street, P.O. Box 1086
Wailuku, Maui, Hawaii 96793-1086

Attention: B. Martin Luna
Telephone: (808) 242-4535

TITLE OF DOCUMENT:

RESIDENTIAL WORKFORCE HOUSING AGREEMENT

PARTIES TO DOCUMENT:

KULA RIDGE: KULA RIDGE, LLC
2145 Wells Street, Suite 301
Wailuku, Hawaii 96793

COUNTY: COUNTY OF MAUI
200 South High Street
Wailuku, Maui, Hawaii 96793

TAX MAP KEY(S): (2) 2-3-001:174; 2-3-001:023 (This document consists of 8 pages)

EXHIBIT "I"

RESIDENTIAL WORKFORCE HOUSING AGREEMENT

THIS RESIDENTIAL WORKFORCE HOUSING AGREEMENT ("AGREEMENT") is made and entered into as of _____, 2011, by KULA RIDGE, LLC, a Hawaii limited liability company, whose business address is 2145 Wells Street, Suite 301, Wailuku, Hawaii 96793 ("KULA RIDGE"), and the COUNTY OF MAUI, a political subdivision of the State of Hawaii ("COUNTY"), the address of which is 200 South High Street, Wailuku, Maui, Hawaii 96793.

RECITALS

A. By this Agreement, Kula Ridge and the County desire to memorialize and implement their understanding regarding the satisfaction of Kula Ridge's affordable housing requirements imposed on or affecting the development of that certain parcel of land owned by Kula Ridge, comprising approximately 51.025 acres and identified as Tax Map Key No. (2) 2-3-001:174 and Tax Map Key No. (2) 2-3-001:023 (por.), Kula, Maui, Hawaii (the "Kula Ridge Property"), which parcels will be subdivided into eighty-two (82) lots for single family households and one lot containing thirty-four (34) senior affordable duplex units to be registered pursuant to Chapter 514B, Hawaii Revised Statutes, Condominium Property Regime ("CPR"), known as the Kula Ridge Affordable Housing Subdivision (the "Kula Ridge Project"), located approximately as shown on the map attached as Exhibit "A" to this Agreement.

B. The Department of Housing and Human Concerns of the County of Maui ("DHHC") has certified that the Kula Ridge Project is a housing project pursuant to Section 201H-38 of the Hawaii Revised Statutes, and is required to provide fifty-nine (59) affordable housing units.

C. The subdivision application and CPR documents for the Kula Ridge Property will be filed by Kula Ridge.

D. Thereafter, the Department of Public Works ("DPW") will process the application pursuant to the pertinent provisions of Title 18, Maui County Code and the Real Estate Commission of the State Department of Commerce and Consumer Affairs will process the CPR documents pursuant to the pertinent provisions of Chapter 514B, HRS.

E. Pursuant to Section 2.96.030(B)(6) of the Residential Workforce Housing Policy Ordinance, Maui County Code (the "RWHP"), the Kula Ridge Project is exempt from the RWHP. Kula Ridge, however, desires to provide its 59 affordable

housing units, in accordance with certain provisions of the RWHP, as more fully explained hereinbelow.

F. Kula Ridge agrees that it will satisfy this Agreement by providing 59 affordable single family housing units on the Kula Ridge Property pursuant to Resolution No. 10-57 that was adopted by the Council of the County of Maui on October 19, 2010.

G. The total number of affordable housing units required by the County for the Kula Ridge Project is fifty-nine (59), consisting of thirty-four (34) senior affordable units in seventeen (17) duplexes and twenty-five (25) single family units. All of the foregoing units will be designed and constructed by Kula Ridge, sold pursuant to the pertinent provisions of Section 2.96.060 A. and C. through F., inclusive, of the RWHP, and marketed pursuant to Section 2.96.080 and Section 2.96.090 of the RWHP.

AGREEMENT

In consideration of the Recitals, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Kula Ridge and the County hereby agree as follows:

1. This Agreement fully satisfies the affordable housing requirements for the Kula Ridge Project. The County shall not impose any other or further affordable housing obligations as a condition to or in connection with the Kula Ridge Project. It is the specific intent of this paragraph that no future covenant or condition requiring the construction, development, inclusion, allowance for or contribution to or in lieu of affordable housing shall be imposed by the County on the Kula Ridge Project.

2. Full compliance of the affordable housing requirements specified in this Agreement shall occur when Kula Ridge provides 59 residential units on the Kula Ridge Property as stated in the recitals, above, for sale at affordable prices approved by DHHC. The affordable single-family homes and senior affordable duplexes shall be built at a rate of two single-family homes or one senior affordable duplex for each market-rate home built or market-rate lot sold, whichever is earlier.

3. The County hereby represents and confirms that Kula Ridge's plan for providing 59 affordable residential units is not inconsistent with the RWHP and the rules of the County and the DHHC pertaining to affordable housing.

4. Kula Ridge agrees that the 59 combined total number of affordable housing units provided by the Kula Ridge Project, shall be distributed within the income group

categories as provided for by RWHP as follows: seventeen (17) senior housing units for below-moderate income households (81% to 100% of the area median income as established by HUD), seventeen (17) senior housing units and twelve (12) single family units for moderate income households (101% to 120% of the area median income as established by HUD), and thirteen (13) single family units for above-moderate income households (121% to 140% of the area median income as established by HUD).

5. Sale of the affordable housing units for each category shall occur as follows:

   a. The applicant must meet the eligibility requirements of Section 2.96.090.B., RWHP.

   b. The sale of the units shall be in accordance with pertinent provisions of Section 2.96.60 and Section 2.96.090 of the RWHP.

   c. If not prohibited by Chapter 2.96, RWHP, and as long as the applicant meets the eligibility requirements of the RWHP, the sale of the units shall be prioritized as follows: (1) a person who is a resident of and/or works in the community plan region in which the units are located, then (2) to all other eligible applicants. Persons who qualify within Category (1) shall file their applications for a unit within ninety (90) calendar days of the last date of publication in a newspaper of general circulation on the Island of Maui as provided in Section 2.96.090.A.2.

6. The terms, agreements, covenants and conditions set forth in this Agreement shall be binding upon and inure to the benefit of the parties hereto, and their respective successors, successors-in-title, and assigns.

7. In the event of any dispute arising from or relating to this Agreement, the parties shall bear their own costs and expenses resulting therefrom, including attorneys' fees and litigation costs.

8. This Agreement may be executed in one or more counterparts. It shall be fully executed when each party whose signature is required has signed at least one counterpart even though no one counterpart contains the signature of all the parties. Each executed counterpart shall be deemed an original, but all of which together shall constitute one and the same Agreement.

9. If any term, provision, covenant or condition of this Agreement should be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of this Agreement shall continue in full force and effect and shall in no way be affected, impaired or invalidated thereby.

Kula Ridge and the County have executed this Agreement as of the date first referenced above.

KULA RIDGE, LLC

By _____
Name: CLAYTON NISHIKAWA
Title: Managing Member

"Kula Ridge"

COUNTY OF MAUI

By _____
Name: ALAN M. ARAKAWA
Title: Mayor

"COUNTY"

APPROVAL RECOMMENDED:

_____
Jo-Ann Ridao, Director
Department of Housing and Human Concerns

APPROVED AS TO FORM AND LEGALITY:

_____
JEFFREY UEOKA
Deputy Corporation Counsel
County of Maui

STATE OF HAWAII)
) ss.
COUNTY OF MAUI)

On this 11th day of May, 2011, before me personally appeared CLAYTON NISHIKAWA, to me personally known, who, being by me duly sworn or affirmed, did say that he is the Managing Member of KULA RIDGE, LLC, and that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

CATHY F. RILEY NOTARY 05-606 PUBLIC STATE OF HAWAII

Name: Cathy F. Riley, Commission Number 05-606

Notary Public, State of Hawaii, County of Maui, Second Judicial Circuit

My commission expires: 10/02/2013

Date of Document: 05/11/2011 7 Pages

Document Description: Residential Workforce Housing Agreement

05/11/2011
[Notary Signature]

Printed Name: Cathy F. Riley

My commission expires: 10/02/2013

(notary stamp or seal)

CATHY F. RILEY NOTARY 05-606 PUBLIC STATE OF HAWAII

STATE OF HAWAII)
) ss.
COUNTY OF MAUI)

On this _____ day of _____, 20____, before me 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 pursuant to Section 9-18 of the Charter of the County of Maui; and the said ALAN M. ARAKAWA acknowledged the said instrument to be the free act and deed of said County of Maui.

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

_____
Name:

Notary Public, State of Hawaii

(Notary Stamp or Seal)

My commission expires:

NOTARY CERTIFICATION STATEMENT

Document Identification or Description: RESIDENTIAL WORKFORCE HOUSING AGREEMENT

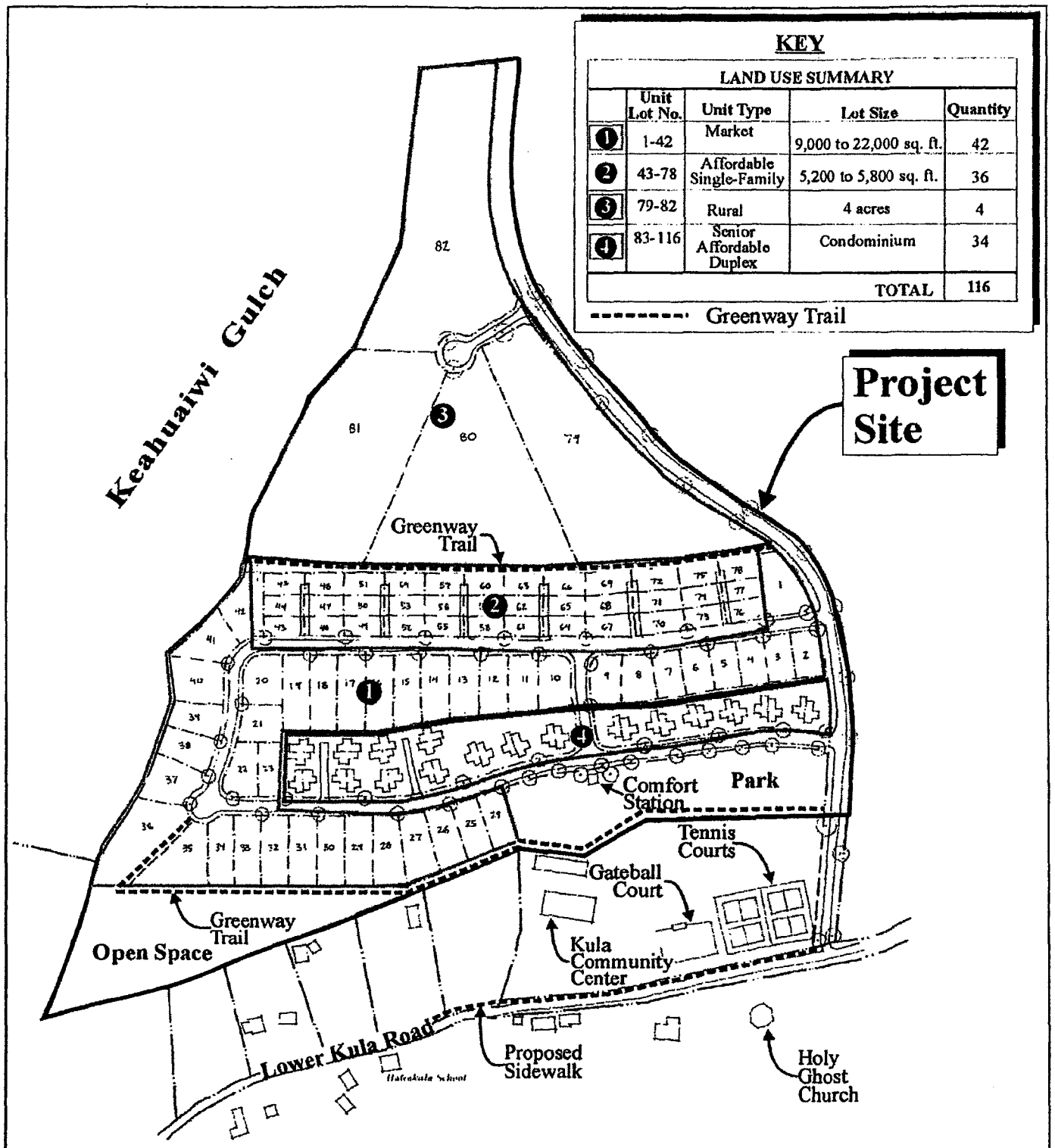
Document Date: _____
No. of Pages: _____
Jurisdiction (in which notarial act is performed): Second Circuit

(Notary Stamp or Seal)

Printed Name of Notary

Signature of Notary Certification Date

4824-5120-3330.3



Source: Architectural Design & Construction, Inc.

Proposed Kula Ridge Affordable Housing Subdivision

Revised Conceptual Site Plan

NOT TO SCALE

Prepared for: Kula Ridge, LLC

MUNEKIYO & HIRAGA, INC.

Nishikawa/KulaAH 1107/New201H/revisedsite

EXHIBIT "A"