

Hotel/Resort Properties -- Assessments

| PROPERTY TAX ASSESSMENT - SOME MAUI HOTEL PROPERTIES | | | | | | |
|--|------------------------|---------------|--|---------------|--|---------------|
| Hotel - Room Units | | 2010 | | 2018 | | 2019 |
| South Maui | Grand Wailea - 840 | \$406,811,500 | | \$339,864,400 | | \$477,678,600 |
| | Four Seasons - 283 | \$196,780,400 | | \$172,561,100 | | \$247,077,600 |
| | Kea Lani - 450 | \$252,306,400 | | \$207,910,900 | | \$298,227,900 |
| | | | | | | |
| West Maui | Hyatt Regency - 806 | \$240,079,700 | | \$226,673,800 | | \$314,950,000 |
| | Westin Kaanapali - 759 | \$169,315,900 | | \$172,283,800 | | \$223,128,700 |
| | Sheraton - 508 | \$154,883,400 | | \$150,644,800 | | \$183,979,900 |
| | Kaanapali Beach - 432 | \$58,750,500 | | \$59,427,000 | | \$66,100,400 |
| | Ritz Carlton - 455 | \$72,255,100 | | \$42,372,400 | | \$57,052,300 |

**Pukalani Community Association
Priorities for 2020 Maui County Budget
April 4, 2019**

Public Works:

1. We look forward to the continuation of the sidewalk along Old Haleakala Hwy. from Loha St. to Pukalani St.
2. For the safety of those trying to walk from the lower Old Haleakala Hwy. to the shopping center, a continuation of the existing sidewalk on the lower portion of Old Haleakala Hwy. from the planned new development to the shopping center is needed. The road is narrow, winding and dark at night and is currently a dangerous situation which will get a lot more dangerous with the addition of 170 new single family units planned for that area.
3. Pukalani has numerous street potholes as do many areas on Maui. We are compiling a list if that would be helpful.
4. As streets in Pukalani are rebuilt, we request a multimodal analysis for each street so we slowly move toward a complete street community.
5. Financial support for the West Maui Greenway project now under Phase I design at Unemori Eng. with the goal to be the next multiuse path after the Paia multiuse path is completed.

Office of Economic Development

1. We request funding assistance for the Pukalani Community Association Christmas Fair and Electric Golf Cart Parade December 7th.
2. Continuation of the Made on Maui Fest at the MACC

Feral Chickens/Roosters: We request the following to help with the increasing problem of feral chickens/roosters:

Create a noise control policy on Maui eliminating the suffering of many caused by the few who feed or raise roosters in residential areas.

Parks Department:

We request the assistance of long-range park planner, David Yamashita, to work with us on an overall plan for Pukalani Park so that the various requests for park uses can be considered within the overall park planning process.

Invasive Species Control: We have heard that Coqui frogs are getting closer to Pukalani. That concern, along with the ongoing discoveries of little fire ants and the latest alert on rat lungworm disease that is no longer eradicable on Maui according to Dr. Pang, shows invasive species control needs to be a top priority – including prevention, control and public education.

Water Department: New units in Pukalani increase the water list concerns and some members ask if there is a way to release water to the next person on the upcountry water list for every so many new units allowed. Any way to move through this list faster would be appreciated.

Mahalo,

Donna Clayton, President

808/344-7134 - donnajclayton@hawaii.rr.com

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Maui Nui Seabird
Recovery Project

www.mauihuiscabirds.org

868 Hali'imaile Road, Makawao, HI 96768
808.572-3500 – mauihuiscabirds@gmail.com

April 4, 2019

Maui County Council, Budget & Finance Committee

Mayor Hannibal Tavares Community Center, Social Hall, 91 Pukalani St., Pukalani, Maui

Aloha, Chair Rawlins-Fernandez, Chair King, Members of the Committee,

I am Jay Penniman, Manager of the Maui Nui Seabird Recovery Project. I live in Ha'iku and speak to you this evening representing my project, our staff, and the seabirds we work to provide a voice for. We are a project of the University of Hawai'i, and we work closely with the Hawai'i Division of Forestry & Wildlife. We are entirely grant funded and we appreciate the ongoing support we have received from the Council and OED.

Seabirds were the original ecological engineers. Their transport of marine organic nutrients to the mineral lava soils of our islands is what built the soils in which our unique native flora evolved. When Polynesians came to Hawai'i they utilized seabirds in navigation and, by observing feeding flocks of seabirds, were guided to fish to catch. As the Polynesians became the Hawaiians they adapted areas of the islands for living & food production, reducing the area available for seabirds to nest. European arrival accelerated habitat conversion. At the same time alien mammals were introduced and the seabirds, who, never in their 70 million years of life on the islands, developed any defenses against predation, declined dramatically. Feral cats, pigs and mongoose remain serious threats to the survival of our seabirds.

There is a growing body of scientific literature documenting the importance of seabird transported nutrients to both terrestrial ecosystems and near shore coral reef habitats. We are working to assist our seabirds to rebuild colonies and, to facilitate their contributing to the overall health of our island ecosystem.

Hawaiians have always maintained a strong connection with all the beings with whom they share 'aina & kai. We believe that having healthy seabird populations will enhance cultural connection and facilitate the growth of native plants in colony areas that could be used for lei and cultural practice.

Some of our nighttime lights distract young seabirds on their first flight from burrow out to sea. When they are drawn to our lights they lose all sense and fly round and round until they fall, exhausted, to the ground where they are preyed upon by cats and often hit by cars. Much of our county funded effort is now directed toward educating the public about the possibility that they may find seabirds on the ground, how they can respond to protect them, and how to contact us to recover them. We will be asking the council to reinstate the Outdoor Lighting Standards Committee to update the county Outdoor Lighting Ordinance.

I have a small staff and we depend upon interns and volunteers to be effective in our work. We also see it as part of our mission to educate and provide experience for our Maui youth. Each year we employ a KUPU AmeriCorps intern for 10 months, a Na Hua Ho'ohuli i ka Pono summer intern and a MEDB Women in Technology StemWorks summer intern.

We need to increase our outreach professional from a half time position to full time - when the county can provide the additional \$25,000 needed.

Mahalo again for your support and the opportunity to talk to you about our seabirds.

Kula Park Playground

My name is Katie Acpal and I'm here in support of the proposed Kula Park Playground. Undeniably, children need a safe place to move and play for many reasons. Today, I'd like to speak about the importance of this playground as it pertains to development, specifically, sensory development and sensory processing disorder.

Currently, I am a stay at home mom to two very active little boys ages 5 and 2, but in my past life, pre-mom, I was a special education teacher. In that role, I worked alongside many occupational therapists who were wonderful at helping our students with sensory processing issues. I also had personal experiences working with the occupational therapists at IMUA for my own son who needed support in this area.

So, what is sensory processing disorder? Well, we are all familiar with our senses because we use them everyday to understand the world around us. Some of us have exceptionally efficient sensory processing (imagine a ballerina or another type of professional athlete) and some of us have a poorly integrated sensory system (imagine someone who has "two left feet", is accident prone, or clumsy). We all experience momentary sensory processing issues. For example, we may trip on the stairs when we improperly gage the distance we need to step. And then some people have regular sensory disfunction and they could possibly have sensory processing disorder, which is the inability to use information received through the senses in order to function smoothly in daily life.

We are seeing a rise in sensory processing disorders, but why? Like with so many things, it is multifaceted, but it appears to be aggravated by our modern lifestyle which is increasingly more sedentary and in-doors. But children are meant to be active and outdoors in nature and in the elements which stimulates all of our senses. One sense in particular that affects sensory processing disorder that many people are not familiar with is the vestibular system. The vestibular system is the unifying system, and processes all other types of sensation. It is our most primal and powerful sense. It tells us whether we are upright or upside down, whether we are moving or standing still, and whether objects are moving or motionless in relation to our body.

Obviously the vestibular system is vital for our overall wellbeing. But how can we activate this system and make sure to stimulate it for proper development? The vestibular system stems from the inner ear canal. This is how one occupational therapist explained it to me for a visual. The inner ear canal is shaped like a butterfly wing. The fluid in the inner ear needs to move throughout that shape in order to properly stimulate it. So think, swinging back and forth, moving side to side, around and around, and up and down.

That is why I requested certain pieces of equipment for this playground during the planning phase. I requested a teeter totter and a merry go round, for example, because they are excellent for offering our children a safe way to activate that system.

I am very appreciative to Mike Silva, the engineer, who took the time to hear our visions and wishes for this play structure. He listened to our requests and implemented them into the design. And I also want to thank Yuki Lei Sugimura who was the first one to hear our voice and put this dream into action. Thank you for representing us and getting us this far in the process.

Thank you for your time,

Katie Acpal

Introduction to the Special Issue: Water grabbing? Focus on the (re)appropriation of finite water resources

by Lyla Mehta, Gert Jan Veldwisch, and Jennifer Franco

ABSTRACT: Recent large-scale land acquisitions for agricultural production (including biofuels), popularly known as 'land grabbing', have attracted headline attention. Water as both a target and driver of this phenomenon has been largely ignored despite the interconnectedness of water and land. This special issue aims to fill this gap and to widen and deepen the lens beyond the confines of the literature's still limited focus on agriculture-driven resource grabbing. The articles in this collection demonstrate that the fluid nature of water and its hydrologic complexity often obscure how water grabbing takes place and what the associated impacts on the environment and diverse social groups are. The fluid properties of water interact with the 'slippery' nature of the grabbing processes: unequal power relations; fuzziness between legality and illegality and formal and informal rights; unclear administrative boundaries and jurisdictions, and fragmented negotiation processes. All these factors combined with the powerful material, discursive and symbolic characteristics of water make 'water grabbing' a site for conflict with potential drastic impacts on the current and future uses and benefits of water, rights as well as changes in tenure relations.

online at: <http://www.water-alternatives.org/index.php/volume5/v5issue2/165-a5-2-1>

Africa's great 'water grab'

Foreign investors aren't just after land in Africa. Access to water is essential – which can bring them into direct competition with the needs of local communities

<https://www.theguardian.com/global-development/poverty-matters/2011/nov/24/africa-water-grab-land-rights>

THE OVEREXPLOITATION OF GROUND WATER IN THE SOUTH WESTERN VOSGES BY NESTLÉ WATERS AND THE ERMITAGE CHEESE DAIRY

An environmental disaster and obvious conflicts of interest implicating Nestlé

These two agribusinesses, which use 50% of water resources, have been responsible for at least 30 years of permanent deficits (in the order of 1.3 billion cubic meters per year) in the underground water basin called the « Vosges Sandstones »

The three environmental associations sitting on the Local Water Commission condemn the solutions proposed by this commission: water savings by households, no savings by industry and a massive transfer of water on a distance of 30 to 50 kilometres (the Suez group is in charge of this study)

<http://www.watergrabbing.net/2016/08/23/overexploitation-ground-water-south-western-vosges-nestle-waters-ermitage-cheese-dairy/>

DEFEND THE HUMAN RIGHT TO WATER IN JAKARTA!

In the 18 years of operation, the private water firms failed to substantially comply with their commitments to adequately provide clean water to Jakarta's more than 10 million people. Residents have thus turned to more expensive water providers or continued exploiting groundwater, a practice found to further increase vulnerability to climate-induced floods. Meanwhile, the public water facility, PAM Jaya, instead of gaining from the privatized arrangement, has reportedly lost up to Rp 1.17 trillion (US\$67.75 million) since 1997

<http://www.watergrabbing.net/2016/03/09/defend-human-right-water-jakarta/>

EDB 4/4/19
Yehua Simon

RECEIVED BY EDB DATE 4/4/19

Honorable Mayor Michael Victorino
200 High Street - 9th Floor
Wailuku, HI

RE: Assessment of Developer Deferral Agreements

Dear Honorable Mayor Victorino,

This letter is a follow up to our meeting this week at your office with Managing Director Sandy Baz and Deputy Managing Director Tyson Miyake. The initial purpose of this meeting was to follow up on our meeting last week with Deputy Planning Director Jordan Hart regarding Developer Lot 48A, LLC's unfulfilled Shoreline Management Area ("SMA") Permit # SM2 2000/0042.

It is clear from our meeting with the Deputy Planning Director that there is no lawful reason, or adopted Planning Commission Rule, to delay in issuing a Notice of Non-Compliance to Developer Lot 48A, LLC for failing to complete their conditioned roadway infrastructure and drainage improvement along Lower Honoapiilani Road.

As you are aware, immediately upon his employment as Deputy Director of Public Works under Director David Goode, Deputy Arakawa signed off on his client's oceanfront subdivision with an incomplete conditioned SMA Permit. The recent findings and admissions by the staff engineer's in Public Works reveal Director Arakawa also engaged in tampering and misrepresentation of County of Maui government records through the creation of a false County ledger.

In 2010, in connection with the proposed County of Maui Phase IV of Lower Honoapiilani Road roadway Capital Improvement Project, Director Arakawa sent Notices of Intent to Collect upon the costs of roadway and drainage improvements to **five** property owners in my subdivision. Director Arakawa asserted in a cover letter to property owners that the open-ended collection notices and alleged roadway infrastructure financial obligations were established in a "3 Lots or Less" subdivision infrastructure deferral agreement executed in 1996.

Just last week, County staff engineers in the Department of Public Works have confirmed the attached ledger created to support Director Arakawa's collection notices are a false representations of County records. The attached emails from staff engineer Lance Nakamura affirms the following;

- First, only 3 lots, **NOT** five parcels as the Arakawa ledger falsely represents, were created in 1996. (Subdivision file # 4.686)
 - A one-time "3 Lots or Less" subdivision infrastructure deferral agreement for the frontages of Hui Road and Lower Honoapiilani Road was executed and recorded by Corporation Counsel for subdivision file #4.686. (No. 95-145123)
- Second, the overlapping subdivision of Lot 48A, which occurred in 2001, created 3 additional parcels. (Subdivision file # 4.805)
 - No deferral agreements were executed or created by Corporation Counsel for the overlapping 3 lot subdivision of Lot 48A, one of the parent parcels of the original 3 lot subdivision.

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- Third, and Mr. Nakamura has revealed, the County of Maui has no recorded deferral agreements with the parcels created in the second overlapping subdivision of Lot 48A.

As the County records reveal, under the Direction of Public Works Director David Goode, newly employed Deputy Arakawa was allowed to sign off on his client's subdivision with an incomplete conditioned SMA Permit and incomplete conditioned roadway infrastructure improvements. The County records also reveal, Director Goode had just signed off on the massive Olowalu subdivision, also with an incomplete SMA Permit.

Through my dedicated efforts and professional support to the Olowalu property owners, the Olowalu developers were forced to come back to their development almost 10 years later to complete their SMA Permit infrastructure and environment mitigations. In late 2018, after your being elected as Mayor of the County of Maui and reviewing the entire SMA Permit history, you agreed in writing to issue a Notice of Non-Compliance to Developer Lot 48A, LLC.

In conclusion, Developer Lot 48A, LLC was conditioned by County agencies during the re subdivision of Lot 48A to complete the roadway infrastructure improvements that were deferred "one time" during the "3 Lot or Less" subdivision that was approved in 1996. Developer Lot 48A, LLC signed their subdivision entitlements with full knowledge of their infrastructure obligations. On the very day of final subdivision approvals, the previous "3 Lot or Less" deferral agreement was null and void.

The facts now reveal, Director Arakawa used this fabricated County ledger as an attempt to shift his private developer clients' conditioned roadway infrastructure financial obligations back onto the innocent property owners. By doing so, Director Arakawa slandered property titles with an illegitimate County lien through an unlawful open-ended Notice of Intent to Collect upon a pro rata share of the Phase IV of Lower Honoapiilani Road Capital Improvement Project.

As our Mayor, this information obtained under your administration is just cause to immediately correct the public records created by Director Arakawa and remove the illegitimate County liens from these properties to avoid further disputes and litigation. While this subdivision reveals the most distasteful exploitation of these unaccounted-for developer deferral agreements, we recognized and appreciate your commitment to recover the debts owed through these potentially thousands of developer agreements .

As a former Council Member dating back to 2005, you are aware that I am the citizen responsible for discovering these unaccounted-for developer debts owed back to the taxpayers. With that said, at your request, I have attached for your review and acceptance the proposal from a highly respected professional consultants I have brought forth to assist the Administration and the Maui County Council in establishing a fair and equitable formula and process of assessment and collection of the thousands of roadway infrastructure "deferral" agreements.

With the consultant's guidance and established models of assessment, the longstanding issue of uncollected developer debts will finally be resolved to the benefit of citizens of Maui County. A copy of this letter and the attachments have been forwarded to the Maui County Council.

Sincerely; *Christopher Salem*



URBAN FUTURES

Public Finance Group
Analytics & Compliance Group
Public Management Group

Hawaii Office

*31-456 Hawaii Belt Road
Papa'aloa, Hawaii, 96780
(714) 316-6150*

Maui County



Statement of Qualifications Study & Implementation of Proposed Fairness Bill

April 3, 2019

April 3, 2019

Maui County
Honorable Mayor Michael Victorino
200 S. High Street
Kalana O' Maui Bldg. 6th Floor
Wailuku, Hawai'i 96793

Re: Statement of Qualifications (RE: Study and Implementation of Proposed Fairness Bill)

Honorable Mayor Victorino,

It was a pleasure to meet you, Mr. Baz, and Mr. Salem last month to discuss how my firm and highly skilled sub-consultant team can assist the County with the study and implementation of the proposed Fairness Bill. On the behalf of my team of professional consultants, we appreciate the extensive background Mr. Salem has provided to us to lay the ground work for both legislation and procedures to establish a fair and equitable process to assess and collect up existing infrastructure agreements.

Looking forward, a key objective is for our professional team to provide the County with established models to help create an appropriate fee in lieu alternative for developer's infrastructure obligations likely through the formation and implementation of Assessment or Community Facilities Districts. The establishment of a District will provide a source of funding to contribute to County Capital Improvement Projects and the prevention of unnecessary small development roadway improvements which may not contribute to the greater needs of the community. Additionally, the issues surrounding "Hui" roads will be a direct beneficiary of these newly established sources of infrastructure funding.

Urban Futures, Inc. ("UFI"), Willdan and Jones Hall are pleased to submit this Statement of Qualifications (SOQ) for the purposes of soliciting municipal advisory, assessment engineering and associated legal services to Maui County ("the County") for the implementation of the proposed Fairness Bill study and implementation. Given the depth of our experience serving public agencies and understanding of residences and businesses in Hawai'i, as well as the depth of our sub-consultant partners Willdan and Jones Hall, our team is well resourced to provide the highest level of service at the lowest possible cost.

My wife and I have primary residents on big island and are very involved in several local charity organizations include Fraternal Order of the Eagles, SPCA and several food banks. As such, I care deeply about Hawaii, its residents, businesses and visitors and I remain readily available to meet with staff at a moment's notice.

I currently serve as the CEO of Urban Futures, a leader in providing financial advisory services, and we have assisted well over 300 public agencies. Last year, we closed 145 transactions totaling \$2.9 billion in par, earning us the #1 ranking in California by number of deals completed. I take great pride as a small local business successfully competing in a space dominated by large publicly traded firms.

2018 Financial Advisor Rankings (California)

| Rank | Financial Advisor Rankings | Number of Issues | Mkt. Share | Par Amount (US\$ mil) |
|------|----------------------------------|------------------|------------|-----------------------|
| 1 | Urban Futures Inc | 145 | 18.2 | 2,899.6 |
| 2 | PFM Financial Advisors LLC | 81 | 10.2 | 5,990.6 |
| 3 | Fieldman Rolapp & Associates | 73 | 9.2 | 2,468.0 |
| 4 | KNN Public Finance | 69 | 8.7 | 4,794.3 |
| 5 | Public Resources Advisory Group | 44 | 5.5 | 12,536.4 |
| 6 | Piper Jaffray & Co | 27 | 3.4 | 581.0 |
| 6 | Dale Scott & Company Inc | 27 | 3.4 | 877.9 |
| 8 | Keygent LLC | 23 | 2.9 | 636.4 |
| 9 | Montague DeRose & Associates LLC | 20 | 2.5 | 3,241.8 |
| 10 | NHA Advisors | 19 | 2.4 | 457.8 |

Source: SDC Platinum

The following are the primary strengths of our statement:

- While other municipal advisory firms concentrate primarily on the issuance of bonds, as a former public agency executive and CFO I am focused on all aspects of financially related issues facing our clients
- Myself, as well as members of my staff, have depth of experience representing our clients' financial interests and strengths to a variety of stakeholders whether presentations to County Councils and Finance Committees on various financing and program delivery solutions
- In addition to our municipal advisory services related to bonds, we offer services, such as pension liability solutions, continuing disclosure compliance, financial forecasting, engaging taxpayers and ratepayers, that will cover the County's needs better than our competitors
- Our client references will confirm our depth and breadth of services delivered on-time and within budget

I am enthusiastic about the opportunity to work with the County. If you have any questions, please do not hesitate to contact me at (714) 316-6150 or MichaelB@UrbanFuturesInc.com.

Sincerely,

URBAN FUTURES, INC.



Michael P. Busch, Chief Executive Officer

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A. UNDERSTANDING OF THE IMMEDIATE NEED

We will work with the County of Maui, as part of a three (3) disciplined consulting team including assessment engineering services by Willdan, assessment related legal counsel services provided by Jones Hall, along with UFI serving as municipal advisor to determine which properties are subject to the agreements as well as the approach (fees or assessments) that is best suited for enforcing and collecting existing infrastructure agreements.

These agreements affect the land titles of privately-owned parcels of residential subdivisions and commercial parcels along the frontages of County of Maui roadways, and would be collected to aid in the funding of roadway Capital Improvement Projects (“CIP”). Through our extensive review of the County records relating to these development agreements, we also find our services will be of great benefit to help resolve the challenges surrounding the multiple Hui Road’s throughout Maui County.

To address the agreements, the goal is to create a County-wide model for roadway improvement assessment districts, and the establishment of fee in-lieu alternatives for the shared funding of roadway CIP’s throughout Maui County. After an initial evaluation of the existing development agreements, and of the Maui County Code relating to Improvement Districts, we find and recognize that the provisions are like those of which we have incorporated into assessment districts in other municipalities.

Once the legal findings and conclusions are provided to assess and collect upon existing Infrastructure agreements associated with previously developed parcels, UFI and Willdan staff will be to help determine which collection mechanism is best suited and most feasible for various situations, including financial feasibility. Collection may be through amortized property tax assessments in conjunction with the formation of County of Maui roadway improvement districts, or through alternative one-time in-lieu fees.

On behalf of the County of Maui, our team will consult with designated legal counsel, or other individuals designated by the County, to study existing agreements and specific situations, and determine the optimal approach, given specific property and/or project circumstances. Our team will then develop and implement the selected mechanism, in accordance with adopted County ordinances, and State of Hawai’i laws.

The goal is to reduce or eliminate the avoidable waste of funds for the installation of roadway improvements that would subsequently be torn out and replaced at public expense when a County CIP is completed along the development frontage.

B. SCOPE OF SERVICES RELATED TO THE REVIEW AND IMPLEMENTATION OF THE FAIRNESS BI

UFI (Municipal Advisory Services)

Assembling a team that works for the County is a key part of the process. Among the first to join the team is the municipal advisor. As municipal advisor, UFI will successfully perform the following duties in two (2) phases.

Phase One:

- Assist in the County in auditing each of the subdivision agreements to verify status of the deferrals;
- Assist the County in determining the feasibility to collect and or remove properties subject to the agreements;

Phase Two:

- Negotiate and manage special tax consulting and outside counsel fees on the behalf of the County;
- Analyze the proposed unit of measure methodology determining assessment amounts provided by the special tax consultant as well as the implantation roadmap as proposed by legal counsel;
- Provide practical feedback regarding options to collect payments from developers at the time of subdivision of their property, to offset their impact on existing roadway facilities either through development impact fees at the time building permits are pulled or through the implementation of community facilities districts and/or assessment districts;
- For deferral agreements, which may include forming an improvement district as an alternative to a one-time payment pursuant to the agreements, develop a capital financing plan to address the backlog of improvements;
- Review the proposed Hui Road F improvement district that could be funded by assessments, the associated improvement costs, and the parcels that would benefit, to establish a shared public/private benefit nexus and appropriate and defensible apportionment methodology and develop a financing plan to fund identified infrastructure; and
- Assist in developing the plan of finance for deferred capital maintenance related to deferral agreements and/or funding of the Countywide CIP.

Willdan Engineering Services

Based upon Willdan’s extensive experience creating and implementing development impact fees throughout the country, proposed in-lieu fees would be established and function in a manner comparable to those types of adopted fees. Developers would be responsible to make financial contributions to a County infrastructure fund by contributing their share of the cost of constructing roadway infrastructure improvements, and property owners subject to deferral agreements would be subject to a one-time payment becoming due, or alternatively electing to participate in an improvement district in lieu of the agreement.

- Task 1: Determine Approach for Collecting/Assessing for Existing Infrastructure Agreements on Maui County Roadway Capital Improvement Projects

Working with the County municipal advisor, legal counsel and designated individuals and/or County Staff from the initial task, the one-time fee amount and/or deferral agreement release amount would be determined based on the impacts that have been, or would be, caused by the proposed subdivision/development (i.e. based on intensity of use, proposed density, number of dwellings, trips generated, square footage, etc.), and would be payable at the time the property is subdivided.

- Task 2: Assist in Establishing a Formula for a Fee in Lieu

Given the appropriate mechanism identified and selected in the first task, implementation will proceed under one or both of two tasks that follow (Task 2 and/or Task 3). Under Task 2, Willdan will establish a formula for use in an ordinance that would set an amount due under the agreements and establish a formula for a fee- in-lieu alternative for subdivisions and commercial developments to fund their fair share of the future cost of roadway infrastructure improvements. These fees would be paid where an overall adopted roadway plan and right-of-way designation has not been established by the County of Maui.

- Task 3: Develop Benefit Analysis and Method of Apportionment for Proposed Hui Road F Assessment District

The third task will be to use the proposed Hui Road F improvement district as the template to develop a public and private benefit analysis, resulting in a model and methodology for proportionate, shared funding of capital improvement costs by the County of Maui and affected private parcels and residential developments. This model would be similar for deferral agreement settlements generally if it is determined that these agreements should be converted to improvement districts.

Based on our experience implementing assessments for road, sewer and utility improvements in other areas of the country, and as currently contemplated (using appropriate provisions in Hawai'i and/or Maui ordinances and law), assessments for private properties would be paid as an additional item on their property tax bill, for a prescribed period, typically between 10 and 20 years. Like the in-lieu analysis described above, the assessment methodology would be based upon the development of the property, so that private property owners pay their fair share, in proportion to the use of their property (i.e. number of dwellings, density, trips, square footage, etc.).

Jones Hall Legal Services

The following materials provided on the Deferral Agreements have reviewed in order to understand the scope of your needs:

- Minutes of a January 8, 2018 County Infrastructure and Environmental Management Committee meeting;
- January 16, 2013 Maui Time article, letters to the County from Chris Salem;
- Forms of 2010 Notice of Intent to Collect;
- Copies of a few of the deferral agreements; and
- A resolution of December 21, 2017 (the "December 2017 Resolution") which was unanimously adopted by the Maui County Council, which includes calling for a review of the deferral agreements, as well as the previously considered "Fairness Bill."

Primarily based on the December 17 Resolution, our understanding of the need for legal consultation at this point starts with an evaluation of the enforceability of the deferral agreements. We understand there are hundreds or thousands of these agreements but most or all used a single or small variety of forms. After briefly reviewing the information provided, our initial conclusion is that with appropriate legislation and existing models of assessment, a fair and equitable formula and collection mechanism can be adopted to aid recovery which is consistent with the intent of the agreements. At this point, the agreements appear to be collectible, in which case we would be pleased to work with you relative to creating a collection methodology.

The longer-term objective and possible subject of additional tasks related to collection of the deferrals is initiating a collection mechanism, most likely via establishing improvement districts and the levy of assessments according to a fair and equitable assessment formula, likely through the formation of County of Maui roadway assessment improvement districts. We've looked at Title 14, Article 3, Improvement Districts, Maui County Code, and recognize that most of its provisions are very similar assessment laws we are familiar within other States.

If the County wishes to expand the scope of legal services to include assisting in the establishment of improvement districts as a methodology for converting/terminating the deferral agreements, at your or the County's request, we could certainly provide guidance in that endeavor given our experience, possibly to assist the County in establishing template documents that could be followed to transition the many agreements into assessment obligations payable over time.

C. PRIMARY CONTACT FOR THE ENGAGEMENT

Michael Busch is proposed as the Engagement Lead for the County, and currently serves as the Chief Executive Officer of the firm and has his primary residence on the Hamakua Coast on the Big Island. His contact information is listed below:

Michael P. Busch, CEO – Urban Futures, Inc. | 31-456 Hawaii Belt Road | Papa’aloe, HI 92780
 Email: michaelb@urbanfuturesinc.com | Direct Line: (714) 923-3541 | Cell: (714) 316-6150

Mr. Busch is the firm owner and serves as the Chief Executive Officer managing day-to-day operations. Prior to joining UFI, Mr. Busch served 16 years in local government reaching executive management positions of Assistant and Deputy County Manager and Chief Financial Officer. Under Mike’s leadership, Urban Futures has steadily climbed in the rankings of municipal advisory firms. Over the past five years, our firm has served as the financial advisor on over **573 bond issues for over \$9 billion** of taxable and tax-exempt debt, earning the firm a **#1 ranking as measured by the number of deals completed**.

As a municipal advisor, Mr. Busch has assisted dozens of agencies with formation of capital financing plans leading to the issuance of over \$3 billion in tax-exempt debt offerings resulting in the implementation of infrastructure improvements and expansion, new or renovated public facilities as well as the acquisition of open space. Mr. Busch is an innovator within the municipal advisory industry and known as a “municipal turnaround specialist.” He is nationally known for his role as lead financial advisor for the City of San Bernardino where he was directly responsible for restructuring the City’s financial obligations through direct negotiations with creditors such as pension bond holders, bond insurer National Public Finance Guaranty (NPF), and CalPERS. This led to the City’s successful exit from chapter 9 bankruptcy in March 2017.

Mr. Busch has successfully implemented numerous innovations in municipal finance and operations, including the authoring of a GFOA Best Practices 5-Year Capital Improvement Plan, Guiding Principles for Creating Budget Sustainability, and development of one of the first Enhanced Infrastructure Financing District’s (EIFD). Because of his unique experience in the public and private sectors, Mr. Busch assists client agencies with drafting fiscal impact reports in support of voter approved revenue initiatives and with

developing and implementing alternative capital financing programs, including New Market Tax Credits (NMTC) and land secured financing programs.

Mr. Busch served as adjunct faculty within the Sol Price Graduate School of Public Policy at the University of Southern California teaching public finance for two years.

Mr. Busch holds a B. A. in Urban and Regional Planning from California State Polytechnic University, Pomona, an M.P.A. (Finance and Public Works emphasis) from California State University, Long Beach and a Series 50 Municipal Advisor Representative Qualification

D. PROPOSED FEES

Due to variables in every engagement and to ensure the County maintains flexibility to tailor the work to fit within its time and fiscal constraints, our team proposes to carry out its work on a combined time and materials and fixed cost basis with the overall costs being governed by the financial limits defined by the County, utilizing the following professional service rate schedule and fixed cost proposal:

UFI

| Municipal Advisory Services | |
|-----------------------------|-------------|
| Proposed Staff | Hourly Rate |
| Michael Busch, CEO | \$325 |
| James Morris, JD, Director | \$300 |

Willdan

| Assessment Engineering Services | |
|---------------------------------|---|
| Task | Fees |
| Task 1: | \$3,810 |
| Task 2: | \$17,085, plus estimated \$1,700 travel expenses. |
| Task 3: | \$19,830, plus estimated \$3,400 travel expenses. |

Jones Hall

| Review of Deferral Agreements | |
|-------------------------------|---------|
| Task | Fees |
| Review of Enforceability | \$6,500 |

These rates will remain constant through December 31, 2019 and are subject to change thereafter. Costs for telephone, e-mail and facsimile expenses, postage and incidental photocopying are included within the above noted rate schedule. The rate schedule does not include out-of-pocket expenses that may be

incurred during the work. Out-of-pocket expenses include travel, project specific services or data from third-party vendors (prior approval required), or extraordinary or specifically requested materials, supplies, printing, or electronic data storage. All out-of-pocket expenses will be charged on an actual cost basis.

D. CONCLUSION

UFI, Willdan and Jones Hall are well-resourced firms ready and able to provide the Maui County with the highest level of service at the lowest possible cost. Two of our most important values are: a COMMITMENT to serving our clients with integrity, honesty, and mindfulness of the public interest; and a dedication to RESULTS – delivery of service that is on time, within budget, and at a level that exceeds the expectations of the client.

We are enthusiastic about the opportunity to work with you and the county staff. If you have any questions, please do not hesitate to contact me at (714) 316-6150 or michael.victorino@ufi.com.

If the foregoing terms meet with your approval, please indicate your acceptance by executing a copy of this proposal and returning one copy.

Maui County

By: _____

Michael Victorino, Mayor

MANUELA GRIFFIN PATTERSON, Lot 48

| OWNER | ADDRESS | SUBDIVISION DATE | # OF LOTS | SUBDIVISION FILE NO. | T.M.K. |
|--|---|---------------------|--------------|-------------------------|------------|
| Kai Pali LLC | 708 Canyon Rd. Suite 3 Santa Fe, NM 87501-2751 | 12-12-96 | 3 | 4.686 | 4-3-15:004 |
| Island Civil Holdings, LLC c/o Harris Mycofo Inc | P.O. Box 19019 Atlanta, GA 31126 | 12-12-96 | 3 | 4.686 | 4-3-15:054 |
| Christopher Salem | 5106 L. Homapitani Rd. Lahaina 96761 | 12-12-96 | 3 | 4.686 | 4-3-15:055 |
| DOSHAY FAMILY TRUST of 1999 Glenn R. & Karen E. Doshay | P.O. Box 675210 Rancho Santa Fe, CA 92067 | 12-12-96 | 3 | 4.686 | 4-3-15:057 |
| Thomas H. Maass, Jr & Martha P. Maass Revoc Living Trust | 49 Hale Malia Pl. Lahaina, 96761 | 12-12-96 | 3 | 4.686 | 4-3-15:058 |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

On Tuesday, March 19, 2019, 8:38:22 AM HST, Lance Nakamura <Lance.Nakamura@co.maui.hi.us> wrote:

Chris, thanks for clarifying. I will provide you with documents/information that I can.

Since I don't believe our office (Development Services Administration) prepared Page 4, I am not able to personally explain or modify the document. I need to forward that aspect of your request to the Director of Public Works, and I will also copy the Engineering Division (Chico Rabara, Division Chief).

Responses:

- **"Please confirm the County records show 3 lots were created in 1996 and the 3 Lots or Less Subdivision deferral agreement recorded on the resulting 3 parcel reflects the 3 lots created in subdivision File no 4.686."**
- Subdivision File No. 4.686, Mailepai Hui Partition, was granted final subdivision approval on 12/12/96 for the creation of 3 lots (48-A, 48-B & 48-C). A copy of the final plat is attached as file 4.686.pdf. Subdivision Agreement (3 Lots or Less), Document No. 95-145123, recorded 11/7/1995 (copy sent to you yesterday) was executed as part of Subdivision File No. 4.686.
- **"Please provide the date of the creation / subdivision of the other 2 lots on the 5 lots listed."** - Lot 48-A of File No. 4.686 was further subdivided into 3 lots as part of Subdivision File No. 4.805, Mailepai Hui Partition Subdivision. Final subdivision approval for File No. 4.805 was granted on 10/3/01. A copy of the final plat is attached as file 4.805.pdf.
- **"Please provide copies of the "3 Lots or Less" subdivision deferral agreements authored and recorded on the other two parcels. Please be sure the 5 TMK's on the recorded agreements reflect the 5 TMK's for the parcels listed."** - The only Subdivision Agreement (3 Lots or Less) that I am aware of that was recorded related to the 5 parcels you are talking about is the document I sent you yesterday (Subdivision Agreement (3 Lots or Less), Document No. 95-145123, recorded 11/7/1995). The TMK referenced on the first page of that document is TMK 4-3-15:04, which was the TMK parcel number for the original lot that was subdivided under File No. 4.686. For your reference, I am re sending a copy of that document as file *3 lot or less.pdf*.

Again, I will be forwarding your request to modify page 4 to the Director of Public Works and the Engineering Division.
Thanks.

Lance
DSA
270-7257

>>> Chris Salem <chrissalem8@yahoo.com> 3/18/2019 4:17 PM >>>
Lance;

anks for following up on the Request for Service - Request for County Records

What we are looking to confirm, and correct, through County records is the following;

The Page 4 of the County record created by Public Works listing 5 lots created in 1996 for subdivision File no 4.686 is not correct.

Please confirm the County records show 3 lots were created in 1996 and the 3 Lots or Less Subdivision deferral agreement recorded on the resulting 3 parcel reflects the 3 lots created in subdivision File no 4.686.

Request for Records

1. Please provide the date of the creation / subdivision of the other 2 lots on the 5 lots listed.
2. Please provide copies of the "3 Lots or Less" subdivision deferral agreements authored and recorded on the other two parcels. Please be sure the 5 TMK's on the recorded agreements reflect the 5 TMK's for the parcels listed.

We would appreciate an updated copy of the ledger which accurately reflects the dates of creation, file #'s, and number of lots.

In closing, we too are puzzled by this ledger and list of 5 lots on a 3 lot ledger. It is a completely inaccurate public record.

Thanks for helping clean up this puzzle !!

Chris

On Monday, March 18, 2019, 3:06:25 PM HST, Lance Nakamura <Lance.Nakamura@co.maui.hi.us> wrote:

Hi Chris. Hope everything is well. Attached is a scan of the 3 lot deferral agreement you requested for subdivision file no. 4.686.

DSA did not prepare the information on page 4 of the document you provided, so I don't know why the document was prepared the way it was. I think it may have been the Engineering Division. Please call me to discuss so I can attempt to get you what you need. Would you like copies of the subdivision maps that were approved to create those 5 lots?

Lance

BUDGET APPENDIX C
DONE IN 2017 FOR THE 2018 BUDGET

| | | |
|----------|--|------------|
| CBS-2299 | b. Countywide Upgrades and Replacements | 6,110,000 |
| | Improvements that will sustain the reliable operation of existing water infrastructure or mitigate inadequacies of the water system include: 1) Design and construction to replace the traveling screens at the Kamole WTP; 2) Design and construction to replace the 60,000-gallon Lower Kula 200 Water Tank; 3) Construction to upgrade electrical control systems at well and booster pump sites including Mokuahau Wells 1 and 2, Kula Ag Park Booster Pumps, Kepaniwai Well, Keanae Wells 1 and 2, and Kawela Well; 4) Construction to replace water lines and control valves including the 4-inch water line along Hobron Avenue to address leakage and substandard fire flow; 5) Construction to replace intake piping serving the Waikamoi Reservoirs to address leakage; 6) Design and construction to install a bypass system for the Waihee Tank for repair and maintenance purposes; 7) Design replacement of the 6-inch water line along Lunaliilo Street and Liholiho Street, Wailuku; 8) Construction to replace/relocate 24" Raw Water Line to Iao Water Treatment Plant; and 9) Inspections of Mokuahau Wells 1 and 2, Kepaniwai Well, Keanae Wells 1 and 2, and Kawela Well. | |
| CBS-1076 | c. Countywide Conservation Program | 1,000,000 |
| | Locate, replace, or repair leaking water lines (transmission, distribution, and service laterals) and repair leaking tanks. Design projects to provide supply side conservation, including a water audit. | |
| | 2. Makawao-Pukalani-Kula Community Plan Area | |
| CBS-1106 | a. Upcountry Reliable Capacity | 3,300,000 |
| | Design and construction to replace and expand booster pump stations at three sites along the Phase 10 booster pump system (Pookela Tank, Maluhia Tank, West Olinda Tank sites). Design of a new water tank to improve storage capacity for the Opaepilau water system (Haiku). | |
| | b. Upcountry Fire Protection Improvements, Phase I | 860,965 |
| CBS-xxxx | Construct fire protection improvements for the Upcountry water system including installation of an additional 70,000-gallon storage tank and booster pump adjacent to the existing 50,000-gallon storage tank located approximately 550 feet east of 18505 Haleakala Highway. Replacement of approximately 600 feet of existing 2 1/2-inch waterline with an 8-inch waterline along the southern property line of TMK (2) 3-013-031-0000. Provided, that funds not utilized for the project shall be transferred to the Upcountry Water System Expansion Capital Improvement Reserve Fund. | |
| | 3. Molokai Community Plan Area | |
| CBS-1098 | a. Molokai Reliable Capacity | 500,000 |
| | Land acquisition for a backup well site at Kualapu'u and a replacement well site at Kawela. Design an exploratory well for replacement of the existing Kawela Well upon acquisition of the replacement well site. | |
| | 4. Wailuku-Kahului Community Plan Area | |
| CBS-1102 | a. Central Maui Reliable Capacity | 500,000 |
| | Land acquisition for a new tank site to improve storage for the Waihee Wells. Design an exploratory well for replacement of the existing Waiehu Heights Well 1 upon acquisition of the replacement well site. | |
| CBS-4622 | b. Kahului Tank II | 2,450,000 |
| | Participate in construction of a new 2 million-gallon tank with Maui Lani. | |
| | 5. West Maui Community Plan Area | |
| CBS-1092 | a. West Maui Reliable Capacity | 10,000,000 |
| | Construction of the Mahinahina Well #1 Development. | |

Provided that the funds shall be used for fire protection improvements to the Upcountry water system Including an additional 70,000 gallon storage tank and booster pump near the existing 50,000 gallon storage tank located approximately 550 feet East of 18505 Haleakala Highway and the replacement of approximately 600 feet of existing 2 ½-inch waterline with an 8-inch waterline along the southern property line of TMK 2-3-013-031-0000 (outlined in red)



END MAUI (SEWAGE) INJECTION WELLS NOW!

UPGRADE ALL THREE MAUI WASTEWATER TREATMENT PLANTS TO END POLLUTING NEAR OCEAN INJECTION WELLS & PROVIDE SAFE TREATED WATER FOR AGRICULTURE & REFORESTED GREENBELTS

1. The Lahaina and Kihei Injection wells violate the Clean Water Act by adding 9 times the allowable amounts of nitrogen and phosphorus nutrient pollution to the ocean. Hui O Ka Wai Ola volunteer testing of 48 West and South Maui sites shows consistent high levels of nitrogen and phosphorus nutrient pollution near Lahaina and Kihei Wastewater Treatment Facility sites. Kahului wastewater Treatment Facility is even more problematic due to its location in a Tsunami zone and nutrient pollution volume levels of 24 times allowable nitrogen and phosphorus pollution levels in ocean water.
2. END COSTLY SUPREME COURT APPEAL ! Community groups and Eathjustice lobbied with the County for over 4 years to end Lahaina Wastewater Treatment facility ocean pollution before filing a 2012 Federal Circuit Court Case which it won. Maui County was subject to millions in fines and Eathjustice was awarded \$970,000 in trial costs (never paid). Rather than putting resources to fixing the problem Maui County authorized \$1.8million to outside law firms to appeal in 9th Distict Federal Court of Appeals and lost again in March 2018. Maui County continues to stall by appealing to the U.S. Supreme Court.
3. We no longer have the right to continue degrading the environment. Ocean nutrient pollution violations of the Clean Water Act ARE CRIMES AGAINST NATURE.
4. We need a Citizens task force to evaluate technology solutions to upgrade all three treatment plants so the water is truly safe to reuse, call for proposals and create a bond fund to complete upgrades in a timely fashion.
5. The State of Hawaii passed Act 131 7-5-18 which severely limits and regulates new wastewater injection wells. The State Clean Water Branch is in the process of revising past injection well policies and reviewing injection well permits.
6. The State passed Act 16 6-4-18 that establishes a Greenhouse Gas Sequestration Task Force to create a framework for a carbon offset program. A Carbon Sequestration Program using carbon offsets could be an exciting innovation that could create re-forestation above Kihei and West Maui using upgraded treated wastewater. Imagine a forest and hiking trails above Kihei to use the excess treated wastewater.

Submitted by Steve Paselk stevepaselk@gmail.com

RECEIVED AT EOB MEETING ON 4/4/19