

October 30, 2024

MEMO TO: DRIP-2(24) File

F R O M: Tamara Paltin, Chair *Tamara A.M. Paltin*
Disaster Resilience, International Affairs, and Planning Committee

SUBJECT: **DISCUSSION ON PROPOSED CHANGE IN ZONING FOR
PULELEHUA** (DRIP-2(24))

The attached informational document pertains to Item 2(24) on the Committee's agenda.

Attachment

FIRST AMENDMENT TO
AGREEMENT FOR WATER DELIVERY
(Pulelehua)

This First Amendment to Agreement for Water Delivery (this "Amendment"), dated September 1st, 2017, is made and entered into by and between MAUI LAND & PINEAPPLE COMPANY, INC., a Hawaii corporation ("MLP"), and MAUI OCEANVIEW LP, a Delaware limited partnership ("MO"). MLP and MO are hereinafter collectively referred to as the "Parties".

RECITALS:

A. MLP and MO made and entered into that certain Agreement for Water Delivery (Pulelehua) on June 3, 2016 (the "Original Agreement", with the Original Agreement and this Amendment being collectively hereinafter referred to as the "Agreement"), for the delivery of non-potable water from MLP's Water System to MO's Project, as more fully described in the Original Agreement.

B. The Parties mutually desire to amend the Original Agreement, as set forth herein, and are executing and delivering this Amendment for such purpose.

NOW, THEREFORE, the Parties, in consideration of the terms and conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, hereby agree as follows:

1. Recitals; Defined Terms. The foregoing recitals are true and correct and are hereby incorporated into this Amendment for all purposes. Any capitalized term used in this Amendment and not defined herein shall have the meaning assigned to such term in the Original Agreement.

2. Delivery of Water. The third sentence in Section 3 of the Original Agreement is hereby amended to change "0.750" to "1.000".

3. Full Force and Effect. The Original Agreement, as amended by this Amendment, is ratified and shall remain in full force and effect. Except as specifically amended or modified by this Amendment, all other terms, conditions, and obligations set forth in the Original Agreement shall remain in effect and unchanged.

4. Binding Effect. This Amendment shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.

5. Counterparts. This Amendment may be executed in any number of counterparts, each of which so executed shall be deemed an original; such counterparts shall together constitute but one agreement. A facsimile copy of a signature shall constitute an original signature for purposes of the execution of this Amendment.

6. Amendment. No modification, waiver, amendment, discharge or change of this Amendment or the Agreement shall be valid unless the same is in writing and signed by the Parties.

[Signature Pages Follow]

IN WITNESS WHEREOF, the Parties are executing this Amendment as of the date first written above.

MLP


MAUI LAND & PINEAPPLE COMPANY, INC.

By: 

Tim T. Esaki, Chief Financial Officer

**MAUI OCEANVIEW LP,
a Texas limited partnership**

By: Maui Oceanview GP Inc.,
a Texas corporation,
its sole general partner

By: 

Paul Cheng, President